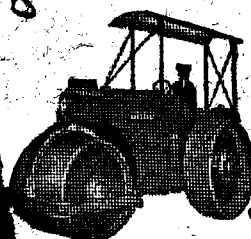


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MUNICIPAL FINANCE

A RESUME OF THE PRINCIPLES

By Chandulal B. Dalal, B.Com., D.P.A. (London)

Municipal Auditor, Ahmedabad Municipality

(Continued from the previous issue.)

How to get this large amount? There are two ways: one is to impose a tax that will bring in the desired amount; and as the amount is to be spent all at a time or in a very short period the tax should be yearly and should bring in the amount within the time prescribed. Is this desirable? No. By raising the amount from the generation of to-day we let go the future generation free. We are asking the present generation to pay for the benefits accruing to the future generation. This is quite unjust. It is, therefore, not desirable to raise the amount by taxation.

The other way is to borrow. We may invite Government, other local bodies and public to come forward and lend us money. Before this, we might request Government to give us a grant. If they do it, it is alright. But if they do not wish to give us a grant we may request then to lend us at favourable terms and if they do not wish to do even that we may borrow openly i. e., in the open market.

Sometimes a local body borrows to relieve famine-stricken people during famines and scarcity, or to prevent outbreaks of epidemics. These are items of expenditure which will not bring in any return. They are not activities of a commercial nature and hence are not likely to be productive. They are undertaken from humanitarian point of view. The benefit will last only for the particular period. True, if we can protect people from death due to starvation or disease we are saving the man-power of the community. Ordinarily, however, we can say that the benefits accrue to the present generation. Borrowing for such purposes, therefore, should be resorted to only when there is no other means to get the funds.

We can thus form the conclusion that there is nothing objectionable in a local authority borrowing capital for undertaking commercial activities generally, and borrowing for relief works during famine and outbreak of epidemics if the amount required cannot be raised by taxation. Not only there is no objection: it is necessary and it is the only equitable thing to do. The purpose, therefore, is the chief thing.

It is the height of folly to borrow for meeting current expenditure. Deficit budget is a thing that should not be tolerated.

Either the expenditure must be curtailed or the income must be raised. Borrowing for meeting budget deficits is, therefore, the most objectionable thing.

The borrowing powers of a local authority are specifically defined in the Local Authorities Loans Act*. A local body has no unrestricted powers to borrow. According to Section 3 of this Act the following are the purposes for which it can borrow:—

1. The carrying out of any works which it is legally authorised to carry out.
2. The giving of relief and establishment and maintenance of relief works in times of famine and scarcity.
3. The prevention of the outbreak or spread of any dangerous epidemic disease.
4. Any measures which may be connected with or auxiliary to any purposes specified in clause 2 and 3.
5. The repayment of money previously borrowed in accordance with law.

The next point to be considered is the terms of borrowing. In this connection we have to consider the following points:—

1. The security.
2. The rate of interest.
3. The time of borrowing.
4. The period.

Security.

A lender always sees that his money is safe. He tries to make sure that he will get his money back. He, therefore, usually demands some security. The borrower, if he is a private individual, can borrow money on his personal security. But in the case of a local body there is no one individual who is liable for the debt. There is a whole group—a collection of individuals and hence in their case it is not possible or feasible to borrow on personal security.

* Government of India Act IX of 1914 as amended by Devolution Act, 1920 and Government of India (adoption of Indian Laws) Order of 1937.

The rules framed under this Act for Bombay Presidency are embodied in Bombay Government Finance Department Notification No. 1393E dated 23-12-1922, as amended subsequently by those dated 25-5-1925, 19-7-1927, 22-6-1928, 27-3-1933, 13-9-1933, 14-2-1934, 12-6-1934 and 3-9-1934.

The rules for local authorities in Chief Commissioners' Provinces, and for Cantonment authorities and Port authorities of Major ports in Governors' Provinces are embodied in Government of India Finance Department Notification No. D1871/F dated 22-11-1937.

If no personal security is available the lender demands some definite, tangible security. Here also a private individual and a local authority stand on different grounds. The private individual may give his building or land, or ornaments as security i.e., he may mortgage them. A local body, however, has no authority to give any such tangible thing as security. What it does, therefore, is that it pledges its earning capacity i.e., its rates and taxes. These are intangible things. They may not even exist. However, as the body has a legal existence and its income is most definite people put trust in it, and accept the rates and taxes as security.

In case of non-repayment of the loan by the municipality, according to the terms of borrowing, the lenders can sue the municipality and take in their hands its sources of income. It never, however, comes to that stage. If such a contingency arises Government interferes and sees that the interests of the lenders are safeguarded.

Rate of Interest.

Nobody will lend money without expecting something in return. Everybody expects his money to earn some interest. A borrower, therefore, has to decide the rate of interest at which he wants to borrow. It depends upon the credit of the borrower and the state of the money market. The credit of a local authority depends upon the character of the administration, and the sense of responsibility with which it discharges its duties. The better the credit, the lower is the rate of interest at which it can borrow. A badly governed local body will not be able to raise a loan even at 5% per annum while a well governed body may be able to do so even at 3%. Though not in the nature of a security offered to the lenders, the character of the administration always counts. With the growing consciousness among people and the growth of democratic institutions we can say that credit improves.

Time.

The other factor is the state of the money market. Interest rate varies not only from year to year but from month to month. The fluctuations from month to month are called short term fluctuations while the general trend of rise or fall in the rate from year to year is called long term fluctuation. Just now we are concerned with the former. At what time during the year should

we borrow? We know that during a certain period of the year the rate of interest is comparatively low. At that time we should borrow.

Period.

The period for which the loan should be borrowed is the next point to be considered. Roughly we can say that the period of the loan should be equal to the life of the capital works which are going to be constructed out of the borrowed money. As the future generations are going to have the benefit of the works they must be made to bear the burden of repaying the loan i.e., they must be called upon to contribute towards the repayment of the loan. In the case of productive works, therefore, the period of loan should be equal to the life of the works. In the case of the loan borrowed for non-productive works the period should be as short as possible. Being an unproductive debt, it is a dead weight and the earlier the local body gets rid of it the better.

A local body, therefore, like an individual, has to decide beforehand the period within which it wants to repay the amount. Every loan is a terminable loan. The period is definite and fixed beforehand. Government, however, have wider latitude. They can borrow even without there being any obligation to repay. They can issue an inconvertible loan or non-terminable loan. Sometimes what they do is, that they undertake not to repay the amount before the expiry of a certain period and reserve to themselves the right to repay it any time after that period is over after giving notice. This is the best method of taking advantage of continuous fall in the rate of interest. When they find that they can borrow at a rate lower than the rate that they are actually paying today they at once announce their decision to repay the old loan and borrow a fresh.

There is nothing ordinarily to stop a Government from refusing to pay even a terminable loan. They may turn their back and repudiate the debt. No such thing is possible in the case of a local body or an individual. Court of law will compel them to observe the terms at which they borrowed. The state, however, cannot be compelled to observe the terms because courts themselves are creations of the state. Of course such a conduct on the part of the state will affect its credit adversely and they may find it difficult to borrow later on without giving definite securities e.g., lands, buildings, or ornaments, etc.

The next point that we have to consider is the extent to which a local body should borrow. What are the limitations to the borrowing capacity of a local body? In the case of a state theoretically there are no limitations. If the state has got credit the state can borrow indefinitely. If it is wanting in credit, the extent of borrowing will be limited to the amount of security that the state can furnish. Exactly similar is the position of an individual. But what is the exact significance of a state or an individual having credit? When do we say that a state or an individual has got credit? The reply is obvious. The financial position of the borrower is the chief criterion.

We may observe here that as compared to a private individual a local authority is at a disadvantage. A private individual can conceal his financial position. He can preserve the show of being financially sound but a local body cannot do so. Their accounts are public accounts. They are regularly audited and published. Nothing can be held back from the gaze or scrutiny of the public. Solvency of a municipality, therefore, is an open thing.

In the case of a local authority, therefore, the ability to meet the obligations is open to those who understand the accounts of public bodies. Debt obligations consist of two parts, one is the payment of interest as and when it falls due and other is the repayment of the principal as and when it is due according to the terms of the contract. If it can show that it is in a position to meet these obligations there will be no difficulty in borrowing the amount required.

For repayment, generally they resort to the Sinking Fund method. We shall discuss later on the different methods of repayment. But this is the usual method adopted. A local authority should, therefore, be in a position every year to pay the yearly amount of interest and the yearly contribution to the Sinking Fund. If, therefore, the average excess of income over expenditure is equal to these two charges, we can say that it has the ability to meet the obligations. In this case, therefore, it means that the surplus is in this way capitalized.

Sometimes it so happens that there is no such surplus. It may then try to show that the whole activity itself will result in benefit which will be able to meet the debt obligations. This, however, is an indefinite thing and generally it is not allowed to

borrow on the strength of its future earning capacity. The surplus should be a thing of the present. It has to be proved by past accounts. Unless, therefore, there is surplus of ordinary income over ordinary expenditure which will be at least equal to the debt charges in respect of the amount proposed to be borrowed, Government will not allow it to raise the loan.

Sometimes it is the anticipated savings from the current expenditure that may be set aside or be equal to the debt charges e.g., if a local authority wants to construct good roads, expenditure on the repairs to roads will go down considerably. But this anticipated saving also like the other one—anticipated income—is a thing of the future and hence cannot be relied upon much.

A local body, therefore, when it wants to borrow has at first to submit an application to the Local Government and along with the application it has to submit its accounts of the past three completed years showing ordinary income and ordinary expenditure, and a statement showing the existing debt position. All these statements have to be submitted to Government, in order to enable the Government to decide whether the local body is able to meet the obligations in respect of proposed borrowings. Submitting the statements of income and expenditure is what is known as showing the ways and means of meeting the debt charges.

According to rule 4 the body of application itself should contain the following information:—

1. The purpose for which the loan is required, and where the loan is required for any of the purposes specified in clauses 1, 2, 3 or 4 mentioned above, an estimate of the entire work or such part of it as it is proposed to carry out from loan funds.
2. The amount which it is proposed to borrow.
3. The fund on the security of which it is proposed to borrow.
4. The law under which the said fund is levied, received or held.
5. The dates within which the money is borrowed, and, when it is proposed to raise a loan in instalments, the amount of each instalment, the date within which the first instalment is to be taken or raised, and the years in which it is intended to take or raise the other instalments.
6. The rate of interest at which it is proposed to borrow.

7. The term of years for which the money is to be borrowed, and the method by which it is to be repaid. If it is proposed to repay the loan by means of a Sinking Fund, the rate of interest, at which the improvement of such Sinking Fund is to be calculated, shall also be stated.
8. An account of the financial position of the local authority, including a statement of all existing prior charges on its funds.
 - (a) The receipts side of the account should show only ordinary revenue. Receipts from loans or deposits, or the investments of sinking funds should be excluded, as well as items of abnormal character which should be indicated separately when required.
 - (b) On the expenditure side interest on debt, and payments to a Sinking Fund should be included, and all expenditure from Loan Funds and repayment of advances or deposits should be excluded.
 - (c) Explanations should be given of important variations in the accounts of revenue and expenditure.
9. The extraordinary items of receipts and expenditure with full description of the nature of receipts or expenditure for the past three years in a separate statement.
10. The balance of each loan taken either from Government or open market together with the amount of instalment, if any, to be set aside annually for the Sinking Fund should be distinctly shown in a separate statement.

We have discussed these points. No more elucidation is necessary in respect of points Nos. 3, 6, 8, 9 and 10. The remaining points require a little more amplification:—

1. Purpose. We have discussed this. It should be a purpose for which the local authority can spend its own funds. In this case, when the purpose is to execute a work the local authority has to submit detailed estimates also.
2. The amount to be borrowed depends upon the estimated cost of the work or part of it which is to be met

from borrowed funds. If only a part, then the amount proposed to be borrowed will be equal to the estimated cost of that much work only.

4. Law under which the said fund is levied, received or held. This is the law which has created the local body. If the borrower is a municipal borough it is the Municipal Boroughs Act, if a District Municipality it is the District Municipal Act, if it is a Local Board it is the Local Board Act and so on.
5. The time of borrowing. We have discussed this. Regarding instalments—Sometimes it so happens that a local body may want to borrow a large amount for one particular work. But it does not mean that it will spend the whole amount during the year in which it borrows. The whole programme of expenditure may extend to more than one year. Further, if the local body borrows all the money in one year it will be put to the loss of interest that it shall have to pay to the lenders. No doubt it can earn interest by investing the surplus borrowings but generally the rate that it will earn will be lower than the rate that it will have to pay. Hence on the whole it will be put to a loss.
7. (1) Period. We have discussed. Only one point is to be mentioned here. Sometimes it so happens that the local body is able to repay the whole loan before the expiry of the period of the loan. Its finances might improve considerably or the rate of interest might go very low and then it might desire to borrow at the lower rate of interest and repay the old loan which was borrowed at a higher rate. To enable it, therefore, to return the amount before the due date it sometimes provides in the debenture—or in the contract deed—an option clause enabling it to repay even earlier after giving a notice of certain period.

(2) Method of repayment. We shall discuss this later on.

Now suppose a local authority frames an application and sends it to Government. What shall the Government do? It first ascertains that the purpose is legal and the statements are correct (Rule 5). If the purpose is not legal the application is summarily rejected (Rule 6). If

it is not rejected it is published in the Government Gazette as well as in local newspaper (Rule 7). After expiry of one month of the date of publishing the application Government considers the objections received by it and either rejects the application, or sanctions the application (Rule 8).

If the whole amount is to be lent by Government nothing further remains to be done. But if it is to be raised from the public certain procedure has to be gone through. On receiving intimation of sanction the local body at once publishes a notice inviting tenders for the loan and issues a prospectus of the loan which contains most of the information contained in the application, so as to induce the lending public to come forward to lend. On a fixed date all the tenders are opened. The tenders have generally to be accompanied by a small amount called earnest money. The rates tendered may be either at premium, or at par or at discount. If at premium or at par it is alright. If at discount the local body has to decide whether to accept the tenders. The premium is credited to and the discount is met from its General Fund. Premium and discount do not affect the amount of the debt.

After the tenders are accepted, deposits of the rejected tenders are returned, and the remaining amounts in case of accepted tenders are called for. For this a certain date is fixed; and if the person whose tender is accepted does not pay the remaining amount before the date fixed his earnest money is liable to be forfeited. Interest is earned from the date thus fixed.

Documents of contract which are known as debentures are then prepared. A debenture contains most of the information of the application to Government, is printed on very good paper because it is to last many years, it is sealed, and stamped, and signed by a competent officer or officers on behalf of the local body. Every debenture is for a definite amount. It may be Rs. 100, or Rs. 500, or even Rs. 5,000. On the back of the debenture are printed columns showing the dates on which interest falls due and there is also some space for recording endorsements. Debentures are transferable by endorsement.

Sometimes a particular lender who has lent a large amount may wish to have only one document instead of several documents of smaller denomination. Then he is given what is known as stock certificate. That is a certificate stating the number of debentures held by the person named in the body of the document.

An account should be maintained for each loan separately so that it can be seen that the amount borrowed is spent only on those works for which the loan was raised and the estimates of which have been sanctioned by Government. The account should also show the quantities of work executed, and the rate of executed work as compared with quantities and rate as per the estimate. After the works are closed if it is found that there is a surplus it may be either spent on works of a similar nature or utilized towards the repayment of the debt.

We shall now consider the question of repayment of debt. The aim is to have on the date of repayment an amount on hand, equal to the amount borrowed. One of the ways in which this can be done is to take out an endowment policy which will mature on the date of repayment of the debt. Yearly premium will have to be paid for this. In this method, however, a considerable amount of interest will be lost to the body. The whole business of such insurance is based on the differences of interest. Income of an insurance company depends upon the interest that it can earn. It is quite clear, therefore, that the local body will be losing interest on the amounts that it pays to the insurance company by way of premium. If the yearly premium is Rs. 1,000 and the life of the policy is 30 years, it means that the local body will be losing interest on Rs. 1,000 for 30 years, on Rs. 2,000 for 29 years, on Rs. 3,000 for 28 years and so on. Add to this loss, the loss of interest on interest. It means a considerable amount.

Equally uneconomic method is that of Fixed Instalment system. Here the amount is arrived at by dividing the amount borrowed with the number of years of the period of loan. This amount is set aside every year. True, at the end of the period an amount equal to the amount borrowed will have accumulated but the amount will be unnecessarily very high as the interest factor is ignored. Of course the amounts set aside will earn some interest but in the ways and means that will have to be suggested this interest factor cannot be taken into account if this policy of repayment is to be adopted and thus the amount of debt charges will be high.

An alternative method is that of withdrawing or repayment every year of a part of the amount borrowed. Here, however, the difficulty will be in the matter of choosing the particular debentureholder whose debenture should be withdrawn. This difficulty may be met

partially by fixing the percentage of the amount of the debenture that is to be withdrawn. However, there will be the difficulty of calculating the amount of interest to be paid every time. Again the debt charge will not be uniform. Transfer of debentures also will be made cumbersome.

Many times the annuity method is resorted to. Here also an equal amount is paid every year. It includes a part of the amount borrowed and the whole of the interest on the balance of the amount. Suppose the amount borrowed is Rs. 60,000 at 5% rate of interest, and is repayable within 5 years. The amount to be paid every year will be about Rs. 13,900.* The position will then be as shown below:—

Year	LIABILITY			AMOUNT REPAID			Balance of the amount borrowed at the end of the year
	Amount borrowed	Interest on the amount borrowed	Total	Towards capital	Towards interest	Total	
1	60,000	3,000	63,000	10,900	3,000	13,900	49,100
2	49,100	2,455	51,555	11,445	2,455	13,900	37,655
3	37,655	1,882.75	39,527.75	12,017.25	1,882.75	13,900	25,637.75
4	25,637.75	1,281.19	26,919.64	12,618.11	1,281.89	13,900	13,019.64
5	13,019.64	650.98	13,670.62	13,019.64	650.98	13,670.62	

At the end of the period the amount outstanding is almost equal to the amount of instalment. It will appear that every instalment includes an increasing amount of the amount borrowed and reducing amount of interest. This method is suitable where the lender is only one, or when each lender has lent a very large amount. Further, interest has to be calculated each year on reducing amounts.

What is generally, therefore, done is to institute a Sinking Fund. In this method, interest and interest on interest is taken into account and hence the yearly contribution is much lower. The yearly amount† that should be set apart every year, is supposed to earn a given rate of interest and both together will amount to a given amount within a given number of years. The yearly

* There are ready made tables for deciding upon this figure.

† For these also there are ready made tables.

instalment is constant. In the end the expected rate of interest may be found to be underrated. But it is safe to underrate it. It is expected that the yearly contributions will earn at least so much per cent. of interest. The following table is given merely to illustrate the working.

Years.	Rate of interest.		
	3%	3½%	4%
10	.087231	.085241	.083291
20	.037216	.035361	.033582
30	.021019	.019371	.017830

This means that if Rs. .087231 are set apart every year, for 10 years, and if the amount set apart earns 3% interest, at the end of the 10th year the total will be Re. 1. If more rupees are required, the amount should be multiplied with .087231. If Rs. 10 lakhs are required at the end of the 10th year the amount to be set apart every year is Rs. 87,231.

The amount accumulated in the fund has to be invested in public securities*. It is alright if the percentage of interest which was taken into account while deciding the instalment of Sinking Fund is realised. If more is earned it is good. But if less is earned the calculations should be revised and a larger amount of instalment should be provided.

On the date of maturity, if the calculations are not false, there will have accumulated at least as much ready amount as is necessary to repay the loan. There is always bound to be some surplus because the estimate of the rate of interest that is anticipated is always conservative. This surplus should go to the General Fund as it is the General Fund that provides the instalments and also bears the brunt when the rate of interest is lower than the rate expected and when the market value of the security goes down.

For every loan there should be a separate Sinking Fund account. These accounts will, however, be only subsidiary to the General Sinking Fund account. Such separate accounts are necessary as the dates of maturity of different loans are different.

* Rule 18 of the Local Authorities Loan Rules.

The instalment of the Sinking Fund is provided from the general revenues; and Sinking Fund account is credited every year with the instalment received from the General Fund. Interest earned on its instalments also is credited. Whenever a loan has to be repaid an amount equal to the amount in the individual or separate sinking fund account of that particular loan is withdrawn from the sinking fund account and credited to the General Fund which provides on the payment side an amount equal to the amount of the loan to be repaid.

It will be interesting to note here the distinction between a Sinking Fund and a Depreciation Fund. Sinking Fund is created with a view to repay a debt. Depreciation Fund is created with a view to replace the capital. We have seen that there is no reason why a local authority should accumulate anything; and that the capital required by it for large permanent works should be borrowed from either Government or the public. The works executed out of the borrowed money will give benefit for a certain period, and the generations of that period alone should be made to pay. Hence in this case a Sinking Fund is created to which amounts contributed towards repayment of the amount borrowed are credited. The function of the fund is to collect the instalments, earn interest on them, repay the amount when due and then cease to exist. It is created for a definite period only.

While a Depreciation Fund is created to preserve the capital. It collects the instalments and earns interest but neither repays the amount borrowed (i. e., the capital) nor ceases to exist. It lives permanently because the depreciation of the asset is a permanent feature. It replaces the capital so that the profit-making capacity of the firm may be preserved. The contributions to this fund are from the profits. "Provision of a Sinking Fund for the repayment of a liability is not a charge against profits, but an appropriation of them thus making its profound distinction in principle from a Depreciation Fund formed for the purpose of replacing an asset, the provision of which is a charge against profits."* Provision for Sinking Fund has to be made whether there is a profit or not. It is a first charge on revenues or receipts. While provision for a Depreciation Fund may not be made if there is no profit.

* Spicer and Peglar.

CHAPTER VI

BUDGET

We have seen that as contrasted with private finance, in public finance it is the expenditure side that controls the income side; while contrary is the case of private finance. The forms of expenditure which are determined by the functions of a local body which in their turn are determined by the statutory provisions in the Act governing the body and by the degree of civic consciousness of the civic fathers—these forms of expenditure determine the amount that is required and the local body then tries to find out the sources of income to meet these charges. These sources also are provided in the Act.

The provision regarding powers of taxation and regarding municipal functions are of varying types in different Acts. The larger the Municipal body the larger are these powers and functions. Not only that, but they are of a very varied type.

We have already seen in short, the different items of income and expenditure. We have not gone in details, but in actual practice we find that there are many minor sources of income or of receipts and forms of expenditure. We discussed the income side first because, even though theoretically it is the expenditure side that comes first in practice it is the income side that comes first. Unless you have received you cannot spend. The expenditure also is equally full of details not only equal but even more.

Further, as the local body has no savings it cannot draw upon anything when any money is required.

As compared with an individual, therefore, a local body is rather in a precarious position. Without there being any income it has to decide about expenditure. They have always to be very careful in seeing beforehand as to what will be their income. They have to foresee this. They have to frame an estimate of what will be their income and what will be their forms of expenditure. This is what is known as budget framing.

A budget, therefore, is nothing but an imaginary account of anticipated income and anticipated expenditure. Because the body has no savings it has to be very careful in framing it. Budget is the

basis on which the spending departments of a local body base their programmes of expenditure and it is the ideal to which the earning departments try to reach.

Wisdom demands that the estimates of income should be conservative and those of expenditure, liberal. If after determining these two estimates there is a surplus of income estimates over expenditure estimates, there is nothing to say against it—or there is not much to say against it. But if it shows an estimated deficit then either the sources of income should be increased or forms of expenditure should be curtailed so as to balance the budget. If in spite of all careful calculations done at the time of framing a budget the final account shows deficit, it may be tolerated,—though even this is open to criticism because it shows lack of foresight on the part of the budget framers. But to work on a deficit budget, from the beginning is the height of folly. It involves the local authority into debt and thereby brings the financial position on the point of bankruptcy.

Every budget should, therefore, be carefully planned. All the possible sources may be explored, but the amounts which are likely to be received should not be overestimated. Similarly as far expenditure side is concerned amounts which are to be spent should be provided on a little liberal scale, their estimates should not be underestimated. The ideal budget will be that in which neither of the sides is overestimated or underestimated, i.e., in which all the income provided is received in full and all the amounts provided for spending have been spent—not a pie more received or spent—and no want—no balance at the end of the year. This is the ideal to which every budget framing authority should try to reach, it is, however, never attained—nobody can ever attain it.

Just as the deficit budget is open to criticism, similarly a surplus budget also is open to equal criticism. A surplus budget means that the body taxes people more and does not render services worth the amount of taxes recovered. This is not fair. Not only a surplus budget is open to criticism but even a surplus account is open to criticism. It may be found that a balanced budget—where there was neither surplus nor deficit—may turn out in the end to be a surplus account, i.e., it may be found at the end of the year that the body received more and spent less than what was provided in the budget and hence there may be some surplus at the end of the year. This only shows that the income figures

were unduly underestimated and expenditure figures were unduly overestimated. This also is not a desirable thing.

The tendency on the part of a local body is to have such budget i.e., wherein they underestimate the income and overestimate the expenditure. It may be alright or even prudent for a private individual but it is imprudent for a public body. Such a behaviour results in large accumulations—savings—and that as we have seen, is not desirable. Of course a working balance is always necessary. Income is not received from the very first day while expenditure is incurred throughout the year. Hence some amount should always be on hand. But then that becomes a constant amount. Budget is not affected thereby.

Budget making, therefore, is a complicated thing. It requires a cool and collective brain. The framer should be conversant with all the activities of the local body, that are likely to affect the finances. He must take into account all the present activities and their effect upon future finances. He must take into account the financial position of the ratepayers as a whole, the future activities which may be favourable or detrimental to the financial interests of the local body and the future contingencies also.

And, he has to foresee all these things beforehand—not only in the beginning of the year but even much earlier than the beginning of the year. The budget before it comes into operation has to pass through certain stages and hence the framer has to prepare it during the middle of the preceding year e.g., preparations of the budget estimates for the year 1937-38 have to commence from the month of August 1936. The framer has, therefore, to look about 18 months ahead. Of course this does not mean that he submits the budget to the higher authorities in the month of August. It is a little later.*

This shows that some time is required for preparing the budget. The month of August is not fixed. It may be any month. But it is generally August or September. The officer whose duty it is to frame the budget takes the initiative. He is the Chief Officer or the Chief Accountant or the Secretary according to the size of the body. This officer sends out a circular to all the departments requesting them to submit before

*According to the City of Bombay Municipal Act it has to be submitted before 10th of November (Sec. 125); the Bombay Municipal Boroughs Act requires that it shall be submitted to the final authority i.e., the General Board before 10th January (Sec. 209) and the District Municipal Act also fixes the same date viz., 10th January (Sec. 109).

a certain date estimates of income and expenditure for the coming year under heads with which they are concerned.

The most important departments as far as budget framing is concerned are divided into 3 parts:—the earning departments, the spending departments and the administrative departments. The earning departments are the departments that collect rents, taxes and other forms of income and the spending departments are the departments that execute all public works and look after the health, convenience and safety of the people. All the remaining departments are administrative departments. They do not earn anything and spend only little. All that they require is money for establishment and contingency only.

The head of the earning department considers how much amount is provided in the running year's budget. He takes into account the collection and sees if they are sufficient to justify the running year's budget estimates. He tries to estimate what will be the arrears at the end of the current year and how much of these arrears he will be able to realize in next year. He also considers the important variations that are likely to result on account of changes in taxation rules if any.

The head of the spending department has to be still more careful. He tries to see if all the works provided in the current year's budget will be executed before the end of the year. If not, what will have to be kept over till or what will be continued during the next year. What will be the probable amount that he will require for them. He, therefore, generally submits not only financial estimates under different heads but also details of each estimate showing the works which will remain incomplete at the end of the current year and which will be completed during the next year and also original works which will be taken up next year.

Besides the amounts required by the spending departments some amounts have to be provided in the budget on the expenditure side to meet certain obligations e.g., debt charges and instalments to the Depreciation and other funds (if any). We have seen that Government will not allow us to borrow unless we are in a position to pay regularly the interest and to contribute regularly towards the Sinking Fund. These charges have the first right over the rates and taxes of the local authority and hence they have to be provided even if there is no money for other purposes. The liability is the most definite and should not be overlooked.

The attention of the framer of the budget, therefore, is concentrated on the Rent and Tax Department, the Engineering Department and the Health Department. It is their estimates which decide the character of the whole budget. He, therefore, scrutinizes their estimates and tries to see if the amounts demanded or provided are just and fair. He compares them with the amounts provided in the running or last year's budget and if necessary asks for explanations in case of important variations.

After the estimates are received from all departments he frames a consolidated budget, provides therein the fixed commitments and submits the whole to the Chief Officer. The Chief Officer scrutinizes all the figures, makes necessary changes and then forwards the same to the Standing Committee or the Managing Committee with a budget note if necessary. The note is meant to bring important variations to the notice of the legislative body. This committee also scrutinizes the figures and submits it to the General Board—the final legislative body.

We have seen the dates before which the budget should reach the General Board. After receipt of the budget they discuss it either as a whole or in parts or in details,—item by item—pass necessary criticism, and decide the amounts. This should be finished latest by 31st March of the year because on the next day the new year commences. If it is not passed by 31st March there will be a deadlock.

It is a fundamental principle of accounting of public bodies that no amount can be spent unless it is provided in the budget. If, therefore, the budget is not passed before 31st March, not a single pie can be paid to anybody from the next day. Money may be received but nothing can be spent. Such a state of affairs can not continue. There may be debenture-holders to whom interest may be due on 1st April. There will be servants who will have to be paid their salaries in respect of the month of March. There will be merchants who will have supplied articles and there will be many other claimants. These *have* to be paid. To avoid all the difficulties, therefore, the General Board should pass the budget latest on 31st March.

The chief function of a budget is to control the expenditure. We have seen that unless the budget is passed nobody can be paid. Budget is for guidance as far as income is concerned, and for

control as far as expenditure is concerned. Income cannot be controlled. Receipts of taxes etc., may be regularised, may be expedited, may be enhanced, but a local body cannot control income. Income consists of money paid by others and hence as far as the income side is concerned the budget is merely a guide. But expenditure can fully be controlled. Payment of money is something that can be decided, increased, decreased and in short controlled at the will of the local body. That control is effected by providing in the rules that no amount can be spent unless it is provided in the budget. The spending department, therefore, always sees before it incurs any expenditure whether there is provision in the budget.

The head of the spending department who does not pay attention to this point may come to trouble. If he spends more than what is provided in the budget and the General Board of the local body does not subsequently provide in the budget (supplementary budget) the amount spent in excess of what was provided, the officer will have to make good the amount from his pocket. He has exceeded his powers.

Sometimes during the middle of the year old works have to be abandoned, new works to be undertaken, some property belonging to the municipality is destroyed which might result in the authority receiving less income as rent. Or, it may be that original calculations are found to be wrong and the whole or a part of the budget requires to be revised. For this purpose a supplementary budget is prepared, during the year but that also must be sanctioned by the General Board before the 31st March. When the changes are many and of varied types and when they are taking places at intervals more than one supplementary budgets may have to be prepared.

A supplementary budget may or may not result in a change in the figure of the estimated closing balance. When the budget is first framed the closing balance also is estimated. If, therefore, more expenditure is provided in a supplementary budget, the figure of anticipated balance will be decreased to that extent. If the supplementary budget provides some more income then to that extent the figure of anticipated closing balance will increase. But if there is neither increase or decrease either on the income side or on the expenditure side *both taken as a whole*, or if the increase and decrease on both the sides are equal there will not be any change in

this figure. Similarly when there are changes of equal amounts but in opposite direction among the subheads on the same side there will not be any change. When it is found that the figure of expected income from Water Rate should be decreased by a certain amount but that of drainage rate should be increased by that amount or that the figure of expected expenditure under one head should be decreased by a certain amount but that under another head should be increased by an equal amount then also, the figure of anticipated closing balance will remain the same. Such changes or transfers of budget provisions from one head to another head on the same side are called re-appropriations. The supplementary budget has to take into account *all* these variations.

The next point to be considered is the form in which the budget should be prepared. We have seen that budget is nothing but an account of expected income and anticipated expenditure. Naturally, therefore, the form of the budget is the form in which accounts are maintained or presented. Their forms are quite identical. There can be no difference between these two forms.

The form of accounts is fixed by the Government of India. This is a general or a summary form. It does not show the details. It only shows the main headings both on the receipts side and on the expenditure side. The budget, therefore, should also be presented in this form.

The details are left to the discretion of the local bodies. The character and volume of details depend upon the size and character of the functions which are discharged by the local body. Neither the Government of India nor the Provincial Government (in Bombay at least) have laid any restrictions to the volume of the details of accounts or budget*.

It is apparent, however, that a summary account or a summary budget is not desirable and is not sufficient for study. The local body, therefore, should present a detailed budget. The budget of the New York Municipality contains as many as 20,000 items†, while the summary budget on the lines of the form laid down by Government of India contains

* Government of Bombay have, however, framed a model form of budget.

† Vide footnote to Part I of Chapter XI of Book III of *Constitution, Function and Finance of Indian Municipalities* by K. T. Shah and G. P. Bahadurji.

only about 70 items. The greater the details the greater the facilities for study, and larger the scope to the legislature to maintain control over the activities of the body. Of course "there may be risk of over particularisation, as well as of some confusion, if the items are not scientifically grouped or properly co-ordinated; but from the point of view of enlightenment to the community, there can be no question this latter method is the best."*

This practice should be carried a little further. Not only should the figures be given in details but figures of last one, two or three years also should be given. This will facilitate comparison and will enable the legislature to see as to where and how much the income or expenditure has risen or has gone down. This may provide an initiative to the investigator in the domain of municipal finance.

Further, the budget should be accompanied by certain statements. This also is for the enlightenment both of the legislature and of the ratepayers. A whole schedule of establishment should be given so that they may have an idea of the number of servants employed and the rates of pay paid to them. Establishment charges form a big part of the total amount of the expenditure and hence their details should be given. Similarly a statement of estimates of works that are to be executed should be furnished. This also is necessary because a large part of the expenditure is on public works.

One thing—in all this discussion—we should not forget that a budget should be of a particular fund only. For every fund there should be a separate budget. Of course we may continue all of them and put up a consolidated budget but in that case the figures should be so grouped or arranged that it should be quite easy to decide the fund to which the particular amount belongs. The ordinary income and ordinary expenditure constitute the General Fund. Then there are loans. The Loan Fund is a separate fund. There again the purposes for which the loans are borrowed are different and hence there are different loan funds, e.g., the Water Loan Fund, the Drainage Loan Fund, the Road Loan Fund, etc.

Sometimes the budget is divided into Revenue budget and Capital budget. Revenue budget shows items of ordinary income and ordinary expenditure and Capital budget shows items of income and expenditure of capital nature.

* *Ibid.*

We have seen that the budget has to be passed by the General Board of the local body which is their legislature and has to be passed before the 31st March. After it is passed it is printed and published.

Throughout this whole procedure there is no opportunity given to the *public* for offering their criticism. Nowhere there is a provision in the Acts that certain days shall be allotted to the public who can appear before the committee concerned and offer their remarks on the budget. Budget is not even published before it reaches the General Board. What is the use of publishing the budget *after* it is passed? i.e., when it has become final? * If the public criticism is to have any effect it is desirable that opportunity should be allowed to them before the budget reaches the final stage.

Another defect is that our local bodies do not adopt measures which would invite and arrest public attention to the financial aspects of municipal activities. To a layman a volume of budget containing a number of figures would mean nothing. He will be simply bewildered. This can be remedied by pictorial diagrams. The one defect of our present budget system "from the popular standpoint, of containing a bewildering mass of figures, often too technical to be understood by the uninitiated citizen, can be easily removed, if those who are responsible for the preparation and presentation of the municipal budget cultivate a little of that art of pictorial representation of the huge masses of figures, which would at a glance give an idea to the ordinary intelligent citizen. Curves and graphs and similar other methods, or pictorial summarizing of serried columns of statistics are of the utmost utility in all forms of public accounting, and those responsible for the preparation and presentation of the municipal budget would be judged to be unmindful of their duties if they omit to give adequate illustrations summarising the city's accounts in as brief and intelligible a manner as possible, without sacrificing in the least the detailed statements that are, as it were, the life-blood of self-government."† Such diagrams and graphs can be published, or exhibited on walls and on cinema screens.

* Cf. Section 212 of the Bombay Municipal Boroughs Act and also Section 172 of the District Municipal Act.

† Part I of Chapter XI of Book III of *Constitution, Function and Finance of Indian Municipalities* by K. T. Shah and G. J. Bahadurji.

CHAPTER VII

CONTROL OVER INCOME

We have seen that technically speaking there cannot be any control over income. Income is a thing of future. It is yet to come, and payment is to be made by the opposite party. All, therefore, that can be done is to frame an estimate of income, as fair, correct and reliable as possible, to determine the time when rents and taxes should be collected, the time before which they should be received, the procedure of recovering them and penalties for non-payment of taxes by the ratepayers or rent by the tenants. Thus we can regularize the receipts of rents and taxes. We may take all the possible steps to reach the amount provided in the budget, and we may even exceed that amount. However, all that we can do is to regularize and expedite the receipt.

We have already discussed the basis of assessment of taxes and have found that as it is, the annual letting value is the soundest basis. It has the quality of being easily determinable and its adoption means applying the principle of progressive taxation.

After the annual letting value is fixed, Assessment Registers are prepared. This is a register in which are mentioned the census number, the net annual letting value and the amount of tax due in respect of a rate on lands and buildings.* This register is then kept open to inspection by the public and any ratepayer who wishes to object against any entry can do so within a prescribed time. If he does submit an objection application to the proper authority within the prescribed time it is considered, and is either accepted wholly or in part, or rejected. The applicant has the right to appeal to a magistrate if he is not satisfied with the decision upon his application.

* According to Section 78 (1) of the Bombay Municipal Boroughs Act of 1925 the Assessment Register should contain

- (a) the name of the street or division in which the property is situated;
- (b) a description of the property sufficient for identification;
- (c) the names of the owner and occupier, if known;
- (d) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed; and
- (e) the amount of the tax assessed thereon.

According to Section 63 of the District Municipal Act also the Assessment Register contains similar details.

In the case of all other taxes no assessment lists are prepared; but what are known as demand registers are prepared. A Demand Register shows the census number, the amount of tax demanded under different heads and so on. This register also shows past arrears, present taxes, the bill no./date, the receipt no./date, the notice no./date, warrant no./date, arrears at the end of the year and so on. This register is called a demand register because it primarily shows the amount of dues demanded by the local body. On the strength of entries in this register bills are issued to the ratepayers. A ratepayer who has any objection against a bill prefers his objection application within a certain period to a proper authority. If after hearing an objection application the bill is amended, necessary correction is made in the demand register.

When properties belonging to a local body are rented, a different procedure has to be gone through. In this case generally in the beginning of the year or in the end of the preceding year auctions should be held. Usually the highest bid should be accepted. After the auction is sanctioned, rent notes should be prepared. A register called the Rent Register should be maintained and it should be seen if the rents are realized as and when they fall due.

Money due to a local body has to be paid before a certain date. If by the expiry of that period it is not paid the body issues a notice which requires that the ratepayer must pay the amount demanded together with notice fee before a certain date. If even then it is not paid, a warrant of distress is issued on the strength of which the body can attach all the moveable property—except certain articles—take them into possession, sell them, recover the dues out of the sale proceeds and hand over the surplus to the owner. Municipal Boroughs are empowered to attach even immovable property. If inspite of all these measures, there remain any arrears they are written off with proper sanction.

When dues are received receipts are given. Every receipt should be stamped with a one anna stamp if the amount exceeds Rs. 20. The receipt contains all the information necessary to enable the ratepayer to verify the nature of payment made by him and the particular house or vehicle or service in respect of which the dues are paid.

At the end of the day a statement showing the amounts collected in total and in details is prepared. The statement and the amount collected are then handed over to the departmental cashier. The departmental cashier receives such statements from all persons whose business it is to collect dues. He then prepares a consolidated statement showing the total amount collected in details. Then is prepared what is known as a *chalan* which shows the total collection per nature of the tax for previous years as well as the present year. It is checked and signed by the head of the department. It is prepared in duplicate, and both the foils are submitted to the Accountant. He verifies the totals and sees if both the foils are similar, signs both of them and then the chalans go to the treasury cashier. This man retains one *chalan* after receiving the amount mentioned in the body of the *chalan*, and the other or the counterfoil is kept by the departmental cashier which serves as a voucher of payment to the treasury.

Throughout this system there are many chances for fraud or misappropriations on the part of the employees. There are, therefore, instituted certain safeguards or internal checks to guard against the employees misappropriating the moneys collected by them.

The first check is effected by making it a rule that no money should be received without passing a receipt for the same. Every person making a payment has every right to demand a receipt. If the person who receives payment does not pass a receipt it is an offence and he is liable to be punished for that. The second check is effected by having the system of retaining carbon copy of the receipt. Having a mere duplicate is not sufficient. It must be a carbon copy, so that every correction in the original will appear on the carbon copy also. Thirdly, it should be made a rule that all moneys collected must be credited to the departmental treasury within 24 hours of the hour of collection. Nobody should keep money with him for more than 24 hours.

A check should be maintained on the stock of unused receipt books and also on the used receipt books. In every department there should be a clerk one of whose duties should be to maintain an account of unused receipt books. He should issue these books after receiving an acknowledgment from the clerk to whom the book is issued. Further, he should not issue a book unless the book of the preceding number is used fully and is returned to him after being used.

The head of the department should maintain concurrent supervision over the collection of the dues. The earning department has its own responsibilities. It should see that dues are collected in full and in time. If it is not done there may be a deadlock. Generally a working balance is maintained, but this would last for say 3 or 4 months. If during that time dues do not begin to come in, there will be no money in the treasury to make payments in respect of establishment charges or cost of public works.

CHAPTER VIII

CONTROL OVER EXPENDITURE

The forms of expenditure are determined by the Act governing a local authority. It lays down the purposes for which money belonging to the authority can be spent. No money, therefore, can be spent unless the purpose for which it is to be spent is provided in the Act. That is according to the law. The guiding principle all along, however, is that the character of the function or the service should be *local* and confined to the particular area only. Strictly speaking, therefore, it is not permissible for a local body to send its fire brigade or fire extinguishing engine to a place just near but out of the limits of its area. From humanitarian point of view this not sending would amount to cruelty, but it is strictly legal. The people living outside the limits do not pay any tax which goes towards maintenance of this service. Similarly a local body cannot spend on education or sanitation etc., outside its limits.

Of course, some exceptions have to be made. A municipal borough can spend money even outside its limits to obtain water to discharge its sullage water, to dump its refuse or carcasses, to establish a slaughterhouse and so on.* The aim, however, should be promotion of health, safety or convenience of the people living within the area.

Besides, there are other controls provided in the Rules, Standing Orders, etc. We have already seen that the budget effects a salutary control over expenditure. It is the basic principle of public accounting that unless there is provision in the budget for that particular

* Cf. Section 66 of the Bombay Municipal Boroughs Act.

class of expenditure, no money can be spent, otherwise the spending authority will have to make good the amount. Budget, therefore, effects a very thorough check over the expenditure.

This check, however, is merely quantitative. It only means that the amount spent should not exceed the amount provided in the budget. It is not a qualitative check. It does not take into account the nature of the expenditure or the utility of the expenditure. It does not try to check the usefulness of the particular activity on which money is spent.

Besides statutory commitments, i.e., debt charges, the expenditure of a local authority can be divided into two main categories:—expenditure on works and materials and that on men. The first consists of all works for all purposes and materials for the works, furniture, etc. The second means establishment.

We first take the expenditure on works and materials.

Here the check can be effected by requiring the particular department not to spend any amount unless the execution of the work is approved by a proper authority. After this is done, the departmental head should decide whether the work is to be executed departmentally or by contract, and prepare his estimate accordingly. This should show the quantity of work to be done, the rate at which it is to be done, and the amount. He should also prepare plans and specifications if necessary. All these should then be submitted and got sanctioned by a proper authority. What is a proper authority in each case is decided by the Rules and Standing Orders.

Whether a work should be got executed departmentally or by contract should generally be left to the discretion of the departmental head. But once it is decided, checks should be instituted for both the methods of execution of work.

If it is to be executed departmentally, the particular servant in whose charge the work will remain, will have to engage a certain number of men and also purchase a certain quantity of materials. As far as engaging of men is concerned they are generally labourers. How many men should be engaged should be left to the discretion of the departmental head. As far as purchasing of materials is concerned, there should be definite rules governing the whole procedure.

For such purposes in the beginning of the year or even a little earlier the department should decide the number of articles and their quantities which they will require during the coming year. For

these articles and quantities competitive rates should be invited, generally by public advertisement. The tender should preferably be sealed. It should be submitted to a particular authority, before a certain date and accompanied by a certain amount called earnest money. The authority should open the tenders on the day fixed for the purpose. Any tenderer who wishes to remain present at that time may be allowed to do so. Every tender opened should be signed and numbered by this authority.

From these tenders a comparative statement should be prepared which should show the cost as per each tender. It should then be sent to the authority empowered to sanction the tender. Ordinarily the lowest tender should be accepted. But exception may be made. An authority is not bound to accept the lowest tender. It may accept the next lowest or even the third lowest. The decision not to accept the lowest tender may have been based on two considerations. One is the reliability of the tenderer. The tenderer whose tender is the lowest may have submitted the earnest money and hence if he does not fulfil his part of the contract the earnest money is liable to be forfeited. Even legal steps can be taken against him. But all this means additional trouble; and the work also may suffer. Discretion, therefore, should always be given to the authority to accept any tender it likes. The other reason may be the quality of the article offered. If the article offered is not upto the mark or the required type, then also that tender may be rejected even though the rate quoted may be the lowest.

After the tender is accepted, the successful tenderer should be informed of it, and asked to pay up the remaining deposit and execute a contract document. The contract paper should be sealed and signed by the local authority and the contractor, before witness.

A contract paper should contain the following information:—

1. The period within which the work is to be finished or the articles are to be supplied.
2. The rate.
3. The liability of the deposit being forfeited in the event of failure on the part of the contractor.
4. Further liability of the contractor in the event of the local authority having to spend more to get the work completed or to get the required materials.

This whole procedure governs the mode of purchasing the materials required for executing works departmentally. In such cases the contract is generally for the total quantity required during the year.

The other method of executing a work is to get the whole work executed by contract. Here also the procedure is the same. The only difference is that in this case the contract is not for material but for executed piece of work, i.e., not for the bricks but for masonry, not for paint but for painting, not for cement concrete but for cement concrete work, etc. It will be seen that in such a contract, the contract rate includes the cost of materials as well as of labour. The local body, therefore, has not to engage any labourers excepting one or two workers of superior type whose duty it would be to maintain concurrent supervision over the work being executed by the contractor.

The character of the estimate i.e., the details of the estimate will be determined by the manner in which the work is proposed to be executed. If it is intended that the work should be executed departmentally and only the materials should be purchased, then the details of the estimate also would show the two items of cost separately. In the estimate there will be one estimate of cost of labour and another estimate of the cost of materials. If, however, the whole work is to be got executed by contract, the estimate would show the cost of each item of work per unit.

When the work is finished comparison should be made between the estimated quantity and the actual quantity executed, the estimated cost and the actual cost and the estimated rate and the actual rate. After the work is finished a completion report should be submitted by the executing department in which all these figures should be given. This is to enable the higher authority to see if the amount spent is within the estimated amount and if it is more, to inquire as to why the estimate was exceeded and so on.

The framing of the estimate, the entering into contract and the submission of the completion report are thus the chief controls over the quantity and the quality of the expenditure.

Establishment is another chief form of expenditure. On this also perfect control is maintained. There are statutory provisions enabling the legislature to maintain full control. Nobody except

labourers, etc. on daily wages can be engaged on monthly salaries unless the post is created by the legislature i.e., the General Board. In some cases the creation of the post requires the sanction of Government also*.

Such establishment is called permanent or scheduled establishment. There are other kinds of servants called non-scheduled servants. These are generally of the type of daily wagers and workers on contract. In their case also sanction of the legislature has to be obtained.

The last point to be considered is retrenchment and economy. These two terms are generally mixed with one another and are usually understood to mean the same thing. But it is not so. Every retrenchment does not mean economy. Retrenchment means merely cutting down expenditure, while economy means the same thing coupled with the maintenance of the services in efficient order.

At present there is the mania of retrenchment. Originally it descended from Government. They found it difficult to balance their budgets and hence resorted to cutting down services and activities of common benefit. A local body also, if it finds that its budget cannot be balanced, retrenches.

There is one difference, however, between the two authorities. Government when it finds difficult to balance a budget closes down its public works, even resorts to cutting down educational facilities and curtails expenditure on maintenance of hospitals, etc. A local body, however, cannot do this. Its existence is justified only on the ground of rendering service to the community. While the area being comparatively small, non-rendering of a service will at once be felt and vehemently resented by the public as well as by the legislature.

Of course all possible economies must be effected. The efficiency of the service should not degenerate. Reducing, therefore, the number of sweepers merely with a view to cut down the expenditure is the most undesirable thing because thereby the health of the area will be endangered. Comparison, however, may be made between area covered by one sweeper in one local body and that in another, or between the area cleansed in Rs. 100 in one case and that in another.

* Cf. Section 59 of the Bombay Municipal Boroughs Act and Section 46 of the District Municipal Act.

Of course if it is found that expenditure in a certain direction which was necessary in the past is now not necessary, it may be curtailed and the whole department even may be closed. Before the advent of motor trucks bullock carts were employed. If now motor trucks are employed the cost of establishment to run the bullock carts may be wholesale curtailed.

In matter of economy in the cost of establishment, however, one contingency has to be guarded against; and that is, unemployment. On the one hand it is said that workmen must be paid at least the minimum wage so that they may not starve. The servants must be paid at least so much as would ordinarily guard them against temptation. While on the other hand machinery doing the work of human beings is introduced because that is cheaper. This will naturally result in unemployment; and that means larger burden on the state. If as a result of the state or the municipal activity there arises unemployment, the burden on the community as a whole rises. The community will have to feed these people.

Another point which can be said to be a corollary of this point is that the local body should act in such a way that it will add to the wealth and happiness of the community. This is real economy. Outwardly it may appear that the body is spending more. But, a local body that insists on purchasing Indian made articles, or giving its contracts to Indian firms is doing nothing but an act of service to the community. If, therefore, a little more has to be paid for such articles or services as compared with the foreign ones it does not mean that the body is extravagant or is misusing the public money. It only means it is rendering a distinct service to the community and thereby justifies its existence.

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**RECONSTRUCTION OF LOCAL
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**PART I—A CRITICAL SURVEY OF LOCAL
SELF-GOVERNMENT**

CHAPTER I—HISTORICAL RETROSPECT

LOCAL self-government as it exists today in India is a foreign importation. Prior to the advent of British administration, there existed a form of local Government throughout the length and breadth of India, almost uniform in its character and structure. This was the little village commune with its own organization and government and its little staff of functionaries, artisans and traders. The staff of functionaries, artisans and traders by means of which village communities carried on their internal government have survived in a recognizable form almost everywhere. But the village community has now lost much of its internal cohesion. "Nevertheless, as an administrative organ of great potential usefulness for the rural population the village community is by no means dead. In the words of the Royal Commissioners of Decentralization in India, the foundation of any stable edifice which shall associate the people with the administration must be the village as being an area of much greater antiquity (than the new administrative creations) and one in which people are known to one another and have interests which converge on well-recognized objects" (*Village Government in British India* by John Matthai, page 38).

Though the words cited above came to be written over twenty years ago, the position remains practically unaltered and it is not yet too late to reorganise and reconstruct the entire system of local self-government with village community as its basic unit. The problem, however, is not now as simple as it was twenty years ago. Much water has flown below the bridge and changes social, political and economic wrought by Time in the intervening period have got to be taken into account before any new superstructure is sought to be built on the basis of the ancient village communities.

The existing system of local self-government has had a very chequered career. As the Report of the Simon Commission points out, the present system is a British creation. It has been superimposed on the people whose aspirations lay in another and yet more fundamental direction. The system was introduced "with the

avowed object of developing self-government" and Lord Mayo's Resolution of 1870 "emphasized the ideal of the increased association of Indians in the administration and indicated the extension of municipal self-government as the most promising field for its attainment."

Lord Ripon's Resolution of 1882 marked a decisive advance in the policy of decentralization through the agency of local self-government. "In advocating the extension of local self-government", says the memorable document, "and the adoption of this principle in the management of branches of local affairs, the Governor-General in Council does not suppose that the work will be in the first instance better done than if it remained in the sole hands of Government District Officers. It is not, primarily, with a view to improvement in administration that this measure is put forward and supported. It is chiefly desirable as an instrument of political and popular education." The Resolution expresses the fervent hope that the Government officers would foster sedulously the small beginnings of the independent political life, and further, by loyally accepting the policy of the Government as their own, would attempt to supersede the more autocratic system of administration then in existence, and, it may be added, even now in existence.

Lord Ripon's Resolution concludes in these historic words :—

"The Governor-General in Council has no hesitation in stating his conviction that the only reasonable plan open to the Government is to induce the people themselves to undertake as far as may be, the management of their own affairs; and to develop, or create if need be, a capacity for self-help in respect of all matters that have not, for imperial reasons, to be retained in the hands of the representatives of the Government."

It is well worth pointing out that the scope of the local self-government, as visualized by the Resolution of 1882, was a very comprehensive one. It was to include in course of time all matters except those which for imperial reasons had of necessity to be left out. Fifty-four long years have passed away since this noble policy was first clearly enunciated and we are yet nowhere near the objective. Not only matters of an imperial nature but many matters of purely local character do not yet find place in the system of local self-government. The autocratic system of administration with the District Officer as its nerve centre, which Lord Ripon intended to replace by a popular form of local self-government, still holds the

field. Whatever be the reasons for this unfortunate lack of progress, it is high time that the scope of the local self-government is forthwith expanded so as to realize in a concrete form the hopes authoritatively expressed fifty-four years ago.

In pursuance of the Ripon pronouncement self-governing institutions in the form of municipalities and district and taluq boards came into existence in all the British Indian provinces. But as a matter of fact no real and substantial progress was made "in political and popular education in the art of self-government." The position prior to the Mont-Ford Reforms was very pointedly summarized by the Simon Commission as follows :—

"It is obvious to us that, in the vast majority of districts local self-government continued to be, as in the past, one of the many functions of the District Officer. No real attempt was made to inaugurate a separate system amenable to the will of the local inhabitants. In effect, outside a few municipalities, there was in India nothing that we should recognize as Local Self-Government of the British type, before the era of the Reforms."

The Government of India Act, 1919, transferred local self-government to the control of the Ministers answerable to Provincial Legislatures. Legislative enactments followed, the general trend being the same in most provinces. "Almost all aimed at lowering the franchise, at increasing the elected element in local bodies to the extent of making it the unquestioned immediate arbiter of policy in local affairs, and at passing executive direction into non-official hands." This was the third stage in the growth of local self-government. The Reforms of 1919 introduced a distinction between the transferred and reserved half in the provincial departments and this distinction has had much to do with the structure and functions of the self-governing institutions brought into being by new enactments. As the Simon Commission has observed, the key-stone of the pre-reform system was the position of the District Officer as the official Chairman of the local bodies and municipalities. "The official Chairman had not merely been the presiding member, but actually the executive officer of the Local Board. In administering its affairs, he had never been entirely dependent on the Board's own staff. He combined in his person the authority of highest revenue and the highest magisterial office in the district, and had in consequence at his command an army of other officials whose services he could and often did utilize in the discharge of his Local Board duties."

It is necessary to draw a very pointed attention to the passage quoted above. The rift created by the post-Reforms enactments in the local self-government and the general administrative machinery of the district was a departure from the old policy, a departure which was never contemplated in any of the previous authoritative pronouncements. It was a departure which resulted in the most unfortunate and far-reaching consequences. This departure was almost wholly due to the invidious distinction drawn between the reserved and the transferred departments by the Act of 1919. The inevitable result was the isolation of the local self-government from the general administrative machinery. Two parallel administrative organizations began to function side by side and the local self-government was denied the guidance of expert advice, assistance and active co-operation of the District Officials together with the army of other officials at their command. The liberal policy of the Ripon Reforms of the gradual inclusion of all matters within the scope of local self-government except those of an imperial nature with a view to replacing the autocracy of District Officials by a popular form of local self-government was given a go-by. The reserved half watched the functioning of the local self-government with almost calculated indifference and wherever and whenever local bodies failed to give a satisfactory account of themselves, it was put to the discredit of the people as being unfit to govern themselves. It was a case of practically two local governments working in the same area, one under the direction of the reserved half with the entire provincial resources at their command and the other under the loose direction of the Ministry of Local Self-Government with practically no resources at its command. Never in the history of local self-government of the entire civilized world was such an experiment tried, and nowhere, even with the most advanced civic consciousness, could such an uneconomic, unscientific and self-contradictory form of social organism could ever hope to succeed. No wonder, therefore, that the local bodies brought into being under the ægis of the Mont-Ford Reforms have not been able to give a very satisfactory account of themselves.

If it is not with a view to fastening the blame on the permanent imperial service staff for the unsatisfactory working of the local bodies that this criticism is being offered. The fault lay not with the officials but with the system of dyarchy introduced by the Act of 1919. As learned authors of the Simon Commission say in their Report: "Under the old system the District Officer was at once Chairman of the local authority and agent of the provincial Government. He took the place of the staff of officials of the Minister

of Health at home and, with cessation of his official connection with the local bodies, the Minister of Local Self-Government was in effect deprived of the instrument for enforcing his will." The Simon Commission, however, while pointing out correctly the main causes for the failure of local self-government generally, do not offer any constructive suggestions for its re-organization. All the same, the necessity of utilising the district official staff for the successful and efficient functioning of the local self-government has been sufficiently indicated by them.

It would be clear from this brief historical retrospect that we have had two distinct policies in the matter of local self-government: One proclaimed by Lord Ripon's Resolution which was never followed to its full extent; and the other sponsored by the enactments inspired by the Government of India Act, 1919, which was followed, but which proved a complete failure. It has, therefore, become necessary to examine the problem of local self-government in all its aspects and introduce new legislation which would avoid the defects of the existing enactments and place the entire system of local self-government on a sound basis.

CHAPTER II—SYSTEMS OF LOCAL SELF-GOVERNMENT

According to the Simon Commission the "Systems of local self-government fall into one or other of two well-defined types, which we may call the British and the Continental. In the former, Government is *decentralized*. Local bodies with wills of their own exist. They initiate and carry out their own policies, subject only to such powers of direction and control as are retained by the Central Government. They appoint, subject, it may be, to regulations as to qualifications, their own staff, and raise in the main their own revenue. They form, in fact, a detached system. They are not a mere subordinate part of the governmental machine. Under the Continental system, on the other hand, Government is *deconcentrated*. The principal local official is not a servant of the elected representatives of the locality, but is essentially an official of the Central Government, sent down to a particular locality to carry out part of the work of the Central Government. He may or may not be assisted by an advisory council, to which perhaps a few powers of deciding policy have been conceded, but the will that operates in the sphere of local administration is that of the Central Government, not that of the people of the locality."

Prior to the Reforms of 1919, local self-government in India belonged essentially to the Continental or deconcentrated type,

though in actual practice it did not work as efficiently or effectively as it did in the continental countries. During the Reforms period, 1920 to 1935, a system which belonged neither to the one nor to the other type was brought into being, which as has been already pointed out has not produced satisfactory results. And now, under the new Reforms of 1935, a restricted form of provincial autonomy has been introduced and the distinction between the reserved and transferred half has been abolished; and therefore, it has become necessary to introduce a new system of local self-government consistent with the structure of the new Reforms. Provincial autonomy granted by the new Act would neither be real nor effective, nor conducive to popular interests, unless the existing form of local self-government is structurally and fundamentally altered. Incidentally, it would be necessary to remove the anomaly with regard to franchise, which today is wider for the Provincial Assembly than for the local bodies.

Before any new system of local self-government is sought to be introduced it is necessary to take into account certain limitations under which we must work under the new dispensation. First and foremost, every province is under a statutory obligation to maintain a certain proportion of permanent staff of officials which no provincial government is empowered to dispense with. Secondly, there are certain matters which fall within the sphere of special responsibilities of the provincial Governor, and as such cannot be touched. No system of local self-government which ignores these limitations, or is in any way inconsistent with them, can be introduced in any of the British Indian provinces.

The system, therefore, that is set forth in the following pages, is not an exact copy of any system that is prevalent in any other country. We are neither free to adopt any system that we like nor would it be desirable to do so in view of the conditions that we have to face in India, and particularly, in our province.

It may be a news to many, but it is a matter of fact, that the Central provinces has had the longest acquaintance with the principle of election. During the period 1842 to 1862, when the earliest essays in municipal government were attempted, a series of enactments was passed providing for setting up municipal institutions for towns. And we have it from the Simon Commission that: "During this period, although the principle of election was actually recognized, it was little applied except in the Central Provinces." An experience of over eighty years in the use and practice of the principle of election should afford sufficiently strong justification for meeting the

popular demand for an adult franchise, especially with regard to local self-government. Again as long ago as 27th February 1912, the late Mr. Gokhale moved the following Resolution in the Imperial Legislative Council: "This Council recommends to the Governor-General in Council that steps should now be taken to bring district administration into closer touch with the people by creating, as far as possible, in every district in the different provinces a District Council, composed of not more than nine members, partly elected and partly nominated, whose functions should be merely advisory to begin with, and whom the Collector should ordinarily be bound to consult in all important matters." Had the system of local self-government developed on the lines indicated in this Resolution, we would have had by now a thoroughly democratic form of administration in all the districts of India.

In view of the limitations we have to take into account and in view of the historical development of popular tendencies demanding increased democratization and, lastly, in view of the pronounced policy of the Government of India indicated in the Ripon Resolution to the effect that popular will should be associated with all administrative matters except those of an imperial nature, we are driven to the following position, *viz.*—

- (i) Utilization of the permanent staff of officials in the district for the purposes of local self-government;
- (ii) expansion of the local self-government to all matters excepting those of an imperial nature; and
- (iii) democratization of local self-government sufficient to meet the popular demand.

These are the main factors which any system of local self-government intended for any of the British Indian Provinces, must take into account.

This being the basis, the system of local self-government in India has got to be partly of the Continental or deconcentrated type, and partly of the British or decentralized type. But within this general frame-work, certain good features of the American system could also be introduced. And lastly, local conditions may necessitate certain new features not in operation in other countries.

What we suffer from today is the evil of over-bureaucratization in the entire governmental machinery from top to bottom. It is not only the people who are the victims, but even the highly-trained civil service staff also gets affected by the evils of bureaucratization

and loses its original efficiency, and, in course of time, all touch with the ever-growing realities. The following observations from one of the most eminent authorities is well worth a quotation. "In some countries possessing a highly-trained civil service, each department tends to lay undue stress upon uniformity, becomes attached to its settled habits, dislikes novelties, contracts bureaucratic methods, and may assume towards the private citizen a slightly supercilious air. Progress is retarded because experiments are discouraged. Popular interests flag because popular interference is resented, and officials fall out of touch with general sentiment. The more the central bureaucracy controls local affairs, the wider will be the action of these tendencies" (*Modern Democracies* by Bryce, Volume II, page 480). A more appropriate description of the position in India can scarcely be found.

There is yet another advantage pointed out by Bryce in favour of decentralization and local autonomy. "Where local discontents arise, it is better for them to find vent in the local area rather than encumber the central authority. Under a federal system of government such as that of the United States, Canada, Switzerland where many matters are to be settled by State, or Provincial, or Cantonal assemblies, controversial issues are divided between those assemblies and the central national legislature, and a political conflict in the latter need not coincide with other conflicts in the former. The same principle holds true with regard to local authorities in small areas, such as the county or municipality. Men opposed in national politics may work together harmoniously in the conduct of county or municipal business, as happens in Switzerland and England, and to a large extent in the United States also." A possible objection to making the District Council or the Municipality fully autonomous with regard to local matters is ably answered in the above passage which is based on the experience of many nationalities.

Experience in all the civilized nations goes to show that autonomous local self-government contributes materially to the development of local centres of thought and action. "Many a country has had reasons to dread the excessive power of its capital city. There ought to be many cities, each cherishing its own traditions, each representing or embodying a certain type of opinion, and each, instead of taking its ideas submissively from the capital, supporting journals of the first excellence in point of news supply and intellectual force. Such cities will be all the more useful in forming independent centres of opinion if they have also strong local self-govern-

ments which enlist the active service of their leading citizens of all classes." (Bryce.)

Bryce, Mr. and Mrs. Sidney Webb, Cole and other eminent authors on local self-government speak of the merits and demerits of the various systems that are daily shaping the civic life of civilized peoples. While it is neither open to us nor desirable to copy any one or more of these systems, it would be denying the importance of history and human experience to shut our eyes to the methods which have proved their usefulness in the varied vicissitudes of life. Thus, for instance, the American system of election of the President of National or local bodies by a general vote has stood the test of time and demonstrated its unquestioned superiority over any other methods. This method "gives less scope for intrigue and secures better men." This method is especially suitable for Indian conditions, where we find that the smaller the area the greater the intrigue and mischief. The sense of the large mass which is too big to be bribed or bamboozled can be trusted better in the matter of selecting capable and trustworthy men for managing and controlling local affairs than the sense of smaller units. Most of the intrigue in the municipalities and district councils would vanish away if the president is elected by a general vote instead of by the elected representatives of wards or circles. Similarly, the Swiss system of Referendum, by which measures of importance are submitted to the popular vote for approval or rejection, can also be adopted with profit. And lastly, the system of Recall, under which irresponsible or faithless representatives could be recalled by their constituencies under certain grave circumstances, may also be introduced in our province, as such a system would act as healthy check on political opportunism.

As regards the size of the elected councils for municipal and other local bodies, the following observations of Bryce are worth noting: "Municipal Administration has become more and more a business matter for experts in such sciences as sanitation and engineering. The chief duty of an elected council has, therefore, come to be that of appointing and supervising the permanent officials, and for this a comparatively small council can well suffice even in a large city."

It may be remembered that the problem we have to face in India and in our province is to link effectively the democratic will of the people with the permanent staff of officials and to enable the latter to carry out the dictates of that will without being hampered by any other considerations. It is for this reason that

provision for the election of capable and trustworthy men to control the local affairs has got to be made. In addition to the methods already suggested it would also be necessary to draw a distinction between a right to vote and a right to stand as candidate, so that the introduction of universal franchise for local bodies may not result in the selection of unworthy and incompetent men as representatives of the people. Provision for such a distinction would effectively meet the objection to universal suffrage based on the ground of illiteracy of the large mass of voters. The right to stand as a candidate could be restricted to persons possessing minimum educational qualification, say up to the standard of matriculation, or knowledge equivalent to that standard. The Provincial Government may, however, make exceptions in respect of persons who have to their credit a good record of public service. In respect of the presidents of the District Councils and Municipalities, who shall be vested with large powers, education and record of public service may both be made the elements of eligibility for presidential candidature.

The main idea is to secure the best which modern democratic methods can give us and combine it with the highly trained administrative staff of officials, so that both popular will and efficiency may go hand in hand in the cause of public good and progressive administration.

CHAPTER III—DECENTRALIZATION OF POWERS AND FUNCTIONS

The denial for decentralisation is as old as the history of organised public opinion in India. It was to meet this public demand that the Royal Commission upon Decentralization was appointed in 1907. The main object of the Commission was to see if by measures of decentralization or otherwise it was possible "to bring the executive power into closer touch with local conditions." The recommendations of this Commission did not satisfy even such esteemed liberals as the late Mr. Gokhale who, as a witness before the Commission, had submitted a scheme which did not find favour with the Commission. The central idea underlying Mr. Gokhale's scheme was the establishment of District Advisory Councils with a view to bringing the entire district administration into touch with the elected representatives of the people. In his note submitted to the Royal Commission, Mr. Gokhale said: "The three evils of the present system of district administration are its secrecy, its purely bureaucratic character and its departmental delays. Important questions affecting the interests of the people are considered and

decided behind their backs on the mere reports of officials, only final orders being published for general information as though the people existed simply to obey. The constant references, backwards and forwards, which an excessive multiplication of Central Departments has necessitated, involve long and vexatious delays even in the disposal of petty matters and are fruitful source of irritation and suffering to simple villagers. The Collector is the chief representative of the Executive Government in a district and to prevent the evils of uncontrolled exercise of power, he is subjected to a series of checks in his work. These checks are, however, all official; they are all exercised by the members of his own service, of which he himself as a rule is a fairly senior officer, and though they may serve to prevent gross abuses of power, I fear they are not of much value in promoting efficient administration and they certainly hamper him largely in the prompt discharge of his duties. What the situation requires is not such official checks exercised from distance, but some control on the spot on behalf of those who are affected by the administration."

These words were written nearly thirty years ago and it is a great pity that the situation should remain substantially the same even today.

Failing in his attempt before the Royal Commission, the late Mr. Gokhale moved a resolution in the Imperial Legislative Council, in 1912, recommending the creation of Advisory Councils. In his memorable speech made in support of this resolution, Mr. Gokhale penetratingly criticized the composition and the conclusions of the Decentralization Commission and pointed out how their attention was concentrated on official remedies and their vision blurred by an official bias which prevented them from seriously enquiring into non-official remedies. Mr. Gokhale, therefore, once more explained his scheme in a remarkable speech which merits careful study on the part of every one interested in the problem of democratizing Indian administration. According to Mr. Gokhale, there were three requirements of the situation as it then existed: "In the first place, we want more government on the spot, and more expeditious government. These departmental delays and this excessive reliance upon the secretariat—from these the District Officer ought to be freed. More expeditious government, more government on the spot—that is the first requirement. The second is, an interest in the administration must now be given to the educated class that has come into existence, an educated class with which the official class must, moreover, learn to get on; and the third is that provision

must be made for the grievances of the district being ventilated in responsible manner in the District itself." Mr. Gokhale attached great importance to this aspect of the question. He was of opinion that the Provincial Administration or the Provincial Councils could not meet these requirements. Said Mr. Gokhale: "If these grievances have to be taken to the Provincial Administration and have to be brought up for discussion in the Provincial Councils, what happens is this: The grievances from the whole province gather together and come in one stream, so to say, when a meeting of the Legislative Council happens to be held; and that conveys altogether erroneous idea about the whole administration, as though things were wrong here, there and everywhere. What is necessary is that as a grievance arises it should be dealt with as far as possible on the spot. There should be opportunities available to the people to bring it in a responsible manner before the head of the district and have it removed. Then it ceases to be a subject of discussion in so many homes. Then it ceases to breed that poison which gradually comes to fill the air and does infinite mischief both to the government and the people."

These observations have considerable force even today. The present Provincial Autonomy cannot meet the requirements of the far off districts and the remoter villages. The seven Ministers of our province today have each to deal on an average with three provincial departments. It is physically impossible for any Minister to deal adequately or deal at all with the innumerable grievances that come up to them from the districts. The local bodies or the municipalities have nothing to do with most of these grievances. And even with regard to matters with which they are authorized to deal, grievances go on pouring owing to inefficient management. Nor can these grievances be properly ventilated through the new Provincial Assemblies. They must therefore remain unredressed even under the new Reforms unless some machinery is created to deal with them on the spot. It is for this reason that decentralization of powers and functions is essential.

For over a century administration in the district is centralized in the person of the Collector or the Deputy Commissioner. The situation was bad enough in 1912 of which Mr. Gokhale has given us such a vivid picture. Today the situation is much worse needing a more drastic remedy than the one suggested by Mr. Gokhale. Mr. Gokhale suggested the creation of District Councils with merely advisory powers, at a time when Provincial Autonomy was a distant dream. Today, with Provincial Autonomy already functioning, the

District Councils would have to be given much wider powers to meet the requirements of the changed situation. But the basic idea of Mr. Gokhale must remain the same, as the basic structure of the British Administration still continues to be the same as it was in 1912.

Today we have to solve not only the problem of democratizing the system of general administration but also the problem of reorganizing the local bodies which have failed to give a proper account of themselves in spite of the wide autonomous powers given to them in certain respects during the period of Mont-Ford Reforms. As has been stated before, we have had two distinct policies with regard to the local self-government. We have tried the experiment of making the District Officer the president of the District Board with a view to initiating and training people in the art of self-government. This did not work. Secondly, we have tried another experiment of giving limited powers to local bodies and cutting them off from the District and Provincial staff of permanent officials. And we see today that even this plan has failed. And we are therefore driven to the third and the only possible alternative under the existing conditions, *viz.*, wider powers to local bodies and association of the permanent staff of district officials with them.

Mr. Gokhale proposed District Advisory Councils apart from and independent of the local bodies. The experiment of limited autonomous powers to local bodies had not then seen its bitter end. And hence the question of reorganizing local bodies on a more democratic basis did not then arise. It may be said, "where limited autonomy in local bodies has failed, how can wider autonomy succeed?" The answer to that question is as follows: Autonomy to local bodies was given in respect of matters which were kept completely divorced from the major political and economic issues that were vital to the masses and in which the masses were more interested than the matters which were delegated to the care of local bodies. The politically conscious intelligentsia was attracted and absorbed in the major political and economic problems of the day and hence the local bodies failed to attract the enthusiastic public attention which was necessary for its success. The growing financial stringency and the continued inefficiency reduced the local bodies to a farce at many places. The inefficiency is attributable to two main causes: Indifferent public opinion which was concentrated on the major political and economic issues; and secondly, the indifference of the permanent staff of district and provincial officials who under the dyarchic structure, did not deem it a part of their duties and responsibilities to see that the local bodies were run on efficient

lines. Financial stringency prevented the local bodies from engaging independent expert service and the experts of the provincial government deserted them. The result could not be anything else but mismanagement or non-management. It is indeed remarkable that despite these insurmountable obstacles, the local bodies have not been worse. The partial success of local self-government in the face of such heavy odds makes out a case for more democracy than for autocracy. The only safeguard that is needed is to link up this democracy with assured efficiency. And under the existing conditions we cannot look up to any source for efficient staff other than the permanent staff of officials that is thrust on us by the Imperial Government.

In this connection it may be noted that Mr. Shoobert who was on special duty to examine the question of minimizing the desk work of the Deputy Commissioners has recommended the appointment of an Inspectorate of local bodies comprising an Inspector and Deputy Inspector at an annual cost of about Rs. 34,000. The question of appointing inspectors was raised by the District Councils of Nagpur and Betul in 1929 and Government called for the opinions of the District Councils, Deputy Commissioners and Commissioners of the province. The opinion given by Mr. De, the then Commissioner of Berar, does not appear to have attracted the notice it deserves. Mr. De made out a very strong case for a thorough inspection of the works entrusted to the care of the District Councils, by the expert staff at the disposal of the Provincial Government. He pointed out by citing certain cases how huge sums of money were wasted away by the District Councils on certain roads, which could have been saved by timely inspection on the part of the Superintending Engineers. While the provincial works were inspected on an average once in six months the works entrusted to the care of the District Councils were in certain cases inspected once in 14 months even though Government money was involved in these works. The Commissioners' Conference of 1929 decided against the appointment of new inspecting officers and recommended a more thorough inspection by the inspecting officers of several departments. It has been pointed out that the existing rules do permit such inspection. The case for close co-operation with and actual execution by the provincial expert staff of all the functions entrusted to the care of local bodies is unanswerable on the ground of preventing waste of public money and improving the general efficiency of the local bodies.

But the question is, shall we introduce stricter control by the Provincial Government of local bodies on the old fashioned autocratic

basis and thus take away the autonomy enjoyed by them for the last so many years? Or, is it possible to improve the efficiency of the local bodies by any other method? And, there is the other question discussed above, viz., the necessity for bringing the people into closer touch with the general administration. In both these questions the closer touch of the people's representatives in local areas with the permanent official staff of the province is, it may be noted, a common factor. And therefore a single system of local organization which will solve both these problems appears to be the only way out. The demand for decentralization of the entire administrative system on the one hand, and the necessity for placing the entire expert staff of all the provincial departments at the disposal of the local bodies to improve their efficiency, on the other hand, without impairing the principle of autonomy enjoyed by the latter, would necessarily lead us to utilize existing institutions of local self-government for both these purposes. But this would need a complete overhauling of the present system of local self-government and its reorganization and reconstruction on a new basis. However, once we do this, we would be avoiding a duplication of institutions and staffs for common purpose, viz., bringing the representatives of the people into closer touch with the entire system of administration, local or provincial. It would thus be seen that the problem of decentralization and the problem of improving the efficiency of local bodies are vitally linked up together. In fact, they are merely two aspects of the same question. Already, many District Councils have expressed themselves against the proposal recommending appointment of special Inspectors or greater control over local bodies by the provincial Government through their departmental staff. They apprehend that this would mean an encroachment on existing local autonomy. But if the assistance of the provincial expert staff is made available to local bodies through a system of decentralization there would be no cause for dissatisfaction.

We may now examine the late Mr. Gokhale's scheme for decentralization on the basis of which we have to build a new one to suit new conditions. Mr. Gokhale explained his scheme in his speech of 1912, to which a reference has already been made, as follows: "Roughly I would divide the functions of the Collector into four categories. First must come matters which are urgent and confidential, in regard to which, of course, he must have power to do what he thinks proper without consulting the Council. Secondly, there would be matters which he must refer to the Central Government for final disposal, whether there is a Council or not, but in regard

to which he would express an opinion or make a recommendation. Here the opinion of the Council should also be ascertained by him and forwarded to Government along with his own opinion. The third division—and here is what would make a great difference to the people, would be of matters, which the Collector should be empowered to dispose of on the spot, if he is able to carry his Advisory Council with him, but which he must otherwise refer, as at present, for orders to the Central Government. This is what will really constitute in some respects the distinctive features of the scheme freeing the Collector from the present excessive secretarial control, and associating with him a small body of non official representatives to prevent his being a mere autocrat and giving the people some voice in the disposal of their affairs.....The last division will be of matters, in which the Collector, though bound to consult his Council, should be free to act as he deems best, taking or rejecting the advice of his Council, as he likes." Further on Mr. Gokhale says, "Leaving confidential matters alone, and taking the second category, I would include in it (1) Legislative proposals, (2) Proposals of revision settlements, (3) Revision of water rates, (4) Recommendations about remissions of land revenue, (5) Creation of new municipalities, (6) Extensions of the operation of Acts to new areas, (7) Imposition of punitive Police, and (8) Creation of new posts....In the third category, which concerns the most important part of my scheme, I would have matters which as I have already explained, the Collector should dispose of finally if he is able to carry his Council, with him, but which he must otherwise refer to the Central Government....Among such matters would be (1) opening, location and abolition of liquor shops, (2) suspension of land revenue, (3) levy of building fines, (4) city survey proposals, (5) organization of local supply from forests, (6) opening of new and closing of old schools, (7) establishment of Village Panchayats and unions, (8) suspension of Taluq Boards, Municipalities, Panchayats and Unions, (9) creation of Benches of Magistrates, (10) rules regulating fairs, processions, etc., and (11) assumption of property under the Court of Wards Act. Lastly would come those matters which the Collector may decide as he deems best, even against the opinion of the District Council, such as (1) urgent precautionary measures against plague, cholera and other epidemics; (2) measures for the preservation of peace; (3) measures of urgent famine relief, and so forth."

The new scheme that is being proposed now is to make the District Council a unit both for the purposes of local self-government and also for the purposes of decentralized general administration. Therefore, in addition to the matters now being administered

by the District Council, matters enumerated by Mr. Gokhale would be included within its scope of functions. But we have also to take into account the change in the conditions since Mr. Gokhale made his speech. What a politician of Mr. Gokhale's ability and sobriety thought practicable and workable in 1912 would, it may be hoped, be accepted by all in 1937. But a difference of opinion is possible with regard to the number of specific matters included by Mr. Gokhale in each of his four categories. It cannot be disputed that we have moved much ahead of 1912. Again, Mr. Gokhale's scheme was advanced at a time when Provincial Autonomy was not in existence and could scarcely be thought of as a practical proposition. The four categories of Mr. Gokhale cannot therefore have any bearing on the politics of the present day. It is only the central idea underlying his scheme that is of vital importance even today, serving as the fundamental basis for any new proposal of a like nature. But for Mr. Gokhale's scheme and his remarkable speech of 1912 the proposals now being advanced would easily have been dubbed as too far-reaching and impracticable. As matters stand today, any scheme of decentralization has got to be much more comprehensive than could be thought of by any one in 1912. A thorough-going and broad-based decentralization could alone be consistent with the letter and the spirit of the Government of India Act, 1935.

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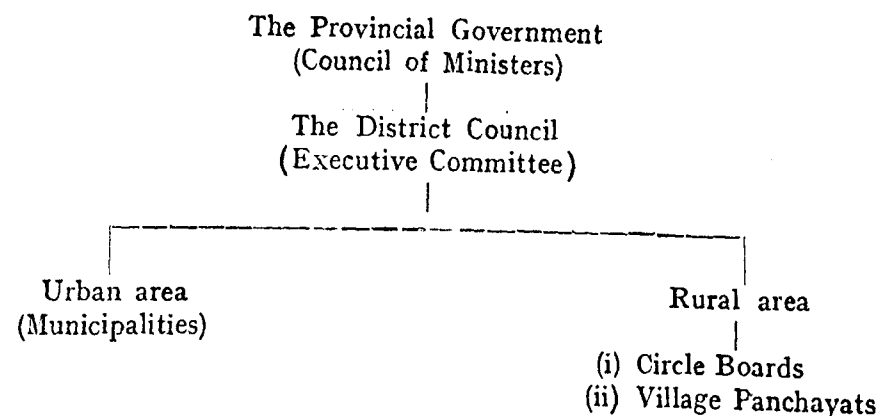
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PART II—BROAD OUTLINES OF THE SCHEME

CHAPTER I—CONSTITUTION

(1) Regional Divisions

For administrative purposes the province is at present divided into Divisions, Districts, Taluqs or Tahsils, Revenue Circles, and the Patwari's Circles. Inasmuch as we propose to combine the system of local self-government with decentralization of the general administration we have to follow, as far as possible, the existing plan of regional divisions which is in force for so long a time and with which the people have now become thoroughly familiar. The principal unit of this administrative plan is the district and it is here that we have to introduce largest possible decentralization coupled with local self-government. The District Council would, therefore, be the central major unit of the proposed scheme. Next would come municipalities with local autonomy under the general plan of decentralization; the third unit will be the rural area under the Revenue Inspector's Circle; and last but not least, would come the village or group of villages now falling within the range of one Patwari, and known as the Patwari's Circle. For the district there would be the District Council; for the towns with a population of 5,000 and above, there would be Municipalities; for the circle there would be a Circle Board and for every village or a group of villages there would be a Panchayat. The regional picture with graded autonomy would appear as follows:—



It would be seen that the taluqs or tahsils are not mentioned in this regional plan. Under the proposed scheme, it is felt that

there would be no need to retain the taluqs as regional sub-divisions. The Tahsildar would be reduced to the position of a Tahsil Treasury Officer, and the functions of the Government treasuries would be extended on the principle of banking, with powers to receive and keep deposits and make advances under the direction of the District Council for productive purposes sanctioned by the Provincial Government. Similarly, it would be seen that the Commissioners' Divisions have also not been mentioned because it is felt that the Government may abolish these divisions in response to the age-long popular demand. If, and so long as, the Commissioners continue to function they would act as the intermediate links between the District and provincial headquarters, as at present.

There would also be no need to retain the taluq boards or local boards, inasmuch as the proposed urban and rural units would be sufficient to meet local requirements; and another major unit intervening between the District Council and the basic local units would be a superfluity.

Under the proposed scheme, every village or a group of villages shall have a Panchayat, every rural circle shall have a Circle Board, every town with a population of 5,000 and above shall have a Municipality and every district shall have a District Council. All these will be statutory sub-divisions and all other regional divisions, whether for local self-government purposes or other purposes, shall cease to function as units of administration.

(2) Composition of the District Council

(i) *The General body.*—Each Revenue Inspector's Circle in the district shall elect one member to the District Council; the Municipalities in the District shall elect a certain number of members in proportion to the population in the urban area, taking the average figure of rural population in the revenue circle in the district as the basis for representation of one member; the President of the District Council shall be elected by a general vote of the whole district; and lastly, the President shall have power to nominate a certain number of members specifically for two purposes, viz., (1) to afford representation to minorities, and (2) to create a working majority in case the result of the elections happens to place him in a majority. This right of nomination shall not be exercised if the result of the elections fulfils both the conditions mentioned above. The general body will thus consist of the following:—

- (1) Members representing the rural area elected by the Revenue Circles.

- (2) Members representing the urban area elected by the Municipalities in the district.
- (3) The President representing the whole District elected on an adult franchise basis.
- (4) Nominated members representing minorities appointed by the President under conditions stated above.

NOTE.—The President shall also have the power to nominate certain persons on the sub-committees on the ground of expert knowledge or special experience of any subject; these non-official experts and the official heads of the District (functioning as secretaries and executive officers, as shown below), shall have a right to attend and address the general body but shall not have a right to vote.

(ii) *The District Executive Committee.*—The President shall form his executive committee from among the elected and nominated members, in the same way as the leader of the Provincial Assembly forms his Cabinet. The Executive Committee shall consist of not more than five members, including the President, and the latter shall distribute the portfolios among his executive members. The district heads of the various departments including the Deputy Commissioner shall form the Secretariat to the Executive Committee, each member of the Executive Committee having one or more secretaries according to the number of portfolios in his charge. The Deputy Commissioner shall be the Chief Executive Officer and the Secretary to the President. He shall also be the Chief Secretary to the Executive Committee and the District Council, his powers being analogous to those of the Chief Secretary to the Provincial Government. The secretaries shall have a right to attend and address the General Body and Executive Committee meetings of the District Council, but shall not have a right to vote. The President shall be the Chairman of both the general body and the Executive Committee and shall regulate the business and control the meetings. The business of the District Council shall be transacted through the Executive Committee and Sub-Committees appointed for specific purposes. The General Body shall elect members to the Sub-Committees and the President shall have the power to nominate non-members to the Sub-Committee on the ground of expert knowledge or special interest in the subject. The Executive Members in charge of the portfolios under which a Sub-Committee falls, shall preside over that Sub-Committee. The various secretaries of the executive members shall also be the conveners of the various Sub-Committees, respectively, falling within their portfolios. The Deputy Commissioner as the Chief Secretary shall be the convener of the

Executive Committee. The rules of business shall be framed by the Provincial Government and shall be mandatory on the District Council.

NOTE.—This arrangement will necessitate certain re-adjustments in the existing state of affairs. The Deputy Commissioner will have to cease doing any court work and will have to concentrate on executive work and efficient management of the affairs of the District Council. He will continue to possess magisterial powers along with the President but neither of them will try any cases or hear any appeals, criminal, revenue or miscellaneous. This work of a judicial nature will have to be entrusted to a senior officer of the rank of Additional District Magistrate. So also the present arrangement in the Education Department will have to be altered. Instead of one Inspector of Schools and two, three or more Assistant Inspectors attached to him working for one division as at present, we will have to entrust one district to one Inspector of Schools or Assistant Inspector so that he may function as the Education Secretary to the Executive Member in charge of the Education portfolio of the District. Similar changes may have to be made with regard to some other departments also.

(iii) *The President.*—The President, elected by a direct vote of the whole district, shall be the constitutional head of the District. All powers now vested in the Deputy Commissioner shall be exercised through the President whose powers will be concurrent with those of the former. As stated above, none of them will do any court work, *i.e.*, work of a judicial nature. In matters in which the President and his Executive Committee on the one hand and the official district heads on the other, agree, there will be, as a rule, no interference from the Provincial Government. In matters wholly transferred to the districts such as the departments now coming under the head of Local Self-Government the voice of the President and his colleagues shall prevail even against the disagreement of the District Official heads. But in matters which would be transferred to the district only partially for purposes of local management, the District Official heads shall have a right of reference to the Provincial Government. But the right of reference given to the Deputy Commissioner and the District Officials shall not be interpreted to lower the constitutional status of the President but the right shall operate only in the nature of a safeguard against any improper decision of the President and his colleagues. The President shall have the power to nominate members to the District Council as stated above and non-members to Sub-Committees for special

purposes as aforesaid. He shall have a casting vote in addition to his individual vote. In short, his powers shall be analogous to those of the Prime Minister of the Province so far as the District side of each department is concerned. Constitutionally he shall be subordinate to the Provincial Government and not to any of the District Officials. He shall be the principal agency through which the Provincial Government shall exercise its authority in the district. The president shall receive remuneration not more than Rs. 500, subject to the vote of District Council.

(3) Powers and Functions

At present the business of the Provincial Government is divided into twenty-two departments. For each of these departments (excepting a few) there would be a corresponding department in the District Council which would be the agency of the Provincial Government for the district. Each department would be split up into two branches: (1) District, and (2) Provincial. For Provincial purposes the District Council would merely be the subordinate agency of the Provincial Government whose orders it would be bound to carry out. But there would be what may be called the "District side" of each of these departments, with regard to which the District Council would have autonomous powers, subject, of course, to the general supervision of the Provincial Government. The District Official staff would be subordinate to the District Council so far as the "District side" of each of the departments is concerned. But with regard to Provincial matters the District Council would have no more than advisory powers, the final deciding authority being the Provincial Government. But even with regard to these Provincial matters, there shall be no interference from the Provincial Government in case of agreement between the District Executive Committee and the District Official heads.

Out of the twenty-two departments some may remain wholly Provincial, some may be transferred wholly to the District Council, and with regard to the remaining ones only certain sub-heads may be transferred to the District Council. Again the transfer may be of two kinds: (1) Transfer for merely administrative purposes, in which case the District Council will act only as a subordinate agency of the Provincial Government, and, secondly, (2) transfer for autonomous purposes, in which case the District Council shall exercise full autonomous powers, subject to the general supervision of the Provincial Government. In the former case, the Provincial

Government will interfere only in case the District Executive Committee and the district official heads concerned do not agree. If they do, the matter could be settled in the district without reference to the Provincial Government, the latter being merely informed of the decision. In case of disagreement the matter shall be referred to the Provincial Government whose decision shall be final. The right of reference shall vest both in the District Executive Committee and the district official heads. The reference shall contain the opinions of both the parties. In the case of departments transferred for autonomous purposes, the decision of the District Council and the Executive Committee shall prevail and the district officials shall be bound to carry it out, without reference to the Provincial Governments. In all cases, however, the Provincial Government shall be kept informed of all important matters as the final supervising and controlling authority.

In the light of these general observations we may now classify twenty-two departments of the province as follows:—

CLASS I.—*Departments which shall remain wholly Provincial.*

- (1) Appointments Department.
There shall, however, be a district appointments department with its own rules and regulations.
- (2) Finance Department.
There shall be the district finance department functioning independently, but on analogous lines.
- (3) Survey and Settlement Department.
- (4) Assembly Department and Legislative Department.
- (5) Judicial Department.
- (6) Legal Department.

CLASS II.—*Departments of which all the sub-heads may be transferred for administrative purposes.*

- (1) Separate Revenue Department.
- (2) Agriculture Department.
- (3) Revenue Department.
- (4) Public Health Department.
- (5) Land Records Department.
- (6) Education Department.
- (7) Public Works Department.

CLASS III.—*Departments of which certain sub-heads may be transferred for administrative purposes.*

- (1) General Administration Department.
- (2) Jail Department.
- (3) Police Department.
- (4) Political and Military Department.
- (5) Commerce and Industry Department.
- (6) Registration Department.
- (7) Forest Department.
- (8) Medical Department.

The following is a tentative list of the sub-heads falling under these departments which may be transferred to the District Council for administrative purposes :—

(1) *General Administration Department.*

This is divided into 29 sub-heads. Out of these, the following may be transferred to the District Council :—

- (i) Sub-head No. 6—Census.
- (ii) Sub-head No. 8—Relief of the poor ; unemployment other than industrial unemployment.
- (iii) Sub-head No. 10—Charities and charitable institutions, charitable religious endowments.
- (iv) Sub-head No. 11—Prevention of Cruelty to Animals Act.
- (v) Sub-head No. 12—Rewards for the destruction of wild animals.
- (vi) Sub-head No. 13—Protection of wild birds and animals including administration of the Game Act.
- (vii) Sub-head No. 14—Important occurrences including Hindu-Muslim disputes.

(NOTE.—The Deputy Commissioner and the District Superintendent of Police in case of emergency will act in their discretion, although they will have to consult the President of the District Council.)

- (viii) Sub-head No. 19—Installation of electric lights and fans.
- (ix) Sub-head No. 20—Telephone connections.
- (x) Sub-head No. 21—Bungalows, allotment and administrative approval to construction.

- (xi) Sub-head No. 24—Newspapers and books and distribution of books and publications.
- (xii) Sub-head No. 27—District Gazetteers.
- (xiii) Sub-head No. 28—Relief on account of flood, earthquakes, etc.

(2) *Jail Department.*

This is divided into 7 sub-heads, out of which the following may be transferred to the District Council :—

- (i) Sub-head No. 2—Discharged Prisoners' Aid Societies.
- (ii) Sub-head No. —Appointment of visitors to jails (this is not mentioned in any of the sub-heads).

(3) *Police Department.*

This department is sub-divided into 13 heads out of which the following may be transferred to the District Council :—

- (i) Sub-head No. 1—Public Order.
- (ii) Sub-head No. 2—Police including railway and village police.
- (iii) Sub-head No. 4—Preventive detention for reasons connected with the maintenance of public order.
- (iv) Sub-head No. 5—Criminal tribes.
- (v) Sub-head No. 7—Theatres, dramatic performances and cinemas.
- (vi) Sub-head No. 8—Betting and gambling.
- (vii) Sub-head No. 10—Mechanically propelled and other vehicles, control of traffic.

(4) *Political and Military Department.*

This is divided into 18 sub-heads, out of which the following three may be transferred to the District Council :—

- (i) Sub-head No. 1—General Administration (Political).
- (ii) Sub-head No. 5—Political pensions.
- (iii) Sub-head No. 18—Auxiliary and territorial forces.

(5) *Commerce and Industry Department.*

This is divided into 40 sub-heads, out of which the following may be transferred :—

- (i) Sub-head No. 2—Production, supply and distribution of goods, development of industries (especially village industries).

- (ii) Sub-head No. 4—Factories.
- (iii) Sub-head No. 6—Welfare of labour, etc.
- (iv) Sub-head No. 7—Unemployment insurance.
- (v) Sub-head No. 8—Industrial unemployment.
- (vi) Sub-head No. 9—Trade Unions, Industrial and Labour disputes.
- (vii) Sub-head No. 11—Unincorporated, corporated trading, literary, scientific, religious and other societies.
- (viii) Sub-head No. 12—Insurance.
- (ix) Sub-head No. 13—Electricity.
- (x) Sub-head No. 14—Boilers.
- (xi) Sub-head No. 17—Museums.
- (xii) Sub-head No. 20—Money-lending and money-lenders, including registration of money-lenders.
- (xiii) Sub-head No. 21—Weights and Measures.
- (xiv) Sub-head No. 22—Cotton Industry (Statistics) Act.
- (xv) Sub-head No. 23—Stationery.
- (xvi) Sub-head No. 24—Stores.
- (xvii) Sub-head No. 29—Petroleum and other dangerously inflammable substances.
- (xviii) Sub-head No. 39—Technical and industrial education.

(6) *Registration Department.*

Sub-head No. 1—Registration of deeds and documents may be transferred.

(7) *Forest Department.*

Sub-head No. 1 may be transferred.

(8) *Medical Department.*

Sub-heads Nos. 1 and 4 may be transferred. Sub-head No. 4 is Medical Education; of this the indigenous medical education may alone be transferred.

(iv) *Departments which may be transferred for autonomous purposes.*—Local Self-Government Department will cease to be a provincial department except for purposes of general supervision and control. The power of nomination would under the scheme be given to the President of the District Council and in the case of Municipalities the power would be given to the Presidents thereof. Other matters coming under this department would in the first instance go to the President of the District Council with regard to all the local bodies in the district, including

the Municipalities. The Provincial Government would have only revisional powers in certain cases and other powers which are discussed in a later chapter.

It would be seen that the Public Health Department, Education Department, Public Works Department, and Agriculture Department have already figured in Class II, and Medical Department has figured under Class III. For all these departments there would be a "District side" and to that extent, that is to say, to the extent of administering these departments within the districts, the District Councils would have autonomous powers. The provincial staff of these departments functioning in the districts would be at the disposal of the District Council, the district heads of these departments functioning as the Secretaries to the Executive Members of the District Council in charge of these portfolios.

From the point of view of district autonomy the position may be summed as follows:—

(1) With regard to all the sub-heads coming under the Local Self-Government Department, the district autonomy would be complete and the Provincial Government would exercise no more than general powers of supervision and control.

(2) With regard to other departments mentioned in Class IV above, the district autonomy would be of a dual nature. It would be complete so far as the "District side" of the departments is concerned and partial so far as the provincial side is concerned. The Provincial Government will lay down broad policies with regard to these departments and the District Councils would be free to enforce these policies in the way they deem proper and conducive to the general interests of the people of the district. For instance, the extension of medical aid, providing facilities for improving public health, extension of primary and secondary education in the district, improvement of agriculture and allied village industries, extension and management of district road system and other public works of the district and the general improvement of local bodies within the district, all these subjects could be left to the charge of the District Councils especially when the provincial staff would be there to assist them and give the benefit of their expert knowledge.

(3) With regard to the sub-heads of other departments (*i.e.*, those mentioned in Classes II and III) transferred for administrative purposes, the District Councils would function as the agencies of the Provincial Government for district purposes and the District

Councils would have no more than advisory powers with regard to matters coming under this category. The difference would be that while at present it is only the District Officials who carry on the administration in the districts on behalf of the Provincial Government under the proposed scheme it would be the District Officials and the District Executive Committee working together and in co-operation, that would be the agency of the Provincial Government for district administration. As has been already pointed out in all matters coming under this category the agreed decision of the District Executive Committee and the District Officials would prevail and the Provincial Government would be saved a huge mass of details and many a reference backwards and forwards. The Provincial Government would have to deal with such matters only which are referred to them by the District Officials or the District Council when the two happen to disagree. Public grievances would be ventilated in a responsible manner in the District Councils with regard to almost all the matters affecting the well-being of the people and we would have, in the famous words of Mr. Gokhale, "more government on the spot and more expeditious government." We will also have government with which the peoples' representatives would be closely associated at every stage, thus ensuring popular backing for every administrative action. The three evils of the district administration pointed out by Mr. Gokhale, viz., its secrecy, its purely bureaucratic character and its departmental delays, would be minimized to a very large extent, if not altogether removed from the system of administration.

A word may be said with regard to the subject of law and order. The Deputy Commissioner would as at present be empowered to act as he deems best in grave emergencies. But as a rule he would be expected to take the President of the District Council into confidence and in case of disagreement, the matter may be referred to the Provincial Government whose decision shall be followed. An organization of civic guards enlisted from all communities may be brought into existence to assist the police in the matter of maintenance of law and order. The civic guards may be trained by the police officers stationed at every important village and town. Compulsory physical training and compulsory voluntary service for a year or so for every adult in village and town would bring into existence a disciplined force sufficient to meet any contingency. The fittest among these civic guards may be enlisted in the regular police service and those who show sufficient talent may be formed into district military units with the necessary sanction of the Military Department. Local talent in the sphere of manning police and

military forces would thus be brought to light which may ultimately help to solve the defence problem of India so far as internal security is concerned. With popular administration introduced in the district much can be done in this sphere, and the fear and antagonism felt by the people against the police and military department will wither away in course of time. Law and order will come to have a popular backing which is sadly wanting at present under the existing system of administration.

Under the proposed scheme, therefore, we would have *full autonomy* given to the District Councils in the case of all matters now falling under the head of Local Self-Government partial or *administrative autonomy* in the case of other departments mentioned in Class IV above, and *advisory powers* given in the case of matters falling under all the remaining departments. And in all cases the Provincial Government will retain general powers of supervision and control and power of dissolution and suspension to meet any grave eventuality.

(4) Municipalities

Under the proposed scheme, the Municipalities shall function as the statutory agents of the District Council, within whose jurisdiction they are located. As has been already stated, every town with a population of 5,000 and above shall have a Municipality. There are only 112 such towns in the province and we have already 75 Municipalities. The area under the Municipalities shall be known as the urban area and the Municipalities shall have full autonomy within their jurisdiction, subject to the general supervision and control by the District Council. The President of the Municipality shall be elected by a direct vote of the whole town on adult franchise basis and shall exercise powers within the Municipal area similar to those of the President of the District Council. The Government Officials functioning in the towns shall form the secretariat in the same way as in the case of the District Council. The President shall form his Executive Committee and the general body shall elect Sub-Committees over which the President shall have power to nominate experts or men specially interested in the subject. The business shall be conducted through the Executive Committee and Sub-Committees on lines similar to those in the District Council.

The Municipalities will continue to enjoy the autonomy which they enjoy today. But their efficiency would be increased with the assistance of the town official staff made available to them for executive purposes. In addition, they will exercise administrative

autonomy with regard to other matters transferred to them as in the case of the District Council.

In the case of Municipalities all the departments transferred to the District Council need not be transferred to them. For instance, the departments such as the Agriculture, Forest, Registration, Land Records and Jail Department need not at all form part of Municipal administration.

The present system of election of members through wards has not at all worked satisfactorily. The system is not based on any sound principle and gives representation to a geographical area instead of to any social interest. Honest, competent and public-spirited men are not usually found in every ward and even if facilities are provided for candidates residing in one ward to stand for any other ward, the problem of getting men knit together by a common purpose and wedded to a common programme of social reconstruction will not be solved. It is therefore proposed that the system of election by wards should be abolished and the following system should be substituted in its place.

Apart from the President, each Municipal area will be given representation on a population basis, say, one member for each 500 or 1,000 voters. Votes will be cast not in favour of persons but in favour of parties with definite programmes published beforehand. The number of votes cast for each party will decide the number of members which each party will secure in the Municipal Committee. The total strength of a Municipal Committee will depend on the number of votes polled. In the case of big towns the base of 500 voters may be increased so as to limit the total strength to a reasonable and workable figure. In our province out of 112 towns we have only 18 towns having a population upwards of 20,000. These towns may be grouped in one class and the rest of the towns in the other class for the purpose of fixing a suitable base for representation. Again, Nagpur and Jabulpore are the only cities in the province with a population over 100,000. These two cities stand on a different footing not only from the point of population but also from the point of view of political and civic importance. They deserve to be grouped in a separate class with a more advanced constitution than other towns. Improvement Trust and a Corporation with a democratic constitution could be established for these two cities. The question may, however, be left for proper investigation to a committee appointed for the purpose. For the present, we may rest content with the introduction of the system of voting for parties instead of for persons and fixing of the total strength of the Muni-

pality to a workable figure. This may be done by retaining the present strength of each Municipality and working out a base for each member on adult franchise basis. Under this method each town will have larger or smaller committees according to the interest and enthusiasm which the parties may be capable of rousing in the mind of the voters. The maximum limit will be reached only in case of 100 per cent poll.

The system of nomination may be abolished in the case of Municipalities, except for the purpose of securing the services of experts or men specially fitted for certain subjects. Under the proposed system of election the parties will be forced to co-operate with minorities to secure their votes and promise them a certain number of seats. These voluntary agreements will go a great way in minimizing the evil of communalism and safeguarding the interests of minorities on a thoroughly democratic basis. Nomination may be resorted to only in case this method fails to give satisfactory results. In other respects the constitution of the Municipalities will be similar to that of the District Council.

(5) Circle Boards

For each Revenue Inspector's Circle in the rural area there shall be a Circle Board presided over by the member elected by the circle for the District Council. The Village Panchayats in the circle will elect not less than 5 and not more than 9 members to form the Circle Board, the number being small or large according to the size and population of the circle. The Revenue Inspector, the Circle Inspector of Police and such other officers already working in the circle shall form the secretariat of the Circle Board. The Circle Board shall be the agency of the District Council within the circle for all administrative purposes. Its duties will be analogous to the duties now performed by the local boards with the additional duties assigned to it by the District Council. Supervising the functioning of Village Panchayats and hearing of local grievances of the villagers and redressing them on the spot with the help of the official staff wherever possible or referring them to the District Council, shall form some of the main functions of the Circle Board.

Literacy and voting ability for the Provincial Assembly shall be the minimum qualification for membership of the Circle Board. The President of the District Council may nominate a certain number to the Circle Board for specific purposes or for giving representation to minorities, in certain special cases.

Rural education, sanitation, organizing of marketing and other aspects of rural economy, supervising crop statements, extension of medical aid and public health facilities to rural population in the circle, organizing of civic guards and improvement of agriculture and other village industries—are some of the functions which the District Council will entrust to the Circle Board. The Circle Boards shall submit monthly or quarterly reports to the District Council so that the latter may be kept informed of day-to-day rural requirements. The Circle Boards shall form the intermediate link between the District Council and the Panchayat.

(6) The Panchayats

Every village or a group of villages shall have a Panchayat. The existing Panchayats shall remain intact. But the formation of new Panchayats will be done on two lines: (i) Panchayat for each single village in case of big villages, and (ii) Panchayats for groups of villages in case of small villages. We have in our Province nearly 8,000 villages with a population between 500 to 5,000. There should be a Panchayat for each of these villages. The number of the remaining villages, come to a little over 31,000. In the case of these villages, the group system may be tried to begin with. And as each village develops and shows signs of progress a separate Panchayat may be given to it on demand by the village made to the District Council. Villages which are now managed by one Patwari, which is known as the Patwari's Circle, shall form the maximum unit for a group Panchayat. The principle on which the Panchayat shall be formed will be as follows: There shall be a Panchayat for each Patwari's Circle and there may be a Panchayat for each village in the Patwari's Circle on demand by the village. The statutory obligation will extend only to the Patwari's Circle.

The Panchayat shall consist of not more than 15 and not less than 5 members in accordance with the size and population of the village, or a group. The President or the Sarpanch and the members shall be elected by a general vote of the village or the group on an adult franchise basis. The system of election shall be the same as in the case of Municipalities, i.e., the voting shall be for the party and not for persons. The main difficulty experienced about the Panchayats is the lack of initiative among the villagers. In the early stages of local self-government it was expected that the District Officials would supply the necessary initiative and help in building up a healthy and progressive civic life in towns and villages. This method has failed and it is therefore proposed that the political and

civil parties in the district may be given a chance to reconstruct rural and urban life on well defined programmes. With a view to secure a voice in the district administration through the District Council, the political parties and other social and civic forces will supply the necessary initiative to build up rural life on progressive lines.

The Patel, the Police Patel, the Patwari, the Village Watchman where there is no Police Patel and the School Teacher where there is a school, shall form the secretariat for the Panchayat which shall be the basic rural unit for administrative and local self-government purposes. The judicial powers now exercised by the Panchayats shall be withdrawn because experience has shown that owing to these powers party factions on personal lines have increased in the villages and a number of Panchayats have degenerated into instruments of oppression. This judicial work can be entrusted to Honorary Magistrates who should be precluded from membership of local bodies. The appointment of Honorary Magistrates should be done on the recommendation of the president of District Council and the system should be re-organized so as to secure capable and honest men. It is possible to find such men in enough numbers in the rural side who are not interested in politics but who would be willing to do usefeful service of judicial nature. The separation of executive from judicial functions as far as possible and practicable is the very *sine qua non* of the proposed scheme.

Sanitation, public health, prevention of pollution of river-courses, preparation of crop-statements, management of village, public charities, village school, trust and temple properties, collection of rates, taxes and Government revenue, poor relief, public sarais, maintenance of the registers of voters, births, deaths and marriages, and other public records, and in short all the functions now performed through the patels and patwaris shall be performed by the Panchayats with the assistance of Village Officials. The organization of village civic guards to maintain order at the fairs and markets and other social and religious congregations shall also form part of the duties of the Panchayat. The Panchayat shall also serve as the Board for the economic development of the village in the matter of improvement of agriculture, cottage industries, marketing of village produce and purchase of village requirements, supplying of useful information to the villagers as regards market rates, crop forecasts, rainfall and such other useful subjects. The District Council shall supply all this information to the Panchayats through the Circle Boards or such other agencies established for the purpose. Installation

of radio machines will go a great way in keeping the rural side well-informed of all useful matters.

As suggested by the Central Provinces Provincial Banking Enquiry Committee in their Report (paragraphs 2174 to 2194), the rural reconstruction scheme should be immediately put into motion through selected Panchayats and the Circle Boards under the direction of the District Council. The Panchayat shall thus be a unit not only for the purposes of local administration but also a unit for all manner of collective activity, social, political and economic calculated to benefit the rural population.

The Panchayat shall also carefully note all the grievances of the villagers and redress them on the spot so far as it lies in their power with the help of village and circle officers and the Circle Board, and grievances not redressed shall be communicated to the District Council through the Circle Board. The District Council shall establish a speedy agency to look into these grievances and redress them by a summary procedure. Expeditionary redress of the grievances of villagers is bound to inspire confidence in their mind and generate a new enthusiasm for the Panchayat system. The existing Panchayats do not touch the basic needs of the villagers and this is one of the reasons why they have not yet been appreciated by the rural population.

The Panchayat shall function as the agency of the District Council and the latter shall exercise general powers of supervision and control over the Panchayats, including the powers of suspension and dissolution.

The Panchayats shall be empowered to impose fines and such other punishments on persons obstructing the Panchayat members and other village officers in the discharge of their duties. The persons so punished shall have a right of revision to the Civil Courts.

(7) Other Matters

The life of the Panchayats, Circle Boards, the Municipalities and the District Councils shall be for 5 years. The office-bearers shall be removable by a simple majority but only in case they are defeated on important issues and in case the smooth working of the bodies becomes impossible. The Provincial Government shall frame rules for this purpose in the light of experience gained so far. The suggestion made by the last Local Self-Government Committee in their report to the effect that the danger of an adverse vote resulting from "snap" voting should be avoided, merits consideration; but the

remedy is not to deprive by statute the majority of its right to have the office-bearers of its choice, but to frame rules to avoid dangers of "snap" voting. Two or three successive defeats suffered after a reasonable duration of time should afford sufficient ground for demanding resignation from the office-bearers. Secondly, the office-bearers should have a right to demand referendum on vital issues before they are called upon to withdraw by a simple majority. And lastly, the dissatisfaction in certain cases may be with regard to one or two members only; in such cases the system of recall may be resorted to, instead of asking the whole executive to resign. But in all cases the executive will be removable on specific issues and not on the ground that the majority wants them to resign. The method of referendum and recall will concentrate attention on issues of public importance and the electorate will get a voice on critical occasions in deciding important questions of policies, along with their representatives. The referendum and recall will act as healthy checks on irresponsible behaviour on the part of majorities, as well as on the office-bearers.

As regards questions such as the action to be taken against habitual absentee members, corrupt practices in elections and decision of election disputes the recommendations of the last Local Self-Government Committee may be accepted.

CHAPTER II—FRANCHISE

(1) Adult Franchise

We have proposed adult franchise for all local bodies—Panchayats, Municipalities and the District Councils. For the Circle Board alone there would be an indirect election, the Panchayats in the circle forming the electorate for the members of the Circle Board. The reason for this indirect election is obvious. The Circle Board is not intended to perform any specific duties apart from those entrusted to it by the District Council. It will be purely an administrative body and it will not be required to frame any new policies. It is intended to supply a popular agency to be associated with the circle officials and to serve as an intermediate link between the District Council and the Village Panchayats.

"According to the present franchise (for local bodies) the electorate is 246,000 in the urban and 431,000 in the rural areas, which works out to 16.3 per cent. and 3 per cent. of population, respectively. If the Provincial franchise is adopted, the resultant electorate will be 271,000 in the urban and 1,265,000 in the rural areas, or 17 per cent.

and 9 per cent, respectively, of the population." The population above 20 years of age in our province works out to the figure of about 6,690,000. If the adult franchise is restricted to 21 years this figure will be reduced to some extent. From 17 and 9 per cent. to nearly 42 per cent. (adult franchise) may appear to be a big leap. But we are now trying the experiment of wider franchise with wider powers, the experiment of lower franchise with restricted powers having proved a failure. Again, introduction of adult franchise in local bodies will prepare the ground for meeting the demand for the same advanced by all progressive political parties in India in the sphere of Provincial and Central Government.

We may, however, note that inasmuch as the preparation of the electoral roll on adult franchise basis may take a considerable time, the first elections to the local bodies may be held on the basis of Provincial Assembly electorate and the next elections may be held on adult franchise basis. This procedure will enable us to judge the results of the new scheme and place us in a better position to decide upon the advisability of introducing adult franchise.

(2) Distinction between right to vote and right to be member of local bodies

In previous chapters we have drawn a distinction between a right to vote and a right to stand as a candidate. For the latter purpose suitable educational qualifications may be fixed for each local body after examining the question with reference to conditions in local areas. For the Panchayats literacy and voting ability for Assembly should suffice as qualifications for membership. And for the Municipalities and District Councils higher educational qualifications may be fixed. For the presidentship of the District Council a still higher qualification may be fixed in view of the onerous duties attached to that office. The Local Self-Government Committee has recommended a minimum property, taxation, and literacy qualifications for membership. While we think that a higher educational qualification will be sufficient to ensure competence and sense of responsibility, we are not averse to fixing a minimum property and taxation qualification in addition to educational one. This question may however be left to be decided by a committee.

(3) Two methods of election

It may also be noted that we have proposed two different systems of elections: One for the District Council and another for

the Municipalities and the Panchayats. The reasons for the distinction may be stated as follows:—

(i) The proposed structure of the District Council is determined mainly by two considerations, *viz.*, (a) to water down the age-long autocratic system of administration prevalent in the district; and (b) to provide a central agency in the district for the purpose of co-ordinating the activities of the basic self-governing units in the urban and rural areas, *viz.*, the Municipalities and the Panchayats. There is also a third consideration, *viz.*, to relieve the pressure on the Provincial Government and free the district administration from the evils of over-centralization at provincial headquarters and thus create more government and more expeditious government on the spot. These considerations necessitate a different system of election for the District Council. Secondly, (ii) the Municipalities and the Panchayats are compact self-governing units and therefore the system of voting for parties is likely to prove more fruitful in their case than in the case of the District Council. Thirdly, (iii) considerations which have determined the structure of the District Council make it necessary to follow the existing system of regional sub-divisions. In the case of Municipalities and Panchayats the regional representation based on the ward system is unmeaning and can therefore be done away with. And lastly, (iv) the district cannot be said to be a self-governing unit in the same sense in which a town or a village can be.

The reasons for introducing the system of voting for parties in the place of persons have already been stated in the last chapter. They need not therefore be repeated here. It may also be noted that the system introduced in the District Council will not prevent formation of parties and the elections will be run on party lines. But voting for parties is bound to result in course of time in coalition executives which may weaken the administration. The power given to the President of the District Council to nominate members in case the result of the elections happens to place him in a minority, is intended to secure stable administration in the district. When the whole district gives verdict in favour of a man, it is but proper and safer to invest this man with enough powers to enable him to justify the confidence placed in him by such a wide electorate. Voting for the parties cannot ensure this position and hence the distinction.

(4) Referendum and Recall

The provision for referendum and recall is intended to generate a sense of responsibility among the elected representatives of

the people who will now be in their seats for five long years. It is also intended to operate as a statutory remedy to avert crisis democratically without having recourse to dissolution or suspension on the part of the Government. And, lastly, the provision is intended to concentrate attention on issues of public importance which alone shall form a ground for either referendum or recall. The vicious play of personal feelings will thus be minimized. These are the main considerations on the basis of which rules shall be framed by the Provincial Government with regard to referendum and recall.

In the case of the District Council, the referendum may be restricted to the members of the Municipalities and Panchayats in the district with a view to avoid the expense and inconvenience of a general vote. But in the case of Municipalities and Panchayats the referendum shall mean a general vote. There will be no need for referendum in the case of the Circle Board.

The provision for recall is mainly based on the recognition of the right of the voters to expect their elected representative to remain true to his election pledges. If the elected representative changes his position after election or turns inactive, the electorate should have a right to call him back and send another representative. It is indeed by no means easy to provide for an effective machinery for ascertaining the will of the electorate in this matter. In the case of the District Council the rural representatives will be sent by the circles and the urban members will be sent by one or more Municipalities. In the case of rural representatives, the general sense of the Panchayats in the particular circle represented by the member in whose case the question arises, may afford a workable basis for setting in motion the provision for recall. But the member in question will have a right to demand re-election, if he so chooses, and the general sense of either the Panchayats in the case of rural representative, or the municipalities in the case of urban representatives, will not be enough to unseat the member.

In the case of Municipality the sense of the voters may be ascertained in a mass meeting conducted by the President of the District Council or his nominee. Sufficient notice of this meeting will be given to the voters of the town in a suitable form. If the sense of the meeting goes against the member, the President will order fresh election for that particular seat. In the case of the Panchayat, similar procedure will be followed.

The rules for recall should be as liberal as practicable. But the rules for referendum will have to be very carefully framed so as

to avoid dangers of misuse. In the case of the President of the District Council the provisions for recall shall have no operation. It would be impossible to ascertain the general will of the whole district electorate whom he will represent, in any practicable manner. In the case of an adverse vote against the President of the District Council on an important issue, the referendum will be the only course open to him to retain his position. If the restricted referendum as stated above goes against the President, the general vote may be taken not only for the specific issue but also for choosing the rival Presidential candidate, so that the voters may not have to go to the poll twice, if the referendum goes against the President.

The elections for the District Council, the Municipalities and the Panchayats could be held simultaneously, the base of adult franchise being common to all. They could also be held along with the Provincial elections with suitable arrangements made for registering the different votes.

CHAPTER III—GOVERNMENT CONTROL

The present provisions regarding government control of local bodies are contained in sections 52 to 60 of the Municipalities Act and sections 60 to 66 of the Local Self-Government Act. Power given to the Deputy Commissioner to inspect and report, emergent power of local self-government to require local bodies to perform important duties, power to dissolve or supersede local bodies and power to hear appeals and revisions concerning local bodies, are the main features of the provisions relating to government control.

Despite the existence of these far-reaching provisions, local bodies were, for all practical purposes, left to themselves to manage or mismanage things and the provisions of government control were brought into force in very rare cases. This was mainly due to the spirit of dyarchy which introduced complete separation of local self-government from the general administration. Under the proposed scheme the general administration and local self-government will go hand in hand and the Government officials will be closely associated with local bodies right from the Village Panchayats to the District Councils. This structural change will of itself ensure efficiency, and the statutory association of government officials with local bodies is bound to exercise a sobering influence and operate as a constant controlling factor. The structural change with extended autonomy will make it obligatory on the local bodies to act in a more responsible manner than they did before. The execution of policies and orders will be done through the permanent staff of officials now associated with the local bodies and this staff being the agency

of the Provincial Government will act in a more thorough-going manner than the existing staff of the local bodies which is both inefficient and without a will of its own. The coercive element involved in the execution of policies in Panchayats, Circle Boards and Municipalities in the district will be less resented than control exercised directly by the Provincial Government. Provision may, however, be made in certain cases for a right of appeal or revision to the Provincial Government against the decision of the District Council or District Executive Committee. The Municipalities, the Circle Boards and the Panchayats are conceived as subordinate agencies of the District Council and as such it would be in the fitness of things to empower the District Council to exercise general powers of supervision and control over its agencies.

In case the District Council fails to function properly, the matter shall be referred to the Provincial Government which shall exercise the same powers over it which the District Council will exercise over the other local bodies subordinate to it. The provisions of Government control may remain as they are with slight modifications to suit the new scheme; but position would be that in the case of Municipalities, Circle Boards and Panchayats it would be the District Council which would exercise these powers and in the case of the District Council it would be the Provincial Government which shall exercise those powers.

Then again, the Provincial Government would be empowered to frame rules for all the local bodies consistent with the new enactment. This rules-making power will enable the Provincial Government to exercise further control over all the local bodies.

The recommendation made by the Local Self-Government Committee to the effect that the Government's power of revision and review should be defined explicitly as in the Land Revenue Act, may be also accepted as it would be quite consistent with the new scheme.

Lastly, the provisions for referendum and recall will operate as democratic controlling factors which may necessitate fewer occasions for Government interference.

CHAPTER IV—TAXATION, STAFF AND OTHER MATTERS

Existing powers of taxation given to the local bodies will remain intact. In addition, the entertainment tax and other proposals made by the Local Self-Government Committee with regard to the

Panchayats in the matter of taxation may be accepted. But in view of the transfer of six departments for autonomous purposes to the District Councils, measures to transfer a certain proportion of the revenue from these departments to the District Councils will have to be adopted. Again, even the revenue from the departments which would be transferred for administrative purposes will also have to be shared by the District Councils, though not in the same proportion as in the case of the departments transferred for autonomous purposes. The proportion of revenue to be transferred should depend upon the measure of economy effected by such transfer to the Provincial Government. If a principle is adopted whereby the District Councils would get a share in proportion to the realizations they make, revenue recoveries may improve and opposition to taxation may become less pronounced in view of the fact that larger and larger proportion of the revenue collected would be made available to the District Councils for constructive schemes beneficial to the Districts. Grants to the Municipalities, Circle Boards, and Panchayats should be made by the District Councils on the same principle so that taxation and representation may go hand in hand. The idea that has become deep-rooted in the mass mind, *viz.*, that people have simply to pay without getting in return the right to spend the money for their own benefit, has got to be removed. And confidence has to be instilled into the minds of the people that the more they pay the more progressive they will be.

In the case of departments transferred for autonomous purposes the District Councils will have to be given powers to inaugurate new schemes of taxation with the sanction of the Provincial Government. The details of these proposals will have to be worked out by the committee.

Staff

The new scheme will necessitate far-reaching changes with regard to the staff. With the permanent official staff made available to the local bodies, the existing staff could be retrenched considerably. To avoid hardships to the victims of possible retrenchment, it may be suggested that these retrenched people may be given to the new Municipalities and Panchayats that will come into existence and some may be absorbed in the Circle Boards. Under the new order the official staff will form the staff of the local bodies and existing staff will be retained only in case and in such proportion as may be found necessary.

With regard to the staff which the local bodies will retain, the recommendations of the local self-government may be accepted with such modifications as the new scheme necessitates.

The Provincial staff working for the various departments will now work for the District Councils and other bodies under the directions of their district heads associated with the District Councils.

The revenue and the executive staff working under the Deputy Commissioner will have to be split up into two sections, one devoted to the executive work and the other doing the judicial work in revenue and criminal cases. The executive officers will continue to have magisterial powers as at present but they will not try any cases. The magisterial powers are intended to enable them to take cognizance of offences and initiate prosecutions. At present the revenue and the executive staff do both executive and judicial work. And it may not be difficult to ascribe one section exclusively to judicial work and the other to the executive work, without necessitating any additional cost to the Government. The institution of honorary magistrates may be reorganized, and not only criminal but civil and revenue work may be given to them in certain cases. The civil courts may also be empowered to deal with criminal and revenue cases so that the executive staff may not fall short of hands. A thorough examination of this question may, it is felt, result in evolving a workable method whereby the separation of the executive from the judicial work may become possible without any additional burden to the tax-payer.

With regard to other minor matters the recommendations of the Local Self-Government Committee may be examined in the light of the new changes proposed and accepted with such modifications as may be found necessary.

LOCAL SELF-GOVERNMENT ADMINISTRATION IN AUNDH STATE

By S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E. (Bom.)

I WAS invited by the State to visit Aundh to study the problems of Local Self-Government and to deliver public lectures on those subjects. The credit of arranging the whole programme goes to Mr. R. N. Rajadnya, our Hon. Auditor, who accompanied me during my tour.

I went to Aundh on 21st February 1938 in the afternoon and had a busy programme at Aundh, Ogalewadi near Karad and at Kundal.

The State has got geographically very peculiar territorial possessions. The town of Aundh—its capital—is a place 13 miles from the Railway Station of Rahimatpur and surrounded on all sides by British territory. Except the Atpadi division which is a well nigh compact division 60 miles from Aundh all other villages or towns are generally pieces of land surrounded by British or other State territory mostly 8, 10 or 15 miles from each other. It is therefore found very difficult and costly to administer the territory and very difficult also to keep up a steady and uniform progress of Local Self-Government.

I had heard much about the enlightenment of the Ruler Shrimant Balasaheb Pant and about his progressive views. I had heard him a few years back at Kirloskarwadi when he presided at a Conference. During my visit to Aundh, I was not fortunate enough to see him as he was at Delhi for some political work.

The gentleman I came most in contact was his son Appasaheb Pant, a Bar-at-Law. I found him to be a very simple, energetic and enlightened man and an indefatigable worker. Most of the work at Aundh and in the State is initiated, planned and carried out personally under the supervision of Appasaheb who joins the band of workers. Dr. Appa Maharaja who has his clinic at Kolhapur is also a very great worker and is associated with this State. He had taken special pains to be present at Aundh during my visit. This band of workers consists of officers of the State and a few young men from the town headed by Appasaheb. The system is to induce people to put in voluntary labour, the

tools, expert advice and materials being supplied by the State. On the day I went there, the whole batch had been to excavate the ant hills and to remove the queen ants, as they were the source of ants which troubled the people. They got 10 or 12 queen ants and at night Appasaheb got a copy of the encyclopedia to study the habits etc. of the queen ants. The next day they had planned a new road through the Harijan quarters complete with side gutters and the work was divided among the various workers. The D.S.P. had undertaken the work of providing the roadside gutters of a certain portion of the Road. This road would open up this quarter and give a good frontage, sanitary outlook and easy access to the Harijan Vasti, besides draining the quarters properly both of storm water and drain water. It was reported that 30 feet of the road were ready on the 1st day. It is the communal or collective work in which the highest of the land takes an interest and a hand that solves many of the insoluble problems of a congested place, when enough money is not available to solve them by payments.

The Road-side gutters are meant to carry silage water in the fair season. The soaking of this water in soil is thereby stopped. Each householder is induced to have the portion in front of his house or property properly constructed, and at the same time a set back is taken so as to have a good width of road. The process is very slow but sure and is carried out piecemeal with a break here and there in case of recalcitrant owners. But the real difficulty would come when the questions of flushing these drains would come in later. Flushing drains at periodical intervals is a necessity and this presupposes a good and plentiful water supply.

The water level in the town is very much higher and many wells are provided. All public wells must be draw wells. Step wells wherever provided have been and are being converted into draw wells. Thus the disease of tape worms is irradiated. There is a public water supply for the whole town obtained from a well which gives about 50,000 gallons a day during the worst summer months. If properly managed, this will ease the difficulty of water for drinking and cooking purposes very easily. But the water will have to be given by meters so as to ensure economy in use. The pumping is done by electricity, and once the water is pumped into the service reservoir, the supply is a gravity supply. There are two problems, one of augmenting the supply and the other of purification of water. The supply can be augmented by putting bunds in the different valleys supplying the well so that after a time when

the bunds silt up, they will retain more water, which will easily filter into the well. The best way to purify the water would be slow sand filters.

Bore hole latrines are being introduced and they tend to keep the town clean. Care has to be taken that they are not in the cone of supply of the adjacent wells, otherwise the water would be vitiated.

The Rajasaheb has made a name for himself by introducing and systematising the physical drill of Surya Namaskar which is compulsory in all schools. The Namaskar, in the way it is practised, gives exercise to all parts of the body, is an excellent form of collective drill and is the most inexpensive and appropriate form of exercise suited to students. It is a pleasure to see all castes and creeds, doing the exercise together in the Royal Temple before beginning their work for the day. I therefore give the greatest value to social side of the Namaskaras. The Harijan boys take this exercise side by side with the Brahmin thereby levelling the caste prejudices of the so-called exalted, self-conscious Brahmin and the poor self-abnegating Harijan who is elsewhere forced to realise his so-called racial inferiority. Moreover in the temple he is on a footing of equality with the Brahmin. The problem of temple entry for the Harijans is automatically solved, when the Harijan can enter and use the Royal Temple equally with the Brahmin. But the greatest result is the change of mentality among the boys and girls at their tender and pliant age. When they are working at their exercises together with the Harijan boys, this must leave a mark throughout their life and serve to level all artificial barriers of caste against caste at least in social, political and religious life. It is thus that I look upon it as very good form of exercise and as a good object lesson for social equality.

The one outstanding feature of this State that is of great importance to lovers of art is the collection of paintings by the Chief. He is a very good painter and a great artist and lover of art himself. His love of art is inherited by his sons and daughters who are good artists. The marble statues that are seen in the palace quadrangle are produced in his own art workshop which has got some very good master craftsmen. His own paintings are really very good and adorn many of the halls of the palace, the temple and the public building. I am no critic of art myself but an ignoramus where art is concerned. But I have seen the best art

galleries in Italy and France. The collection of old Indian, old Moghul, Chinese, Japanese and European art leaves one to wonder as to where and how all these good things came from and as to what infinite patience not to say good taste must have been exercised in making the selection, particularly when it had to be done with limited resources. I almost thought I was in one of the saloons of a famous art gallery in Europe. A museum is being constructed on a hill near the town, in a very commanding situation to house the collection. The building itself is very well designed to supply the needs of the collection and to show it to the best advantage. It is a good sample of reinforced concrete work and the provision of electric light arrangement proposed will give a very good result. The view from the hill is one of the best in Maharashtra. A good road for motor cars is provided for the museum. But the greatest credit to the Ruler is due to the fact that every pie spent on the collection and museum is from his private purse. He wants to leave the museum and the collection as a trust to his subject. Compare this with those princelings and potentates whose personal sensual pleasures make them exhaust their own private allowances and then draw upon the public resources of the State.

I had no time to study the political situation in the State and know only that there is a Legislative Assembly and the subjects seem to be well contented.

Local Self-Government

The Local Self-Government consists of Village Panchayats for villages and Municipalities for the towns as primary units. The Act was passed in 1930. The composition of the Municipality is one member for every 100 people of the population to be elected by the people. The composition of Village Panchayat is the same except that the minimum number is 11 whatever the population may be. Every adult (man or woman) above the age of 25 is a voter and the candidate for election must have an income of over Rs. 100 per year. The life of every local body is 3 years. The whole body is elected, and the President and Vice-President are elected by the members. The voters' lists are published 15 days before the nomination for election; and 8 days after the nominations are scrutinised and published the votes are taken and then the candidates getting the highest votes are declared elected. They can function only after the names are gazetted as in British India. Then the President, Vice-President and Committees are elected.

The system of committees and their functions are peculiar to Aundh. Each Committee has its own Chairman and Vice-Chairman, its

own budget and its functions are defined under rules. The Committees can levy taxation for their own work. So the Committees are the real executive bodies, the whole Board being merely a deliberative body, the only exception being the small Village Panchayats which work as a whole.

The Committees are as under—

- (1) Judicial Committee.
- (2) Public Health Committee.
- (3) Industries Committee.
- (4) Education Committee.
- (5) Public Works Committee.
- (6) Law and Order Committee.
- (7) Co-operation Committee.
- (8) Temple (places of worship) Committee.

The President and Vice-President of Board are responsible for the proper working of all the Committees.

Of these the following Committees function almost the same as in British India:—

- (2) Public Health Committee.
- (4) Education Committee.
- (5) Public Works Committee.

The others require a special mention as they do not function in Bombay Presidency.

(1) Judicial Committee (Village Bench)

This Committee consists of 11 members. The bench constitutes of five members. The President and Vice-President shall be there automatically. Of the remaining nine members the first three in the serial order sit at the first court, then the next three and so on except of course when any one of the litigants is a relative of any of the members on the panel, the member next to him comes in automatically.

In case any one of the litigants wants any outsiders to constitute a bench, he can demand this and the Revenue Authorities keep a list of 24 competent gentlemen in the Taluka of whom the necessary number will be called upon to constitute the bench.

The Village bench can try civil suits

- (a) Suits relating to promissory notes, cash transactions and loans upto Rs. 200 including interest or if the creditor is willing to forego interest upto Rs. 200 nett.
- (b) A suit upto any amount if both the parties agree in writing.
- (c) Filing awards upto Rs. 200.
- (d) To order attachment of properties before judgment in case it is feared that the defendant would dispose off his property, the confiscation being limited to cover the value of amount in the plaint.

Criminal Powers :—The powers are those of a third class magistrate limited to the following sections of the I.P.C. :—

Sections 147, 172, 174, 277, 279, 289, 290, 294, 323, 341, 352, 426, 502, 510.

Crimes under District Police Act of 1890 (Act No. 4 of 1890) section 61 sub-sections J to S.

The only punishment that can be given is a fine upto Rs. 25.

If the man does not pay the fine he is to be sent to the nearest magistrate for award of punishment in lieu of the fine.

The Sarpanch has the power of administering oaths.

Mahajan Sabha :—In case of all castes having more than fifty members resident in a village or city all the voters of that caste shall elect more than three and not more than seven members at the time of the Municipal or Village Panchayat elections and these members constitute the Mahajan Sabha. In case of civil suit, the suit must be referred to the Mahajan Sabha in the first instance for compromise. In case of no compromise is arrived at, the matter cannot be taken before village bench without a certificate from the Mahajan Sabha signed by the Sarpanch of the Sabha. If the suit is within the powers of the Village Bench, their decision is final. If not they must try to bring out a compromise. If no compromise is reached they must certify and without such a certificate no suit will be entertained in any court.

There is no appeal against a suit decided by the Bench but a revision before the High Court.

All the decisions must be arrived at by a majority of votes and must be signed by the Sarpanch and all the other members.

No pleaders are allowed and the proceedings are made as short as possible.

(3) Industries Committee

The functions of this Committee are—

- (1) to help and start cottage industries
- (2) to provide water for crops
- (3) to help improvement to crops
- (4) to fix cattle stands
- (5) to regulate jungles and grazing grounds
- (6) to plant new trees and maintain all trees
- (7) to do whatever necessary for the prosperity of village and reduction of unemployment.

(6) Watch and Ward Committee

The functions are to watch the activities of the Police and Volunteers where there are such organisations and to help people to keep their lives and property safe.

(7) Co-operation Committee

The function to forward the co-operative movement so as to benefit the village.

(8) Temple Committee

The functions are to organise, supervise and control the expenditure and work of all places of worship.

So far about the primary units of Local Self-Government. Then there is a Taluka Sabha which is constituted as under :—

Taluka.	Minimum members.	Maximum members.
Aundh ..	5	7
Kinhai ..	3	5
Gunadal ..	7	9
Kundal ..	9	11
Atpadi ..	11	15

Constitution.

- (a) All the members of the Legislative Assembly elected for any Taluka are *ipso facto* members of the Taluka Sabha.
- (b) The Mamlatdar and Medical Officer of the Taluka to be members of the Taluka Sabha.
- (c) To make up the requisite number of members the above under (a) and (b) shall co-opt persons with their previous consent fit to work as members and they shall be approved by the State.

The first President shall be the Mamlatdar. He shall act for one year, thereafter members shall elect their own president.

The meeting to be held in all the important villages by rotation. Three meetings to be held in 6 months.

The following persons can take part in the proceedings but not vote :—

- (a) The members of the Local Body of that place where the meeting is held.
- (b) All respectable persons in the village or in the vicinity of the village where the meeting is held.

If any of the above persons make any important suggestion they must be incorporated in the proceedings.

Functions of the Taluka Sabha.

- (1) To organise Village Panchayats by calling meetings of villagers and explaining to them the benefits of the Village Panchayats.
- (2) To supervise the Village Panchayats and to help them to carry on their work properly.
- (3) To arbitrate in case of difference of opinion except in judicial or Village Bench matters.
- (4) To request the State to take up any reasonable definite work which can be sanctioned by the State.
- (5) To watch the work of the Local Bodies in its jurisdiction and to recommend the amounts to be given as grants from the State treasury to these bodies.

Thus we see that the functions are wholly administrative and for educating the public to the art of Local Self-Government.

The expenses required for the office establishment and travelling and halting charges are defrayed by the State.

The whole fabric of Local Self-Government is thus based on very sound basis and the constitution is such that a good deal of benefit can be derived by the public. The underlying idea is that the people must be educated to self-government. How far the public take advantage of these acts depends on themselves, the opportunities being provided and the authorities helpful and sympathetic.

I will now go on to my programme during my stay there.

During the first day of my stay, there was a discussion with the heads of the departments of the State and the leading officers, a few members of the public being present. Appasaheb Pant and Dr. Appamaharaja were present. Education, Village Panchayats, Municipalities and particularly Sanitation and water-supply were discussed. There was a very keen interest taken and the questions were most intelligent. One of the questions discussed was dust nuisance of towns and the best means to combat it. I have now written a special note on this. The discussion lasted for about two hours.

Early morning next day Mr. Rajadnya joined me. At 8 A.M. I was taken round the town to show the roadside gutters, wells, new roads and bore-hole latrines, etc. At 9-30 A.M. a public lecture was arranged in the prayer hall (also students' Surya Namaskar Hall) of the palace, where I had to speak for about one hour on public cleanliness. In the afternoon there was a discussion from 3 to 5 P.M. on co-operation and agriculture to which Mr. Rajadnya attended and on other subjects of public interest, chiefly on water-supply and roads in which I took part. In the evening we saw the new museum under construction and the splendid temple at the top of the hill. During the day we saw the splendid art collection whenever time was available.

The next day early morning we were taken to see the waterwork and shown the improvements proposed. At 8-30 A.M. there was a Das Navami celebration where Mr. Rajadnya presided and I had to speak for some time.

We went by the afternoon train to Karad which is the station for Ogalewadi the famous glass works.

It is a tragedy in the history of Indian Manufactures in Maharashtra especially of those manufactures which have been started by enterprising men when there is nothing to guide them in India or at least on this side of India, that they should have to be started in Indian States. There has been nothing in British India to help them, but on the other hand much to harass them. The Ogale Glass Works and the Kirloskar Iron Works are cases to be pointed. Taking the glass works, the manufacture on such a large and commercial scale is new to India. The struggle to keep alive have been very hard and there has been practically no help from the Bombay or India Government. Millions of Rupees worth of glass is imported in this country from all foreign countries.

Taking the Ogale Glass Works, the earth (fire-clay) that they require for the making of the pots in which the ingredients are mixed and melted is available at Castlerock in British jurisdiction near Goa Frontier. There has been no help by Government to the Ogales in the procuring and transport of this fire-clay and they are at the mercy of the petty officials and the Railway Company. They must be given facilities for the quarrying of the earth and special concessions for the transport. In the absence of these they have to depend upon Jubbulpore fire-clay to a large extent. The sand required is quarried near about the sea port of Vengurla in the Ratnagiri District. Here again there is a difficulty of transport. Would it be too much to expect Government to have a special department to carry on experiments on a very large scale and to have all the information ready for the manufacturers so that they may have the qualities, percentages and other factors of all sands and fire-clays in the Presidency so that the manufacturers may have all the data available? Could not facilities for quarrying and transport concessions for these materials and special transport rates for railways be made available for the manufacturers? Any paternal and considerate Government that cares for the interest of manufactures would do all the above things. But the story of misfortune does not end here—it rather begins here. Fuel is required for the glass manufacture. The forest department can give concession to these factories. But there has been no lessening of the existing harsh rates for them. Grass is required for their packing and can be had in the forest areas. But here also there has been no help. On the other hand the American Exchange made a reduction of 40% in the prices of the Dietz Lanterns and our Government would do nothing but holster up the ratio to one shilling and six pence. The Ogales used to manufacture hurricane lanterns which were really good and could compete with the foreign

lanterns in quality and price upto the time of the fall of the prices due to American Exchange. Now they have practically closed this department and hundreds of labourers are thrown out of employment. I hope the new Government realises that all facilities and concessions must be given to these manufacturers and India must be a market for Indian things and not foreign manufacturers.

The Ogale Glass Works have got a very systematic working. They have been manufacturing glass goods which are today the hall mark as regards quality. The mixing of ingredients, the melting, the blowing, the casting, the annealing, the tempering, the polishing and all the processes are watched and day to day statistics are kept to prevent wastage and inefficiency.

I want here to emphasise a point by which our Local Bodies using kerosene oil lamps can help themselves and the manufacturers. All lamps and burners must be stereotyped and be of only one or two types according to the illumination required. The chimneys could all be of one or two kinds only and a mass production will help the Local Bodies and the manufacturers. All the chimneys must be of *Indian* make. Glass bulbs for electric lights must be manufactured and must be used by those who use electric lights. Looking to the millions that we send out of India for these things, will not our country profit by purchase of Indian goods and reduce the unemployment? The manufacturers also must turn out their goods of the specification necessary.

There is another part of the works which is making steady progress, the enamelling department. I remember, in 1911, I went to see an enamelling factory in Scotland and the owners were very nervous to allow me in the factory because I was an Indian though I had no technical knowledge of the process. Our ignorance of the trade secret was well known then and fully utilised for profit by foreign manufacturers. Today the work turned out at the Ogale Glass Works, is of the best kind, can compete with any other factory outside India in prices and hence there is no justification for spending even a pie on any but Indian goods. Our Local Bodies can get all their requirements in this direction from Ogales.

I do hope the manufacturers keep up their good quality, the Government under the new reforms gives them all the facilities and open up Centres for industrial research to help the manufacturers in raw materials and processes of manufacture.

There is a small beginning of a celluloid works and toys, managed by a bright young girl, hardly in the middle of her teens. She takes very great interest in her work. I hope this activity also develops. The celluloid sheets are obtained from Japan. May we not have research in this also and will not Government have a laboratory for research in the manufacture of celluloid? I hope these industrial research laboratories are established on a very large scale, financed by Government and by the philanthropic wealthy. Mere abstract College and University research that is carried out today is not enough, though it is useful in a way and better than no research at all.

There is a small soap factory owned by Shrimant Annasaheb Pant, nephew of the Rajasaheb of Aundh in this compound. I suppose Indian soap manufacture has come now to such a standard of quality and quantity, that all our needs can be satisfied and all the soap used in India can be swadeshi. There can be no justification for any import of foreign soap, and a heavy duty should be put on this article if imported.

From Karad we went to Kirloskarwadi and thence to Kundal a town in Aundh State. There was a good gathering of town people in the Surya Namaskara Hall for a public lecture at 9 P.M., the Mamlatdar presiding. Mr. Rajadnya addressed the meeting and then I also addressed it.

Next morning we went round in the Town which has a municipality of 44 members and all the committees. There is a good number of handlooms and the yarn is almost all Gokak or Kolhapur except mercerised silk which is Japanese. The colouring of the yarn is done locally and we saw the process. The colours are all foreign colours, received from the middlemen and the goods have also to be sold by middlemen. The goods are really good. The weavers are trying to have a co-operative society and a bank so that the middlemen are eliminated. But this is a subject in which Mr. Rajadnya takes special interest. He has great faith in the movement, as we all have. But probably the faith that he has in the present methods of carrying on the movement may not be justified. That is my opinion and I hope I am wrong.

The question of the water-supply of Kundal is a very difficult one. After about middle of March the *nala* running close by the town is the only source and wells or pits are sunk all over for the

supply. But the people do not care to keep the *nala* clean but use it as a public latrine so that all the water is contaminated and there are frequent cholera epidemics in the town.

I would suggest that the State should get the question examined by an expert, have a large well or filtration gallery somewhere upstream, a reservoir of steel or cement concrete, a pumping set and pipes to the reservoir so that the Municipality can supply 2 to 3 gallons of drinking water to every inhabitant on a system of dole or distribution card. There would no doubt be some expense, but the annual loss of precious life would be saved. There is a good dispensary and an energetic young Doctor whose wife is a trained midwife, so that between the two the medical aid is adequate both for males and females.

We had no time to visit the iron works at Kirloskarwadi as we were due at Sangli in the afternoon.

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OUR SIND VISIT

EVER since the starting of the Local Self-Government Institute, Sind has been its staunch supporter. It has taken great interest in its working. The father of the Institute and one who steered it clear of all difficulties and whose paternal care it had even when he had no official connection with it was Sir Gulam Hoosain Hidayatulla and all of us gratefully remember him.

With the separation of Sind from this province and the inauguration of a separate province, the question of joint Institute has been in my mind and I have tried to consider it from many points of view. The greatest of all considerations are the conscientious and the financial ones. Conferences of local bodies entail some expense to local bodies and enormous trouble to delegates. Meetings of Provincial Councils of the Institute become costly owing to travelling expenses for such great distances.

These considerations led me to insert the following paragraph in our Annual Report in October 1937.

Problem of Sind

The creation of a separate province of Sind has brought before us the question of our relation with local bodies in that Province. As soon as the separation was determined upon several local bodies in Sind stopped their annual contribution to our Institute. The Government of Sind, however, was prevailed upon to permit Local Bodies to pay their subscription to the Institute until a new Institute was founded in Sind. Some of the Local Bodies thereafter have resumed their membership. Today we have only 4 member local bodies from Sind on our record. Since the separation of Sind, the problems at conferences etc. in the two provinces will be different and will require different treatment. The presence, therefore, of Sind members on any large scale will have no useful purpose, especially as the Sind Local Bodies will have to pay the travelling allowances of the members, which amounts for each delegate to over Rs. 150 so that if three or four delegates are sent the amount will be simply prohibitive. There is no justification for such expenditure on the part of Sind Local Bodies.

It is proposed that an Institute be organised there. It should be affiliated to the Bombay Institute to which it may contribute a

certain share of its income. A branch of our training classes may be reopened there if we are able to enlist the cooperation of expert lecturers in Sind. Bombay Institute's publication should be supplied to member local bodies in Sind, as if they were directly members of the Institute. Sind Institute may be given a right to send a representative to the Bombay Institute's Provincial Council. The travelling allowance of such representative shall be paid by the Sind Institute. These suggestions are only put forward as tentative. It is for the Provincial Council to consider the matter and to make recommendations to the General Triennial Meeting of the Institute which falls due to be convened before April 1938. Changes in the constitution will have to be made on lines that may be decided at that meeting.

On consideration of this report in the meeting of the Provincial Council it was resolved as under:—

"That the question of separation of Sind so far as the Local Self-Government Institute is concerned will require certain discussions and investigations which will have to be made locally. As such it is resolved that Messrs. Naik and Barfivala be deputed to Sind to enquire from the Presidents of the Member Local Bodies and such persons as they think proper and draft a scheme for placing before the next triennial meeting."

Mr. Barfivala and myself went to Sind in November and December 1937. We have tried to put down our impressions in the following account of our journey.

Sind

The Province of Sind is (or rather was) of a very great strategic importance in so far as it affords a direct access to the Baluch and the Iranian and even the Afghan people to India. This has led to the establishment of a strong military station at Quetta and small sub-stations on the Frontiers. The trade routes for the produce of the interior of these countries is also through Sind and at one time Shikarpur was the emporium for all the product. It has since been shifted with the advent of the railway to Chaman.

The British acquired Sind in about 1840 from the Mirs and of all provinces in India Sind probably acquired greatest prosperity from the British rule. The construction of innumerable canals, fed by the life-giving and prosperity-showering waters of the Indus, itself deriving the water from the Himalayan snows, converted the desert land into thriving wheat and rice fields and changed a

cultivator from a man struggling with nature for a mere pittance for himself and his family into a prosperous person. The landlord became a very rich and influential personage who dominated the political life of his province. Looking to the great benefits derived from the prosperity of the British rule, no wonder that the politicians have generally been grateful to British rule and pro-British in their outlook. The opening up of the great Railway system in Sind, the development of Karachi as a rival harbour to Bombay, and taking away a large share of the foreign import and export trade and commerce from Bombay have added to the prosperity of Sind and to a moderate outlook in politics. This feeling has always been predominant in the political and social life of the Sindis and psychologically I can quite understand it.

Sind has been associated with Bombay Presidency and has played an important part in the moulding of her political life and as such in the domain of Local Self-Government also. The shrewd Sindis have always been a solid united group, who were always out to see that their interests were not subordinated in any way to the general interest of the Presidency of Bombay. Sind was a deficit partner and Bombay had to pay to make good the deficit. The Sind group had very often therefore to make allies with the Government in all its measures out of their gratefulness and in consideration of the vested interests it represented. In the meetings of the Road Board, for instance, the cry always was that Sind was a neglected part and the demand was for more share. An extract from the report of Michael and Kirkness regarding the provision of roads will be to the point.

Many a legislation in the old Bombay Council has been passed by their solid vote.

The people of Sind are one of the best products of the Aryan race. The Mahomedans are about 72 per cent and the Hindus 28 per cent. The Mahomedans form the bulk of the cultivators and the big landlords of the Upper Sind. The Hindus are moneyed class and the traders. The Shikarpuris (Banias) are amongst the best traders in the world and hold their own in all parts of India and foreign countries as well. The Amils are the most polished, cultivated and well educated among the Sindis. It is a pleasure to see the progress of education among these people and the more so among the ladies. Their houses are tastefully built, tastefully decorated and furnished and their hospitality is not only proverbial but many a times oppressive to the poor guest, whose "no" to anything is not heeded.

The education of the Mahomedans leaves much to be done as yet and I am sure the new Government of the Sind Province will see its way to educate the masses.

Public charity and philanthropy are very common both among the Mahomedan Landlords and the Shikarpur Banias. Karachi is blessed with the charity and philanthropy of the Parsees whose natural instinct is giving away money for charity.

The Mahomedans are as a rule in the villages a very hard-working, conservative, stalwart race. They make the bulk of the population generally contented with their lot, except when roused by some outside influence. People who have lived in Sind say that they are a lovable people and reliable. The Sind Frontier Mahomedan is a giant of a man who can stand many a hardship.

The climate of Sind is cold in winter, very hot in summer. The canals though they have given prosperity have introduced the curses of waterlogging and consequent malaria.

Karachi

Karachi is the capital town of Sind and one of the finest harbours on the West coast. It is very well and conveniently connected by a very efficient railway system to the Punjab—the granary of India—and as such its rise has been phenomenal. The North-Western Railway runs many of the fastest train services in India from and to Karachi and Quetta. The introduction of the Aerodrome has made Karachi the aeroplane capital of India.

The city has an area of 72 square miles with a population of about 3 lakhs. The volume of sea-borne trade is about 55 crores.

I would not be surprised if in a decade or two it comes upto Bombay or even beats it. Trade is developing fast. Factories are being started. New avenues of manufactures are being investigated. And to crown all, there is enough money in Sind for all new factories and industries.

The Town of Karachi has one of the best—or probably the best—natural site for building of a town and for expansion. The sand on which it is founded is porous enough to remove all water spilled on it and make it dry almost immediately. The vast space it has got for its development is an envy of many a larger towns and today there is space enough to have a town many a times as

large without any congestion, and hence the problems of accommodating the increased population do not affect Karachi. The development of Karachi seems to be very well planned and not left to go on in a haphazard manner.

Karachi today is the cleanest of all Indian and Eastern towns. Any foreigner who comes to Karachi finds it different from other Indian towns. Indians who have seen foreign lands, their orderly and clean towns and the efficiency of the town services, when in Karachi are apt to forget that they are in India or Eastern town, but for a moment think that they are in a Western nation. But the din of the traffic and disorderly behaviour of the men, animals and vehicles on the roads bring them back immediately to realise that they are in the East.

I suppose that most of the credit for Municipal cleanliness and development on very good lines, forethought in planning out the town, the development of utility services and even for some portion of the general prosperity must be given to Mr. Jamshed Mehta. For over 13 years, day in and day out, for at least 12 hours a day he strove to make Karachi what it is today. I have seen much of his life myself. He has identified himself with the well being and re-development of Karachi. Men with lesser exertions have been recognised as benefactors of mankind. The poor Jamshed shrinks from the mention of his work. I remember a town in Germany—Dusseldorf—which was the creation of one mayor. Karachi is a creation and a splendid one at that of Jamshed Mehta. And the wonder of it is that he never strained the resources of Karachi in the development of the town. When the Bombay Government was spending crores of rupees on the bankrupt policy of the Development of Bombay, building costly chawls which nobody could live in, reclaiming land which even today lies as wasteland because of the cost, dredging seasand to develop lands which dredged India of its wealth and where the grains of sand dredged in the land were as costly as grains of some precious metal, laying down railways which had never any trains on them to speak of, and were probably more costly than if the rails had been made of gold instead of ordinary steel, to be later on dismantled and engines which never worked and the wagons which never ran and the rails had to be sold as scrap iron, even though they were purchased at exorbitant rates probably higher than rates for new materials when they were war surplus and war scrap, and in the end have left a loan whose interest charges today have crippled many a

nation-building activities and will cripple them for years to come. Mr. Jamshed Mehta carried on the reclamation in Karachi at few annas a square yard instead of the so many hundred rupees a square yard in Bombay. Compare the colossal folly and waste in Bombay and the constructive work of Jamshed for Karachi. No wonder we find Bombay going under with the strain of the loss and Karachi rising with the far-sighted policy. In any other self-respecting country the managers of the Bombay muddle would have been pilloried and Mr. Jamshed Mehta would have got monuments raised in public gratitude of his services—as he rightly gets today, the gratitude of the Sind public.

The Bunder Road a wide and asphalted thoroughfare all along its length of about 6 miles is a road any western city can be proud of. The sanitation of the town is excellent. I wonder what an army of sweepers etc. must have been employed to keep the city clean. All the new extensions like the Jamshed quarters, Amil Colonies are well laid out. As I have said before the style of buildings is tasteful, and the interior arrangement of rooms and floors very good. Almost all the roads are asphalted. Public buildings like the High Court and Secretariat buildings, Municipal and District Local Board buildings are also well designed with an eye to aesthetic sense. The town is now being slowly extended to the Clifton side. Clifton itself is one of the most beautiful places in Karachi in the evening. One wonders as to how all the money required for the construction of Clifton walks and arcade was made available. There are numerous maternity hospitals and the medical relief afforded is better than what other big towns in India can boast of.

This is the home or at least the second home of the polished and educated Amil, with keen desire to emulate the Englishman in his dress, habits, style of living and etiquettes with only one drawback which consists in his desire and love for foreign manufactured things to the detriment of the Swadeshi manufactures, and of the fair-looking, bright, intelligent and vivacious Amil ladies. The young generation among these ladies have a very bright future before them and they promise to be the pioneers of female education and the supporters and exponents of the Indian Nationalism in Sind as they are so highly educated. The Bania who has mastered the export and import trade on account of his training for generations is a very important factor. The rich Mahomedan Landlords who own thousands of the irrigated acres of Sind lands, find Karachi the most suitable place for their business, pleasure and politics. The stalwart

Kathiawadi with his peculiar turban and rich and sonorous language monopolises the various artisan works such as carpentry, brick masons work, etc. The Gujarati with his habits of patience and thrift carries on the bulk of the retail trade, with the enterprising Mahomedans. The Marathas have their own quarters and their own Mitra-Mandal and a representative to the Municipality. The Indian Christians have also a colony of their own. The Sikhs are seen everywhere being giants of men with a profuse beard. The Upper Sind Frontier and Baluch tribes with a fine physiognomy are common enough. The carefree and happy drivers of camels are Mahomedans from the North. The nations of Europe are represented in all the commercial agencies thriving in Karachi. The Marwadi, the Jew and such others are also seen in numbers.

Amidst all this crowd, with diverse habits and customs, with utter disregard to all sense of collective cleanliness, it is no doubt a very difficult task for the Municipality to keep the town clean. But the Karachi Municipality is very efficient.

As I have said elsewhere the sanitation and medical relief of the town are the best in India. The whole town is clean and tidy. The disposal of the sewage by means of a sewage farm is one of the best managed installation one could see. The administration of education is very difficult, because of the different languages to be taught in the primary schools. Sindhi, Gujarati, Urdu, Hindi, Marathi and English as a primary school language make it very difficult and more costly to cater for the needs of all. But in spite of all this the administration is good.

The chief difficulty of Karachi is its water-supply. A large town like Karachi requires a good and copious water-supply. The supply comes from the subterranean supplies below the sandy bed of the *nallas* some miles from Karachi. The water is good. Large infiltration galleries are provided and the water pumped. The rainfall being very uncertain the supply also is not so certain. The variations in rainfall are very peculiar. The highest recorded rainfall was 28.00 inches in 1869 and the lowest was 0.48 inches in 1871. The average rainfall is 7.6 inches per year. This will clearly show that the supply must be very uncertain. Besides, while there is a constant drawing off of the supplies from the subterranean water charged sands, the saturation of water gets less and less and the cone or sphere of water-supplying sand becomes bigger and bigger, thus making it difficult to get sufficient supplies. It is now found that the actual water-supply is much below estimated yield

in the phenomenal rise in the population of Karachi, coupled with the actual shortage or falling off below the estimated supply have added to the difficulty of the water-supply. Nobody could have dreamt in 1881 when the water-supply scheme was made that the population would rise from 73,560 in 1881 to 2,47,058 in 1931 or causing a rise of about 250 %.

The Municipality is investigating the problem and various schemes for augmenting the supply are being considered. Even then I think the problem though solved today would be as keen after 15 or 20 years when large manufactures which are springing up will raise the demand of water considerably. This fact will have to be taken into account when considering the sources of supply.

The expert who was called in to investigate the problem very rightly lays stress on the metering of the water-supply. I give below his proposals and remarks in this matter which are really very useful and wise.

"5. To balance the budget under this head the following suggestions were made :—

1. Meter all connections. This is the most equitable arrangement. One pays for what one gets. No one can complain.

(a) The chief advantage is that waste of water from private connections is checked automatically. The private leaky pipes would no more be seen. All admit that unmetered connections do waste water but very few have any idea of the extent of this waste. The New Delhi Municipal Committee had a number of unmetered connections in clerks quarters. They were recently metered. The result was astounding. The consumption of water came down from 12,54,40,000 gallons to 2,35,95,992 gallons or to less than 1/5th. These figures are unbelievable but are based on facts which cannot be disputed.

(b) The second advantage is that as soon as wastage is checked the pressure will increase and water will be able to rise to a much higher level.
Even if the rate is reduced from 8 to 6 annas a 1000 gallons the budget will be balanced.

(c) The city will have a continuous supply for 24 hours.

The system has, however, disadvantages of its own—

- (i) It will discourage the introduction of water-borne latrine system in the city. Somehow or other citizens feel shy of meters.
- (ii) Several private connections will be closed and there will be more demand on public stand-posts.
- (iii) Past experience has shown that meters to the extent of 30 to 40 per cent of water connections sometimes remain out of order. There are cases in the Engineering Department in which a meter had to be changed 2 or 3 times in the course of a year.
- (iv) The correctness of meter readings cannot always be relied upon. There have been complaints; the system is liable to abuse.
- (v) Then there is the question of heavy initial expenditure which this scheme will involve."

It has been experienced that in Germany in town like Cologne and Dessau which had their water supplies metered that the saving per head on a non-metered and metered supply can be about 50%.

	Before metering	After metering
Cologne water per head	37'05	18'06
Dessau " " "	33'14	19'80

Anyway the problem is a very complex one necessitating a very large outlay, but must be taken in hand immediately.

Transport facilities at Karachi are also good. Though there are no local trains, there is a very good tram service. Karachi being a city of distances unless there are transport facilities there would be a great inconvenience.

Local Self-Government in Karachi

The constitution of the City of Karachi Municipal Act is modelled on the framework of the Bombay and the Rangoon Municipal Acts. Unlike the Commissioner of Bombay, however, the Chief Officer of the Karachi Corporation is appointed by the Corporation itself and not by the Government, though subject to the approval of Government. The Municipal Auditor enjoys a somewhat more independent position, in that he can send his objections direct to the

Standing Committee. This he can do so despite the fact that he is administratively subordinate to the Chief Officer.

The carrying out of the provisions of the Act has been entrusted to three authorities as in Bombay, viz., to the Corporation, the Standing Committee and the Chief Officer.

The Corporation consists of 64 members, of whom 49 are elected at the ward elections, others represent Chamber of Commerce, Port Trusts, etc. Be it noted that the District Local Board of Karachi is entitled to send one representative. Eight members are nominated by Government.

The Mayor and the Standing Committee of 12 members are elected annually. The statutory officers are the Chief Officer, Health Officer, the Chief Engineer and the Auditor—the appointments of all these require the approval of Government. So also the creation of all new posts carrying a salary exceeding Rs. 500 require Government sanction.

There are a number of other Committees tackling various problems.

When we went to Karachi a committee to report on the municipalisation of Bus service had submitted its report and it was a topic of general discussion. Such services have been found to be good and useful elsewhere in the West and we hope Karachi becomes a pioneer in India in this undertaking.

Total Municipal Revenue is about 43 lakhs of Rupees. Of these about 16 lakhs come from Terminal Tax. Water and Halalkhore taxes account for about 7 lakhs of Rupees.

The Expenditure comes to something like 37 lakhs. This is distributed approximately over main heads as under:—Rs. 5 lakhs for Public Instruction, 3½ Drainage, 2½ Water-supply, 3½ Roads and buildings, 3½ Conservancy, 2 Medical relief, 2½ Public safety, 4 lakhs General administration, etc., etc.

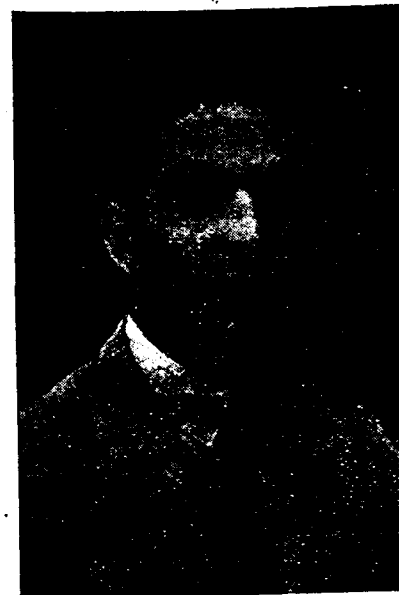
We are afraid we would be filling up too big a space if we gave more details about Karachi.

We discussed a lot of questions with the Mayor of Karachi who was very contentious and took great interest in the future relation of the Local Self-Government Institute with Sind.

The Chief Officer Mr. Shroff gave us all possible assistance in arriving at some definite conclusion. He gave us information on all local problems.

Larkhana

Our next place of visit was Larkhana. While going to Larkhana we had to cross the Indus over the Kotri bridge, the first bridge over the Indus, while coming up from the place where it joins the sea. There are only two bridges in Sind over the Indus, one at Kotri and the other at Sukkur if we exclude the Barrage bridge near Sukkur. Bridge design and construction over the Indus is really difficult engineering problem, because of the peculiar nature of the river bed. The bed is sandy, miles in width and the current changes very often going from its original position, miles out in the bed. The difference in the low water level and high flood level is great and a certain minimum depth be kept between the bridge and the high flood level for boats to pass. The cost of these bridges is enormous and hence they are used for Railway and roadway purposes as well. I had no time to examine the



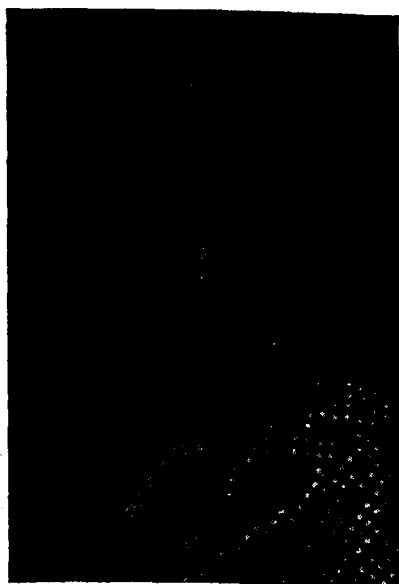
Mr. SHIVDASANI
Chief Officer, District Local Board, Larkhana

Kotri Bridge but I could see the Sukkur Bridge which is really a colossal work. A heavy toll of rupee one per car is levied, but I suppose it is necessary.

Larkhana we reached at 6-19 A.M. at a time when Sind is hardly out its bed, whereas on this side we are used to these early hours. Mr. Shivdasani the Chief Officer of the important District Local Board Larkhana came out early in the dawn to receive us on the Station. He was very kind to arrange for all our comforts as well as for all our programme. His wife—a very enlightened and a very accomplished lady—is a member of the Larkhana Municipality, and she takes very great interest in her work.

Larkhana is one of those towns which are typical of old Sind, built in accordance with old ideas, to ensure the safety and to conform to the religious ideas of the people. The streets are cramped and the houses crowded. The system of Gosha prevents provision of good light and ventilation as these cannot be provided by directly

opening windows. Probably the extremely hot summer is responsible for this, because large windows might mean the advent of large quantities of heated wind in the room. The roads are also dusty and not sanitary.



Mrs. SHIVDASANI
Municipal Councillor, Larkhana

The new quarters of the town are really good. The administration of the District Local Board was in the efficient hands of Sir Shah-nawaz Bbutto who did much for Larkhana. We have been long associated with Sir Shah-nawaz as he was the President of the Institute.

We had an interview with some of the Municipal and District Local Board members and with some of the leading citizens where we discussed the Institute and its relations to Sind. The general opinion was that Sind should continue as a member till Sind gets its own Institute. We were pleased to have pleasant discussions with Mr. Nehaldas, Chief Officer of the Larkhana Municipality. The

Health Officer was equally entertaining.

Larkhana District Local Board

A word about the District Local Board of Larkhana. From agricultural point of view the District is one of the most advanced districts in Sind. The problem of communications is pressing now on the finances of the Board. The Board is maintaining about 900 miles of roads. Apparently it looks impossible to look after them with the meagre financial resources of the Board. Fortunately facilitated the maintenance of these roads. The Board is doing splendid work so far as medical relief including maternity work and water-supply and primary education are concerned. In the Larkhana Taluka compulsory education has been introduced since 1928. The problem, however, of compelling parents to send children to school has been found rather difficult to tackle. The Board maintains a full fledged high school, and 18 Anglo-Vernacular classes. It is gratifying

to note that the poor are encouraged to take to secondary education by providing 50% free studentship in the schools. For the convenience of rural students coming to the High School, a boarding house has been provided, where boarders are provided free lodging, electric lights, servants, cooks, use of furniture and even medicines. Thirty boys are paid even for their messing. There are ten scholarships provided for technical education.

All these speak volumes for the Larkhana District Local Board administration.

The Canals and Sippage

The canals pass through sand and therefore there is necessarily a lot of sippage. The sippage is so great that there is a canal near Larkhana which utilises this water for the cultivation of rice. The result of this waterlogging on the plinths and walls of building and on those lands which have got salts in them is very bad. The salts are driven up near the earth surface with the result that the land shows an incrustation of salt and becomes barren. Though I had not an occasion to watch this in Sind, I have noticed and studied it under similar conditions in the Deccan, where large tracts of land have been rendered barren and worthless even though all the water needed for the cultivation is present in the soil. The salts rising up in the plinth and walls attack the materials and destroy the stone, brick and lime and the cement of the buildings and the water surfaces crumble down with the slightest touch or even by themselves. The result is that we see the dilapidated appearance of buildings. The strength of walls and plinths is much reduced and if the process goes on the building will collapse. From time to time new cement plaster is given to the walls to keep the inner parts of the wall safe from the inroads of the salt. The floors of the buildings are also very uncomfortable and insanitary and that probably explains as to why even the poorest man requires his *charpai* (wooden cot). The District Local Board Office, Larkhana, and the Municipal Office, Shikarpur are instances to the point to illustrate the waterlogging.

The effect of this waterlogging on those portions of the roads which are made of sand is very remarkable. In places between Shikarpur and Jacobabad, the road in many places is very bad. On inquiring the reason it was found that the earth surface in these places is made up of that quality of sand which makes quicksand and the substratum for the road surface being this material whenever

any load comes on the sand, the sand spreads out and the road crust having no base or foundation breaks up and is furrowed in the quicksand by the next passing heavy vehicle. The surface is therefore ruined in no time. The solution to this problem is difficult to find. The people there spread a thick layer of long grass on this road and it solves the difficulty of the bad surface for the time being. Grass does not break, but it only bends and resumes its shape the vehicle passes away. The only solution is a good reinforced concrete road which can stand all the trouble. But the cost is so heavy that our country cannot go in for this except in trial and show places.

A sort of surface asphaltting was done for some length of this road between Shikarpur and Jacobabad, but except for the first two miles near Shikarpur, the road is so bad that one is glad when the natural sand portion near Jacobabad is reached. The road between Shikarpur and Sukkur which is asphalted by different methods, probably at a very great cost is good enough. One good thing about this road is that every portion is marked out showing what kind of treatment it received and one can watch the behaviour of each kind of road surfacing material. I hope the P.W.D. would note down and publish the results for general information of Road Engineers.

Roads in Canal Irrigated Areas

The District Local Board has earth roads in which sand predominates. The area is canal area and there is moisture just near the surface. This moisture has the property of keeping together the sand particles, or forming the binding material. The small amount of earth helps to give a good mixture for this sand.

Some sand which is mixed with traces of salt which is hygroscopic, or attracts moisture and is therefore wet. Such sand when mixed with a little earth forms the best material for road covering when there is a constant traffic on the road. These roads keep fitter and better with more traffic.

Thus the sandy roads fall under three headings: (a) where there is no moisture; (b) where there is just a trace of moisture; (c) where there is good deal of seepage water. Roads under heading (a) is bad because the sand spreads out under wheels and leaves a series of ruts and has therefore to be treated with earth, so that the mixture may serve a good material for roads. Roads under (b)

have been found to be good and only require some supervision and repairs, so as to put right the damaged portions. Roads under (c) have got to be dealt with so as to prevent the wheels from sinking in the soft patches. This is done by spreading long grass which grows rank and is good for this purpose. On spreading of this grass costs Rs. 150 per mile. It lasts from one to three months. As it has to be spread only in portions of the road which are waterlogged, the average per mile is not much, as such pieces are few and far between. This grass generally grows near about such waterlogged portions.

There is a very great difficulty of obtaining metal for surfacing materials and hence the provision of these sand and earth road is the only possibility looking to the funds available. There are of course good canal roads but as these are generally open to the canal officers and to other people of very high official standing, these cannot be classed as public roads. There was a movement to have these roads open to the public.

Shikarpur

From Larkhana we went to Shikarpur where we were in the hands of Mr. K. V. Joshi, Chief Officer of the Shikarpur Municipality and one of our colleagues on the Provincial Council of the Institute. Mr. Joshi was very useful to us for the study of Local Self-Government problems not only of Shikarpur but of Jacobabad and Sukkur where he accompanied us.

Shikarpur is one of Sind's oldest towns and one of the richest. The merchant class of Shikarpur has made for itself a name not only in India but outside also. Shikarpur was the emporium of the North and a distributor of the commodities of the North to the South. The construction of the Quetta Chaman Railway shifted the emporium to Chaman and partly to Quetta. But the Shikarpur merchant is as important at Quetta and Chaman as at Shikarpur and the bulk of the trade passes through his hands.

The town of Shikarpur is old and has all the characteristic traits of an old town. Narrow streets, fully packed houses, no provision of light and ventilation on overcrowded bazar, and so on. The Bazar is very peculiar. It is all covered in and so narrow that if one tonga or car come from one direction, there is no space for a pedestrian to turn and avoid the tonga or car. Imagine what would happen if two tongas or cars meet anywhere from opposite directions. Such was our lot when we went to see the Bazar. We

had to abandon the tonga and go on foot. The municipal has one way traffic in this bazar after 5 P.M. but some individuals insist on their rights of coming in the opposite direction. I would suggest that the bazar should be closed to all vehicular traffic. The bazar is of course very important as the owners of shops are wealthy Shikarpuri Baniyas.

There are a number of gardens both public and private and there are the garden residencies of the rich. Some of the gardens are so good and stocked with such excellent trees, that they might be the envy of many of our Bombay millionaires. The garden houses are generally used in the summer months only. The new residential quarters comprising of these gardens are quite enjoyable.



K. V. JOSHI, Esq.

Shikarpur is also a good educational centre, thanks to the magnificent donations of the rich merchants. There is a good girls high school and a good arts and science college here. There is a lady professor in the college for teaching physics—a feature new to Sind—Dr. Miss Mainabai Paranjpe who has got good English qualification in addition to her masters degree of Bombay University. The college is situated in a good situation outside the town. All the institutions are going on very well indeed.

But the most pleasing feature of Shikarpur is the Municipal Hospital. The donations for this hospital have been princely. The equipment, the arrangement and the administration are very good. There are well-equipped clean wards for males and females and a maternity ward. There are doctors, lady doctors, nurses all keen in their work. The arrangements of food are good. There is a special complete equipment for X-ray work managed by skilled operators. In fact the hospital is such as any Presidency town might be proud of.

We had discussions here about our Local Self-Government Institute with many leading persons among whom we had the pleasure of meeting my old friend Khan Bahadur Allahbux who used to

take keen interest in the Institute affairs when he was in the Council at Bombay. Here again the consensus of opinion was that the things should continue as they are for the present.

A word about the sippage evil here due to canals may be added. Mr. Joshi has spared no pains to make efficient roads. It is a wonder how he is able to maintain them despite adverse natural conditions. The canal sippage is so distressing as to suggest that practically the town is floating on water. One has only to look to the walls of some of the finest buildings getting wet to a height of as many as 8 feet. The Municipal Office is a crying example of sippage nuisance. The approach of rains is looked upon with ominous forebodings. We remember that when we were about to start for Sukkur it was very cloudy and some showers were expected. Mr. Joshi became all alert, called his responsible officers and left instructions to wire to him in case it rained. He said he was more afraid of rains than even of fire, because buildings would fall, with a slight excess of rains. Fortunately for Sind rainfall is light.



PAHALAJISINGH L. LULLA, Esq.
President, Shikarpur Municipality

The President Mr. Lulla takes very keen interest in the administration. He was full of ideas and open to imbibe new ones.

Jacobabad

From Shikarpur we went to Jacobabad. This is the extreme end of Sind and the stalwart Baluchi with his picturesque dress, fine physiognomy and hospitable nature is very much in evidence. The Upper Sind Frontier, bordering as it does the turbulent Baluch territory which does not come under the British rule, has got special problems of its own, and the administrative details are also different from other places in Sind. Across the border, a man going about his daily work with a rifle on his shoulder is a thing which surprises men like us not used to this sort of thing.

The only vague idea I had of Jacobabad was that it had the highest degree of heat in Bombay Presidency in summer—120° cent in shade. Now having seen Jacobabad, I think it is a good place, the local administration is also good enough. Both the Jacobabad Municipality and District Local Board Upper Sind Frontier are functioning well. We had a very happy time with the Vice-President of the District Board, the President being out of station. The Chief Officer and the Chairman of the School Board were invited to see us. It was a pleasure to see with what enthusiasm these sturdy people tackled their local problems.

Sukkur

After Jacobabad, we went to Sukkur one of the most important towns in Sind as it is the site of the Sind Barrage and the site for crossing of the Indus for Quetta Railway. According to the old Hindu idea, India is bounded by the Indus and therefore Sukkur was a trans-border town.

The Sukkur Barrage was a scheme which was contemplated for a very long time and the very magnitude of the scheme made the Engineers pause and think well before launching on it. Sind was waiting for a long time to harness properly the waters of the mighty Indus which were running to waste by flowing into the sea. India has so many natural resources in the shape of rivers and waterfalls, that all the power required for the country and many a times more power than required can be derived if only we had the means of utilising the energy available. The chief difficulty is the capital needed for the work. The great exception to this drawback, however, is the Mysore State, where the Government have taken advantage of the rains to provide small reservoirs for every village and large ones for large irrigation and electricity power generation schemes; the people have derived great benefit and have been saved from the horrors of famine troubling the adjoining British districts under the same condition of climate and rainfall. So the problem in Sind was the utilisation of the waters of the Indus going to waste.

The Indus is a very peculiar river as I have said above with a bed miles long and a small ribbon of a stream in one corner sometimes miles away from the other bank. If the dam were put in a wrong place the current might shift away not only far out in the bed, but during heavy flood might work up a new bed altogether. It is this which made the Engineers very nervous. Many

experts were called in to examine the project and it was taken up in early twenties. I had seen the Barrage works in 1927 or so, when a layman could have no idea of the magnitude of the works. The works were in the capable hands of Sir Charles Harrison, Chief Engineer in Sind, who was rightly knighted for his good work.

The Sukkur Barrage has now changed the whole aspect of Sukkur and of Sind. It is worth a visit. Four mighty canals on one side and two on the other, carrying the impounded waters hundreds of miles, irrigating millions of acres, giving prosperity to millions of people and making Sind a richer province than what it was before, the barrage is very impressive. The aesthetic appearances of the works at Sukkur are also very imposing and neat. One has to stand on the Barrage bridge and look to the downstream side to visualise today what the river was like before and the difference in the appearance itself is impressive. All the Barrage works have rendered Sukkur town a new frontage which makes it beautiful. One great advantage of Sukkur is that being at the headworks of the Barrage, the soil of Sukkur is not waterlogged. The town itself is on the banks of the Indus with a large portion on small hillocks. The climate is good and the municipal administration is also good.

One outstanding feature of the Sukkur Municipality is that it has got an electricity generating plant of its own from which they make a profit. This gives a lie direct to those who say that Indians cannot in their corporate capacity manage public utility companies. Even the Calcutta Municipal Corporation is not advised by the Bengal Government to acquire the electric concern and run it owing to this want of confidence in the Indians' capacity to manage their own concerns.

The bridge over the river Indus at Sukkur carrying the North-Western Railway is one of the most important strategic point on Indian Frontier. Destroy the bridge and the North is cut off from India when simultaneously the Kotri Bridge is destroyed. The work of the bridge when it was carried out was one of the biggest in India. Today after about 50 years a few such works and even bigger ones are carried out, Engineering Science has much advanced. The roadway and railway are carried over the same bridge and the whole management is very efficient causing neither delay nor accidents.

The town of Sukkur has a beautiful promenade along the river front and a very good Bazar.

At Sukkur we were very comfortably lodged in one of the best lak bungalows, under the charge of the Municipality. Mr. Ahuja, the Chief Officer looked to every comfort of ours. He took us round the town, discussed his road, drainage and water-supply problems. We were very much impressed by the knowledge Mr. Ahuja displayed in the solution of his municipal problems.

We saw the President Dewan Bahadur Bunsidharlal, who was known to me intimately as an old member of the Legislative Council.

Our one regret was that we could not meet Mr. Ahtar, Chief Officer of the Sukkur District Local Board, despite our best efforts. He was unfortunately out when we went to his residence. I had met him a year before but Mr. Barfivala was very anxious to meet this old pupil of his.

Hyderabad

From Sukkur we went to Hyderabad. We were there in charge of one of our oldest friends Mr. Daulatram B. Advani, the veteran Chief Officer of Hyderabad Municipality. He had arranged a very fine, instructive and entertaining programme for us. He had arranged a meeting of the Hyderabad Municipality to coincide with our visit there. Myself and Mr. Barfivala were given by the courtesy of the President, an opportunity to address the Municipality. All the members were keenly interested in Institute's work. We met all the workers in the Municipal Office and had a good discussion. The consensus of opinion was the same as elsewhere.



Mr. ADVANI

Chief Officer, Hyderabad Municipality

had studied the problems in Japan and has introduced some good features in the municipal work.

A fine public garden is planned outside the town and here the Japanese ideas will be very useful. The Japanese are very strong

on this point. The waste-paper baskets in all the public places are really a neat little design and can be copied by others very usefully. The matter of the cleanliness and sanitation of the towns in which the Japanese like the Germans excel is being pushed on. Various improvements in the Bazar area are also result of the knowledge gained in Japan.

There are many good Bhangi quarters constructed by the Municipality and I suppose the arrangement for Bhangis is the best in India. They have even a Gujarati school in their very compound so as to remove illiteracy among the children and the men. The site for the quarters is also a good site. The middle class housing scheme named by the occupiers after Mr. Daulatram is also a very good attempt to ease the housing hardships of the poor middle class. There are the rich who take care of themselves, there are the poor who have many champions, but the poor middle class has no saviour and has to go uncared for, to lapse sometime or other among the poor class family after family being driven to the ranks. So for these people this housing scheme is a great relief.

The Hirabad quarters for the elite of the population do great credit to the city.

There is a Municipal cinema theatre which is leased out to a company for a number of years for some good rental, with a condition that any improvement the lessee makes must go to the Municipality at the end of the term. A very well educated man with foreign educational qualification is the manager and does the whole work with a will. The property is very valuable and increases in value year after year.

All the roads, even small lanes in the town are asphalted so that there is no dirt nuisance. I remember during my visit ten years back, the dust nuisance was so great that I got tired in a few hours, as I was not accustomed to have dust blown by the wind in my eyes.

We give below a few of the most interesting observations of ours with two or three photographs which we obtained from Mr. Advani.

The Municipality has provided a floating pump placed in the river Indus for pumping water into the storage tanks for supply to the City. Before this arrangement, the Municipality used to spend about Rs. 10,000 a year on clearance of the suction in the dry weather when the water in the river went low. With the operation of the Barrage at Sukkur, the trouble about the clearance of the suction

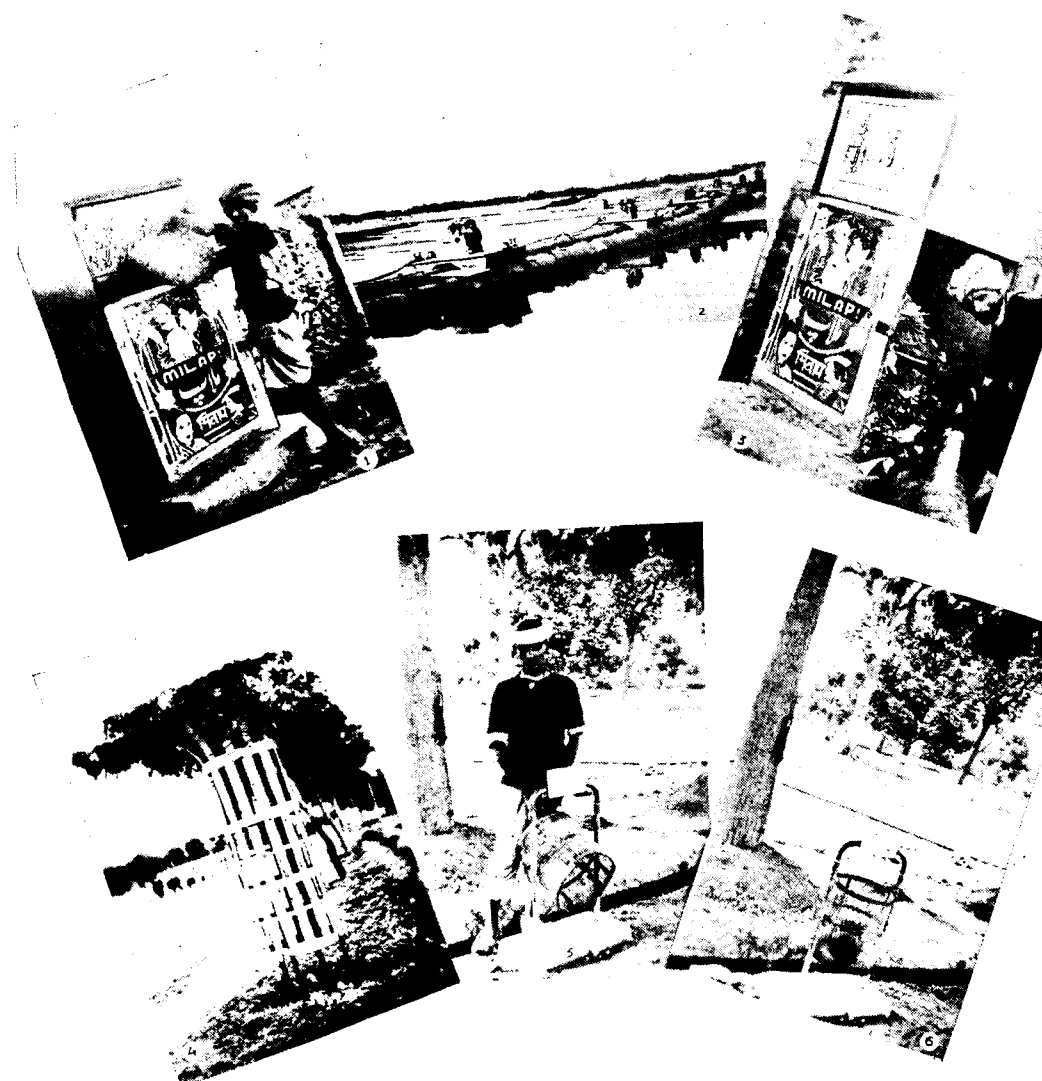
channel considerably increased and the expenditure rose to about Rs. 15,000 a year. Apart from this heavy expenditure, there was no reliance on the supply as it became difficult to keep pace with the drop in the level of water and do sufficient clearance of the channel.

Under the present arrangement an electric pump is installed in the floating pantoon kept in the river and a floating pipe line has been provided for the purpose of delivery main. The whole arrangement has cost Rs. 45,000, the pump pantoon, the crane pantoon, and the floating pipes having been purchased from the Barrage Authorities, who had these on sale, after completion of their work. By this arrangement the Municipality has saved an annual recurring expenditure of Rs. 15,000 and over and has also an assured source. The floating delivery main is 600 ft. long, but during the flood season, when water rises, the length is reduced by disconnecting a few of the pipe lengths. Each pipe is 40 ft. long with a ball and socket joint arrangement. Figure 1 shows the pantoon and the floating pipe line.

Refuse Bin-post Box type—It is made of sheet iron plate $1/16$ " thick. The cost is about Rs. 53-8-0 including fixing charges. Figure 2 shows the place from where the refuse is thrown inside the bin, figure 3 shows the place from where the bin is emptied, the refuse being carted away to the dumping grounds. The size of the bin is 5' 9" in height and 3' $\times$ 3' in breadth.

Litter Basket—This is a revolving litter basket. This is used in gardens and can be used on roads and in private houses. By the revolving arrangement, the basket can be easily emptied and washed. The size of the basket itself is cylindrical 13 $\frac{1}{2}$ " height, 12" in diameter. The bottom is made of sheet iron plate $1/16$ " thick, while the side is made of expanded metal. The height with the stand in which the basket is fixed is 3 $\frac{1}{2}$ ft. The cost of this basket is Rs. 4-12-0, fixing expenditure being extra. Figure 4 shows the basket, and figure 2 shows how the basket is emptied and washed. The plate on the stand bears words in vernacular which mean "Thank you. Give the litter to me."

Tree-guards—The cost of the tree-guards is an important item in the work of planting of roadside trees. An ordinary tree-guard does not cost less than Rs. 12 or Rs. 10. The tree-guard represented by figure number 6 has cost only Rs. 4 each. It is made out of asphalt drums and the legs are made of old galvanized iron pipes which are practically of no value otherwise.



- | | |
|--|-------------------------------|
| 1. Refuse Bin—P. B. Type | 4. A type of cheap tree guard |
| 2. Floating Pump—Piston and the floating pipe line | 5. Litter Basket |
| 3. Refuse Bin P. B. Type | 6. Litter Basket |

Any Municipality which tars and asphalts roads will have on hand such drums in number, and before use was made of them for tree guards, this Municipality sold them at about 6 annas each.

Our Mission

We are afraid I have taken inordinate space in the narration question. We have purposely left out the considerations in respect of our mission viz., the future of the relation between the Institute and the local bodies in Sind. Their interpolations would have marred the narrative.

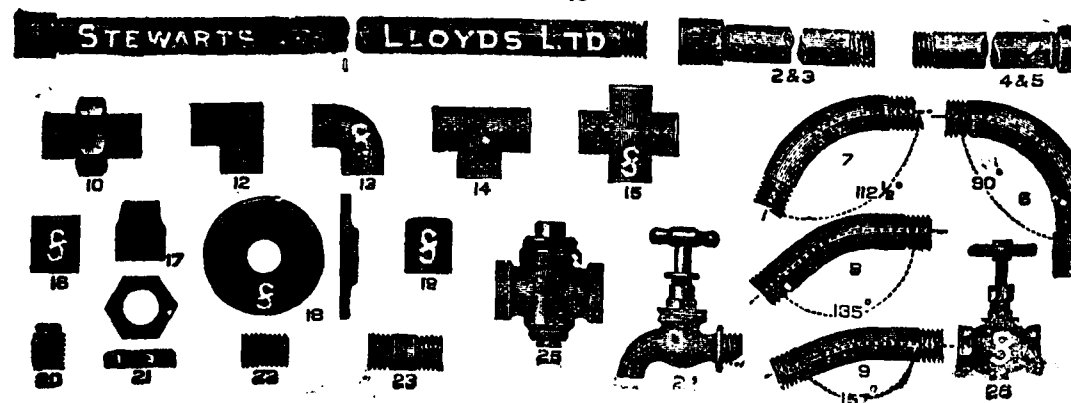


Khan Bahadur
ALLAHBUX KHAN, O.B.E., M.L.A.

We have discussed this problem wherever we went, starting from Sir Gulam Hoosain Hidayatulla the late premier at the Karachi Secretariat, not omitting any important person whom we could meet during our short stay there. Khan Bahadur Allahbux the present premier was particularly helpful. He had the goodness to revive his individual membership of the Institute. This he did voluntarily and without any request on our part. That shows the love he has for the Institute. Mr. Sidhwa a member of our Provincial Council, who along with Mr. Joshi of Shikarpur, was responsible for moving the Council to send us to Sind, helped us considerably. It would be invidious to thank some persons individually for we would not like to omit others who were equally helpful and hospitable. We thank them sincerely.

We are submitting separately to the Provincial Council our conclusions regarding the future relation of Sind local bodies with the Institute.

S. S. NAIK



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- I. Population and Constitution of the Municipalities in British India during the year 1934-35.
- II. Income (in Rupees) of the Municipalities in British India during the year 1934-35.
- III. Abstract Statement of Number and Constitution of District Boards in British India and Expenditure during the year 1934-35.
- IV. Income (in Rupees) of District Boards in British India during the year 1934-35.
- V. Expenditure (in Rupees) of District Boards in British India during the year 1934-35.
- VI. Expenditure (in Rupees) of the Municipalities in British India during the year 1934-35.

Population and Constitution of the Municipalities

Provinces	Number of Municipalities	Population within Municipal limits	Number of Members of Committee
Bombay	154	29,88,328	3,005
Bengal	117	22,95,835	1,687
United Provinces	85	34,10,890	1,164
Central Provinces and Berar	75	14,05,652	1,326
Assam	26	2,16,213	334
Bihar and Orissa	61	14,92,276	921
Burma (excluding Rangoon)	58	9,13,511	810
Coorg	5	13,590	61
City of Bombay	1	11,61,383	112
Karachi Corporation	1	2,47,791	64
Punjab	117	25,43,836	1,314
Rangoon	1	4,22,379	33
Madras	81	...	1,769

(a) Selected, (b) Co-opted.

Income (in Rupees) of the Municipalities in

Provinces	Opening Balance	Municipal		
		Octroi	Tax on Houses and Lands	Tax on Animals and Vehicles
Bombay	56,78,470	30,57,940	27,23,148	6,33,054
Bengal	13,29,130	...	39,63,260	1,76,058
United Provinces	31,74,372	37,96,277	11,25,929	3,55,979
Central Provinces and Berar	18,19,685	8,43,259	1,87,000	1,11,272
Assam	1,70,365	...	2,59,379	60,571
Bihar and Orissa	12,02,705	...	12,06,933	31,897
Burma (excluding Rangoon)	22,82,784	...	12,30,162	1,28,902
Coorg	60,217	...	14,954	860
City of Bombay	24,32,081	(c) 13,87,977	1,39,27,875	11,21,683
Karachi Corporation	38,40,688	(d) 758	9,45,093	1,51,620
Rangoon	55,77,842	(e) 9,57,023	20,04,883	2,04,269
Madras (excluding City of Mad.)	43,11,511	...	39,56,872	5,75,997
Punjab	30,24,025	23,07,241	7,03,051	2,97,235
Total	3,49,03,875	1,23,50,475	3,22,48,539	38,49,397

(a) Includes Rs. 1,19,084 on account of Haisiyat Tax. (b) Municipal Licences and other (f) Includes Rs. 29,163 on account of Halaloore Cess.

in British India during the year 1934-35

Classification of Members of Committee						
Ex-Officio	Nominated	Elected	Officials	Non-Officials	Europeans	Indians
169	475	2,361	174	2,831	30	2,975
36	413	1,238	104	1,583	91	1,596
1	238	925	11	1,153	36	1,128
102	209	824	24	1,302	17	1,309
		(a) 191				
22	68	244	32	302	12	322
65	152	704	94	827	29	892
4	27	(b) 75	89	721	49	761
19	19	23	19	42	...	61
...	18	94	4	108	10	102
...	8	56	1	63	5	58
107	250	957	109	1,205	33	1,281
...	4	29	4	29	11	22
...	...	1,769	...	...	...	...

British India during the year 1934-35

Rates and Taxes						
Tax on Professions and Trades	Tolls on Roads and Ferries	Water Rates	Lighting Rates	Conservancy (including Scavenging and Latrine Rates)	Other Taxes	Total Municipal Rates and Taxes
69,640	5,36,957	35,02,063	21,733	14,12,797	44,28,932	1,63,86,264
1,75,859	1,62,362	9,19,325	1,54,712	15,96,850	2,80,753	74,29,189
1,70,114	5,43,648	18,27,999	...	1,32,501	39,50,149	1,19,02,596
1,09,588	93,290	7,65,945	...	6,64,046	(a) 17,77,970	45,52,370
...	43,631	1,47,373	29,273	2,23,304	28,634	7,92,165
1,64,938	...	3,31,432	...	8,37,044	28,494	(b) 26,00,738
733	4,17,951	3,57,987	4,71,171	7,35,612	3,736	(b) 3,15,928
6,301	2,459	1,868	...	408	25	33,46,255
1,75,145	25,000	63,39,578	...	31,48,555	...	26,875
...	...	9,64,086	...	(f) 3,61,337	...	2,61,26,571
...	...	14,08,246	4,18,028	20,76,235	...	33,79,159
6,42,321	5,18,754	22,42,120	10,02,131	6,09,965	5,41,720	61,11,660
13,129	...	7,32,774	6,794	17,741	53,02,794	1,00,89,880
15,27,768	23,44,052	1,85,40,596	21,03,842	1,16,16,395	1,64,59,135	93,80,759
						10,21,30,409

Fees. (c) Town Duties. (d) Cotton Import Duty. (e) Represents Terminal Tax.

Income (in Rupees) of the Municipalities

Provinces	Realisation under Special Acts			
	From Pounds	From Hackney Carriages	From Licences for the sale of Spirits & Drugs	From Other Sources
Bombay	88,520	19,107	...	96,560
Bengal	38,983	19,396	...	40,184
United Provinces	87,681	1,28,591	...	40,035
Central Provinces and Berar	1,10,678	9,945	...	8,381
Assam	16,325	612	...	5,181
Bihar and Orissa	35,569	...	6,987	(a) 2,279
Burma (excluding Rangoon)	14,941	39,958	132	11,544
Coorg	2,086	...	...	...
City of Bombay	...	...	...	(b) 1,43,750
				(c) 3,004
Karachi Corporation	7,078	4,028	...	8,238
Rangoon	8,151	1,06,264	...	39,321
Madras (excluding City of Madras)	...	...	...	24,895
Punjab	1,16,056	...	...	...
Total	5,26,068	6,27,901	7,139	4,23,372

(a) Vaccination Fees. (b) Liquor Licences. (c) Music Licences.

Income (in Rupees) of the Municipalities

Provinces	Revenue derived from		
	Fees and Revenue from Markets and Slaughterhouses	Fees and Revenue from Tramways	Other Fees
Bombay	10,49,595	837	2,88,261
Bengal	1,11,195	4,036	1,84,453
United Provinces	5,43,998	17,083	20,96,214
Central Provinces and Berar	3,98,457	...	77,602
Assam	1,20,819	...	9,182
Bihar and Orissa	2,02,220	...	31,007
Burma (excluding Rangoon)	21,75,726	3,269	6,67,742
Coorg	8,136	...	(a) 2,393
City of Bombay	11,27,804	(b) 65,524	1,58,626
		(c) 33,500	
		(d) 40,804	
Karachi Corporation	1,27,498	11,459	...
Rangoon	6,65,319	40,923	5,53,083
Madras (excluding City of Madras)	10,80,149	...	7,03,844
Punjab	88,105	...	8,16,307
Total	76,99,021	2,17,434	55,88,714

(a) Includes Rs. 831 on account of Licence Fees. (b) Tramway Rent. (c) Rent from

in British India during the year 1934-35

Total	Revenue derived from Municipal Property and Powers apart from Taxation				
	Rents of Lands, Houses, Serais, Dak Bungalows, etc.	Sale Proceeds of Lands and Produce of Lands, etc.	Conservancy Receipts (other than taxes and rates)	Fees and Revenue from Educational Institutions	Fees and Revenue from Medical Institutions
2,04,187	5,02,286	3,72,475	90,500	3,16,556	1,00,376
98,463	2,32,609	32,167	49,644	52,450	2,631
2,56,307	9,04,395	1,11,850	2,10,334	1,06,120	7,843
1,29,004	2,91,989	1,49,349	39,089	2,33,344	18,878
22,118	37,379	4,581	1,881	3,599	...
1,23,133	65,779	10,141	4,213	26,436	1,816
66,575	45,285	12,077	43,769	15,562	...
2,261	893	175	384	50	8
1,46,754	6,10,886	2,542	54,876	18,232	1,09,258
19,344	1,95,246	1,14,370	5,007	...	26,257
1,53,736	3,14,552	...	...	...	...
24,895	2,29,689	1,86,821	1,04,990	6,13,659	2,877
1,16,056	9,84,757	99,379	2,56,206	1,72,107	...
13,62,833	44,15,745	10,95,927	8,60,893	15,58,115	2,69,944

in British India during the year 1934-35

in British India during the year 1954-55					
Municipal Property and Powers apart from Taxation					Total
Fines under Municipal and other Acts	Interest on Investment			Premium on Loans	
	For General Purposes	For Educa- tional Pur- poses	For Medical Purposes		
94,523	2,09,159	4,641	6,678	7,366	30,43,253
48,655	8,978	148	2,083	32,912	7,61,963
1,77,970	1,30,537	1,141	786	361	43,10,632
37,590	21,569	925	1,473	69	12,75,019
7,879	...	...	...	...	1,85,320
41,041	7,387	87	652	...	3,90,779
27,368	10,217	...	...	...	30,01,015
108	62	...	...	...	12,209
68,222	2,12,961	6,793	2,800	...	25,14,627
			(e) 1,799		
19	45,344	...	...	...	5,25,200
38,579	5,82,121	...	...	...	21,94,577
4,24,274	2,349	865	4,539	...	33,54,056
27,596	...	...	...	...	24,44,457
9,93,824	12,30,684	14,600	20,810	40,708	2,40,13,107

Telephone Company. (d) Rent from private parties. (e) Interest realised on Donations.

Provinces	Grants and Contributions		
	From Government		
	For General Purposes	For Educational Purposes	For Medical Purposes
Bombay ...	1,21,476	10,96,485	1,33,543
Bengal ...	2,56,368	1,42,389	18,301
United Provinces ...	1,40,737	5,03,154	2,856
Central Provinces and Berar ...	84,919	3,29,893	28,274
Assam ...	1,09,777	30,846	3,051
Bihar and Orissa ...	14,34,470	1,85,193	39,990
Burma (excluding Rangoon) ...	95,471	46,205	2,823
Coorg ...	4,040	4,820	...
City of Bombay ...	3,65,150	7,49,875	...
Karachi Corporation ...	1,513	...	9,000
Rangoon ...	...	...	43,500
Madras (excluding City of Madras) ...	6,20,836	11,61,248	33,865
Punjab ...	7,94,681	...	...
Total	40,29,438	42,50,108	3,15,203

Income (in Rupees) of the Municipalities

Provinces	Miscellaneous		Total	Total Income
	Recoveries on account of services rendered to private individuals	Other items		
Bombay ...	3,36,869	6,47,272	9,84,141	2,22,74,376
Bengal ...	28,072	99,068	1,27,140	89,57,616
United Provinces ...	65,623	2,15,763	2,81,386	1,74,44,073
Central Provinces and Berar ...	8,118	3,46,355	3,54,473	67,85,660
Assam ...	3,169	28,756	31,925	11,87,821
Bihar and Orissa ...	3,406	1,34,190	1,37,596	54,26,794
Burma (excluding Rangoon) ...	16,672	89,231	1,05,903	66,96,372
Coorg ...	31	...	31	50,181
City of Bombay ...	...	20,58,586	20,58,586	3,19,61,563
Karachi Corporation ...	...	40,173	40,173	39,83,293
Rangoon ...	1,45,584	1,81,768	3,27,552	88,40,933
Madras (excluding City of Madras) ...	2,86,300	5,09,670	7,95,970	2,70,11,341
Punjab ...	...	15,13,993	15,13,993	1,44,69,650
Total	8,93,844	58,64,825	67,59,169	14,10,89,073

(a) Realisation under Miscellaneous heads. (b) New Investments. (c) Renewal of Road Surfaces Fund. (d) Net Premia Fund. (e) Loan Redemption Fund.

for General and Special Purposes						Total
From Local Funds			From Other Sources			
For General Purposes	For Educational Purposes	For Medical Purposes	For General Purposes	For Educational Purposes	For Medical Purposes	
37,948	39,440	46,859	94,554	77,513	8,713	16,56,531
14,766	180	12,982	76,496	2,707	16,972	5,41,161
22,004	1,164	8,530	12,039	170	2,498	6,93,152
7,955	1,883	5,965	8,619	1,475	5,811	4,74,794
4,075	4,792	515	...	...	2,077	1,56,293
6,378	203	22,413	1,57,707	754	11,512	18,58,620
6,694	22,636	1,688	1,036	72	...	1,76,625
...	...	120	...	...	...	8,940
...	...	...	...	...	...	11,15,025
3,920	...	...	800	...	4,184	19,417
10,000	...	...	108	...	...	53,608
1,39,453	22,813	31,097	...	...	...	20,09,312
1,98,528	...	...	21,176	...	...	10,14,385
4,41,721	93,111	1,30,169	3,72,535	82,691	51,767	97,77,863

in British India during the year 1934-35

Sale Proceeds of Govt. Securities and Withdrawals from Savings Bank	Extraordinary and Debt					
	Loans		Realisations of Sinking Fund for repayment of Loans	Advances		Deposits
	From Government	Raised in the Market from Private Individuals		Permanent	Others	
10,07,606	...	6,28,000	4,38,531	6,963	12,94,362	97,90,837
79,908	35,000	1,75,750	...	2,400	4,34,543	(a) 45,57,962
4,52,938	3,01,166	...	362	1,290	17,180	3,78,646
51,826	1,00,000	8,930	12,736	8,762	2,56,946	2,08,217
...	13,000	...	...	360	5,218	2,49,576
10,000	6,58,000	...	3,779	3,428	3,85,885	(b) 1,35,826
...	50,000	5,000	...	302	54,928	16,314
...	...	...	...	...	12	1,25,250
4,81,36,797	...	(c) 3,00,000	30,44,495	(f) 3,07,279	29,02,432	4,23,858
...	...	(d) 5,00,000	...	(g) 4,53,937	...	94
...	...	(e) 34,28,926	...	...	...	9,29,67,050
...	...	5,50,000	10,39,255	...	3,32,774	1,00,584
...	...	(h) 59,178	...	...	...	...
...	...	(i) 37,989	...	...	...	4,076
...	...	(j) 1,77,830	...	...	...	5,81,902
5,66,725	...	...	1,98,000	6,40,333	...	25,58,778
1,13,989	2,5000	13,85,988	...	45,729	8,11,394	3,60,025
...	...	...	...	...	1,62,836	...
5,04,19,789	11,82,166	72,57,591	47,37,158	14,70,799	66,58,508	13,24,58,996

(f) Advances for Stores. (g) Advances for Stores. (h) Premia on Loans. (i) Miscellaneous Receipts of Capital nature. (j) Land Sales Premia.

Income (in Rupees) of the Municipalities

Provinces	Extraordinary & Debt	
	Deposits	
	1,77,24,261	
Bombay ...	11,06,247	
Bengal ...	9,81,153	
United Provinces ...	8,24,602	
Central Provinces and Berar ...	34,892	
Assam ...	11,86,342	
Bihar and Orissa ...	5,34,088	
Burma (excluding Rangoon) ...	261	
Coorg ...	15,15,86,979	
City of Bombay ...	27,55,643	
Karachi Corporation ...		
Rangoon ...	53,68,614	
Madras (excluding City of Madras) ...	6,61,851	
Punjab ...		
Total	17,74,64,933	

(4) Information not available.

in British India during the year 1934-35

Total Receipts excluding Opening Balance	Total Receipts including Opening Balance	Incidence of Taxation (Municipal Rates and Taxes) per head of population	Incidence of Income per head of population
		Rs. a. p.	Rs. a. p.
3,99,98,637	4,56,77,107	5 7 9	7 7 3
1,00,63,563	1,13,92,693	A	A
1,84,25,226	2,15,99,598	3 7 10	5 1 10
76,10,262	94,29,947	3 3 10	4 13 3
12,22,713	13,93,078	3 10 7	5 7 11
66,13,136	78,15,841	1 11 2	3 10 2
72,30,456	95,13,240	3 10 7	7 5 2
50,287	1,10,504	7 11 7	16 1 11
18,35,48,542	18,69,80,623	22 7 11	27 8 4
67,38,936	1,05,79,624	13 5 5	15 11 8
1,02,61,178	1,58,39,019	15 4 3	22 1 3
2,16,42,727	2,59,54,238	?	?
1,51,31,501	1,81,55,526	5 15 2	3 6 6
32,85,37,164	35,43,41,038	86 0 1	115 11 3

Abstract Statement of Number and Constitution of District Boards in

Provinces	No. of Boards	No. of Members		Income	
		Elected	Ex-Officio and Nominated	From Provincial Rates	From Other Sources (including Debt)
Bombay ...	28	606	191	52,33,920	1,78,36,320
Bengal ...	26	448	248	96,47,977	76,96,000
Central Provinces and Berar	25	395	137	27,72,899	44,35,828
		(a)93			
Assam ...	19	370	57	12,06,506	21,87,367
			(b)71		
Bihar and Orissa	19	475	55	80,14,926	83,18,157
			(b)105		
Burma ...	28	563	(d)74	25,72,552	49,63,173
Coorg ...	1	13	6	62,713	87,598
Delhi ...	1	12	8	72,741	2,24,658
Punjab ...	29	854	339	70,31,282	1,33,87,912
Madras ...	26	1,318	4	1,13,62,871	4,04,15,597
Total	202	5,147	1,295	4,79,78,387	5,91,52,610

- (a) Selected. (b) Nominated. (c) Included under Public Health and Convenience.
 (d) VII Medical—a separate head of account.
 (f) XV Public Works—a separate head of account.

Income (in Rupees) of District Boards

Provinces	Opening Balance	Land Revenue (including Revenue due to Canals)	Provincial Rates (including Local Rate, Patwari Cess, Village Service Fund, etc.)	Interest on education and dispensary securities
Bombay ...	61,00,272	2,77,186	52,33,920	1,11,852
Bengal ...	41,64,158	21,445	96,47,977	2,37,154
Central Provinces and Berar	29,02,814	76,656	27,72,899	47,778
Assam ...	4,13,505	87,391	12,06,506	183
Bihar and Orissa	33,26,982	64	80,14,926	1,15,614
Burma ...	21,84,304	...	(h)25,72,552	7,246
Coorg ...	28,182	7,674	62,713	123
Delhi ...	23,038	...	72,741	11,085
Punjab ...	29,34,688	90,483	70,31,282	231
Madras ...	1,01,49,635	17,27,061	1,13,62,871	1,69,202
Total	3,22,27,578	22,87,960	4,79,78,387	13,48,541

- (a) Includes Rs. 18 on account of Law and Justice.
 (b) Fees, Contributions, etc. in respect of Special and Secondary Schools.
 (c) Fees, Contributions, etc. in respect of Special Primary Schools.
 (d) Includes Rs. 1,303 on account of Law and Justice.
 (e) Includes Rs. 461 on account of Law and Justice.
 (f) Includes Rs. 32,404 on account of Law and Justice.
 (g) Accounted for under III and B. Cattle Pounds.

British India and their Income and Expenditure during the year 1934-35

Total Receipts (excluding Opening Balance)	Expenditure				
	Educational	Medical (including Public Health)	Public Works	Other Charges (including Debt)	Total Disbursements
2,30,70,240	1,17,34,193	13,25,474	41,09,004		2,24,92,578
1,73,43,977	31,99,677	36,44,865	60,26,799	53,23,907	1,60,42,789
72,08,727	26,83,547	4,44,295	9,96,064	31,71,448	72,27,490
				31,03,584	
33,93,873	12,73,086	5,14,294	10,53,940	4,71,078	33,12,398
1,63,33,083	45,62,461	(c)15,32,412	61,37,408	36,71,832	1,59,04,113
75,35,725	31,37,052	(e)6,39,398	(f)14,12,545	27,32,413	69,21,408
1,50,311	73,407	32,260	34,433	14,579	1,54,679
2,97,399	1,50,149	39,276	39,591	64,700	2,93,716
2,04,19,194	1,10,48,486	28,21,062	28,69,297	30,21,862	1,97,60,707
5,17,78,468	1,25,47,282	35,87,819	1,77,79,939	3,39,15,040	5,22,27,335
14,75,30,997	5,04,09,340	1,45,81,155	4,04,59,020	5,54,90,443	14,43,37,210

- (d) Nominated by the Commissioner.
 Do. by Local Government.
 Government Officers co-opted.

in British India during the year 1934-35

Police Education				Medical		
Police (Cattle Pound)	School Fees	Miscellaneous (including Sale of Books and Contributions)	Total Education	Income from Endowments Contributions	Other Income	Total Medical (including Public Health)
(a)4,23,960	2,38,761	(c)1,02,25,642	1,04,64,403	2,41,827	60,217	3,01,954
1,45,660	(b)31,332	14,47,520	14,78,852	15,42,853	1,16,303	16,59,156
(d)5,28,125	8,643	10,30,302	10,39,076	1,21,280	16,670	1,37,950
(e)1,15,291	7,852	7,71,446	7,79,298	1,43,186	631	1,43,817
(f)2,39,117	3,71,345	30,61,004	34,32,349	3,99,326	92,574	4,91,900
(g)30,646	...	(i)17,95,521	17,95,521	(j)4,36,527	(k)6,646	4,44,080
				907		
3,805	2,264	15,544	17,808	552	4,203	4,755
5,361	...	(k)1,38,412	1,38,412	...	(l)11,878	11,878
?	8,84,327	77,87,831	86,72,158	?	?	8,40,141
...	10,59,120	81,12,317	91,68,090	2,90,288	1,92,735	4,83,023
15,51,965	26,03,644	3,43,85,539	3,69,86,967	31,76,746	5,01,857	45,18,654

- (h) Includes Rs. 7,549 on account of House Cess.
 (i) IV—Contribution for Public Instruction.
 (j) IV—Contributions for Public Health Rs. 2,00,793.
 Do. for Medical Purposes Rs. 2,35,734.
 (k) Details not available.
 (l) Details not available.
 (m) Vaccination Rs. 514; Sanitation Rs. 6,132.

Income (in Rupees) of District Boards

Provinces	Receipts from Scientific and other minor Departments (including public gardens, veterinary work, experimental cultivation, exhibitions and fairs)	Receipts in aid of superannuation and compassionate allowances (Contributions for Pensions and Gratuities)	Miscellaneous (including sale of materials and sale and rents of Nazul and buildings)
Bombay ...	84,857	6,171	4,86,220
Bengal ...	29,106	35	(a) 191 5,12,227
Central Provinces and Berar ...	15,435	109	(c) 30,071 (d) 6,03,952
Assam ...	6,915	...	1,83,216
Bihar and Orissa ...	25,375	233	(e) 866 (f) 43,922
Burma ...	1,267	39	15,58,916
Coorg ...	...	...	10,575
Delhi ...	6,828	...	3,457
Punjab ...	?	...	?
Madras ...	...	...	23,83,379
Total	1,69,783	6,587	58,16,992

(a) Amount received from other Local Boards owing to territorial changes.

(b) Local Canal Receipts. (c) Law and Justice. (d) Includes Stationery and Printing.

Expenditure (in Rupees) of District Boards

Provinces	Administration (General Establishment)	Police (Cattle Pound)	Education	
			Inspection	Maintenance and Management of Schools
Bombay ...	7,99,396	2,02,481	...	(a) 1,17,34,193
Bengal ...	7,02,518	15,943	55,818	6,90,938
Central Provinces and Berar ...	5,12,583	2,93,541	23,322	26,60,225
Assam ...	1,36,221	4,039	...	11,79,478
Bihar and Orissa ...	5,95,386	17,966	4,944	19,86,754
Burma ...	5,31,072	17,742	...	...
Coorg ...	5,959	1,522	...	71,202
Delhi ...	9,143	2,788	...	(g) 1,50,149
Punjab ...	17,65,753	1,05,201	2,29,107	1,10,70,417
Madras ...	19,18,438	...	...	1,24,45,425
Total	69,76,469	6,61,223	3,13,191	4,19,88,781

(a) Rs. 2,99,717 on account of Special and Secondary Schools and Rs. 1,14,34,476 on account of Primary Schools.

(b) Other expenses.

(c) General Medical Establishment.

in British India during the year 1934-35

Railway Irrigation (minor works) and Navigation (Local Canal)	Civil Works	Debt	Total Income (excluding Opening Balance and Debt)	Incidence of Taxation per head of population	Incidence of Income per head of population
(b) 6	19,88,407	36,91,304	2,30,70,240	Rs. a. p. 0 4 9	Rs. a. p. 1 1 9
97,083	20,63,356	14,21,855	1,59,22,122	0 3 4	0 5 6
...	2,36,653	17,40,094	54,68,633	0 3 1	0 6 7
...	7,78,538	86,852	33,07,021	0 3 0	0 6 10
54,099	27,45,830	11,69,662	1,41,63,421	0 3 8	0 6 11
...	8,46,565	2,78,970	72,56,755	0 4 3	0 11 11
...	31,896	...	1,50,311	0 6 2	0 14 8
1,366	3,569	51,756	2,45,643	G	G
...	12,36,290	4,68,523	2,04,19,194	...	...
15,68,436	99,92,084	1,42,93,257	3,74,85,211	0 5 7	0 15 9
17,20,990	1,99,23,188	2,31,02,273	12,74,88,742	...	...

(e) Rs. 886 on account of Stationery and Printing.

(f) Includes Rs. 4,634 for Stationery and Printing.

(g) Information not available.

in British India during the year 1934-35

Education			Medical		
Grants-in-Aid	Scholarships	Total Education	Hospitals and Dispensaries	Sanitation and Vaccination	Total Medical (Public Health and Convenience)
...	...	1,17,34,193	4,25,607	4,07,572	13,25,474
24,20,346	32,575	31,99,677	(b) 4,92,295	20,41,950	36,44,865
51,568	597	27,35,712	14,32,401	58,354	4,44,295
64,313	29,295	12,73,086	1,12,140	2,71,444	5,14,294
...	...	...	2,34,202	1,72,851	...
25,08,660	62,103	45,62,461	(c) 57,161	(d) 1,72,965	...
31,37,052	...	31,37,052	(e) 1,766	48,200	22,30,896
1,826	379	73,407	(f) 6,98,484	4,96,076	11,35,474
...	...	1,50,149	27,541	4,719	32,260
6,556	...	1,13,06,080	(g) 39,276	...	39,276
93,132	8,725	1,25,47,282	23,16,256	6,23,770	29,40,026
82,83,453	1,33,674	5,07,19,099	21,22,569	14,65,250	35,87,819
...	...	...	97,04,468	61,90,191	1,58,94,679

(d) Cholera and Influenza Rs. 20,956; Contribution to Govt. Rs. 1,49,572; Other Contributions Rs. 2,068; Refunds Rs. 369.

(e) Medical Schools and Colleges.

(f) Public Health Charges.

(g) Details not available.

Expenditure (in Rupees) of District Boards

Provinces	Scientific and Other Minor Departments (including experimental cultivation, exhibitions and fairs, veterinary work, public gardens, etc.)	Famine Relief	Civil	
			Build- Education	
Bombay	1,80,687	...	1,54,129	
Bengal	2,57,169	82,563	1,22,751	
Central Provinces and Berar	1,20,592	...	2,35,951	
Assam	72,911	369	47,260	
Bihar and Orissa	2,31,703	26,535	3,12,172	
Burma	(m)9,179	...	...	
Coorg	...	...	823	
Delhi	15,604	...	...	
Punjab	6,46,317	9,616	...	
Madras	...	...	61,57,064	
Total	15,34,162	1,19,083	70,30,150	

(a) Rs. 2,360 Veterinary Charges.

(b) Original works Rs. 2,53,549, Repairs Rs. 1,68,300.

(c) Original works Rs. 7,16,753, Repairs Rs. 17,11,123.

(d) Original works Rs. 1,87,536, Repairs Rs. 1,35,830.

(e) Original works Rs. 1,88,851, Repairs Rs. 1,61,808.

(f) Original works Rs. 51,190, Repairs Rs. 1,97,923.

(g) Original works Rs. 13,192, Repairs Rs. 12,441.

Provinces	Civil Works	Public Works
	Establishment and Contingencies including tools and plant, etc.	Total
Bombay	9,29,683	41,09,004
Bengal	(b)12,08,253	60,26,799
Central Provinces and Berar	3,53,144	9,96,064
Assam	2,10,555	10,53,940
Bihar and Orissa	(c)12,80,376	61,37,408
Burma	2,29,644	14,12,545
Coorg	...	...
Delhi	(d)39,591	39,591
Punjab	4,52,104	21,69,343
Madras	29,33,806	1,77,79,939
Total	76,37,156	3,97,24,633

(a) Amount transferred to other District Local Boards owing to territorial changes.

(b) Including Rs. 10,000 towards contribution to Government.

(d) Details not available.

in British India during the year 1934-35

Works			Public Works			
ings (objects of expenditure)			Communica- tions	Water Supply and Water Works	Drainage Works	Other Works of improvements
Medical	Other	Total				
41,182	2,22,195	(b)4,21,849	(c)24,27,876	(d)3,23,366	24,983	6,230
1,56,729	(a)2,360	...	...	...	...	...
31,684	87,542	3,67,022	37,75,394	6,30,381	...	20,784
21,359	83,024	3,50,659	(e)2,49,113	(g)25,633	...	17,515
1,99,308	18,909	(h)87,528	(i)6,92,454	(j)57,380	(k)781	5,242
...	1,99,072	(i)2,40,011	(l)7,67,300	...	...	157
...	4,90,558	33,59,006	...	...	...	...
...	9,628	9,628	11,15,310	29,629	...	1,143
546	...	...	24,255	806	...	15,566
...	...	1,369	...	...	...	...
...	...	...	17,03,395	13,844	...	...
26,934	2,51,890	12,94,530	1,16,36,109	2,80,685	...	(n) 16,34,809
5,17,742	8,74,620	32,63,154	1,57,50,212	13,61,724	25,764	17,01,449

(h) Original works Rs. 37,431, Repairs Rs. 50,097.

(i) Original works Rs. 1,31,956, Repairs Rs. 5,60,498.

(j) Original works Rs. 25,993, Repairs Rs. 31,387.

(k) Original works Rs. 209, Repairs Rs. 572.

(l) Original works and Repairs respectively.

(m) Agriculture, Veterinary and Industries.

(n) Includes expenditure under Railway Accounts.

Miscellaneous and Debt		Total Expenditure (including debt)	Total Expenditure (excluding debt)
Miscellaneous (Remaining heads of expenditure)	Debt		
4,68,262	36,73,081	2,24,92,578	1,88,19,497
5,37,048	(a)191	1,60,42,789	1,44,66,582
3,60,965	15,76,207	72,27,490	54,63,752
...	17,63,738	33,12,398	32,10,150
1,55,290	1,02,248	...	...
4,87,385	16,14,372	1,59,04,113	1,42,89,741
3,62,424	3,15,921	69,21,408	66,05,487
...	...	1,54,679	1,54,679
9,463	27,702	2,93,716	2,66,014
...	6,07,197	1,97,60,707	1,91,53,510
30,06,264	1,33,87,593	5,22,27,335	3,88,39,742
53,87,101	2,30,68,250	14,43,37,213	12,12,69,154

(c) Establishment Rs. 9,48,869, Tools and Plant Rs. 1,20,562, Stang Rs. 67,859, Aborigiculture Rs. 33,336, Miscellaneous Rs. 80,524, Contribution to Government Rs. 150, Other Contributions Rs. 29,076.

Expenditure (in Rupees) of the Municipalities

Provinces	General Administration and		
	General Administration	Collection of Taxes, etc.	Collection of Tolls on Roads and Ferries
Bombay	10,01,786	8,88,393	1,65,158
Bengal	3,56,985	4,90,718	3,735
United Provinces	8,37,663	9,32,447	1,18,032
Central Provinces and Berar	4,29,675	1,45,585 (e) 2,19,804	14,324
Assam	59,301	48,609	330
Bihar and Orissa	1,58,288	1,92,987	967
Burma (excluding Rangoon)	5,20,927	1,24,782	6,873
Coorg	4,408	1,011	...
City of Bombay	4,80,572	5,28,061	...
Karachi Corporation	1,75,605	1,45,111	...
Rangoon	7,90,148	3,16,382	...
Madras (excluding City of Madras)	10,92,895	2,67,043	...
Punjab	14,77,087 (h)	...	...
Total	33,85,340	43,01,433	3,09,419

(a) Annuities. (b) Electricity Funs. (c) Annuities. (d) Annuities.
(e) Collection Charges on account of Octroi or Terminal Tax. (f) Annuities.

in British India during the year 1934-35

Collection Charges			Total	Public Safety		
Survey of Land	Refunds	Pensions and Gratuities		Fire	Lighting	Police
22,438	40,289	1,91,855 (a) 14,216	23,24,135	2,13,677	12,66,614	205
22,364	19,513	16,370 (c) 97	9,09,782	61,314	(b) 1,40,321	...
17,749	26,387	5,381 (d) 1,343	19,39,002	65,233	7,15,421	22
5,381	15,467	55,667 (f) 724	10,03,105	18,186	14,83,035	402
19	1,339	208	1,09,806	390	4,42,604 86,134	240
1,580	18,138	2,709	3,74,669	3,005	2,53,140	22
31,844	57,466	4,393	7,46,285	64,765	6,74,728	120
...	80	446	5,945	...	4,748	...
...	...	6,45,825	16,54,458	2,89,090	9,91,530	...
17,303	77,561	53,065	4,68,645	64,462	1,87,331	...
86	3,993	64,241 (g) 117	11,74,966	1,29,393	2,92,990	...
94,478	1,17,781	...	15,72,197	28,174	25,26,064	...
...	...	...	14,77,087	1,17,387	9,42,368	71,541
2,13,242	3,78,014	10,56,650	1,23,70,382	10,55,076	92,01,028	72,565

(g) Annuities. (h) Includes Collection Charges.

Expenditure (in Rupees) of the Municipalities

Provinces				Public Safety		Public
				Rewards for the Destruction of Wild Animals	Total	Water
						Capital Outlay
Bombay	...	...	...	2,145	16,22,962	7,06,656
Bengal	...	...	...	1,762	7,78,497	2,39,403
United Provinces	...	...	...	2,815	15,51,105	3,91,783
Central Provinces and Berar			...	872	4,62,064	40,463
Assam	...	...	...	754	87,518	34,855
Bihar and Orissa		...	...	1,031	2,57,198	...
Burma (excluding Rangoon)			...	88	7,39,701	2,43,674
Coorg	...	...	...	...	4,748	1,907
City of Bombay		...	...	(f) 5,666	12,86,286	30,972
Karachi Corporation		...	...	...	2,51,793	...
Rangoon	...	...	...	...	4,22,383	...
Madras (excluding City of Madras)			...	...	25,54,238	5,53,496
Punjab	...	...	...	...	11,31,296	...
Total				15,135	1,10,49,789	22,23,209

(a) 6,62,614 Other Sanitary Requirements. (b) Original Works Rs. 2,77,861, Repairs Rs. 88,679, Establishment Rs. 2,59,125. (c) Original Works Rs. 2,19,573, Repairs Rs. 52,448, Establishment Rs. 1,26,307. (d) Establishment Charges. (e) Medical Charges. (f) Lethal Chambers Destruction of Dogs.

in British India during the year 1934-35

Health and Convenience			Conservancy (including Road Cleaning and Watering and Latrines)	Sanitation Charges	Hospitals and Dispen- saries	Plague Charges
Supply	Drainage					
Establishment Repairs, etc.	Capital Outlay	Establishment Repairs, etc.				
15,23,260	5,28,466	3,24,158	24,42,940	2,20,895	11,47,844	2,39,012
7,73,298	65,910	2,79,388	26,09,596	(a) 6,62,614 2,01,013	3,90,018	786
16,81,144	3,42,859	3,79,377	25,58,070	87,680 2,48,205	6,30,679 86,269	38,944
4,74,251	71,426	1,77,260	11,61,056	1,44,244 (a) 67,565	2,73,551 28,470	19,986
1,25,542	2,898	19,655	2,84,510	11,320 (a) 18,899	(d) 82,249	...
(b) 6,25,665	...	(c) 3,98,328	12,15,075	10,656	(c) 2,09,051	25,570
1,00,092	55,748	35,001	11,06,368	2,25,040 3,111	86,491	17,335
1,290	757	297	8,611	393 612	570	298
10,91,601	1,08,765	11,76,714	26,70,105	4,17,916 (g) 9,968 5,313	16,53,073	...
1,14,536	...	3,20,287	2,82,272	...	1,67,753	(h) 40,225 (i) 7,653 (j) 38,616
6,02,530	...	15,57,310	...	3,88,914	3,20,190	214
8,09,739	3,24,218	2,70,858	22,14,753	3,32,410	4,94,081	12,996
12,70,107	...	(l) 1,95,046	17,75,875	3,71,451	(m) 11,57,493	77,389
91,63,055	15,01,047	51,33,679	1,93,29,211	34,26,915	67,27,782	5,19,024

(g) Other Sanitary Charges Rs. 5,313 on account of Street Ambulance Service.
(h) Public Health General. (i) Plague Charges. (j) Malaria and Epidemics.
(k) Includes Capital Outlay. (l) Includes Capital Outlay.
(m) Includes Vaccination Charges.

Expenditure (in Rupees) of the Municipalities

Provinces	Public		
	Vaccination	Markets and Slaughter-houses	Pounds
Bombay	74,793	3,02,930	53,327
Bengal	39,958	39,382	2,897
United Provinces	60,164	1,74,945	36,939
Central Provinces and Berar	25,361	1,18,532	49,664
Assam	5,295	15,626	5,910
Bihar and Orissa	15,617	43,008	6,864
Burma (excluding Rangoon)	47,972	5,54,097	15,258
Coorg	1,286	424	557
City of Bombay	53,950	2,77,710	...
Karachi Corporation	14,199	39,392	5,168
Rangoon	43,893	1,90,154	461
Madras (excluding City of Madras)	87,577	1,22,793	...
Punjab	(e)	42,289	...
Total	4,69,065	19,20,482	1,77,045

(a) Original Works. (b) Repairs. (c) Original Works. (d) Repairs.

Expenditure (in Rupees) of the Municipalities

Provinces	Public Health and Convenience		Total Public Health and Convenience
	Public Works Stores	Miscellaneous Works	
Bombay	90,633	69,047	1,11,90,932
Bengal	4,401	(a) 1,15,551	63,31,477
United Provinces	36,735	...	89,03,326
Central Provinces and Berar	21,045	...	31,74,197
Assam	1,422	...	7,55,421
Bihar and Orissa	4,960	...	(c) 33,51,968
Burma (excluding Rangoon)	5,283	30,753	34,25,025
Coorg	34	531	23,061
City of Bombay	...	...	96,94,170
Karachi Corporation	...	...	15,37,914
Rangoon	...	...	41,29,023
Madras (excluding City of Madras)	53,401	...	80,18,393
Punjab	48,036	93,208	74,01,180
Total	3,13,986	3,09,090	6,79,36,067

(a) Town-planning. (b) Capital Outlay. (c) Public Health Rs. 24,16,705, Medical Rs. 2,09,051, Public Convenience Rs. 7,26,212.

in British India during the year 1934-35

Health and Convenience				Public Works		
Dak Bungalows and Serais	Aboriginal Gardens, etc.	Veterinary Charges	Registration of Births and Deaths	Establishment	Buildings	Roads
34,991	1,44,799	31,845	47,838	3,06,214	3,71,666	17,51,453
95	19,136	10,339	18,576	2,23,771	84,715	9,22,813
6,765	1,73,490	59,710	31,526	2,57,231	2,00,630	14,49,886
7,517	37,696	19,156	5,375	1,01,428	33,767	3,82,829
236	5,859	204	...	31,534	9,733	1,53,453
12,527	15,293	19,701	537	73,892	(a) 14,768	(c) 15,096
2,519	12,134	7,046	26,023	2,67,265	(b) 38,914	(d) 5,24,197
...	324	...	...	...	7,671	5,76,141
336	1,43,847	41,374	12,095	6,23,419	1,049	4,121
...	1,58,327	...	...	98,436	1,83,198	11,93,814
...	1,23,474	...	54,853	3,91,615	72,922	1,78,128
64,230	...	...	1,73,979	2,39,825	12,045	4,43,370
...	2,46,653	...	...	2,09,144	1,93,351	17,42,455
...	...	...	...	...	8,94,432	10,20,057
1,39,416	10,40,242	1,89,375	3,70,802	28,23,774	21,18,861	1,03,57,813

(e) Included under Hospitals and Dispensaries.

in British India during the year 1934-35

Public Instruction			Total Public Education	Contributions for General Purposes	Miscellaneous	
Schools and Colleges	Contributions	Libraries, Museums, Menageries, etc.			Interest due on account of years previous to year of report	Interest due on account of year of report
41,46,615	3,20,861	45,684	45,44,128	1,37,489	19,878	5,39,067
2,35,476	3,23,271	(b) 30,968	5,77,881	16,830	15,316	1,23,699
19,85,334	1,61,095	19,134	23,84,291	4,26,805	...	6,52,508
1,54,381	55,960	75,757	15,74,815	1,35,385	17,499	57,932
15,04,710	...	14,145	...	...	...	6,478
1,16,949	19,780	3,121	1,39,850	4,631	...	14,599
2,49,940	1,90,819	8,321	4,49,110	9,003	4,684	41,735
4,36,661	3,72,560	16,248	8,25,470	6,21,238	46,776	...
8,124	934	...	9,058	5,150	...	85,67,057
30,46,352	1,58,478	49,336	32,54,166	33,39,680	1,62,208	4,36,529
3,40,000	13,088	36,539	3,89,627	...	...	11,63,204
6,747	7,30,000	3,600	7,40,347	3,10,903	...	...
29,59,808	2,890	39,123	30,01,821	...	...	...
(d) 21,27,774	...	...	21,27,774	3,18,889	1,50,329	...
1,73,18,871	23,49,736	3,41,776	11,40,18,738	53,63,003	4,19,890	5,29,614

(d) Includes Contributions, Libraries, etc.

(e) Includes interest on account of year under report.

Expenditure (in Rupees) of the Municipalities

Provinces	Miscellaneous		
	Discount	Actual cost of works done for private individuals	Miscellaneous Charges
Bombay ...	1,051	75,657	7,68,281
Bengal ...	...	20,436	3,83,003
United Provinces ...	4	36,002	10,22,772
Central Provinces and Berar ...	...	2,664	2,36,492
Assam ...	...	2,238	41,659
Bihar and Orissa ...	11	1,257	4,05,513
Burma (excluding Rangoon) ...	...	7,945	80,078
Coorg ...	...	...	1,225
City of Bombay ...	...	...	51,10,795
Karachi Corporation ...	...	...	(a) 2,80,452
Rangoon ...	...	...	(b) 85,921
Madras (excluding City of Madras) ...	...	7,331	1,71,923
Punjab ...	...	12,583	2,42,918
	...	...	20,14,477
Total	1,066	1,66,112	1,28,45,509

(a) Sinking Fund, Repayment of Loan and Depreciation.

Provinces	Extraordinary	
	Advances	Capital Expenditure
	Others	
Bombay ...	13,37,217	...
Bengal ...	3,71,626	...
United Provinces ...	23,728	...
Central Provinces and Berar ...	2,74,944	...
Assam ...	5,023	...
Bihar and Orissa ...	1,21,165	...
Burma (excluding Rangoon) ...	44,073	...
Coorg ...	...	...
City of Bombay ...	39,04,465	...
Karachi Corporation ...	4,84,923	(a) 4,09,640
Rangoon ...	6,49,873	...
Madras (excluding City of Madras) ...	6,89,109	...
Punjab ...	1,25,914	...
Total	80,32,060	4,09,640

(a) Water Works Rs. 64,219, Drainage Works Rs. 73,351, Land Acquisition Rs. 1,04,038, Buildings Rs. 1,720, Miscellaneous Assets Rs. 2,768.

in British India during the year 1934-35

Extraordinary and Debt						
Total Miscellaneous	Total Expenditure	Investments		Payment to Sinking Fund	Repayment of Loans	Advances Permanent
		In Securities (other than for sinking funds)	In Savings Bank			
14,03,934	2,12,23,580	5,26,907	3,65,805	2,23,085	12,42,768	13,516
5,49,170	88,38,611	1,16,329	35,129	27,225	2,09,297	2,410
17,11,285	1,69,15,814	5,28,001	94,265	...	6,62,457	2,292
3,14,585	66,64,151	96,391	38,369	22,000	1,88,881	1,712
50,375	11,47,601	492	3,855	...	26,833	375
4,26,064	48,68,012	2,273	500	2,634	55,041	883
1,76,534	65,34,253	2,182	6,238	26,965	65,988	5,568
1,225	49,187	...	...	...	...	...
1,38,40,060	3,30,68,820	3,69,988	4,91,65,836	30,44,495	33,57,005	...
					18,980	...
3,66,373	34,50,881	...	...	6,35,500	6,50,500	(e) 4,56,233
13,42,458	81,20,079	69,568	...	8,59,855	1,98,000	...
2,55,501	2,62,64,032	7,42,068	...	...	14,50,613	46,625
21,64,806	1,46,21,032	86,982	...	4,831	2,39,978	...
2,26,42,170	15,17,66,053	25,41,181	4,97,09,994	48,83,590	83,64,421	5,29,614

(b) Other items. (c) Advances for Stores.

and Debt		Total Disbursements	Closing Balance
Deposits	Total Extraordinary and Debt		
1,48,15,824	1,85,25,122	3,97,48,702	59,28,405
3,63,592	11,18,612	99,57,229	14,39,289
2,03,224	15,13,967	1,84,29,781	31,69,817
2,98,353	9,20,650	75,84,801	18,45,146
24,533	61,111	12,08,712	1,84,366
1,05,272	5,87,768	54,55,780	23,60,061
4,09,610	5,60,623	70,95,228	24,18,012
...	...	49,187	61,317
8,86,31,202	14,85,44,902	18,16,13,722	43,66,901
...	26,46,616	60,97,497	44,82,127
5,32,908	23,10,204	1,04,30,283	54,08,737
25,02,446	54,30,941	2,08,33,091	51,21,147
3,66,175	8,23,880	1,54,44,912	27,10,614
12,82,53,139	1,83,04,439	32,32,26,425	3,94,95,939

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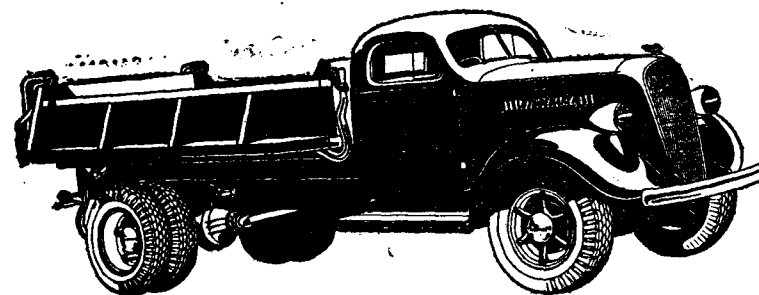
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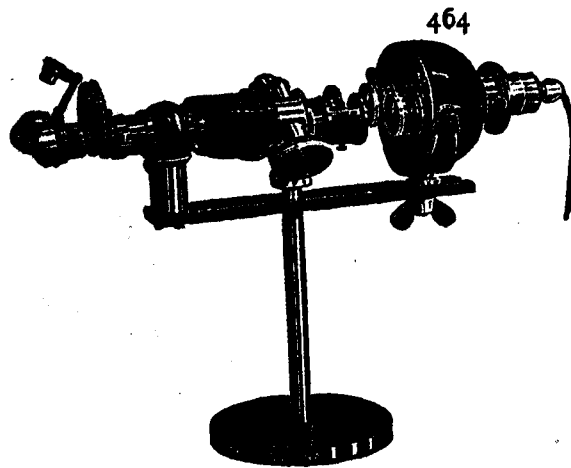
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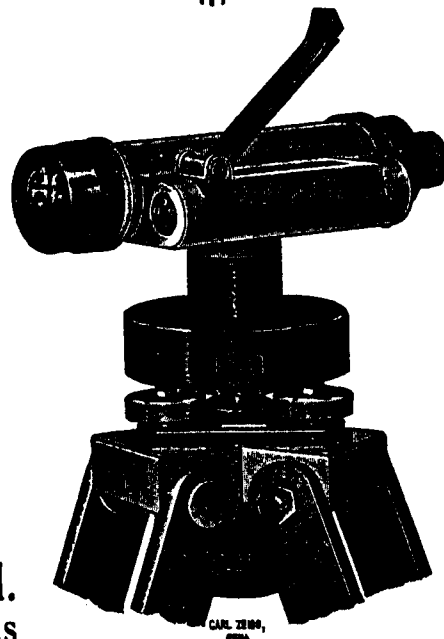
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A REVIEW OF THE BOMBAY VILLAGE PANCHAYAT BILL OF 1938

By CHUNILAL D. BARFIVALA

OUR readers will recollect that we reviewed in the year 1933 the Bombay Village Panchayat Bill of that year. They are aware that our comments were of some use in the final shaping of the Act of 1933. The Provincial Conference of Local Bodies which met in 1935 fully endorsed the views expressed by us at that time. Many important suggestions however were not given effect to. No doubt was left in our mind that the Act of 1933 would fail to satisfy the public and that a more responsive Government would lose no time in revising the Act thoroughly. We are, therefore, glad that the Hon'ble Mr. L. M. Patil, Minister for Local Self-Government, has taken a very early opportunity of placing the new Panchayat Bill before the public. It is a matter of agreeable accident that for want of time, the Bill could not be rushed through in the Budget Session of 1938. Consideration of the Bill will now be taken up in the August Session of the Legislature. This has given us time to examine the Bill. Local Bodies of the Province are meeting in a Conference in the first week of June 1938. They will have, therefore, an opportunity to express their views on the same.

We do not propose to deal here with the whole subject of the Village Panchayats and give exhaustive suggestions to overhaul the present Act of 1933. We will merely examine the salient features of the Bill and await the judgment of the forthcoming Conference and of the public thereon.

Objects and Reasons.—The declared objects and reasons of the Bill may be summarised as under:—

- (1) To remove the difficulties which retard the development and growth of Panchayats.
- (2) To democratise the constitution of the said bodies with a view to popularise them as far as possible.

In the light of these objects we will examine the amendments proposed.

Compulsory Establishment of Panchayats

Under the present Act of 1933, the establishment and the functioning of a Panchayat in a village depend upon a combination of the following circumstances:—

- (1) The Commissioner must receive a written application to establish it either from the Collector or the District Local Board or 20 adult residents of the village. [Sec. 4 (i) (ii) (iii)]
- (2) The holder of an alienated village, including a Khot, Talukdar, Sharkatdar, Jagirdar or Jamindar of a village does not object to such establishment of the Panchayat in any portion of his village. (Sec. 4 Proviso.) If he does, the Commissioner will have to refer the matter to the Government for their decision. (Sec. 4 Proviso.)
- (3) The most vital factor, however, is that the villagers must come forward to elect at least 5 persons. If they fail to elect 5 candidates the Panchayat cannot function because the Government have reserved no power to nominate persons to the seats which villagers refuse to fill up by election. [Sec. 6 (3)]

It should be noted here that the power of nomination under similar circumstances has been reserved in all other Local Self-Governing Acts of the Presidency. The omission of this power under the Act of 1933 was not accidental. In our comments on the Village Panchayat Bill of 1933, we had drawn pointed attention to this omission. The policy underlying this omission was that Government wished in the first instance to promote village uplift associations under official patronage. These associations received pecuniary assistance from Government for a variety of purposes. All Government servants from the Village Officers to the District Collectors plunged headlong in this Viceregal Scheme of uplift. The statutory Village Panchayats, from Government point of view were to be successors, if at all, of the Village Uplift Associations. No anxiety was evinced in official quarters for reviving the statutory Panchayats. It was moreover preached in certain quarters that statutory Panchayats should not be forced upon unwilling persons. The fact that in a particular village, the people refused to elect the prescribed minimum number of Panchas, it was argued, showed that they were unwilling to have the Panchayat for their

area. It was therefore not desirable to put up a Panchayat at such places with nominated members. People must have a right to decide whether they should or should not have the Panchayats. If they show a definite aversion, any authority which Government might constitute would not work satisfactorily. Local cooperation was necessary for the success of every local unit. These were some of the arguments which swayed the minds in 1933.

We pointed out at the time, that no part of the country should be allowed to say that it did not want a local governmental unit, in the same manner as no citizen can be allowed to argue that he does not want to be governed by the Central government. Central Government was an evil—if he will call it—as necessary as the local government. There is no such option left to the residents within an area of any of the other units of Local Self-Government. For example, it has not been left open to the citizens of a municipal area or cess-payers in the Local Board area to refuse to have a Municipality or a District Local Board for the area concerned. In the States of Mysore and Baroda, it is understood, every village has got to constitute a Village Panchayat.

This omission to reserve the power of nomination under these circumstances had perhaps a wider effect than was anticipated by the framers of the Act of 1933. They possibly thought that only small insignificant villages would be left out. In the bigger ones, sufficient number of candidates would come forward for election. This calculation has proved incorrect. Important villages refused to elect even 5 candidates. District Local Boards found themselves impotent against this opposition. Government have now realised this fundamental shortcoming of the Act of 1933. The Bill of 1938 promulgates the principle that wherever there is a local population of 2,000 or over, a Village Panchayat shall be established compulsorily. There is no option left either to the Government officials not to establish it nor with the residents to defeat the formation of the Panchayat by conspiring to stay away from elections. The principle is extended in a modified form to villages with a population of less than 1,000. In such places, it is optional with the Government to establish or not to establish a Panchayat. If it is decided to establish Panchayats in such smaller villages, villagers will no longer be able to defeat the Government purpose. We have always advocated this policy in the past and we offer our most sincere congratulation to the Government for adopting this bold policy which goes to the very root of the problem of Local Self-Government. We have in recent issues of the *Quarterly Journal* of the Institute quoted

opinions of many experienced administrators all pointing to the inevitable necessity of establishing Statutory Panchayats in every village. While reviewing Mr. Brayne's latest book *Better Villages* and quoting him in favour of spreading Panchayats, we stated that his "weighty opinion was very important and a timely message to the Government of Bombay who we trust will lose no time in establishing a network of Village Panchayats in the Presidency".

This step of the Government of Bombay will give a lead to other provinces, some of whom have advanced far ahead in the working of Panchayats. But the compulsory Panchayat will be a feature of the Bombay Legislature so far as *British India* is concerned—a model which may be held out for other provinces to copy.

We think it necessary to invite the attention of the Legislature to a few points in this connection.

(i) Clause 3 of the Bill leaves open to doubt whether two or more revenue villages can be combined to form a "Village Panchayat" though a revenue village may be split up and "a group of hamlets forming a part of a revenue village" may have a Panchayat. We feel that occasions may arise when it may be found convenient to combine one or more or parts of one or more revenue villages for Village Panchayat Areas. The Act of 1933 is rather clear on the point and presents no difficulty in this respect. We do not know whether the present clause is a result of a deliberate change of policy. If so, we should like to know the reasons for this change.

(ii) Sub-section (3) of Clause 4 of the Bill says in effect that if election does not result in the return of 'required number' of qualified persons, the Collector will nominate persons to fill up the seats remaining vacant. This device is common to our other Acts and is calculated to defeat attempts to prevent the functioning of the Act. We had pointed out this lacuna in 1933.

We also pointed out at that time that the nominations in such case should be made not by Collectors but by District Local Boards. We are sorry that the present clause retains the power in the hands of the Government officials. If any arguments were necessary to support our contention that it is the District Local Board which is the proper authority and not the Collector to make nominations to the Gram Panchayat in such cases, we urge the following grounds for the consideration of the Legislature.

(1) It must not be forgotten that Village Panchayats are placed by statute under the control and patronage of District Local Boards. There is a day-to-day contact between the two, just as between a parent and a child. There is hardly any item of expenditure which does not pass through the District Local Board supervision, approval or sanction. It is therefore but proper that the District Local Board should be able to select persons when the Village people omit to do so. If there were no functioning of a Panchayat it would be the District Local Board's duty to continue to look after the work of the Panchayat area. It is not the Collector whose work is transferred to a Panchayat when one is created. It is not Government which subsidizes the Panchayat but the District Local Board. The District Local Board is more in touch with the needs of the area, and knows persons who are likely to make the Panchayat a success. The relation between a District Local Board and a Panchayat will bear some analogy to that existing between a Local Authority and a School Board even under the New Primary Education Bill which will be an Act before this article goes to print. In the School Boards, every member will be elected by the District Local Board.

(2) In England, if elections to Parish Councils (which correspond with our Village Panchayats) are not held, the District Councils (corresponding to our District Local Boards) appoint persons to conduct the affairs of the Village (*see* Section 55, Local Government Act, 1937).

(3) In Madras under Section 11A of the Madras Local Boards Act of 1930 if elections did not result in the filling up of vacancies the District Board would be the Authority to fill them up.

May we ask, "Is there any valid reason why the District Local Board should not be entrusted with this function as against the Collector?" We fail to recognise any.

(iii) There is one more point for consideration in sub-clause (3) of clause 4. What is the meaning of the words "*required number*" of qualified persons, failure to elect whom, will entitle the Collector to nominate persons instead? The minimum number is 7 and maximum 15. If the Collector has fixed 15 as the number required for a Panchayat and if 5 only are returned, is the Collector to nominate 10 so as to constitute a body of 15 with 10 nominated and 5 elected persons?

This point requires to be clarified either in sub-clause (2) or (3). We should commend that in such cases the 'required number'

should be fixed at the minimum of 5, and if 3 are returned, 2 only should be nominated and that by the District Local Board and not by the Collector.

Area, Population and Membership

We have suggested above that one or more revenue villages may be grouped together if necessary. Perhaps this is intended. If so it should be made very clear in clause 4.

Regarding population, the previous intention of Government—as disclosed by newspapers reports—of fixing the limit of 1,000 for compulsory area has been dropped in favour of 2,000. Even when the population is under 2,000, it is not left with the people to refuse a Panchayat but option is left to executive authorities not to enforce it. We wish that attempts should be made to spread the net over a wider range by bringing in villages with smaller population.

The question of membership is co-related, with the population, with the area and also with representation of different interests and localities and perhaps with functions also. It is therefore but proper that the number is kept fluctuating between 7 and 15. We would, however, prefer the minimum of 5 and the maximum of 11. A Panchayat in a village with a population of 1,000 need not have more than 1 member to 200. A large village with a population of say to 5,000 need not have more than 1 member to 500.

We recognise that there is a small advantage in keeping the number at a little higher to enable the Panchayat to make a better selection for the judicial benches. The point however is of minor importance. The Collector and the District Local Board can be trusted to fix a convenient number.

Constitution of Panchayats

The second principal change pertains to the constitution of the Panchayats. Under the present Act of 1933, a Panchayat consists of 5 to 11 elected members, 1 or 2 members of unrepresented class or interest to be nominated by the Collector, Village Patil as an *ex officio* member and a holder of an alienated village or his representatives nominated by the Collector.

We examine the following changes proposed in the Bill:—

- (1) The minimum number of elected members is increased from 5 to 7 and maximum from 11 to 15. We have offered our comments on this as seen above.

- (2) Removing the representatives of holders of alienated villages.

This change is in conformity with the trend of public opinion calling for revision of holders' privileges.

- (3) Abolishing the system of *ex officio* membership of the Village Patil.

We would prefer to retain this system to that of wholesale bureaucratisation, by providing, as the Bill does, that a Panchayat shall have a secretary who shall be Government servant.

- (4) Substituting the following proviso (clause 4)—

"Provided that the Collector shall reserve seats for Mahomedans and Harijans on the population basis in any Panchayat in accordance with the rules"

in place of the following provision (S. 6)—

"Provided that when among such elected persons, there is not a member of any class of persons residing in the village, which in the opinion of the Collector, by reason of its numbers or for any other reason, should, in the public interest be represented on the Panchayat, the Collector shall nominate a member of such class qualified and willing to be so nominated a member of the Panchayat."

Let us understand what this change means.

(1) Under the present Act election takes place on a joint electorate basis. No communal considerations sway the voters. The majority community have to take note that if they capture all the seats the Collector would step in and nominate on the Panchayat one or two members of the important minorities or interests left out. The minority community is fully assured that their representation depends in the first instance on the election on joint basis and if they fail there, the Collector will nominate a member of their community. There is thus a chance of coming in contact with other communities during elections and of obtaining for the community all the political education that the joint electorate provides. The system of reservation of seats, under the proposed amendment has the features of (1) removing the nomination system entailing dependence on the judgment or perhaps the likes and dislikes of the Collector, (2) restricting the connotation of minority classes or interests to Mahomedans and Harijans, (3) laying down the principle

that population shall be the basis or quantitative measurement of representation, (4) removing joint elections by reserving seats in accordance with rules to be framed.

The subject of representation of Mahomedans and Harijans has been discussed threadbare during the last session of the legislature when Government carried the 'option clause' which gave these minorities right to decide whether they would prefer the joint electorate to separate electorate. The Local Boards Act and the Municipal Acts, will now have that "option clause". Government, so far as Panchayats are concerned, have straightway 'reserved seats' for these two classes. This is a concession to the feelings of the opposition in the Legislature to the option clause. We agree that the feeling of distrust on the part of the opposition communities in the Legislature should not be allowed to permeate to the villages which breathe an air free from communal poison. But then why this change at all? Could we not have done better with the present section 6 for some time more? Once you create reservation it becomes next to impossible to remove it without creating a sense of unjust deprivation of rights by reverting to joint elections. Nomination of the special nature provided in section 6 of the present Act is, in our opinion, a lesser evil than reservation of seats. We would suggest that the present section be retained as it is but the nominating authority should be the District Local Board. We are not enamoured of nominations. But we consider that nominations can be removed without much trouble whereas reservation will create a sort of a vested right. We hope that the talks of communal unity going on at present between political leaders will result in some solution conducive to national solidarity.

Disqualifications

Clause 6 Sub-clause (ii) modifies Clause (C) of Section 8 of the Panchayat Act of 1933 by saying that the disqualification for membership attaching to persons sentenced to imprisonment for criminal offences shall not apply to those who are sentenced for offences "*which in the opinion of the Provincial Government involves moral turpitude*".

There was a popular cry for a number of years that people who are convicted for political offences or offences not involving moral turpitude should not be debarred from offering their honorary

services to local bodies. We are familiar with the usual replies that it was neither possible nor desirable to make distinction between a political and a non-political offence as well as between offences involving moral turpitude and those not involving it. The proposed amendment seeks to meet the popular demand. We, however, suggest that the demand can be better met by inserting a clause on the lines of the Madras Local Boards Act of 1930. Section 55 (1) of that Act reads thus:—

"A person who has been sentenced....for an offence other than an offence of a political character or of an offence not involving moral delinquency shall be disqualified etc."

We believe this provision is much better-worded and meets the requirements more fully in so far as political offenders are expressly protected.

The said clause, moreover, may give rise to some practical difficulty. The clause states that the offence should not 'in the opinion of the Provincial Government involve moral turpitude.' When is this opinion to be known to the voters? *Ex hypothesi* there is not going to be published by Provincial Government, before elections are held, a list of offences involving moral turpitude. The decision of Provincial Government, we suppose, will be delivered in case an objection is raised, after the elections are held. The candidates or voters will have therefore nothing to go upon when nomination papers are filed. We request Government to clarify this issue during the ensuing Assembly debates.

A new section 9A is proposed to be added, by clause 7, as under—

"If at any time the Collector.....is satisfied that a member has incurred any of the disqualifications mentioned in Section 8 he may declare that such member has incurred the disqualification and such declaration shall be final."

Here the Collector's decision regarding the incurring of disqualification has been said to be final. Is it intended to debar the jurisdiction of Courts? If so the propriety of inserting this clause is doubtful. It is not moreover clear whether this provision is consistent with the new provision sought to be added in Section 8 that the decision whether an offence involves moral turpitude shall rest with Provincial Government. Some reconciliation between the new clause 9A and the new Section 8 (i) is necessary. Section 8 applies to all cases of disqualification *both* prior (i.e., to candidates)

and posterior (i.e., to members) to election. Section 9A would only apply to members only. As regards offences involving moral turpitude of members, who decides finally the Collector or Provincial Government? Has the Court any *locus standi*?

Sarpanch's Tenure of Office

Clause 13 seeks (i) to delete Section 15 of the Act of 1933 which provides that a Sarpanch and a Deputy Sarpanch shall hold office for a period of one year and (ii) to substitute the provision that they 'shall hold office for a term of a Panchayat' which is 3 years under Section 11. This signifies a change of opinion in favour of greater usefulness of a longer tenure of office for the presiding authority. The merits and demerits of shorter and longer durations for president's office were discussed at great length when the Municipal Borough Act of 1925 was on the anvil. The Council ultimately decided in favour of shorter duration. To us, it does not matter in the least if a President is elected for one year where the Constitution of a Local Body makes him more or less a titular head. On the contrary something can be said in favour of frequent changes in such cases. An annual change of mayoral dignity in the Bombay Corporation serves some useful purpose. At any rate it does little harm. Where, however, it is provided, as in Section 20 of the Panchayat Act of 1933 that "the executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a Panchayat vests in the Sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the Panchayat by or under this Act", it is quite essential that a Sarpanch should have more time than one year to formulate policies or obtain experience to efficiently discharge his duties. We therefore submit that the change is welcome.

Procedure for electing Sarpanch

The Act of 1933 provides (Section 17) that a retiring Sarpanch should convene a meeting for election of new Sarpanch. If the retiring Sarpanch fails to convene it, President of the District Local Board has to convene it "in a manner prescribed in sub-section 1 of Section 17 and a new Panch shall be elected accordingly". The new clause 14 foresees a possibility of the President of the District Local Board also omitting to call a meeting and provides for this further contingency by providing that in such an event 'the Collector himself shall convene such meeting.' We think it is necessary to go still further and say that after the Collector has convened the meeting a particular procedure should be followed.

Removal of a Panch or a Sarpanch

The Act of 1933 leaves with the District Local Board "with the previous sanction of the Collector" power to remove a member, a Sarpanch or a Deputy Sarpanch in case of unfitness etc. Clause 15 of the Bill proposes to give a collateral power to the Provincial Government for such removal. This is not particularly objectionable in view of the fact that the District Local Board has even now to obtain previous sanction of the Collector, before it takes such a drastic step. For the same reason, however, we do not see much propriety in providing the diarchical arrangement proposed in clause 15 of the Bill.

The Secretary—a fundamental issue

The same clause 15 proposes to delete from Section 21 the words "the Panchayat may, with the previous sanction of the President of the District Local Board and after due notice and inquiry remove the Secretary of the Panchayat from office for similar reasons, i.e. for unfitness etc." The reason for this alteration is stated under objects and reasons in these words "It is also proposed to take away the power of the Panchayat to remove the Secretary from office as he will hereafter be a Government servant". This proposed alteration therefore involves several considerations including the fundamental question, whether the Legislature is prepared to swallow clause 20 of the Bill which provides that the Secretary shall be appointed by the Provincial Government. If this Napoleonic centralisation is not acceptable then clause 15 (iii) will have to be rejected. Even if this is accepted a summary explanation on clause 15 that because the Secretary is going to be a Government servant he should be irremovable need not be straightway swallowed. As the status of the Secretary of the Panchayat is turned into a first class issue by clause 15 and 20, we propose to devote some space to examine the problem.

The provisions regarding the Secretary under the Act of 1933 are that (1) every Panchayat shall appoint a Secretary, (2) such appointment shall be subject to the approval of the Standing Committee of the District Local Board (Section 33). He can be removed by the Panchayat for unfitness etc. with the previous sanction of the President of the District Local Board (Section 21). As head of the establishment it is his duty to work, under the authority of the Sarpanch, who (and not the Secretary) remains personally responsible for all executive work (Section 20). His salary is fixed by the Panchayat as per Schedule of Establishment which

it is free to prepare and act upon subject to the general control of the District Local Board and the Collector to check extravagance (Sections 34 and 98).

Let us review the new position of the Secretary under the Bill of 1938 :—

(1) For every Panchayat there *shall* be a Secretary. This compulsory appointment is in the Act of 1933 also. But it would seem that an Honorary Secretary may be appointed, under the Act of 1933, without any remuneration. In fact we know of cases where members of Panchayats act as Honorary Secretaries. Under the Bill this is not possible, because a Secretary is to be a Government servant, and Government is to prescribe his remuneration etc.

In the Mysore State there are nearly 9,000 Panchayats and many of them have done immense good work. Section 11 of the Panchayat Regulation says that every Panchayat may appoint a Secretary among its members who shall perform such duties as may be prescribed.

Baroda is the second Indian State well known for the working of the Panchayats. Over 2,000 Panchayats are working there. Section 20 of the Village Panchayats Act of the Baroda State provides that a Panchayat shall appoint a Secretary from among the members. If this is not possible an outsider on a remuneration may be appointed as the Secretary. If this is not possible, a school teacher must be appointed and paid if necessary. Even if this is not possible at any place, the Panchayat may get its work done by the Village Talati and pay him the prescribed fees. We commend these regulations as proper guides for our provincial legislature to follow.

We have seen the Panchayats Acts of other provinces and we have not come across any such drastic centralisation as is proposed in the Bombay Panchayat Bill.

(2) His appointment will be made by the Provincial Government under the Bill instead of by the Panchayat with the approval of the Standing Committee of the District Local Board as in the present Act. We do not know what considerations have led Government to propose this drastic undemocratic change. So far as we are aware there never has been a cry anywhere that appointments made under the present Act by the joint wisdom of the Panchayat and the Standing Committee of the District Local Board have been influenced by considerations other than those of efficiency. Indications

are available everywhere of the general desire on the part of District Local Boards to train the Panchayat Secretaries so as to make them more efficient. Some District Local Boards have already started Panchayat Secretary's Training Classes and several secretaries have been trained therein. One such class was very successfully conducted last year by the Poona District Local Board in co-operation with the Local Self-Government Institute of Bombay. Sholapur District Local Board has been also doing useful work in this direction. Khandesh District Local Board has also started such classes. We know that Thana, Broach and other districts are giving due consideration to this subject. We lay particular emphasis on this aspect of the question because in some quarters, impressions have gained ground to the effect that District Local Boards are generally against the development of Panchayats. These impressions are positively wrong, so far as District Local Boards in our province are concerned.

We have not come across any reports that dependence of the Secretaries on the Panchayats and District Local Boards has in any way marred their working.

We urge upon the Government in all seriousness to reconsider this proposal for ultra-centralisation of control over this primary unit of Local Self-Government. Government should please bear in mind—

(1) that no case has been made out for this change in any authentic report. We trust that Government will do well not to go by any preconceived theory regarding efficiency of these smallest units. They should please publish in details their reasons for this drastic step and take the public into their confidence. It would be impossible for any one to support this measure unless he is convinced of its necessity. It is for the Government to create this conviction.

(2) We feel very strongly that the very object of training the villagers in the art of self-government will be defeated by making this petty Secretary a servant of the Central Government. The villagers must feel that he is their man. He must feel that he must depend upon the Panchayats and cannot afford to defy them or the District Local Board. Let him not feel that he comes from a master superior to both of them.

(3) If we take the trouble to trace the causes of the decline of our Panchayats with the advent of the British Rule in India, historians generally agree in telling us that the officialisation of the Village servant and transferring his allegiance from the Village Panchayat to the Central Government was the patent cause of the downfall of this ancient Institution. In all earnestness we, therefore,

warn Government against pressing for this change. The whole Bill is vitiated by this single innovation of theirs.

(4) No other provincial government so far as we know has taken this drastic step of making Village Panchayat Secretary a servant of the Provincial Government. Please do not give a lead to them in this disastrous process of Centralisation. Efficiency obtained by this method will not be real—will not be lasting. This short cut to efficiency is in the end the longest route. To neglect the training of the people and to try to achieve efficiency by the instrumentality of centrally appointed and centrally controlled servants is not farsighted statesmanship. The efficiency of centralisation or rather of bureaucratisation (we crave forgiveness for using this word) is not long-lived.

(5) Why make him absolutely irremovable so far as the District Local Board or the Panchayats are concerned? In the Bombay Municipality, the Commissioner, though a Government servant, is liable to be removed when a particular majority desires such removal. History of the Corporation tells of such an event happening. Cannot a door be left open for the Panchayat Secretary to go out if he renders himself obnoxious to the District Local Board or the Panchayat? After all the Panchayat and the District Local Board concerned are in a better position to know his fitness or otherwise for the job. The Provincial Government is too far away to have any reliable information on the subject. Very often a position may be created by this petty official to bring the District Local Board and the Panchayat in conflict with Government views. It should be remembered that his salary will be negligible. His capacity will be proportionally limited. To make such a man feel more secure in his post than the I.C.S. Commissioner of the Bombay Municipality looks rather dangerous.

(6) Who will pay this petty Government official? The present Act and rules read with the clause of the new Bill would imply that the Panchayat has to pay for this Government servant. Clause 20 says that his remuneration shall be as may be *prescribed* by Government. Nowhere do we find anything to show that Government will pay the salary of this Government officer. We suppose this is an accidental omission because we are not prepared to believe that this iniquity is intended to be inflicted.

Even if Government pay for the salary of this Secretary we cannot reconcile ourselves to this transfer of allegiance of this principal employee from this unit of local self-government. To us clause 20 is a death-blow to our village self-government which

has been our great ancient heritage—a glorious chapter in our history of Local Government in ancient India.

Duties of the Secretary

It is intriguing to find out what the official designation of this functionary is meant to be. In clause 20 we have the words 'Secretary' and 'Chief Executive Officer' applied to this gentleman. Mark the capital letters. Clause 21 says the Secretary shall keep the accounts of the Panchayat. Under clause 37B he is the '*Judicial Clerk* of the Village Bench.' It is true that he is practically the one permanent employee of the Panchayat and as such every item of work of the Panchayat forms part of his duty. We however suggest that the pompous designation of 'Chief Executive Officer' may be dropped. There seems to be not much sense in this phrase, if it is borne in mind that the executive power rests entirely in the Sarpanch (Section 20).

Judicial Powers

Under the Act of 1933 there are various limitations to the judicial powers granted to the Panchayats. In the first place no such powers are granted to Panchayats as such. A body of persons composed of a few members of the Panchayat are nominated by the Collector along with outsiders, if necessary, for dispensing justice. To such a body all the powers mentioned in the Act of 1938—and they are very few and unimportant—are not given but only "all or any of them" as Government may think proper. The punishment is limited to fines only—no imprisonment nor whipping etc. to be inflicted. The amount of fine has been limited to "not exceeding Rs. 10 or double the amount of loss or damage caused upto a limit of Rs. 20." The gravity of the conviction is mitigated by providing (Section 44) that it shall not be deemed a previous conviction. On the civil side also, a number of important matters are specifically excluded from the jurisdiction. The value of the suit is restricted to Rs. 25, which may be increased to Rs. 100 by consent of parties. The procedure is unsophisticated and simple. No pleaders, mukhtyars and no advocates or attorneys are permitted to appear, though a relation, servant, dependent or friend who is not a professional lawyer may appear for a party. The District Judge and the Collector either on their own motion or on application by an aggrieved party or on a reference from the Village Bench may cancel jurisdiction of a Village Bench or cancel any decree or order passed by a Village Bench (Section 87). Saving this, decrees or orders passed by a Village Bench are final and not subject to any appeal, revision or review (Section 79).

The present Bill seeks to effect the following important changes.

In the first place Village Benches *shall* be formed and judicial powers exercised wherever Panchayats are created (Clause 22). Government can no longer withhold these powers from any Panchayat. This is as it should be. The C. P. Village Panchayat Act formerly did not grant judicial powers to every Panchayat but since 1928 every Panchayat can obtain these powers. Under the Bill, the Bench will consist uniformly of 5 members—not 5 to 7 as in the present Act. They will all be elected by the Panchayat from among their members. "The Provincial Government *shall* direct that such bench may exercise 'all or any' of the judicial powers which may be conferred on the Bench under this Act." (Clause 22). Before doing this, Provincial Government are required to consult the District Magistrate and the District Judge! We have not appreciated the propriety of such a statutory consultation by the *Provincial Government*.

The Provincial Government, be it noted, are not obliged to endow the Bench with all the powers mentioned in the Act but 'all or any of them'. It is therefore still open to the Provincial Government to appraise the capacity of a Bench constituted out of the elected Panchayat and to grant judicial powers by stages.

The Chairman of the Village Bench (Clause 37A) will be a person appointed by the Collector from among the members of the Bench as under the present Act (Section 37). We hope Government will reconsider the matter and discard this power of nomination, which is unnecessary and repugnant. The Madras Village Courts Act Section 9 permits the Bench to elect its own Chairman. We think, we should follow this precedent, rather than that of nominating the Chairman.

It is for consideration whether we should not provide for nominations, where a Panchayat fails to elect a Bench. Such a contingency is not too remote.

We do not think that we need follow the lines of the present Act of 1933 to constitute a Village Bench. In order to provide for a system of nominated members, a Bench has been carved out of the Panchayat by Section 37. As however the Bench will now be wholly elective, and as we hope, the retention of the power to nominate a chairman may not be insisted upon by Government, we may delete the provisions for creating a separate Bench and follow the simple procedure of granting judicial powers to the Panchayats. This procedure has been successfully followed in the Punjab Village Panchayat Act (*see* Sections 22 & 90).

It would, in our opinion, be conducive to a very smooth working of these Panchayats, if we could obliterate the distinction between the Village Panchayat and the Village Bench. The inferiority complex of the one and superiority complex of the other, give rise to jealousies between these two bodies or between the main body and its judicial committee. The matter is made worse by providing for a nominated head of the judicial Bench. A further source of administrative inconvenience traceable to this division, is in respect of the Secretary. He will be a servant of two or rather three or four masters. In the first place the Bill provides that he is to be a Government servant. The District Local Board will be controlling and supervising his work. He will have to be under the day-to-day orders of the Sarpanch. The Chairman of our Bench will claim his services as a judicial clerk as and when convenient to the Bench. The Sarpanch and the Chairman are likely to give conflicting orders under these circumstances. Our estimate of the experience of the Central Provinces at a stage when judicial powers were withheld give us ground for scepticism about this diversion. We have also come across a similar case in our province where under the present Act judicial powers are given to a Bench and where the Sarpanch is not a member of the Bench. The smooth working in the Punjab, we attribute to the foresight of the legislature there in giving judicial powers to these Panchayats themselves and not creating separate Benches. We request Government to re-examine this subject in the light of these remarks.

Government are seeking to take several additional powers under the Bill.

Government are taking powers to make rules for the conduct and distribution of business and 'practice' before the Village Bench. It is not clear what is meant by practice here—because no pleaders etc. are to be allowed to appear before the Panchayats. Is it to regulate 'practice' by friends and relatives who may appear on behalf of parties? Government will regulate the times and places where the Village Bench will sit (whether this is essential?) and the mode of settling differences of opinion between the members of the Bench etc.

The more drastic power which the Government propose to take under the Bill clause 22 (37C) is for removal of a member elected on the panel of Benches for misconduct, incapacity, etc., for inquiry, and suspension of such a member pending such inquiry.

These are very drastic powers. That Government have considered it necessary to obtain these powers and provide for stringent

safeguards may be due to their anxiety to steer the measure clear in the Legislature by pointing out to the opposition party that dangers of misuse of judicial powers have been absolutely minimised. Such an anxiety may be justified in view of the trend of the debates when the Act of 1933 was passed. This acquisition of additional power may also be due to the fact that Government themselves are not quite certain whether these units will function properly in so far as judicial functions are concerned. One thing is certain. The criticism of the oppositionists and the possible diffidence of the Government are both based on theoretical objections to the grant of such judicial powers to elected bodies. As far as the experience of the use of such powers by elective bodies is concerned, we have nothing to go upon so far as our province is concerned, because these powers have not been bestowed on Panchayats so far, except in 2 or 3 cases which afford no indication either way. The experience of other provinces is a very useful guide. Weighing carefully the evidence for and against the use of those powers by Panchayats, we have no doubt that an unbiassed authority will find ample justification in favour of giving these powers to Panchayats. Reports of Provincial Governments where such powers are bestowed will generally support this conclusion. A perusal of different provincial Acts will also reveal that many of the safeguards which are considered necessary in our province have not found place in their scheme of judicial administration by Village Panchayats.

Pleaders, Advocates, etc.

We are glad that the salutary provision of Section 68 of the present Act of 1933 to the effect that no pleaders, vakils, advocates, etc. shall be permitted to appear on behalf of any party, has been retained intact under the present Bill, so far as appearance before the Village Bench is concerned. Clause 30 of the Bill however seeks to remove this bar in respect of their appearance before a District Judge or District Magistrate when proceedings are taken to quash any proceedings or cancel any decree or order of a Village Bench. We think this may in some cases be necessary because the District Magistrate or the District Judge would be at a great distance from the Village and it would be inconvenient if appearance by a pleader were barred.

Appeals

Section 79 of the Act of 1933 provides that there shall be no appeal against an order or decree of a Village Bench, but powers have been given to the District Judge in civil suits, and Collector

in criminal cases to quash the proceedings or cancel decrees or orders of the Benches either *suo moto* or on application of aggrieved parties or on a reference by the Village Bench itself. We believe this is a fundamentally sound provision. The essence of Village Bench jurisdiction is that these petty suits and cases should be summarily disposed of by a sort of rough justice where niceties of the Evidence Act or the labyrinths of the civil and criminal procedure codes or the hair-splitting subtleties of lawyers do not confound the judgments of simple rural folks. The simple judiciary created here has to pass judgments as in their crude opinion seem just and equitable. These village people, left unconfounded by lawyers and technicalities are likely to satisfy the needs of the villages far better than our modern law courts. Looking to the fact that so many safeguards have been provided, including the quashing of proceedings and judgments, we believe that the innovation of providing for regular appeals will defeat the very object of giving judicial powers to these Benches. Every person who can afford will take an opportunity to go to appeal and challenge the decisions of the Village Bench. The object of providing cheap and speedy methods of justice will be defeated wherever a party can afford to go to appeal. Every pleader will be able to find some technical loop-hole in the Village Bench Judgment to enable his client to go in appeal. Let not a man with a longer purse hold out a perennial threat of appeals. It is imperative in our opinion that no appeal should be allowed. After all the amount involved in each case is insignificant. Convictions are not considered as 'first offence.' Fines of very small amount are the only form of punishment provided in the Act. We therefore strongly urge upon Government not to insist upon the introduction of the right of appeal.

It may be pointed out that one of the reasons why our mediaeval judicial Panchayats became obsolete is that British Courts by depriving them of their exclusive jurisdiction brought them into discredit. Let the villagers feel that their Benches are powerful. Let the Bench feel that it has a responsibility to discharge and honour to protect and that its decisions are not always liable to be challenged and its ignorance of legal technicalities ridiculed. We hope Government will seriously consider this question.

We may be permitted to point out that Section 53 of the Central Provinces Village Panchayat Act on the model of which our Section 79 is framed has been in operation there for a number of years. The judicial work has been done in the Central Provinces by Panchayats for so many years, yet the necessity of repealing Section 53

has not been found there. Is there therefore any reason to delete Section 79 in our Province when we have not even started with the judicial work? We have read reports on the working of Panchayats in C. P. for a number of years and have not come across a suggestion to delete Section 53.

There is a middle course which is adopted by the Madras Village Courts Act. Section 76 (8) of the said Act provides as under:—

No appeal shall lie against any sentence or order framed by a Panchayat Court under this section (it relates to the whole of the Criminal Jurisdiction of the Courts) but the District Magistrate or the Sub-Divisional Magistrate may set aside any conviction on the grounds of corruption, gross partiality or misconduct on the part of this Court or on the ground that there has been a miscarriage of justice.

We think we need not go beyond this, if we cannot stop at what we have in Section 79. No case has been made out for disturbing Section 79. Even in the Punjab, where judicial Panchayats are turning out greater quantity of work than elsewhere and where literacy is not higher, no appeals revision or review are provided against a sentence decree or orders of a Panchayat (*vide* Section 31 of the Punjab Village Panchayat Act).

PANCHAYAT FINANCES

Compulsory Levy of Tax on Houses and Lands

A very important change in the present Law has been attempted by clause 39. Section 89 of the Act of 1933 provides *inter alia*, that a Panchayat shall levy *any one* of a number of taxes mentioned therein. 'A tax upon the owners or occupiers of houses and lands' is one of these taxes. It being open to the Panchayat to levy *any one* of these taxes, the house or land-tax which is practically the main or principal item of regular income may not be selected by the Panchayat. Property-tax is the most obnoxious form of taxation to the village people. Villages are stoutly resisting the levy of these taxes. In fact most of opposition to the establishment of Panchayats can be traced to this one cause. Despite this opposition the fact must be admitted that this tax is the one to which you must resort if you are to produce some tangible steady income. The equity of its levy cannot also be disputed. The levy will satisfy most of the canons of taxation. The problem is how to overcome this popular aversion to this form of taxation. It is true that many

Panchayats have levied this tax, under the present optional clause. But the problem before Government is whether they can leave this source of revenue optional. Government are trying to make Panchayats universal. They must also see that they provide themselves with adequate resources by self-taxation. We therefore submit that Government are taking the right lines in making this tax compulsory. We know that a great controversy has raged round this problem in the past. But we submit, with due deference to those who are opposed to this compulsory levy, that the view taken by Government is the correct one.

The facilities provided in the Bill by clause 39 for payment of this unpopular tax either in cash or in kind or by the rendering of work and labour will mitigate any hardship that a house or land owner may be put to find cash. Such a system of payment in labour is in vogue in the Mysore State (Regulation 37 of the Mysore Act) and possibly fits in with the rural conditions in our country. Let us not however run away with the idea that this commutation of cash payment into labour will be very smooth in its operation. The payment in kind is beset with numerous practical difficulties. Evaluation of labour or material paid in lieu of cash is a thorny problem. Assessing of the quantity and quality of labour or produce and storing and marketing of produce are very difficult problems. Let us, however, trust to the unsophisticated villager to solve his village problem by his non-technical crude methods. We hope that rules will provide some guidance to him in the matter. The practice prevailing in the Mysore and Baroda States regarding commutation of taxes by labour will serve as a useful model when rules are framed on the subject.

An additional item of income is added by clause 40. There was no power to levy fees for distress levied by a Panchayat for non-payment of taxes under Section 91 of the Act. This will now be acquired. There was an omission in the present Act regarding the power of recouping the cost of maintaining livestock seized for recovery of taxes. This power will now be given to the Panchayats.

What do Government contribute to the Funds of the Panchayat?

We had anticipated that in view of the long standing popular demand Government would contribute annually a definite amount to the Village Fund. We are utterly disappointed to see that the present Government have not proposed some statutory provision for their contribution. Section 93 of the Panchayat Act of 1933

provides that the District Local Board shall assign to every Panchayat within the District not less than one-fifth of the local fund cess realised within the limits of the village. We know that as a matter of fact some Local Boards are paying more than the statutory one-fifth. We would go further and provide for increase of this contribution to one-fourth. But we ask Government why are they holding their purses so tight? Indian States like Baroda and Mysore where Panchayats have been spread wide and are doing immense good work are contributing handsomely towards the Village Funds. Land Revenue which in other countries is a source of income to local bodies is here utilised for State purposes. A village which pays say Rs. 2,000 per annum as Land Revenue pays from 1/16th to 1/8th i.e., Rs. 125 to Rs. 250 as local fund cess, depending upon whether the District Local Board concerned levies one or two anna cess. From this, the District Local Board has to contribute as per Section 93, one-fifth that is Rs. 25 to Rs. 50. The Government is not obliged to return a pie from Rs. 2,000 recovered by them as land revenue. We feel that this position requires to be seriously and sympathetically reviewed by the Ministers of Revenue and of Local Self-Government. We are aware that Government are giving large annual grants for various items of rural uplift, including grants for village water supply, village-approach roads, rural medical help, etc. Recently Government have appointed District Advisory Committee on whose advice the District Collectors are distributing large amounts for the benefit of the rural population. We have nothing but admiration for this financial assistance. We however beg to be excused for pointing out that this method of spending is not perhaps the best method. We would, instead, desire that a part of these amounts can with better advantage go directly to the Panchayats. Let Government undertake, as the Government of Baroda has done for its 2000 Panchayats that a definite proportion of amount raised by Villagers for their village work will be paid by Government as grant-in-aid. If for example the village raised by taxation or by private donations, say Rs. 500 for establishing a library, Government should agree to contribute an equivalent amount towards it. Similarly for important items of civil works. The Panchayats that are likely to be established during the course of 2 years will not it seems exceed 1500 i.e., less than those in the Baroda State. Can we not then undertake to do the same thing here? If however Government find it inconvenient for any reason to undertake a statutory responsibility, we would suggest that they should come forward with an announcement to pay a definite share of the land revenue raised from the village. They can calculate in advance what liability will be incurred by such an undertaking and

fix a proportion accordingly. We urge this course for a variety of reasons. The success or failure of the working of small local self-governing institutions does not depend only on the capacity of the persons working them. Adequate financial resources are more responsible for their success than possibly any other single factor. Spasmodic grants from above are welcome as temporary windfalls. They do not however create any feeling of permanent satisfaction. A return of money drawn by Government from the very village howsoever small in proportion has a psychological and sentimental value attached to it by the Villagers. They feel that it is theirs as of right. Just watch today with what feelings the Panchayats are taking 1/5th of their cess from District Local Boards. There is that feeling of ownership as it were. Government will arouse similar sentiments in respect of any portion of the land revenue which they would return to the Panchayats by way of a statutory obligation. We hope Government will realise the difference between the value of an uncertain grant of fluctuating amounts and of an assignment of a definite share of revenue. The actual amount available by the latter method may be smaller but there is an immense value attached to it. Let Government divert a portion of the huge sums they give as grants. The return will be proportionally greater.

May we draw the attention of our legislature to Section 44 (3) of the Travancore Village Panchayat Regulation? It runs thus:—

“ Our Government shall contribute to the Village Fund an amount which shall not be less than three-fourths of the sanctioned budget expenditure for the year during the first five years after the constitution of the Panchayats and not less than one half of such expenditure after such period of five years.”

This is the method adopted by an advanced Indian State for fostering the growth of Panchayats in the State.

Panchayat Expenditure

Clause 18 adds to the spending power of the Panchayat (Section 30) by stating that ‘A Panchayat may, *with the previous sanction of the Collector*, incur expenditure on any public reception, ceremony, entertainment or exhibition, provided that the maximum expenditure on any one of such functions does not exceed Rs. 5.

This additional power would be welcome; but we do not quite see the utility of a previous sanction of the Collector for an

item of expenditure of Rs. 5. The very Section 26 to which this clause 18 is to be added, permits Panchayats to incur expenditure on quite a wide range of subjects "with the previous sanction of the District Local Board." Cannot the District Local Board be left in possession of this small additional power? It passes our comprehension why the Collector's sanction is required to be evoked for this. We would like to go further and permit Panchayats to incur such small expenditure without outside sanction. If necessary total expenditure on such items during one year may be limited to say Rs. 20. Shall we not trust the Panchayats to this extent?

Control

It is an irony of fate that the recent history of the development of the Panchayats in our province is the history of the ever-increasing central control over this primary unit. Historians tell us that the Panchayats in pre-British India were small autonomous republics. They knew naught of the modern doctrine of *ultra vires*. The village servant was their servant and all the affairs of the locality were their functions. The control from within or from without was next to nil. The modernised statutory Panchayats that we know in our province owe their existence to a general desire to revive the old Panchayats. The Act of 1920 was an attempt at such a revival. The guiding principle of control in that Act was different from the principle governing other local bodies. The Village Sanitation Act and the District Municipal Act and the Local Boards Act all provided for control of a deconcentrated type. The machinery of control was a network of Government officials who were distributed all over the province. The control under the Panchayat Act of 1920 was however placed in the hands of elected non-officials. The Panchayats were placed, not under the Collectors or his subordinates but under the District Local Boards. This was the first time in the history of local bodies that non-officials were associated with the machinery of control. When however in 1933 the present Panchayat Act was passed, the dual form of control was devised with the result that several sections give concurrent jurisdiction to the Collector and the District Local Board. The present Bill goes yet further in the same direction and vests greater controlling power in the Collector than even the Act of 1933. For example clause 43 proposes to give concurrent powers of entry and inspection of immovable property or works of the Panchayat to Collector or any other Government Officer authorised by him. Clause 44 proposes to empower the Collector concurrently with the District Local Board to appoint a

person to perform any duty in respect of which a Panchayat has made default. Clause 45 goes much further. Under the present Act a Panchayat can be dissolved for exceeding or abusing its powers or making persistent default in the performance of the duties prescribed in the Act or any other law the time being. (*Vide* Section 102). One would suppose that this section, which is on the lines of similar provisions in other Acts governing local bodies, is wide enough to invite a sentence of death of commission or omission, grave enough to cover every important act on the Panchayat. Clause 45 of the present Bill however adds one to the list of capital-punishment offences, viz. that of 'persistently disobeying any of the orders of the Collector or Commissioner under Section 99, regarding suspension of execution of orders etc.'

Further fresh powers are taken by clause 44 and 49. The former authorises the Collector along with the District Local Board to appoint a person to perform any duty in respect of which a Panchayat has made default. The latter empowers the Government to call for and examine records of any proceedings, except judicial.

Conclusion

We have attempted to examine the principal features of the Bill. Let us recapitulate our conclusions. We welcome the policy of compulsory establishment of Panchayats in villages with a population of 2,000, though we would like to extend the Institution to a larger number of villages by reducing the population basis to 1,000. This policy will help to create an awakening throughout the province, provide for improvement of each village through the instrumentality of a statutory organised agency of its own, and spread a network of schools for the political training of the people. Other provincial governments seem to be contemplating adoption of similar measures. Working of our policy will, therefore, be watched by them very critically. Let us give them a good lead. In this connection, it is but fit that we have taken care to remove the bane of government nominations on these Panchayats. This was a blot on our institution from which others were more or less free. In giving this lead we should have taken care on the following subjects:—

- (1) The Bill should have left untouched the present provisions regarding minority representation instead of the communal representation proposed in present Bill, with such modifications as are suggested above at pages 7-8. This, however, let us hope, is a passing phase in our history.

- (2) The Bill should have provided for the return to the villagers of a definite proportion of the land revenue raised by Government from the village concerned. The ancient Panchayats collected the land revenue and paid therefrom the required quota to the state authorities, keeping to themselves the balance for the use of the village. If we cannot return to this system we should at least return to the village a definite proportion of the land revenue. One-fifth of the cess which the District Local Board is to give is not enough. If this suggestion is considered unsuitable, some direct statutory financial help in proportion to the amount raised by Panchayats is the minimum that we should provide.
- (3) We should have enlarged the functions of these Panchayats. General restoration of judicial powers to these bodies was a step long overdue. Other Governments have given us a lead. Let us overtake them. We should have gone further and tried to make the Panchayats a real unit of local administration by grant of general powers embracing "all village affairs" with enumerated reservations. Provisions of the Madras Act, the Bengal Chaukidar Act, the Burma Village Government Act should have been drawn upon in this respect. In the enforcement of Prohibition, the services of these Panchayats should have been requisitioned with advantage.
- (4) We should have striven for the retention of the autonomous character of these institutions. We have utterly failed here by providing that the Secretaries of these Panchayats shall be irremovable Government servants. This step has not so far been taken by other governments and we hope they do not catch the Bombay disease. Under no circumstances should the legislature accept this innovation. Centralisation beguiles us into efficiency which is neither true nor lasting. That efficiency alone is perennial which is born of the training of the people in the art of self-government. For true statesmanship, the achievement of such real efficiency is the *summum bonum*. The Royal Road to this summit is to trust the people and give them opportunity to learn, even by committing mistakes. Leading by the

nose-string leads just in the reverse direction. Ancient Indian history furnishes a brilliant example of the former type, Roman history of the latter type. Let us make the right selection.

- (5) The Bill should not have betrayed such utter distrust of the Panchayats and their guardians the District Local Boards. Fortunately the District Local Boards in our province have not shown any aversion to the Panchayats. They have, as shown above, striven to promote their growth. This position which is an advantage, we have, over many other places, should have been taken advantage of, for restoring and expanding the policy of deofficialising the control and vesting it entirely in the District Local Boards. Other provinces, where conditions are less favourable, have not hesitated to follow this logical policy. We, on the contrary, have throttled the freedom of the Panchayats, strengthened our deconcentrated official control, and created diarchical control of an amazingly comprehensive character. We fail to understand why this additional power has been found necessary.

We do not wish to offer any further criticism on the manufacturing of these additional fetters. Perhaps they may be necessary in the armoury of Government Control. We on our part think that the present armoury is complete. Perhaps we are wrong. But we cannot refrain from expressing our surprise at this exhibition of distrust of the District Local Boards and the Gram Panchayats. These Institutions should be permitted to thrive in a world of freedom and not in a fortified prison house of 'Don'ts'.

Editorial Note

Proofs of the above article were circulated to the delegates of the Provincial Conference of Local Bodies which met on the 4th and 5th June 1938 in the Bombay Corporation Hall under the presidentship of the Hon'ble Mr. L. M. Patil, Minister for Local Self-Government of Bombay. Following resolutions passed at the Conference will show how far the author's views have met with the approval of this august assembly.

A.—Re. Village Panchayat Bill of 1938.

1. This Conference welcomes the Government proposal to make the Panchayat a compulsory unit and desires that compulsion should extend to all villages with a population of 1000.

Proposed by: D. W. Raut.

Seconded by: R. N. Rajadnya,
J. M. Thakore.

Carried unanimously.

2. This Conference is of opinion that power should be reserved to Government for combining one or more or parts of one or more villages in a Panchayat area.

Pro : J. M. Thakore.
Sec : N. L. Dalal.

Carried unanimously.

3. This Conference is of opinion that in cases of villages not returning the minimum number required to constitute a Panchayat, the District Local Board and not the Collector should be authorised to make the nominations to make up the number.

Pro : S. S. Naik.
Sec : B. K. Bhaurucha.
N. S. Patil.

Carried unanimously.

4. This Conference is of opinion that provision regarding minority representation on the Panchayat should be retained as in the present Act with the difference that instead of the Collector nominating, Government should nominate persons, on the recommendations of the District Local Board.

Pro : S. S. Naik.
Sec : S. A. Joshi.

Carried unanimously.

5. This Conference desires that it should be made very clear that political offenders are not disqualified from becoming members of panchayats as is done in Section 55 (1) of the Madras District Local Board Act. ("A person who has been sentenced..... for an offence other than an offence of a political character or of an offence not involving moral delinquency shall be disqualified etc.").

Pro : S. S. Naik.
Sec : N. L. Dalal.

Carried unanimously.

6. This Conference is emphatic in its opposition to the Secretary of the Panchayat being made a Government servant. Such a step is undemocratic and opposed to the aim of training the villages in Self-Government, and will also lead to constant friction between the District Local Board, the Panchayat and the Secretary. The Provisions of the present Act of 1933 in this behalf should be retained. The Local Self-Government Institute should take steps to

train persons for Secretaryship in cooperation with Government and District Local Boards.

Pro : C. D. Barfivala.
Sec : D. W. Raut.

Passed unanimously.

7. This Conference while it appreciates extension of the judicial powers, requests that the power to elect Chairman of the Bench should be given to the Panchayat, instead of the Collector nominating the Chairman.

Pro : N. L. Dalal.
Sec : Luxmanrao Kudle.

Passed unanimously.

8. (A) This Conference is of opinion that the right of appeals from judgment or orders of the Bench should lie, but the appellate courts should not interfere with the decision of the Panchayats on mere technical grounds.

(B) No cost for pleader's fees exceeding Rs. 5 be allowed to successful parties.

Pro : N. V. Bhonde.
Sec : R. N. Rajadnya.

Passed unanimously.

9. This Conference earnestly requests the Government to commit itself to grant certain proportion of land revenue collected within the area of the Panchayat which is not to be less than 1/16th of the revenue thus collected and to so amend the Panchayat Act as to incorporate the same provision in the said Act.

Pro : D. W. Raut.
Sec : G. K. Desai.

Carried unanimously.

10. District Local Board contribution to the Village Fund should be raised from one-fifth to one-fourth of the land cess raised from the Village Panchayat Area.

Pro : N. L. Dalal.
Sec : B. K. Bhaurucha.

Carried unanimously.

11. This Conference views with apprehension the extension of centralised control as foreshadowed in the bill and requests Government to reconsider the matter in the interest of Democracy.

Pro : Mr. S. S. Naik.
Sec : G. K. Desai.

Carried unanimously.

—Editor.

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SUB-SOIL PROBLEM OF SHIKARPUR

By **K. V. JOSHI**, Esqr., B.E., M.R.San.I. (Lon.)

Chief Officer and Engineer, Shikarpur Municipality.

SINCE recently the Sub-Soil problem at Shikarpur has become very acute and it is feared that if it is not tackled immediately with great foresight it will create an alarming situation. The recent visit of the Minister of Public Works, the Hon'ble Mr. Nichaldas, has given an impetus to the solution of this problem. He was kind enough to acquaint himself with first-hand knowledge of this difficult problem and had the occasion to see things personally. It is gratifying to note that the public of Shikarpur through their foremost philanthropist Seth Doulatram Mohandas, M.L.A. came forward to offer a donation of One lakh of Rupees for the solution and giving permanent relief to the town of Shikarpur. It is confidently hoped that even if more funds are needed the charitably-minded persons of Shikarpur will rise to the occasion and contribute further amounts if required to save this famous and ancient town from the ruin and havoc caused by the Sub-Soil. Here it is proposed to give a short account of the Sub-Soil problem at Shikarpur. It is an admitted fact that the Sub-Soil started rising at a rather alarming rate since 1933. Before approaching to the main question of Sub-Soil it will be advisable to write a little about the topographical situation of the Shikarpur town. The main town is situated in a sort of hollow with the main town rising about 30 feet in the middle and surrounded by a circular road. The new extension of the town is beyond the Circular road, the general level of which is about R.L. 185.00. The houses along the Circular road and the low lying area round about are the worst affected by the Sub-Soil.



K. V. JOSHI, B.E.,
Chief Officer, Shikarpur Municipality

There is not much record about the Sub-Soil prior to 1932 since when the Municipality has kept an up-to-date record. The first appreciable rise of Sub-Soil appears to have been noted in 1932. As a result of the observations during the last five six years it is seen that the Sub-Soil water table follows a gradient nearly the same as that of the general ground level. The rise in Sub-Soil is uniform at all the places. It has been further observed that the maximum level has been steadily rising every year and there is a slow rise in the minimum rise levels also.

The following table shows the minimum and maximum levels of Sub-Soil during the last six years.

Year.	1931	1932	1933	1934	1935	1936	1937
Maximum R.L.	178.00	181.00	183.50	183.80	186.01	186.52	186.69
Minimum R.L.	...	173.00	174.70	176.25	177.00	176.88	177.47

Average road level of Circular Road R.L. 185.00.

It will be rather interesting to note that the minimum level in 1925-26 was about R.L. 169.00 as the balancing tank at the Ghulam Shah was constructed by excavation in dry soil. The present maximum Sub-Soil level is about a foot and half over the surface of the Circular road.

It will be apparent from the above table how alarming the situation has become. During the days of maximum Sub-Soil regular streams of water are observed flowing from the plinths and pavements of the houses of the Circular road which is as a matter of fact floats on water. It is an extremely difficult task to keep these roads in good condition. It will be rather interesting to talk about the construction of the existing buildings in Shikarpur. Generally these have foundations of pucca bricks in mud or sometimes even katcha bricks. No consideration about the distribution of weight is given in constructing these houses which consequently suffer due to unequal sinking. The soil at Shikarpur consists of Sind alluvium and sand with a little of clay. It has got no bearing strength and is liable to yield immediately as soon as it comes in contact with water. It will be rather alarming to imagine what strain the buildings have to stand and the consequent results when the Sub-Soil permeates through the foundations by practically surrounding them. There is not a single building along the Circular road which has not cracked.

All the surface drains have been upset and sunk in various places and had it not been for the underground Drainage System which was introduced just in time considerable damage to the town would have been done. As a rule the only solution to safeguard the stability of houses in these areas is the use of Reinforced concrete for the foundations and superstructure. The few buildings that have been constructed with Reinforced concrete have stood the strain very well. The floors of all the bungalows and houses used to be made of a layer of generally 5 inches of burnt brick in lime concrete with a pavement of brick on it. All these have hopelessly sunk down. I have been advising the use of Reinforced concrete floors since last five years and it is only these that have stood well. Another effect of the Sub-Soil has been observed on the walls of the buildings. Practically all the walls of the houses along the Circular road have been affected to a height of eight to nine feet due to the rise of Kalar. The house owners are required to spend vast amounts yearly on the repairs of the houses. Apart from the abnormal rise of Sub-Soil the most damaging feature is the big variation. It has been observed that the variation is as much as ten feet, and all the buildings and their foundations are exposed to alternate dry and wet conditions. According to Hindu Vastushashtra it is safer to build on water than on alternate dry and wet soil. The latter depicts the Shikarpur conditions more correctly. In order to safeguard this the only solution is to use Reinforced concrete for the buildings.

The causes of this abnormal rise of Sub-Soil can be stated as follows:—

There were heavy floods in the years 1930 and 1932 causing breaches in the Sukkur Bund. The water passed very near Shikarpur.

Secondly, there was an abnormal rainfall in the year 1933 when as much as 6 inches of rain fell in 12 hours. The Circular road was flooded with about knee deep water for about a week.

Thirdly, the two canals Chhota Begari and Raiswah which encircle the town have been observed flowing at higher levels and with a bigger discharge than that they are designed to carry during the last six years. The town is surrounded with gardens all round. A good deal of water is wasted through these and accumulates in hollows all round the town naturally tending to the rise of the Sub-Soil. These canals are outside the Barrage area and flow in the Abkalani season only. It is only in this season that the Sub-Soil trouble is seriously felt.

On these canals there has been no proper control over the distribution of water as all the outlets are old fashioned and draw unnecessary heavy water. The wastage of water is so much that water is often times observed to flood the Municipal roads and drains. During the Supersession period this was brought to the notice of Government who have since last year provided modules on Begari and Raiswah canals and to some extent controls the wastage of water.

Fourthly, rice cultivation requiring heavy watering has increased to a great extent round about the town.

Fifthly, since the introduction of Barrage the general level of Sub-Soil has risen and this may probably affect the gravity of the problem.

Besides being a danger to the properties the rise of the Sub-Soil has resulted in a serious menace to the health of the town. The Sub-Soil is found accumulated in small pools round about the town with the consequent result of providing opportunities for breeding of mosquitoes. If conditions are allowed to drift like that, it may seriously affect the health of the town. The Municipality is required to spend large amounts on treating these hollows and on combating the evils arising from the abnormal rise of Sub-Soil. If this question is tackled wisely and promptly it will save the Municipality a good deal of anxiety and expenditure.

Remedies suggested for controlling the Sub-Soil

The first and most effective remedy for controlling the Sub-Soil is to prevent particularly Rice crops to be grown on the lands within a radius of two miles from the town. This will require necessary legislation to be passed. I would appeal to the Government and the members of the Legislative Assembly to take this question in hand and push with all their power. It is not merely a question for Shikarpur but affects all the towns and villages threatened by Sub-Soil. As an immediate step, it is essential that further rice cultivation round about Shikarpur should be stopped at once. It appears to be of recent growth due to improved supply of water and the Khatedars have not acquired inherent right of the supply of water to them for rice cultivation. It is therefore possible that the P.W.D. authorities by controlling the supply of water might be able to reduce the rice cultivation effectively.

The second step would be to convert all the garden land between the Circular road and Chhota Begari canal from Railway bridge

to Mari Naka into Sikni land. At the same time care should be taken that no sikni land within a radius of two miles is allowed to be converted into agricultural land. This will involve a heavy investment by the Municipality but in the long run it will mean a blessing to the town. It is estimated that the acquisition of the necessary low lying land will cost about Rs. 70,000. On a very safe side it is estimated that the Municipality might be able to sell a good deal of this for building sites for about Rs. 20,000. It will be also possible for the Municipality as the site is very near the town to provide amenities to the town by constructing childrens' and ladies' parks, cricket grounds, gymkhanas, etc. A private Education Society has already proposed to build a high school building in this area. Of course this area will certainly be required to be developed before it is actually used for the above activities. During the last five years the Municipality has succeeded in keeping the road surface free from Sub-Soil by providing temporary Sub-Soil drains during the period of Maximum sub-soil. The Sub-Soil water is admitted in the underground drain system and pumped about two miles away from the town. It has been observed that at the top two feet of water could be controlled by this means all along the roads. In order to improve the area a Sub-Soil drainage of a permanent nature will have to be provided. Two Sub-Soil porous concrete drains about two and half feet deep running parallel to the Begari Wah and the Circular road will have to be constructed immediately. This will not completely stop the sub-soil but would certainly check any further rise and keep down the level by about two feet all over the area. This of course will involve a heavy expenditure on pumping. Instead of admitting the sub-soil into the underground drain and pumping far away I would suggest a subsidiary pumping station at somewhere near Nausharo gate solely for this purpose and all the water pumped into the Begari canal which is only a thousand feet away. I feel there should be no objection on the part of the P.W.D. authorities for admitting the water in the Begari as it may not be so injurious from the point of health. This Station will serve all the worst affected area. Approximate estimate for this Scheme will be about Rs. 60,000.

Thirdly, the outlets within the area from Circuit House to Mari Naka on Begari canal be reduced to a minimum as much as possible. This will be easy after the area is converted into non-agricultural area.

It will be interesting to carry out certain experiments for lining the Begari canal or treating with Sodium carbonate which may help in reducing the seepage.

Before concluding I would like to bring to the notice of the public and the Government the gravity of the situation and suggest that immediate steps are required to be taken to control the sub-soil and keep it at a lower level in order to save the town from severe damage to health and properties. The Municipality alone will be unable to deal with this problem and it is earnestly appealed to the public and Government as well to extend their helping hand to the solution of this problem.

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DUST NUISANCE ON ROADS IN TOWNS

By S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E. (Bom.)

THE presence of dust on the roads is always objectionable. But dust on roads in town is very objectionable. The subject was not considered very seriously as long as the slow moving traffic that used the town roads in former times did not raise much dust. But now that the fast moving traffic raises clouds of dust, the point has become very serious and I am asked if there are any remedies to remove this evil.

I need not, I suppose, take much time on the inconvenience and insanitation of the dust when raised in clouds. The streets are dumping grounds of all house and even hospital and dispensary sweepings. Spitting by all manners of people is carried out in the streets. Vegetable and other matters are allowed to rot in the streets. Dead rats and frogs and even cats are dumped in the streets to be pulverized by the wheels of the traffic. All the private dogs are allowed, nay even forced, to use the streets as public latrines. A number of stray cattle, pariah dogs and other animals use these streets as their stables all 24 hours of the day. In fact whatever rubbish can be conveniently presented to the streets for the benefit of the public is presented to them. When this rubbish rots it is reduced to dust and mixed with the dust which is all pervading in the streets and adds to the volume and what is more important, the vegetable and organic dust being lighter than the dust of the road-metal and blindage material is apt to be raised to greater heights by the fast moving traffic, can be blown further away and its penetrating power to all nooks and corners of the adjoining buildings is more potent. And when we see the amount of organic poison and the innumerable germs of diseases and Bacilli that are always floating in the air to settle down on the food spread out openly in the form of sweetmeats, eatables, fruits cut up and spread out for public gaze so as to tempt children and adults to purchase the slices exposed, in the various articles such as oils, gur, sugar, vegetables, corns, pulses, etc. which are all exposed for sale in shops near the edges of road without any sort of covering on the goods, and particularly when milk, butter, curds, etc. which can also form good breeding ground for germs, are exposed, in open vessels, we can only wonder about the vitality of the Indians so

that they are prevented from contracting more diseases. I can think of the only possible solution that a merciful Providence has given a special immunity to us from such germs and diseases, or in the alternative that all the so-called science from which we argue the above is all humbug. Those who contract diseases and die only cause loss and inconvenience to those who are near and dear to them and to families; but the millions of those who suffer from diseases of the ears, throat, nose, eyes, etc., are a source of expenditure to the Municipalities and Government who have to run hospitals for their use. Those who have to suffer for their whole life, on account of the damage to their eyes and on account of a lifelong bad health caused by these germs would also have to be considered as they cause an actual loss in the productive power of the country when they utilise the food etc. that would go to support a healthy person. The Government is considering the question of tuberculosis and raising large funds to combat the disease. I suppose this dust would be a very great carrier of tuberculosis and hence a large part of the funds raised should be spent on remedying the dust nuisance. If it were possible to estimate the loss under this head, the figures would be appalling. But apart from this germ and disease theory which can only destroy human life which is cheap enough in India and does not deserve consideration, the actual loss or inconvenience by the clouds of dust settling on furniture, clothes, floors of houses and verandahs is enormous; and it is this which is the subject of argument whenever this matter is discussed.

The next point is, how is this dust raised? All passing traffic has got a tendency to raise the dust. Even a number of men or school children in passing over the streets raise a good deal of dust. A number of carts passing raise the dust. A herd of cattle passing on their way to or from the market will raise enough dust. But the chief privilege of raising clouds of dust enough to penetrate to the furthest corner of the house is reserved for the fast moving motor car or bus or lorry. The cart wheel helps to lessen the dust but motor tyre has got a tendency to pump up the dust from the road and to set it going at a great velocity in a rising parabola. The direction of the wind helps the propagation of the dust and we find that its powers of penetration once when so raised and carried are very great.

We can thus see that the chief cause of the dust nuisance in town is the motor car, and the large motor buses which infest the roads are the chief means of raising this dust cloud. Some municipalities try to remedy this by using water to water the roads;

but the remedy has no result except probably the easing of the conscience of the authorities in having done their best to stop the dust nuisance. Supposing a cart or lorry waters the street at 8 A.M. in the morning, the water just penetrates the upper layer of dust only $\frac{1}{8}$ to $\frac{1}{4}$ inch leaving the lower portions of the layers, which is an inch or two in thickness, untouched. The next cart or car or even a pedestrian passing pushes the top wet layers to the bottom and brings up the dry dust. Or even taking that there is no such traffic, the extreme heat of the Indian sun evaporates the water in something like 15 or 20 minutes. So that for the whole of the day till probably another watering is attempted in the evening the road is just as it was with a layer of loose dry dust, ready to fly in all directions with the tyres of the next passing bus. Thus we see that watering of streets for prevention of dust nuisance is a remedy that will serve for only 15 minutes or half an hour at the most and the money spent on this is all wasted without any real benefit.

The one thing that has got to be borne in mind is that the main reason of the dust nuisance is the motor traffic.

Now we can divide the towns into two classes: one large towns or cities and the other small towns. Motor traffic in any town consists of (1) private cars, (2) lorries for transport of goods, and (3) passenger buses.

In large towns there is a number of vehicles under class one because many of the rich citizens have got their own cars, the Government officials have got their own cars and free access is desired by all these to and from every street in the town. Traffic conditions, width or narrowness of streets or such other conditions impose a restriction of one way traffic in many towns, but these considerations only deal with the safety of life and do not think of dust nuisance. Such cities have also a large number of goods transport lorries and innumerable passenger buses connecting such cities with all the outlying parts of the country. Such cities are also rich and the taxable capacity of the public is high. Therefore such cities are in a position to think of and carry out road improvement schemes and generally go in for concrete and asphalt roads which mitigate the dust nuisance. But we must get a clear idea of the fact that only the dust generated by the road materials is prevented by those roads. The organic dust, created by the agencies given above, owing to our peculiar conditions, slovenly habits and want of the sense of mass or public cleanliness, is still there to spread disease, contagion and death. There is one redeeming

feature however. The road dust which serves to give a good 'body' for the mixture and propagation of the organic dust is not there and hence the propagation and the penetration of the dust is not so effective on these roads as on other roads. Again such roads cannot be used as stables by the stray cattle and animals, because they are hot in the sun and cold at night, and the comfortable layer of dust which can serve as a soft cushion for the animal bodies is not there and the animals shift to more suitable public stables. There is generally an army of sweepers who pick up all rubbish and keep the roads clean.

But these roads are costly—very costly and it is beyond the means of small towns either to finance them or to maintain them or to keep them clean.

The case of small towns is really different. The traffic conditions are peculiar. There are very few or almost no motor cars frequenting the roads except as casual visitors from time to time. There are no motor lorries to speak of, for transport of goods, as the good old bullock carts are deemed sufficient for the carriage of goods. The only consideration to be taken is of the motor bus services which are springing up like mushrooms in all the towns and we see the buses thundering all over the roads at all hours of the day.

As I have said elsewhere in other articles these motor buses are in the hands of incompetent, uneducated and irresponsible drivers who have no thought for anything. They would drive very fast through the streets of the town even though they have no call on their time, simply to show off to the admiring rustics their skill in driving. The journeys they make in and out of the town streets unnecessarily before they actually start on their journey come to about one half the total distance they have to travel to their destination from that town. I will narrate here a recent experience. I went to Kolhapur at 7-30 A.M. and got in the mail bus going to Deogad. The bus left Kolhapur at 9-30 A.M. and for two hours with some intervals of waiting was round the streets of Kolhapur to collect the regular driver who was absent, to take a repaired battery, to collect passengers who were promised a seat but were never ready, so that we had to go to their places more than once in some cases, and lastly to get the mail bags—a total journey of 18 to 20 miles whereas the actual effective journey made was upto Dajipur, a distance of about 40 miles.

The roads of the small towns are narrow without any foundation, just roads fit enough for horse-tonga and bullock cart and such

slow moving traffic. Immediately the buses thunder over these roads they are torn to shreds and exposed to the foundations, which consist of ordinary earth. It is not within the town authorities to repair the roads, the result being that they are full of dust—so many inches in depth during fair season and a mass of mud during rains. We can hear the bus-drivers, pedestrians and the inhabitants all cursing the town authorities and laying the whole fault at the doors of the poor local body in charge of the roads.

Now we will consider the best way of removing this dust nuisance. Probably the best remedy would be to have good dust proof roads—either cement concrete or asphalt. The remedy is no doubt very efficient—provided you have got the means to do so. I will take here an instance referred to me lately. In one town which is the capital of a small State there are 6 or 7 bus services, the daily total buses plying being over 75. The Municipality spends Rs. 3,000 to 4,000 per year on roads and the State Rs. 2,000 on the through roads passing through the town. There are 6 miles of roads. Supposing the roads are concreted or asphalted, that would cost over a lac of rupees which is a proposition not to be thought of. The authorities have to see their roads being torn to dust by the heavy traffic without any means of salvation.

In all large towns, Poona, Ahmebabad, Karachi, Surat Hyderabad (Sind), large expensive programmes of dust proof road coatings are being made and followed out, and we congratulate the town authorities on their efforts, except only in one item, that is, that they are laying more stress on asphaltting even when concreting is a cheaper-in-the-end method and more rational from all points of view. The argument has been advanced *ad nauseum* by me in all my writings. The Concrete Association of India has now prepared valuable pamphlets on the subject. But the propaganda carried out by the asphalt interests will take some time to be swept out, and the mistaken ideas of the misguided public will take some time to correct.

In small towns, the only remedy I can think of is to have *all* bus stands outside the towns so that *no bus* under any circumstances can be allowed to come inside the town. Passengers can get in and get out of the buses at these stands only, and must come there either on foot or in a cart or tonga. This system is followed in many towns, but not with a view to the saving of roads, nor to protect the citizens from dust, but for the convenience of the police regulation of the services. A regular survey must be made of all the conditions and the stands settled with the consent of most of

the interests, so as to cause as little inconvenience as possible. There will certainly be a loud outcry by the public who think that they have a right to command the bus at their very door. They are prepared to board the railway, steamer, boat and even the most modern aeroplane at a fixed depot or station. But the bus must be available at the door. This, I need not say, is a mistaken idea of a right and the sooner it is removed the better.

After having surveyed the whole situation, it may be possible that on one or two roads, buses might have to be allowed. A Railway Station just in the centre of a town, or a harbour which can only be approached from outside, through the towns are just cases in the point. In such cases these roads must be well defined, widened and made dust proof by means of a concrete road. Buses may then be allowed on this road only.

The question of postal services and taking up or setting down the mail bags has also to be considered. The best way is to locate the Post offices outside near the bus stands. And in many towns they are situated in such positions. Where the buses have to be allowed to enter the towns as described above, the post office must be situated on the road specially constructed. Any way, this point also will serve as one of the items of the survey proposed above.

Thus we see that the question of dust nuisance is very important from the point of view of the appalling loss of public health, public property and can be solved or avoided if a careful study is made to find out the remedy.

I wish every authority dealing with the subject considers the above aspects of the dust nuisance.

LITERACY IN THE CITY OF BOMBAY*

By R. V. PARULEKAR M.A., M.Ed., T.D. (Lond.)

THE purpose of this paper is to show that the peculiar conditions of the city of Bombay require that for a substantial increase in the literacy of the City it is absolutely necessary to take up in hand immediately a wide campaign of adult instruction, for, with the fullest extension of the provision for primary education, the percentage of literacy in the City will not be very much affected.

Let me confine my remarks to the figures given in the Census Reports of 1921 and 1931. In 1921, the City's population was 11,76,000 with 2,70,000 literates of all ages, the literacy percentage being 23. In 1931, the population was 11,61,000, literates 2,81,000, the percentage of literacy 24. This shows that although in the decade 1921-1931, the population was almost stationary, the increase in the percentage of literacy was almost nil, or to be very accurate 1% only. And yet during this decade, a wave of enthusiasm prevailed in the City for the improvement and expansion of primary education. The primary schools in the City had in 1921 about 50,000 pupils on roll, while in 1931, the number rose to 71,000. These schools in the City must have sent out literate children to the extent of about 75,000. In spite of this addition to the literates of the City, their number in 1931 remained almost unaffected, the actual addition being about 11,000.

The reasons for this disappointing state of things may be several. But the main reason is that during the decade 1921-1931, nearly 68,000 of the literates of 1921 representing one-fourth of their number died and that number had to be replaced from among the literates produced by schools. The actual contribution of the schools for increase in literacy was, therefore, practically nil. The schools merely worked for filling up the gaps made in the ranks of the literates of 1921 by deaths during the decade 1921-1931.

Let us now see what would be the probable percentage of literacy in 1941, taking into account the contribution of the primary schools during 1931-1941. Of course, it is to be assumed that the population remains stationary during that decade. The number of pupils in primary schools in 1931 was 71,000; in 1937, it was 1,00,000, and it is hoped it will be 1,15,000 in 1941. A rough estimate shows that the schools will send out about 1,25,000 literates

*A paper read by Mr. R. V. Parulekar, on Sunday, the 24th April, at the Bombay Social Workers' Conference at the Blavatsky Hall, Chowpatty, Bombay.

during the decade 1931-1941. In 1931, the number of literates in the City was 2,80,000. This number will be lessened by deaths at least by 70,000. From the 1,25,000 literates produced by schools, 70,000 will go for replacing the number of deaths and only 55,000 will be added to the City literates bringing that number in 1941 to (2,80,000 + 55,000) 3,35,000 for a population of 11,61,000. The literacy in 1941 will, therefore, be about 29% giving an increase of 5% during the decade 1931-1941. But in this calculation, it is assumed that the City's population will remain stationary. Very probably the population will show substantial increase in 1941 and almost the whole of the 55,000 literates contributing to the 5% increase calculated above will be required to make up the deficiency caused by a large addition of illiterate adults who come to seek employment from the several parts of this Province and from other Provinces as well. If their number reaches two lakhs, no increase in literacy will be recorded in 1941, in spite of all that the primary schools may do to promote the literacy of the City.

Even if a very effective compulsory system of primary education is made applicable to the City as a whole in the very near future, it will not be possible to increase substantially the literacy percentage of the City all at once. The percentage of children of school-going age to the total population in the City is comparatively smaller in the City than in the Province as a whole. In 1931 it was 8.13. Even if all school-going children are brought to school, and even if all of them become literate through schools, they will always fall far short of the number required to keep a constant stream of new adult literates added to the City's population in order to keep up the high level of adult literacy attained at any time.

The peculiarity of Bombay City which is not found to the same extent in any other Indian city is, that of every 100 people in the City, 67 are adults between the ages of 15-45, while in the Province as a whole this number is 47. Unless this adult population which mostly comes from outside and which is mostly illiterate is taken up in hand and made literate by special agency created for the purpose, Bombay will have no hope of attaining a very substantial increase in its literacy through the agency of schools. This work will again have to be carried on from year to year, for the adult population of 15-45 is the most floating part of the population. People of this age come to Bombay, stay for some time and then go home, others replacing them. After some time, they come back and again stay and so on. Merely to take one batch of such adults and make them literate will not be of lasting advantage. The process will

have to be continued unabated for several years to come until the adult population of the whole province attains a stage of literacy comparable to that of the Bombay City. This is indeed a very sad picture; but the fact must be faced if we want to be serious in our object to achieve a high literacy for the City. The problem is most difficult and it must be tackled with the full realization of its magnitude.

I have tried to prove that the peculiar conditions of the City show that the schools alone cannot cope with the problem of increasing the City's literacy however extensive and efficient the school system may be and that the work of making the very great number of adults (15-45 age) literates must be taken up without delay on a large scale, the work to continue all the year round and from year to year.

Let me now turn to the problem of adult instruction in the City with a view to making literate the illiterate adults that flock to the City from outside in large numbers. According to the Census figures of 1931, there were adult workers numbering about 2 lakhs and 20 thousand who could be divided into three distinct groups of workers, working in (1) Textile Industry, (2) Domestic service, and as (3) Unspecified labourers. There were 1,90,000 men and 30,000 women in such employment. Leaving aside for the present all other illiterate workers who may number three lakhs or more, let us see how about 2 lakhs out of the 2,20,000 adult workers specified above may be tackled.

Recently, I had an occasion to work out the cost for making one illiterate adult literate, in consultation with a body of experts. It is believed that Rs. 11 will be the cost per adult who will have to be subjected to one year's instruction to make him sufficiently literate. This is for an Industrial City like Bombay. It is presumed that no money will have to be spent on rent but the whole of Rs. 11 will have to be spent on teachers, supervision, books and other appliances. To instruct two lakhs of adults will cost 22 lakhs of rupees. Formidable as this sum appears, I may submit that educating two lakhs of children to the stage of effective literacy requires four crores of rupee spent over five years. The very immense advantage both in money and time of a programme of educating two lakhs of adults will thus be realised. How to raise this amount of 22 lakhs is a question I do not propose to go into. It is the duty of Government, the Municipality and the public and unless all the three join hands, the problem can never be successfully solved. There are no short cuts to adult instruction if it is to be really very

effective. Again, small inroads in the field of adult instruction will not be of much use, for in the vastness of the problem, small numbers are like a drop in the ocean.

There are, as we know, many agencies who are doing their bit of work in the field of Adult Instruction in the City for many years. I should be pardoned if I make mention of one only with which I am intimately connected. I mean the Bombay City Literacy Association. Started in 1936 under the inspiring guidance of Mr. K. F. Nariman, who is its President, this Association had under instruction about 2,000 adults last year, and although this year, the number is somewhat reduced owing to shortage of funds compared to the needs, it may safely be said that the Association is today doing the largest single share of work in the field of instruction of illiterate adults. The Bombay Municipality has been generously contributing Rs. 5,000 a year to the Association and I am glad to say that Government have only recently been pleased to contribute Rs. 2,400. The generous public of Bombay, both individuals and Associations, have also liberally contributed to the funds of the Association. And yet, the work put in by the Association is not at all compatible with the magnitude with which the problem has to be tackled.

I am convinced that if the City's Literacy must be substantially increased during, say, a decade from today, at least 20,000 adults will have to be brought under instruction every year.

This will cost about 2 lakhs of rupees every year. A powerful Central Organization of active workers must be maintained. A substantial number of this Central Organizing and supervising staff must be a paid staff and they must from day to day, month to month and all the year round, devote their energy to organising, maintaining and supervising a network of say 500 to 1,000 adult classes.

The most important thing is that this Central Organization must have at their disposal for the instruction of 20,000 adults a year, about Rs. 2,00,000. For, if they were to start work on such a large scale without the necessary funds in their hands, the work might have to be dislocated in the middle for want of funds. I am sure, it is not difficult for this first city in India to bring into existence such Organization if Government, the Municipality and the public fully co-operate, intent upon seeing that the City should lead in Literacy as it has led in many other branches of Social Uplift work.

CENTRAL INDIA RURAL UPLIFT CONFERENCE

PRESIDENTIAL ADDRESS

By S. V. MUKERJEA, B.A. (Oxon.) (Hon.), F.S.S. (Lond.)
Revenue Commissioner, Baroda State.

[Mr. S. V. Mukerjea, the Revenue Commissioner, Baroda State, was invited by the Administration of Dewas-Junior to preside over the Rural Uplift Conference of Central India States, wherein nearly a dozen States participated including Bhopal and Indore. The Conference was a great success in bringing together high officials connected with rural uplift in their States and the first step was taken towards the establishment of a Central Organisation for Rural Uplift in Central India. The President was welcomed by the Yuvraj of Dewas-Junior and Princess Alaknanda, the President of the State Executive Council.—*Editor.*]

"I AM deeply sensible of the high honour done to me by His Highness the Maharaja Saheb of Dewas Junior, but at the same time I am conscious that the Chairmanship has come to me simply by default of its rightful occupant, as I understand it would have been more deserving of the occasion if some Central Indian Statesman like Sir S. M. Bapna or Sir Josheph Bhore had occupied the chair. But still I take it as a compliment to my own great State, the life history of which for the last 60 years has been associated with the great name of Sir Sayajirao Maharaj."

Continuing, the President said, "the State of Dewas, situated in the heart of Central India, girdled amongst hills, has a beauty and picturesqueness of its own. The ancient history of the State bears testimony to its romance, chivalry and culture and it is especially fortunate in having a progressive Ruler, His Highness Shrimant Sadashiv Rao Khase Saheb Pawar, who is one of the patriot Princes of India. Although His Highness is not keeping good health for some time, he had sent them a message of goodwill that clearly demonstrates his interest and enthusiasm in the welfare work of the State. His Highness got considerable administrative experience in Gwalior and when he came to his inheritance, he found that his apprenticeship at Gwalior served him in very good stead in beginning his great work of reform and progress within his own dominions."

The President especially expressed his appreciation of the Princess Alaknanda Bai Saheba Jadhav, President, State Council,

saying that it reminded them of what a woman can do to the cause of the State. He referred to her great charm and intelligence and the lessons that she had learnt from her father were being translated into action. Her father thought that she was a tower of strength to him and the President said, 'I have no doubt that it was no mere empty compliment'.

Situated as it is in the middle of Central India, Dewas is particularly suited as the venue for a Conference of this nature. The utility of such Conferences lies in bringing workers and administrators together and he hoped that the Conference would be a forerunner of many other like Conferences bringing the States closer together in concord on a common platform of sympathy and understanding. He said, "If new political arrangements bring nothing else to us, they should promote rather than prevent such constant exchange of ideas and co-operation. Even now there is nothing to prevent such inter-State consultation in progressive advance in social welfare".

The President next referred to a great deal of awakening that is evident at present in India and thought that in the new era of political opportunities frequent interchange of ideas was more necessary than even before. He advised the Conference not to use Rural Uplift as a catch-word, but to try to get hold of the essentials of the situation very firmly. He said, "The agricultural situation in Central India does not differ from other places and the main factors bearing on it must be fully studied. In Central India the population is mostly agricultural. The villages which have 90% of the total population are far more congested and overcrowded than the towns and cities. It is wrong to suppose that they have plenty of free air and sunshine. In Baroda, where village uplift work has been in progress for many years, twenty lacs of the village population are concentrated in only about 81 sq. miles (or about 25 thousand to a sq. mile or 39 per acre). In small towns this congestion acquires most terrible proportions, for in these areas, Municipal amenities or road planning of any measurable extent are as yet unknown. This congestion and overcrowding result in low civic standards and a tragic inferiority complex. The fabled healthiness of the country-side existed in fable". He compared by means of statistics the mortality rates in the villages and the Baroda City and pointed out that on account of insufficient sanitary arrangements and overcrowding, the mortality rate in the former was double that of the latter. Similarly, he referred to the marked contrast in literacy and standards of comfort in the rural and urban population

in Baroda State and said that in spite of all their efforts in compulsory education for a generation even now only 29% of the village male population was literate while about 60% of the town male population could read and write. All these contrasts give to villages a narrow vision and sameness of outlook.

"This monotony of rural life," he went on, "was further accentuated by total absorption in agriculture and the duty of the uplift workers should, therefore, be to introduce varieties of new callings which will interest people and which they may be prepared to take up under the present social conditions. In Central India according to Census figures over 90% of the population is supported by agriculture in villages. That is a most unhealthy situation and has to be remedied. It is never to the good of a community to have sameness or absorption in any one calling. A variety of occupational interests leads to richness of community life."

"The economic condition of the villages can be improved by carrying on Agriculture on scientific lines: (1) by the use of better implements, (2) by improving the quality of crops, and (3) by better marketing facilities. It is only when higher incomes are available that the Ryot turns to sanitation, physique and education which otherwise are considered in the nature of luxuries by him."

"At present the agriculturists suffer from (1) their social habits, (2) contraction in the size of their holdings, (3) their inability to influence world factors that control their prices, and (4) their inability to use their leisure. In India the agriculturists are idle for about 160 days on an average in a year and therefore subsidiary industries should be started to provide them with work in leisure hours."

"Closely connected with this problem of leisure is, therefore, the question of subsidiary industries. The tragedy of the situation, however, is where the agriculturists are efficient and the crops are of good quality there leisure is little and intermittent, but where holdings are small-sized and the agriculturists are inefficient there crops are crude and low-priced and the leisure is ample and continuous. This question has been studied in the rural surveys in Baroda, and it has been found there that in holdings which are below 6 acres, leisure is 10 months in the year and in respect of holdings which are large, i.e. over 20 acres, leisure is contracted to 4 months only."

Mr. Mukerjee then went on to discuss family statistics as gathered from the experience of Baroda and said that it was here that the crashing results of the inefficiency of the country-side are most palpably seen. As a rule it was found that the largest size of the family existed in the most ignorant strata of society. The larger

the family the more thoughtless they are to the economic sense. Births and infant mortality had a direct and terrible correlation. Wherever infant mortality showed a peak, there 9 months later there was a sharp rise in birth. Where there was a fall in deaths amongst infants there was also a corresponding fall in the birth rate. These deviations had been studied and it had been calculated that where deaths amongst infants varied from the normal by about 20% there was a similar direct variation in births by about 5%. The improvement in the quality of infant life, therefore, led to a higher economic sense and a postponement of conception with a healthy shrinkage in the birth rate.

"The prime urgency of the moment is to extend and improve elementary education of a type that interests the ryot. The whole syllabus should be reconstructed with a view to give an agricultural bias in the studies, rousing the vivid interest not only of the child but also of the parents. This will improve social habits which are at present thoughtless and thriftless."

"But along with this there must be a drive for rural reorganisation: (1) for improvement in the yield of crops and marketing facilities, and (2) for redemption of agricultural debt. This is crushing, as is well known, resulting in some places to total inability to get out of debt."

"In this connection the cooperation of States is most urgently required for Debt-Redemption Banks on the basis of land-mortgage and long-term loans, and also for State effort through Tagavi and compounding of debts as in Bhavnagar. Debt Conciliation Boards should have the co-operative support of all States, and their composition of accounts should be accepted without demur throughout Central India."

Mr. Mukerjee thereafter detailed his own constructive proposals.

"Rural Uplift means largely", he said,

- "(1) Long term planning, and
- (2) Training of workers.

One is impossible without the other. None of these objectives can be attained without

- (1) active support of the people and
- (2) active co-operation of the State Organisations."

To bring about these objectives and to make the "Rural Uplift" movement a success he suggested the establishment of a Central Rural Uplift Board for all co-operating States in Central India to act as a power house of ideas for co-ordinating the work of

different organisations and the training of workers. Each State should also have an uplift organisation of its own affiliated to the Central Board. Each unit should endeavour through its local village leaders for periodical clean ups, for sanitation weeks and improved agricultural drives, and for liquidation of adult illiteracy through night schools. "Something much more urgent than the present leisurely pace of primary education was needed. More direct methods appealing to the eye were found to be very effective in the Daxinamurti movement in the Bhavnagar State, and were adopted with great success by a Taluka Uplift Association in Baroda State in 1934-36. Selected areas were taken up and within 6 months in each remarkable additions to literacy were achieved amongst what are considered to be the most uneducable elements in the population.

For each State Centre, he suggested :

- (a) a publicity section,
- (b) an agricultural improvements section,
- (c) a Debt Conciliation and Economic Progress section,
- (d) an adult literacy section,
- (e) a health unit section with training of teachers in rural sanitation and medical relief and facilities, and
- (f) a section for training of Village Panchayats in rural civics."

"For its effective work, it should collect subscriptions from individual members, co-operative societies, village panchayats and such other organisations besides subventions from the State funds. An effective budget in any one year need not exceed Rs. 6,000 for such a State unit. Local paid-workers for rural uplift are not given more than Rs. 35 per month in the United Provinces and should not expect more in this area. Affiliation to the Central Body should consist of a contribution not exceeding 5% of the total income of a State unit. Health units consisting of a staff of a medical officer of health, a body of sub-Assistant Surgeons, a Lady Visitor, Mid-wives, Nurses, Sanitary Inspectors and operating within 30 villages over an average area of 90 sq. miles are part of a scheme going to be operated through the Crore Trust of His Highness the Gaekwar for Rural Uplift. These units each costs Rs. 8,480 a year; but the scheme as contemplated above as being part of a State Uplift Association need not be so elaborately planned and should not cost more than Rs. 2,200 a year. Further, Medical Practitioners should be encouraged to stay in rural areas with subventions and preliminary loans for the first five years."

"The Training of Rural Workers, is a prime requisite to the success of the scheme. Their training should be practical and should be shared by all States. The average worker should be fully conversant with the management of Co-operative Societies, Land-Mortgage Banks, Debt Conciliation, and particularly of present conditions of rural credit and agriculture. The worker should be able to gain the confidence of the villagers, otherwise his instructions and advice will not be very effective. The problem of introducing suitable subsidiary industries in particular areas should also be carefully studied. The workers should also know how to organise and work village Panchayats. Training of village scouts should also be taught. Training in specific type of cottage industry suitable to the locality should also be given. The main objective being propaganda, methods in this direction must be closely studied. A class of the size of fifty should be organised at a central place and the superintendence and administration should be in the hands of a Central Board suggested already. If there is any existing Cottage Industries Institute such as is being organised in the Baroda State, this training centre should form part of it and at any rate a beginning may be made, to which selected Officers, Teachers, Patels and other sons of true agriculturists of good status and character may be sent for training."

"The highest object of all this endeavour is, as in all Governments, to establish cooperation and understanding. More and more all States have recognised their proper function to be able to secure the happiness and contentment of their subjects, thereby realising within their own entities the profound consciousness of the oneness of all mankind. Albeit, the times are not propitious and the air is filled with alarms and portents of war, the caravan of progress moves on carrying men and women to higher and yet higher stages of evolution. More and more the world is girdled about and space lies conquered. The camera can bring us at once the picture of this globe with its hemisphere of light and shadow and the wondering eyes of alien peoples. We can see it—this earth of ours—hanging in the monstrous emptiness of skies, 'in bigness as a star of the smallest magnitude'. If we have power to forget weapons of evil, we are conscious also that we have the might to produce a world of good. All Governments of the world have this aim in their domestic programmes and the more we realise this purpose in our own separate homes, the better we shall be able to make the spirit of India finer and nobler."

VISIT TO SANGLI AND TO KUMATHE IN THE SANGLI STATE

By S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E. (Bom.)

Through the good offices of our friend and colleague Mr. R. N. Rajadnya at the kind invitation of State Authorities and of the Municipality, I paid a visit to Sangli. I had very little time at my disposal and I could not do proper justice to the study of the Local Self-Government problems in the State.

Sangli is prosperous business centre, a good educational centre with a full-fledged college and a very healthy place. The Ruler and State Authorities are very enlightened.

Sangli Municipality is one of the Member Bodies of our Institute and hence I was the more happy to visit the place.

The Municipality has a population of about 27,000 and an income of about Rs. 1,25,000 (one lac and twenty-five thousand) out of which about Rs. 27,000 are from Terminal Tax, which are earmarked for the provision of drainage. There is a good water-supply which is carried and managed by the State. The electric power installations are also owned by the State, and the Municipality gets the lights by agreement. Primary education is owned, managed and financed by the State. A drainage scheme is prepared in consultation with the British experts and is awaiting sanction by the State authorities, the only question to be determined being the financial aspect of the scheme which I was told must be examined by some expert. The matter is urgent as a water-supply without drainage is a source of danger to public health.



H.H. THE CHIEF OF SANGLI

The Municipality is very keen on taking up the management of the water-supply. Certainly, the management must be by the Municipality, but the financial relations must be settled before it is taken up. The system is an intermittent system, given on the basis of so much per year per connection. The best method would be a continuous supply on the basis of metred connections, so that the inconvenience and dangers of intermittent supply disappear, there is no wastage and the burden is borne equitably by the users.

The Municipality is keen on taking up primary education. But under the present circumstances, when the systems in Bombay Presidency are undergoing radical changes both in methods and administration, it would be better to wait as the educational systems must be identical in Bombay Presidency and the States.

Such are the main problems of the Sangli Municipality. The constitution of the Municipality is antiquated when compared with the British Government Municipalities. There are 9 elected members and 9 nominated members and the president is nominated by the State. There seems to be general demand for a more democratic form of Municipality with an elected president. In one Municipality in the State, however, viz. in the Shahapur Municipality there are 4/5ths elected members and an elected president so that the capital of the State compares very unfavourably with the outlying town of much lesser importance as regards Local Self-Government.

Some of the members represented a difficulty as the town jurisdiction is identical with the Ganapati Devasthana Jurisdiction. But even in British India some of the Municipalities are in personal Inams as for instance at Bhusawal. So the best way is to have a meeting of the Managers of the Devasthana and the Municipality and to settle all outstanding matters, each party having a clear idea of its privileges and responsibilities. Some of the matters referred to during discussions with me being easily solved when both interests were present.

We went to Sangli on the 24th and during the afternoon I saw Rao Bahadur Thombare the second member of the Council, an old friend and college-mate of mine. I saw Mr. Kunte, the third member, who knows more about the municipal affairs than anyone else. I had a discussion with both these gentlemen regarding matters of Local Self-Government in general, regarding Municipal affairs and regarding functions of our Local Self-Government Institute. Both were very sympathetic with our Local Self-Government Institute working and prompt to avail themselves of our activities.

At 6 P.M. there was a public lecture. The gathering was unique. The Diwansaheb Mr. De, the two other members of the Council, the members of the Municipality and many of the important citizens were present. I addressed them for about an hour on the functions of State and Local Self-Government, taxation, duties of members and of the voters. An old friend of mine, Rao Bahadur Patil, the President of the Dharwar District Local Board, was present at the lecture. A public lecture was arranged in the Nagar Vachanalaya the next day so that the general public may have the benefit of the lecture.

At night we went to Kupwad a village Panchayat in the British Jurisdiction for a public lecture. It was well attended. Rao Bhadur Patil who came with us was in the chair. Mr. Rajadnya addressed the meeting at length and then I addressed them. An excellent summing up in Kanarese by Rao Bhadur Patil completed the programme. There is a Co-operative Society and people are thinking of having a bank.

Next morning at 8 A.M. we had a general discussion in which great interest was taken. The members of the Municipality, Mr. Kunte, Mr. Kulkarni on behalf of cooperation and Village Panchayat and some members of the public were present.

There are very few Village Panchayats—only one so far. The constitution should be more democratic. Panchayats should be established in villages in fertile tracts and tried. I am sure there will be much better results. These matters were discussed in the afternoon between Mr. Kunte, Mr. Kulkarni the Panchayat Officer and Mr. Rajadnya and myself.

Then we went to see Kumathe a village 9 miles from Sangli in the Sangli State. The village is an ideal one and owing to the selfless work of Mr. Ratrekar, pleader, and of Dr. Gohin an American Missionary, the village has developed by its own exertions.

All the roads of the village are widened, straightened and surfaced and roadside gutters are provided. The whole village is very clean. A good public building is constructed, very clean, neat and a pukka building. The water-supply consists of bore wells with very good hand pumps. Some of the wells are constructed on co-operative principles. There are 9 such wells costing Rs. 250 each. There is an idea of having bore wells for supplying water for crops. There is a weekly market established and a cattle market as well. There is a fine well (tube well) with a windmill for supply of water for the market and the cattle market. The well is partly financed by Mr.

Shirgaokar of Sangli and I was called upon to perform the opening ceremony of the well. The day was the birthday of the Sangli ruler and the market day as well and as such very auspicious. Mr. Kunte the third member of the Council, the President of the Sangli Municipality and some officials were present. The attendance was very good. The State had given Rs. 500 for the improvement work.

I feel that if so much could be done by the selfless work and guidance of one or two individuals without any state help except when the improvement was completed, there can be no scope for pessimism as regards the fitness of the population of Sangli to manage Village Panchayats in villages and I would request the State authorities to try to find out men like Mr. Ratrekar and Dr. Gohin in as many villages as possible and to try the experiment of Self-Government. I congratulate both these gentlemen and their helpers on the splendid results they have achieved—results hard to find even in British India. I wish the village every success.

In the evening, rather 3/4th of an hour after announced time, I gave a public lecture which was well attended on the duties of voters.

That finished my rather hurried programme of Sangli.

PROVINCIAL CONFERENCE OF LOCAL BODIES, BOMBAY, 1938

PRESIDENTIAL ADDRESS

By The Hon'ble Mr. L. M. PATIL, B.A., LL.B.
Minister for Local Self-Government, Bombay.

LADIES AND GENTLEMEN,

We are meeting today at a very opportune moment. Since the last fifty years the Indian National Congress is carrying on the struggle for independence of our country with a grim and uncompromising determination. It has roused the starving millions from their slumber and has awakened in their hearts new hopes and aspirations of freedom from political and economic bondage. People of India today are more conscious of their political rights and no less conscious of their political responsibilities. This consciousness is universal and widespread and, I am glad to say that it is being partly harnessed to the betterment and improvement of local self-governing institutions with a view to secure efficient administration in those bodies that already exist at the moment and the signs of a growing desire to manage their own civic affairs within the limits of the powers and duties conferred and imposed on local bodies by statute, are not wanting. Time has now come for bringing the local bodies into unison with the principles and the spirit of representative democracy with a view to making it possible for the people to give better effect to their local needs and desires regarding the civic welfare. Government have, therefore, already abolished nominations from local bodies and have made provisions in several Acts governing different units of administration for reservation of seats in joint electorates for minorities.

Before considering either the desirability or the prospects of further change it would be as well to review the actual working of the present system from the point of view of efficiency. And it may be said, taking a broad view that the present system has not given as satisfactory results as it could possibly have done. Most of the local government services can be more efficiently and economically run. Our roads in the vast majority of cases are bad

enough. The sanitary arrangements of our towns and villages could be greatly improved so that there will be no offensive conditions arising from defective sewerage. The water supply is not plentiful though it is fairly pure and people arriving in strange towns do not seem to fear to drink the water lest they should be poisoned or infected with a disease. The number of well equipped and well managed hospitals will have to be greatly increased if we want to take effective precautions against the spread of infectious diseases. House refuse and shop refuse will have to be regularly collected and disposed of without causing offence. Parks and pleasure grounds will have to be provided for. The relief of the poor will have to be provided for by opening out new avenues of employment for them. Our street lighting is fairly effective; our schools will have to be staffed by capable and intellectual teachers.

As you are all aware, the failure to achieve most of above things is attributable not so much to lack of goodwill as to lack of funds.

The question of this paucity of funds is of a very great importance and will shortly be examined in all its aspects by a Committee. I am of opinion that most of the local bodies have not yet seen their way to tap a number of possible sources of revenue; and I think they must seriously take into hand the question of raising their funds if they want to run the existing local services more efficiently or extend the present ones. There is a strange tussle between the desire to keep the rates down and to a desire to maintain services compatible with modern requirements. I have found that the receipts from indirect taxes, e.g. tolls, terminal taxes and octroi are considerable and there does not appear to be very keen willingness or readiness to levy direct taxes. This is rather unfortunate. Steps will have to be taken to recover existing arrears of dues and prevent their further accumulation.

Another important question for consideration is how best to tackle the housing problem in the cities and towns. Government no doubt possesses powers for a compulsory acquisition of private property when wanted for public purposes, subject to reasonable compensation to the private proprietor but it may be noted that the economic difficulties of housing reform are not ended when the municipality has bought out the private owner of slum properties in the heart of a modern city. It almost invariably happens that the accommodation provided on the sites of the slum properties destroyed is less than was available to the dishoused or evicted population.

There still remains the greatest of economic difficulties, viz. the inability of the city worker to pay an economic rent on the new houses or tenements.

Another important question for consideration is the question of the officers of local bodies, viz. chief officers and engineers—whether it would conduce to the efficient administration of local bodies by the creation of a cadre of important services. I am inclined to believe that the elected councillors and members sometimes unduly interfere in the work of these officers. The functions and powers of these officers are fairly well defined and I think it would be far better for the elected members to confine their activities merely to deliberative functions. Elected members should only shape general lines of policy—they should only decide what things are to be done—what taxes are to be levied. After having once decided these general things they should leave the carrying out of these things to the officers. Their judgment need not be fettered. The experience of these officers and their administrative difficulties in implementing the declared policies will undoubtedly come in useful while the elected members are engaged in shaping general policies. It so happens sometimes that elected members interfere so with their work with the result that such interference renders it difficult for these officers to carry out the wishes of the local authority faithfully without fear or favour. It is therefore necessary that there should be co-operation between the members and the officers and personal considerations should be entirely kept out of the carrying out of the declared policies. The permanent officers enjoy little or no protection under the statutes, especially when their duty conflicts with the individual interests of some members; the officers are often threatened with dismissal. Under these circumstances there is either log-rolling of inefficient administration or both. Now this a very undesirable state of affairs and ought to be put an end to.

I will now turn to district local boards and village panchayats. The district local boards appear to have a fairly good record of service but they will have to devote more and more attention to the construction of new roads and maintenance of existing ones; the village water supply will have to be improved; greater medical relief will have to be provided and the number of schools will have to be increased and a vigorous campaign will have to be launched for the liquidation of illiteracy. The rising generation ought to be educated and equipped with knowledge and ideas necessary for the discharge of greater responsibilities that will be devolving

on them in the course of time. Government have been placing large sums of money at the disposal of district local boards and I trust that these bodies will utilise the subsidies in the best interests of social well-being. Moreover, the district local boards have been recently relieved of an acknowledged encumbrance of the taluka local boards which merely did agency functions for the district local boards at comparatively greater cost which was not commensurate with the ultimate utility of the things done by them. The abolition of the taluka local boards will, I hope, help to coordinate and integrate the different services much better than before. Naturally the scope of activities and responsibilities of the district local boards are greatly enhanced and I trust the district local boards will acquit themselves well in the discharge of their functions.

There are other smaller units of local administration, viz. the notified area committees, village sanitary committees and village sanitary boards which either do not fulfil any useful function or are more or less moribund. The question of the desirability or otherwise of their retention is under the consideration of Government. If it is decided to abolish them their place will be taken by panchayats or minor municipalities.

Now a word or two about panchayats and I shall have done. Even though under the present Village Panchayat Act it is open to villagers to ask for panchayat form government for the management of their civic affairs the villagers do not appear to have taken kindly to panchayats. This is partly due to apathy and ignorance of the villagers and partly due to scope of activities being unduly restricted under the present Village Panchayat Act. Government intend to clothe the panchayats with additional powers and I am confident that the villagers with their robust common sense and hardy civic spirit will manage their affairs and make the panchayats a success.

In conclusion I may say that on our part we will make the necessary amendment in the various Acts governing local bodies with a view to affording greater opportunities for useful work in the direction of the fulfilment of newer needs and duties arising out of well recognised principles of social administration.

I thank you all for making my task comparatively easier and I am sure you will make valuable suggestions for the solution of urgent and pressing problems facing the local bodies. I have done.

RESOLUTIONS PASSED AT THE PROVINCIAL CONFERENCE OF LOCAL BODIES OF THE BOMBAY PRESIDENCY HELD AT BOMBAY ON THE 4TH & 5TH JUNE.

SECTION I—VILLAGE PANCHAYATS

A.—Re. Village Panchayat Bill of 1938.

1. This Conference welcomes the Government proposal to make the Panchayat a compulsory unit and desires that compulsion should extend to all villages with a population of 1000.

Proposed by : D. W. Raut.
Seconded by : R. N. Rajadnya.
J. M. Thakore.

Carried unanimously.

2. This Conference is of opinion that power should be reserved to Government for combining one or more or parts of one or more villages in a Panchayat area.

Pro : J. M. Thakore.
Sec : N. L. Dalal.

Carried unanimously.

3. This Conference is of opinion that in cases of villages not returning the minimum number required to constitute a Panchayat, the District Local Board and not the Collector should be authorised to make the nominations to make up the number.

Pro : S. S. Naik.
Sec : B. K. Bharucha.
N. S. Patil.

Carried unanimously.

4. This Conference is of opinion that provision regarding minority representation on the Panchayat should be retained as in the present Act with the difference that instead of the Collector nominating, Government should nominate persons, on the recommendations of the District Local Board.

Pro : S. S. Naik.
Sec : S. A. Joshi.

Carried unanimously.

5. This Conference desires that it should be made very clear that political offenders are not disqualified from becoming members of panchayats as is done in Section 55 (1) of the Madras District Local Board Act. ("A person who has been sentenced..... for an offence other than an offence of a political character or of an offence not involving moral delinquency shall be disqualified etc.").

Pro: S. S. Naik.

Sec: N. L. Dalal.

Carried unanimously.

6. This Conference is emphatic in its opposition to the Secretary of the Panchayat being made a Government servant. Such a step is undemocratic and opposed to the aim of training the villages in Self-Government, and will also lead to constant friction between the District Local Board, the Panchayat and the Secretary. The Provisions of the present Act of 1933 in this behalf should be retained. The Local Self-Government Institute should take steps to train persons for Secretaryship in co-operation with Government and District Local Boards.

Pro: C. D. Barfivala.

Sec: D. W. Raut.

Passed unanimously.

7. This Conference while it appreciates extension of the judicial powers, requests that the power to elect Chairman of the Bench should be given to the Panchayat, instead of the Collector nominating the Chairman.

Pro: N. L. Dalal.

Sec: Luxmanrao Kudle.

Passed unanimously.

8. (A) This Conference is of opinion that the right of appeals from judgment or orders of the Bench should lie, but the appellate courts should not interfere with the decision of the Panchayats on mere technical grounds.

(B) No cost for pleader's fees exceeding Rs. 5 be allowed to successful parties.

Pro: N. V. Bhonde.

Sec: R. N. Rajadnya.

Passed unanimously.

9. This Conference earnestly requests the Government to commit itself to grant certain proportion of land revenue collected

within the area of the Panchayat which is not to be less than 1/16th of the revenue thus collected and to so amend the Panchayat Act as to incorporate the same provision in the said Act.

Pro: D. W. Raut.

Sec: G. K. Desai.

Carried unanimously.

10. District Local Board contribution to the Village Fund should be raised from one-fifth to one-fourth of the land cess raised from the Village Panchayat Area.

Pro: N. L. Dalal.

Sec: B. K. Bhaurcha.

Carried unanimously.

11. This Conference views with apprehension the extension of centralised control as foreshadowed in the bill and requests Government to reconsider the matter in the interest of Democracy.

Pro: Mr. S. S. Naik.

Sec: „ G. K. Desai.

Carried unanimously.

B.—Others.

12. This Conference is of opinion that among the suits triable by Village Benches (Sec. 39) there should be included disputes which a Registrar of Co-operative Societies may assign, for decision to the Bench (which he should be empowered to do by the Panchayat Act) for amounts under Rs. 100. No fees should be payable to the Bench in respect of these proceedings.

Pro: R. N. Rajadnya.

Sec: Mr. Bijjur.

Carried unanimously.

13. This Conference is of opinion that the Panchayat should be relieved of the work of attaching property and the Revenue Authorities should be made responsible for such attachments (Section 39 of the Panchayat Act).

Pro: J. M. Thakore.

Sec: Mr. Bharucha.

Carried unanimously.

14. Panchayats should be permitted to farm out market rents.

Pro: Sardar R. B. Thorat.

Sec: P. R. Londhe.

Carried unanimously.

15. It being understood that some Local Boards insist that while depositing village funds with Banks a declaration should be filed by the Panchayat to the effect that the Collector or the District Local Board will be entitled to effect withdrawals from the fund, this Conference is of opinion that the practice is derogatory to the self-respect and dignity of the Panchayats and uncalled for in view of the statutory powers of such withdrawal already provided for.

Pro: R. N. Rajadnya.
Sec: D. W. Raut.

Carried unanimously.

16. This Conference appreciates the enormous trouble taken and scholarship shown by Mr. C. D. Barfivala in submitting his review of Village Panchayat Bill before the Conference.

Pro: Prof. S. G. Dabholkar.
Sec: Mr. J. M. Mehta.

Carried unanimously.

17. This Conference thanks Mr. S. S. More for his articles on Panchayat written in the *Dyan Prakash*.

Pro: Prof. S. G. Dabholkar.
Sec: Mr. D. W. Raut.

Carried unanimously.

SECTION II

18. This Conference congratulates Government on the announcement made by the Hon'ble Mr. L. M. Patil that Government propose to appoint a Committee to investigate and report on the problem of Local Bodies and requests Government to make the terms of reference wide enough to enable the Committee to make thorough inquiries into the working of Local Bodies at different centres, the evidence of such competent persons as they consider proper and submit a comprehensive report on the following among other aspects of Local Self-Government in our province.

- (1) The problems of areas, including suburban.
- (2) Distribution of functions between Government Departments and Local Bodies, and between Local Bodies *inter se*.
- (3) The problem of control—from the point of view not only of efficiency but predominantly from the point of view

of training the people in the art of Local Self-Government. The Committee should examine how far the control can be transferred to non-official bodies.

- (4) The problem of recruitment of employees, their security of tenure and cognate problems including the question of cadre.
- (5) Improvement of the financial resource of Local Bodies.
- (6) Amendment of Local Self-Government Acts so as to democratise them and to conform to modern needs.

Pro: Prof. S. G. Dabholkar.

Sec: Mr. D. W. Raut.

Mr. Ishwerbhai K. Vyas.

Carried unanimously.

19. The dual system of P. W. D. and District Local Board carrying out separate administration of ordinary public works in any district causes a lot of unnecessary expenditure and consequent waste to the taxpayers. This Conference therefore urges on the Government to abolish the ordinary P. W. D. Divisions and to hand over the works to those District Local Boards who have got and maintain properly trained and approved engineers of the engineer cadre. The cost of maintenance and supervision should be borne by the Government as at present. The Minister of Local Self-Government be requested to take up the necessary amendment of the Local Board Act.

Pro: S. S. Naik.

Sec: Sardar S. B. Thorat.

Carried unanimously.

20. As with the advent of Provincial Autonomy in this country it is incumbent that nation-building work should be undertaken for the benefit of the masses to make them economically and socially fit, and where the provincial Governments may be unable to shoulder this burden and discharge their responsibilities efficiently, this Conference resolves that the Acts relating to Local Bodies may be so amended as to make them elastic so that any Local Body can undertake any trading enterprises viz. gas works, electricity works, transport, mortgage and rent charges, banks, municipal savings banks, insurances enterprises, theatres, housing schemes, market halls, bathing establishments, milk dairies, inns and restaurants, works, bakeries, mills, ferries, fishery, poultry and other enterprises.

Pro: Dr. T. J. Lalvani.

Sec: S. N. Chakranarayan.

Carried unanimously.

21. Government be requested to amend the Municipal Acts so as to clearly vest the sub-soil in the Municipalities for the purposes of the Acts including leasing of sub-soil for cess pool and laying of electric mains and all other purposes connected with the administration of Municipalities to recover the rents of cess pool and other leases or occupation.

Government be further requested to amend the said acts so as to make specific provisions to the effect that ditches vested in the Municipalities shall not revert to the Government even though they may have ceased to have been used as such and may have been filled up and form part of the road.

Pro: G. T. Saraiya.

Sec: Nanasaheb Bhonde.

Carried unanimously.

22. Government should be requested to pay annually to the District Local Board the grant equal to 50% of the net cost for the maintenance of human dispensaries after deducting the private donations from the total expenditure or 1/3rd of the actual expenditure as per rule 14 of the Government Grant-in-aid Dispensary Rules.

Government should be moved to fix the grant for veterinary dispensaries exactly on the same rates as it was fixed for human dispensaries.

In view of the heavy expenses incurred by the Boards for the break of epidemics Government should be requested to pay grant equal to 50% of the total expenditure incurred by the Boards or to pay a fixed grant for this purpose annually.

Pro: G. T. Saraiya.

Sec: G. K. Desai.

Carried unanimously.

23. The present policy followed by the Government in the levy of non-agricultural assessment in or about the Municipal Area requires drastic revision in the interest of better health and sanitation of the population, relief of congestion etc. and it should be considerably reduced and that the Local Bodies must have the benefit of the tax by being allotted a major share thereof.

Pro: B. K. Bharucha.

Sec: Mr. Coehlo.

„ C. M. Shah.

„ Gharpure.

„ N. V. Bhonde.

Carried unanimously.

24. Resolved that it is the opinion of this Conference that in view of the fact that this franchise has been extended almost to the point of adult franchise, and that it entails heavy expenditure in the preparation of the electoral roll to exercise his or her franchise and failure to do so without appropriate cause should be deemed to be committal of breach of municipal law rendering himself or herself liable for punishment to a fine upto five rupees. The Minister of Local Self-Government be requested to take up the necessary amendment of the Acts relating to Local Bodies.

Pro: T. J. Lalvani.

Sec: K. D. Monkar.

Passed by majority.

25. This Conference requests the Government of Bombay to take such steps as may be necessary to restore the use of the unimpaired rights of Local Bodies to levy terminal tax.

Pro: S. S. Naik.

Sec: J. M. Thakore.

Carried unanimously.

26. This Conference is of opinion that the former communication grants shall be restored in view of the fact that the Boards have undertaken the construction of new roads and have to maintain the same. This Conference further resolves that Government should permit District Local Boards to utilise Government grant for local public works after ordinary repairs to roads as was done before.

Pro: J. M. Thakore.

Sec: G. K. Desai.

Carried unanimously.

27. Resolved that District Local Boards should be empowered to rent roadside lands and buildings in their possession and proceeds thereof should be credited to the District Local Board funds.

Pro: Sardar R. B. Thorat.

Sec: P. R. Londhe.

Carried unanimously.

28. This Conference is of opinion that irrigation and forest roads should be opened to the public for use.

Pro: Sardar R. B. Thorat.

Sec: Mr. Hegde.

Carried unanimously.

29. This Conference gives due credit and appreciates the intention of Government in the adoption of centralisation measures in the Primary Education Act. This Conference, however, regrets that Government have taken such a drastic and undemocratic step and points out that the uniform *ex parte* condemnation of Local Bodies was not justified. This Conference hopes that time will come at an early date when Government will be pleased to revise their views in the matter.

Pro: S. S. More.
Sec: D. W. Raut.

Carried by majority.

30. This Conference requests Government to restore the grants in respect of establishment and as a compensation of the part of an excise Revenue which the Local Boards have been receiving from time to time.

Pro: S. S. Naik.
Sec: C. D. Barfivala.

Carried unanimously.

31. This Conference places on record its appreciation for the book entitled *Prathamik Shikshan* in Marathi written by Mr. S. S. More.

Pro: Prof. S. G. Dabholkar.
Sec: Mr. D. W. Raut.

Carried unanimously.

32. This Conference places on record its thanks to the Bombay Municipality for granting the use of the Hall and for affording further facilities to the Local Self-Government Institute for organising their Conference.

Moved from the Chair.

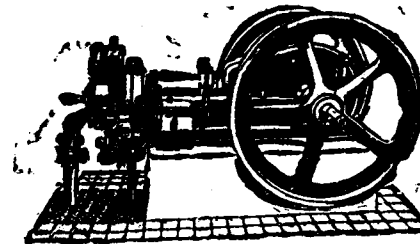
Carried unanimously.

33. A vote of thanks to the Chairman.

Moved by Mr. S. S. Naik.
Sec: Dr. A. C. Bose.

Carried with acclamation.

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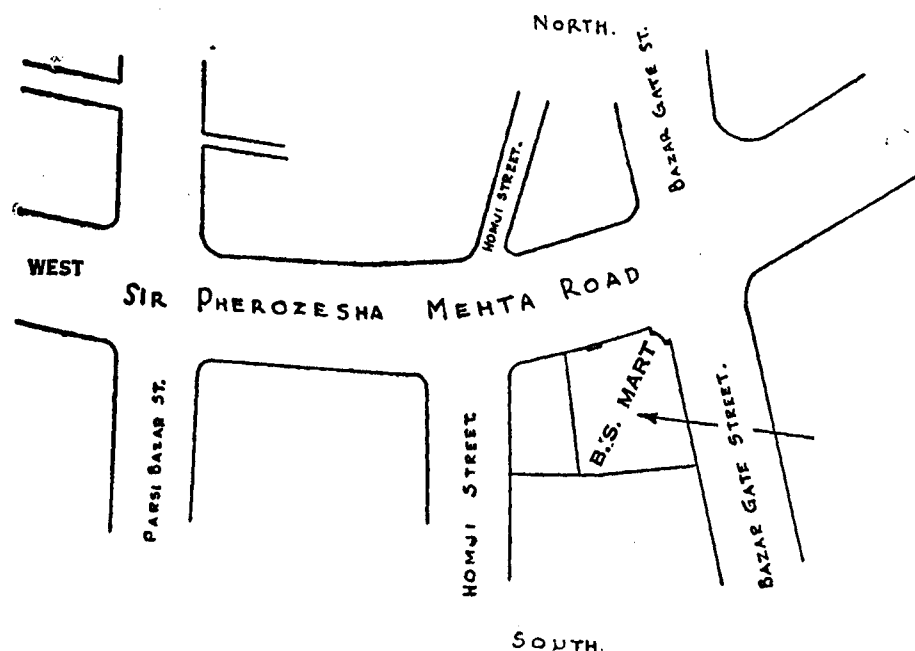
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THE SIXTH GENERAL MEETING OF THE LOCAL SELF-GOVERNMENT INSTITUTE

The Sixth General Meeting of the Local Self-Government Institute was held on Saturday the 4th June 1938 at 1 p.m. at the Office of the Local Self-Government Institute, Bombay, under the Presidentship of the Hon'ble Mr. L. M. Patil, B.A., LL.B., Minister for Local Self-Government, Government of Bombay, President of the Local Self-Government Institute.

About 100 Representatives of member local bodies were present.

The Hon'ble Mr. L. M. Patil welcomed the representatives.

The following resolutions were then passed unanimously:—

1. That the Report for the period 1-1-35 to 31-12-37 is hereby adopted subject to the addition of the following:
 - (a) That a note be taken of a Conference of Local Bodies held at Kolhapur on 30-5-37 where Mr. S. S. Naik, the Hon. Secretary of the Institute, presided.
 - (b) That a note be taken of the Conference of the Presidents of Local Authorities and Chairmen of School Boards held at the instance of Mr. S. S. More, B.A., LL.B. in the Institute's Office under the Presidentship of Mr. Balvantray P. Thakore, B.A., S.T.C.
2. That the statement of accounts audited by Government Auditors for the period 1-4-34 to 31-3-37 is recorded.
3. That the statement of accounts for 1937-38 audited by Mr. R. N. Rajadnya, Hon. Auditor, is hereby recorded.
4. That the meeting places on record its thanks to the Vice-President, Mr. Huseinally M. Rahimtulla for his services to the Institute as its Vice-President.
5. That the following article as Article No. 4A is added to the Constitution:

"Notwithstanding the fact that Sind has become a separate Province the articles of the Constitution of the Institute shall continue to operate as if the Province had not been so separated until the Provincial Council of the Institute decides otherwise.

6. (a) That in line 1 of Article No. 9, the figure 32 in place of 36 be substituted.
- (b) That in line 5 of Article No. 9, the figure 2 in place of 3 be substituted.
- (c) That lines 19 and 20 of Article No. 9 be deleted and the following line be substituted in its place :
 "2 Representatives from Individual Members."
- (d) That after line 24 of Article No. 9 the following be added :
 "1 Representative of School Boards in the Bombay Presidency proper."
- (e) That in line 32 of Article No. 9, the figure 32 in place of 36 be substituted.

After amendments the whole Article No. 9 will run thus :

- "9. The Provincial Council shall consist of 32 members elected at the Triennial General Meeting on the following basis :
- 5 One Representative each of the Karachi, Ahmedabad, Poona City, Sholapur and Surat Municipalities if they join the Institute.
 - 2 Representatives of Local Bodies from Sind that have joined the Institute except the Karachi Municipality.
 - 3 Representatives of Local Bodies from Gujrat that have joined the Institute except the Ahmedabad and Surat Municipalities.
 - 3 Representatives of the Bombay Municipality if it joined the Institute.
 - 3 Representatives of Local Bodies from Konkan, including the Bombay Suburban, Thana, Kolaba, and Ratnagiri Districts that have joined the Institute.
 - 3 Representatives of the Local Bodies from Maharashtra that have joined the Institute except the Poona City and Sholapur Municipalities.
 - 3 Representatives of the Local Bodies from Karnatak that have joined the Institute.
 - 2 Representatives from Individual Members.
 - 1 Representative of Local Bodies from Indian States that have joined the Institute.
 - 1 Representative of School Boards in the Bombay Presidency proper.
 - 3 The Minister of Local Self-Government and his two nominees.

- 3 The President, if he is not himself the Minister of Local Self-Government, Vice-President and the Secretary of the Institute elected at the General Meeting shall be ex-officio members.

32

7. That in Schedule 1A the following be added :
 "School Boards Rs. 50/-"
8. That the following persons are elected Office-Bearers for the Triennium 1938-40.
- President:* The Hon'ble Mr. L. M. Patil, B.A., LL.B., Minister for Local Self-Government, Government of Bombay.
- Vice-President:* G. D. Vartak Esqr., B.A., M.L.A.
- Hon. Secretary:* S. S. Naik Esqr., B.A., B.Sc., L.C.E.
- Hon. Auditor:* R. N. Rajadnya Esqr.
9. That the following persons are elected to form the Provincial Council for the Triennium 1938-40.
1. *President:* The Hon'ble Mr. L. M. Patil, B.A., LL.B.
 2. *Vice-President:* G. D. Vartak Esqr., B.A., M.L.A.
 3. *Hon. Secretary:* S. S. Naik Esqr., B.A., B.Sc., L.C.E.
 4. Balvantray P. Thakore Esqr., B.A., S.T.C., M.L.A., Ahmedabad Municipality.
 5. R.B. Dr. V. V. Muley, L.M. & S. Sholapur Municipality.
 6. T. V. Kirad Esqr. Poona City Municipality.
 7. Dr. Tarachand J. Lalvani, M.B.B.S. Karachi Municipality.
 8. G. T. Saraiya Esqr., M.Sc., LL.B. Surat Municipality.
 9. K. V. Joshi Esqr., B.E., M.R.S.E. } Representatives of Local
 10. Dingomal H. Advani Esqr. } Bodies in Sind.
 11. Bhailal Sarabhai Patel Esqr., B.A., LL.B. } Representatives of
 12. Durlabhji P. Desai Esqr. } Local Bodies in
 13. Chaturbhai N. Patel Esqr., B.A., LL.B. } Gujrat.
 14. A. V. Lawate Esqr., B.A., LL.B. } Representatives of Local
 15. D. W. Raut Esqr., M.L.A. } Bodies in Konkan.
 16. V. N. Khodke Esqr., B.A., LL.B. }
 17. S. S. More Esqr., B.A., LL.B. } Representatives of
 18. Sardar Shivrao Bhawanrao Thorat } Local Bodies in
 19. R. S. Patil Esqr., B.A., LL.B. } Maharashtra.

- | | |
|--|--|
| 20. M. M. Hansi Esqr. | } Representatives of
Local Bodies in
Karnatak. |
| 21. R. K. Powar Esqr. | |
| 22. M. B. Hurlikuppi Esqr., B.A., LL.B. | |
| 23. R. V. Parulekar Esqr., M.A., M.Ed., T.D. | } Representatives of
Individual
Members. |
| 24. Sardar Rao Bhadur Bhimbhai R. Naik | |
| 25. Prof. S. G. Dabholkar, B.A., LL.B. | Representative of Indian
States. |
| 26. Khan Saheb G. B. Khan | } Minister's Nominee. |
| 27. | |

NOTE.—The above Report was adopted in the General Meeting of the Local Self-Government Institute held on 4th June 1938 subject to the addition of the following :—

- (a) That a note be taken of the Conference of Local Bodies held at Kolhapur on 30-5-37 where Mr. S. S. Naik, the Hon. Secretary of the Institute, presided.
- (b) That a note be taken of the Conference of the Presidents of Local Authorities and Chairmen of School Boards held at the instance of Mr. S. S. More, B.A., LL.B., in the Institute's Office under the Presidentship of Mr. Balvantray P. Thakore, B.A., S.T.C.

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The Local Self-Government Institute (Bombay Presidency)

CONSTITUTION

CHAPTER I

1. The name of the institution shall be 'Local Self-Government Institute, Bombay Presidency'.

*2. The Headquarters of the Institute shall be in Poona. The Executive Committee of the Institute will have the power to change the Headquarters if it deems advisable to do so for administrative or financial reasons.

3. The aims and objects of the Institute shall be

- (a) To further the spread of Local Self-Government Institutions by training the people in the principles and practice of Local Self-Government.
- (b) To promote the study of problems connected with Local Self-Government and act as a centre of information and advice for Local Self-Government Bodies.
- (c) To strengthen and improve Local Self-Government Institutions by co-operation and other means and to bring them together for common endeavour and to create a community of interest among them by organisation of periodical conferences.
- (d) To represent the opinion of Local Self-Government Bodies for all groups or as a whole in cases in which such representation is desirable.
- (e) To undertake any other measures necessary for the furtherance of the interest of Local Self-Government and the promotion of efficient administration.

4. The area of operation of the Institute will be the geographical limits of the Bombay Presidency (including the States).

CHAPTER II

Memberships

5. The membership of the Institute shall be divided into three classes, viz.—

- (a) Local Self-Government Institutions.
- (b) Public Institutions interested in the problems of Local Self-Government such as Health Associations, Rate-payers' Associations, etc.

* Bombay has been made the Headquarters of the Institute since 1st April 1931.

- (c) Individuals working in the cause of Local Self-Government.
6. The scale of subscriptions for the different classes of members be as given in Schedule No. 1.

CHAPTER III

Administration

7. The General Body of the Institute shall consist of :—
- Representatives of Local Self-Government Institutions that have joined the Institute as members.
 - Representatives of Public Institutions that have joined the Institute as members.
 - Representatives of individual members.
- In accordance with the provision made in Schedule II.
8. The General Body, at its Triennial General Meeting, shall,
- consider and adopt the triennial report with the audited statement of accounts.
 - elect the members to form the Provincial Council as well as the President, Vice-President, Treasurer and the Secretary for the ensuing three years.
 - appoint an auditor or auditors for the ensuing three years.
 - consider any amendment to the Bye-laws and Rules of the Institute of which due notice has been given.
 - consider questions of general policy affecting Local Self-Government.
 - consider with the consent of the majority of members present and of the Chairman of the Meeting, questions of immediate importance to the Institute but not affecting its constitution.

N.B.—The Executive Committee shall have power to fix the dates of the Triennial General Meeting.

9. The Provincial Council shall consist of 32 members elected at the Triennial General Meeting on the following basis :—
- One representative each of the Karachi, Ahmedabad, Poona City, Sholapur and Surat Municipalities if they join the Institute.
 - Representatives of Local Bodies from Sind that have joined the Institute except the Karachi Municipality.
 - Representatives of Local Bodies from Gujerat that have joined the Institute except the Ahmedabad and Surat Municipalities.
 - Representatives of the Bombay Municipality if it joined the Institute.

- Representatives of local bodies from Konkan, including the Bombay Suburban, Thana, Kolaba, and Ratnagiri Districts that have joined the Institute.
- Representatives of the local bodies from Maharashtra that have joined the Institute except the Poona City and Sholapur Municipalities.
- Representatives of the local bodies from Karnatak that have joined the Institute.
- Representatives from Individual Members.
- Representative of local bodies from Indian States that have joined the Institute.
- Representative of School Boards in the Bombay Presidency proper.
- The Minister of Local Self-Government and his two nominees.
- The President, if he is not himself the Minister of Local Self-Government, Vice-President and the Secretary of the Institute elected at the General Meeting shall be Ex-Officio members.

32

10. The duties of the Provincial Council shall be :—
- to consider and adopt programme of work for the ensuing year,
 - to sanction the Budget,
 - to organise branches of the Institute for work in the Divisions and Districts,
 - to adopt the annual report and the statement of accounts,
 - to appoint special committees for the purposes of inquiry or consultation and sanction expenditure for their work,
 - to consider questions of general policy affecting the Institute and to decide upon the action to be taken with respect thereto,
 - to consider reports on action taken by the Executive Committee on the resolutions of conferences,
 - to elect the Executive Committee for the ensuing year,
 - to submit to General Body the Triennial Report and the audited statement of accounts.

11. The Provincial Council shall ordinarily meet twice a year. One month's notice posted to the address of the members shall be necessary for each meeting of the Council. Seven members shall form a quorum.

12. The Executive Committee shall consist of 11 members including the President, Vice-President and Secretary of the Institute elected at the Triennial General Meeting.

13. The Executive Committee shall take all steps necessary to carry on the work and administration of the Institute in accordance with the programme and the Budget sanctioned by the Provincial Council.

14. The Executive Committee shall meet as often as may be deemed necessary by the President. Fourteen days' notice shall be necessary for every meeting and six members shall form a quorum.

15. The application for membership shall be on the prescribed form as given in Schedule C and shall be accompanied with the amount of the annual subscription.

16. The Secretary shall have power to enrol Local Bodies as members of the Institute. Applications from Individuals for membership shall require approval of the Executive Committee.

17. The annual subscription shall fall due on 1st of January and shall be payable before the end of June.

18. In the event of failure to pay the annual subscriptions before the end of June the member-institution shall lose its right to send representative on the Committees of the Institute and the representative or individual member shall lose his right to vote. If the subscription is not paid before the end of December the name is liable to be struck off from the list of members and the Institute shall have power to recover the outstanding dues.

19. If there be no quorum within half an hour of the time fixed for the meeting of the General Body, or the Provincial Council, the meeting shall stand adjourned to a subsequent date that shall be fixed by the President and if at such adjourned meeting a quorum be not present, those members who are present, shall be deemed to be a quorum and may do all business that was before the original meeting. If the date of the adjourned meeting is declared at the meeting which is adjourned for want of quorum, notice in the Institute's Office shall be deemed to be sufficient.

20. All questions at the meeting of the General Body, Provincial Council or Executive Committee or other Committee shall be decided by the majority of votes of members present and voting, the presiding authority having a second or casting vote in all cases of equality of votes.

21. The Provincial Council may proceed to business notwithstanding any vacancies due to any cause.

21A. The Executive Committee shall have power to fill up any vacancies occurring among office bearers, or in the Executive Committee due to any cause.

22. A Special meeting of the General Body shall be called by the President on requisition signed by at least 50 member-institutions from more than two Divisions within three months from the date of such requisition. Special meetings of the Provincial Council and of the Executive

Committee shall be called by the President on requisition signed by ten and five members within two months and one month respectively.

23. If a member of the Executive Committee fails to attend any meeting of three consecutive meetings without the previous consent of the President his seat shall be deemed to have fallen vacant and the remaining members of the Executive Committee shall have power to co-opt other member in his place.

24. The President of the Institute shall be elected at the Triennial General Meeting. He shall preside at meetings of the General Body and of the Provincial Council and of the Executive Committee. He shall have power to delegate to the Vice-President any of the powers or duties that vest in him under this constitution or the rules framed thereunder.

25. The Vice-President shall perform all the duties of the President in the absence of the latter and such duties as may be delegated to him by the President.

26. The Secretary of the Institute shall be responsible for the efficient conduct of the Administration of the Institute in accordance with the resolutions of the General Body, Provincial Council or the Executive Committee. He shall have power to appoint establishment for which provision is made in the schedule sanctioned by the Provincial Council and to punish or dispense with the services of any member of the staff appointed by him. He shall have power to incur expenditure to such extent and on such items as may be laid down by the Executive Committee from time to time. In the case of servant with a monthly salary of more than Rs. 50 there shall be an appeal to the Executive Committee against any punishment inflicted by the Secretary.

27. All receipts shall be paid into the bank in the name of the Honorary Treasurer and all payments shall be by cheque drawn by the Treasurer. The Secretary may open an account in the bank for such transactions as he may be authorised to do by the Executive Committee. The Secretary shall be responsible for maintaining proper accounts of all moneys received and spent on behalf of the Institute and of the property of the Institute. All receipts and documents on behalf of the Institute shall be signed by the Secretary. The Secretary shall have power to appoint Assistant or Joint Secretary without honorarium.

28. The accounts of the Institute shall be audited every quarter by one or more auditors appointed by the General Body at its triennial meeting and the audited statements of accounts shall be submitted by the Secretary through the Executive Committee to the Provincial Council at its next meeting.

29. None of the clauses herein contained shall be altered or rescinded and no clause shall be added except by a vote of a majority of the members present at the Triennial General meeting or a General Meeting convened for the purpose. The notice convening the meeting shall specify the proposed alteration, addition, or rescission and shall be issued not less than two months before the date of the meeting.

Schedule No. I (Ref. Clause 6)

SCALE OF SUBSCRIPTIONS

A. Local Self-Government Institutions shall pay annual subscriptions as follows :—

	Rs. each.
Notified Area Committees, Sanitary Committees and Village Panchayats	5 „
District Local Boards	100 „
Taluka Local Boards	25 „
District Municipalities	25 „
Major Municipalities, except Surat, Sholapur, Poona City, Ahmedabad, Karachi and Bombay City	100 „
Surat and Sholapur Municipalities	200 „
Poona City Municipality	250 „
Ahmedabad and Karachi City Municipalities	350 „
Bombay City Municipal Corporation	1000 „
Cantonment Committees	50 „
B. Public Institutions shall pay	10 „
C. Individuals may join as ordinary members on payment	7 „

Schedule No. II (Ref. Clause 7)

The representatives shall be on the following scale :—

Bombay Corporation	6
Special Municipalities	4 „
Other Major Municipalities	3 „
District Municipalities	1 „
District Local Boards	3 „
Taluka Local Boards	1 „
Cantonment Committees	2 „
Village Authorities	1 „
for every ten members or part thereof for District }	
Public Institutions with members of not less than six months' standing	1 „

for every District. If the number of members exceeds 100 then one additional for every 100 or part thereof.

Individual members of not less than six month's standing.

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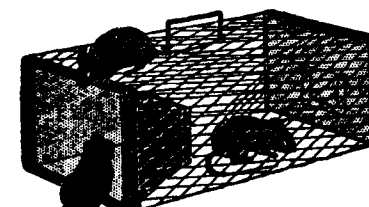
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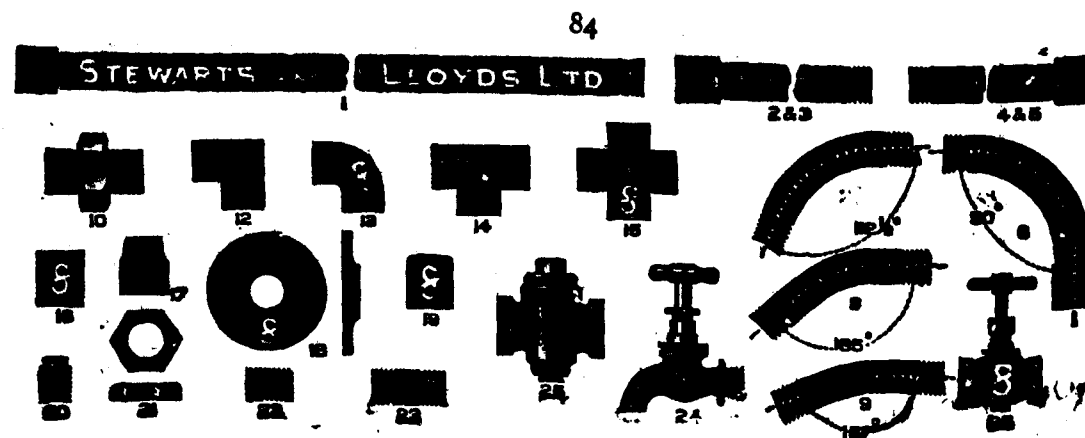
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INDEX TO VOLUME VIII QUARTERLY JOURNAL OF THE LOCAL SELF-GOVERNMENT INSTITUTE

July 1937 to April 1938.

Page.

A

- Administration of Local Self-Government, Aundh State .. 399
S. S. Naik, B.A., B.Sc. (Edin.), L.C.E.

B

- Bombay Municipality.
(1) The Story of its origin and growth 116
(2) The Story of its work.
I. H. Taunton B.A. (Cantab), I.C.S., Commissioner, Bombay
Municipality.
Some thoughts on Municipal Problems— 126
I. H. Taunton, B.A. (Cantab), I.C.S., Commissioner, Bombay
Municipality.
Bridges—submergible—A Study 154
C. H. Khadilkar, B.E., A.M.I.E.

C

- Conference—Local Self-Government—at Kolhapur 41
P. R. Chicodi—Presidential Address.
Conference—Local Self-Government, at Nagpur 249
Sanat Kumar Roy Chowdhary—Presidential Address
Conference of Village Panchayat Boards 263
Hon'ble V. Ramdas Pantulu—Welcome Address
Corruption in English Local Government 229
Clough William Ellis

D

- Disinfection and Public Health 83
Dr. H. T. Munshi, M.B.B.S.

E

- Education in Russia 131
S. S. Naik, B.A., B.Sc. (Edin), L.C.E.

F

- Finance—Municipal—A resume of the principles** 277
 Chandulal B. Dalal, B.Com., D.P.A. (London), Municipal Auditor, Ahmedabad Municipality.
- Finance—Municipal—A resume of the principles—contd.** .. 325
 Chandulal B. Dalal, B.Com., D.P.A. (London)

L

- Local Government—Experts in** 48
 A. L. Loomba, M.A., Lecturer in Political Science, Lucknow University.
- Local Self-Government—Answers to the Questionnaire issued by the Government of Bombay.** 159
- Local Self-Government—A scheme** 357
 sponsored by the Hon'ble Mr. Dwarkaprasad P. Mitra, Minister for Local Self-Government, Government of C. P. and Berar.
- Local Self-Government Institute—Ninth Annual Report and audited Statement of Accounts for the year 1936-37** 177
- Local Self-Government Institute—An outspoken appreciation of its services by the Poona City Municipal Engineer** 85
- Local Authorities—Selection of books for** 203
- L. S. G. D.—Result of the Examination for the session September 1936 to March 1937.** 89
- L. S. G. D.—Result of the Examination for the session March 1937 to September 1937.** 197

P

- Patil—Hon'ble Mr. Laxmanrao Madhavrao, Minister for Local Self Government, Government of Bombay. Photo and Life-Sketch.** Frontis-
 piece
- „ —Hon'ble Mr. Laxmanrao Madhavrao—His address at the Local Self-Government Institute.** 93
- Primary Education—Free and Compulsory, in the City of Bombay.** 53
- „ „ —Some Suggestions for the Financial and Constitutional Improvements in the system in Bombay City.** 207
 B. M. Kale, M.A., B.T.

- Primary Education—grants-in-aid to Local Authorities (adjustment of grants for 1935-36 and provisional grants for 1916-37.)** 317
- Perishable Foods—Preservation in Cold Stores** 245
 D. S. Laud, G.B.V.C., F.R.H.S., F.Z.S. (London), Superintendent of Markets, Bombay Municipality.

R

- Rural Reconstruction—My work of** 23
 S. R. Bhagwat, L.C.E.
- Reviews of Books—received by the Institute** 87,200 and 322
- (1) *Panchayats in India*—by J. Drummond, I.C.S.
- (2) *Municipal Administration and Finance in Pre-British Period* by B. G. Bhatnagar, M.A.
- (3) *Better Villages*—by F. L. Brayne, C.I.E., I.C.S.
- (4) *Development of Local Boards in the Madras Presidency* by M. Venkatarangaiya, M.A.
- Revenue—The Tax Revenues of Local Bodies in Madras Presidency (A Historical Survey): M. Venkatarangaiya, M.A. Reader in Politics, Andhra University, Waltair.** 96

S

- Slum Areas—Remedies for the Re-planning** 76
 M. N. Chinoy, L.S.E., A.M.I.B.E., M.I.E.T. (London), Stud. Engts. (Ind.) L.S.G.D. etc.
- Sewage Purification—Activated Sludge Process** 309
 M. N. Chinoy, L.S.E. etc.
- Statistics—relating to Local Bodies in the Presidency of Bombay for the year 1935-36.** 67
- Statistics—All India—Income and Expenditure of the Municipalities and District Boards for the year 1934-35.** 435
- Our Sind Visit** 413
 Messrs Chunilal D. Barfivala, M.A., LL.B. and S. S. Naik, B.A., B.Sc. (Edin.), L.C.E.

U

- Unemployment of the Educated** 142
 S. S. Naik, B.A., B.Sc. (Edin.), L.C.E.

V

Village Government in India I

Sir Selwyn H. Freemantle, C.S.I., C.I.E., V.D.

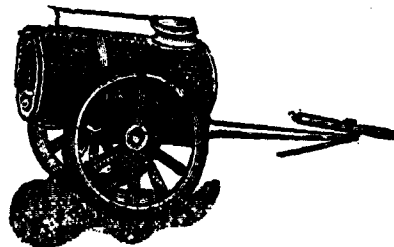
Village Panchayats—Training Classes for Secretaries in Poona District—A Scheme.

W

Portable Weighbridges 199

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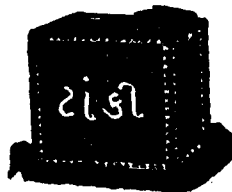
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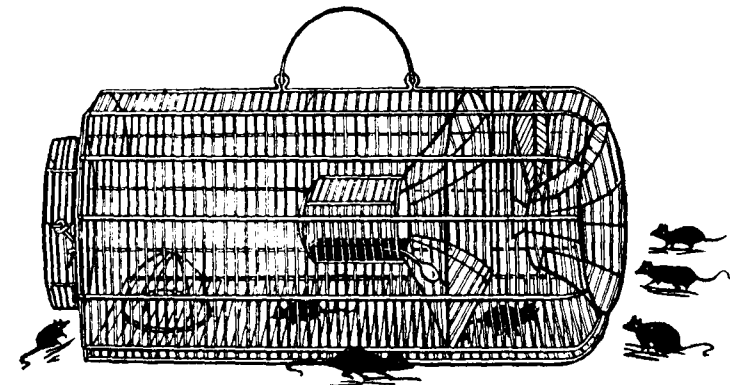
L.S.G.D. EXAMINATION, September 1937—March 1938 Session. 93

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Examination held at the end of the Session:— (*In Order of Merit.*)

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L.S.G.D. EXAMINATION

September 1937—March 1938 Session

Exemption List.

The following students have been exempted in papers mentioned against their names:—

Name of the Student.	Paper I	Paper II	Paper III	Paper IV	Paper V	Paper VI
S. M. Shah	I	..	..	..	..	..
L. G. Pitale	I	2	..	..	..	6
S. V. Jathar	..	2	..	..	..	..
Rajan Joshi	I	2	..	..	..	..
H. M. Vyas	..	2	..	..	..	..
Arjenath Koul	..	..	3	..	5	6
V. R. Potnis	I	..	3	..	..	..
Ramji Lal Jain	..	..	..	..	5	6
K. L. Moza	..	..	..	..	..	6
Kasinath Koul	I	2	..	..	..	6
B. N. Mullan	..	..	..	..	..	6
H. G. Banadekar	I	..	3	..	..	6
M. R. Desai	..	..	3	..	..	..
G. V. Mokashi	..	..	3	..	5	6
H. A. Singnurkar	I	..	..	..	..	..
M. B. Varke	I	2	..	..	..	6

R. V. PARULEKAR

Chairman,

Board of Examiners,

L.S.G.D. Examination.

Bombay, 10th May 1938.

MILCH CATTLE STABLES IN THE BOMBAY SUBURBAN DISTRICT

By "Anonymous"

(i) INTRODUCTION

1. Milk contains great nutritious properties and as such it has occupied an important place in human diet. For this very reason more attention has to be paid to the production and distribution of this article of human consumption. In the country practically all families produce milk for their own consumption by keeping such number of milch cattle as can yield milk enough for their consumption. There is very rarely outside demand for milk and each individual family takes the requisite care in the production of its milk supply. With the growth of commercial and industrial concerns there is a migration of population from the country to the town or local area where the conditions vary and the work of producing milk becomes a concern of a class of professional men. If this profession goes into the hands of unscrupulous persons—and this is very often the case—there is the danger of unhealthy milk supply due mainly to insanitary milch cattle stables. In the interest of Public Health of the town or local area concerned it is one of the important duties of the local body in that respective place to control such stables as effectively as possible. The wily milk trader then tries to evade the local body's restrictions and shifts his business just outside the limits of that body and this is exactly the reason for the indiscriminate growth of Milch cattle stables in the Bombay Suburban District. Most of these stables supply milk to the City of Bombay and yet are not controlled by the regulations of the Bombay Corporation.

2. The question, therefore, of milch cattle stables in the B.S.D. has assumed a considerable importance because it affects the public health of Bombay as well as the Bombay Suburban District. With the increase in the number of stables the risk of nuisance to the locality and danger to public health has increased and it is time that the Local Authorities concerned should take adequate measures to control the milch cattle stables within their respective areas forthwith. An all round alarm has been recently raised as the nuisance has affected more or less all the suburbs in the B.S.D.

3. The reasons why quite a number of milch cattle stables are now found in all the suburbs can be briefly summarised as under :—

- (1) Bombay Municipality is not giving any permission to new stables and is also imposing restrictions on the existing ones.
- (2) Accommodation in the suburbs is very cheap.
- (3) Means of communication between suburbs and Bombay are quite good.
- (4) There is no proper check over stables in the suburbs.

4. It is apparent that in every suburb the number of stables is more than would be required for local needs indicating that the superfluous stables are maintained for exporting milk to Bombay. Whether or not any superfluous stables should be allowed at all and to what extent will depend entirely on local conditions. It will depend on whether sufficient area will be available for locating stables and whether the local authority can maintain adequate inspecting staff for their control and provide necessary facilities to ensure sanitation.

5. If the suburbs had taken care at the outset, the present nuisance could have been obviated. But that point is now out of consideration. Sooner or later, the nuisance requires to be eliminated, mitigated, or checked. The greater the supply of milk from a place the greater will be the danger if the milch cattle stables where milk is produced and the milk shops or stores where the milk is collected, stored and distributed are not properly regulated and controlled.

6. But before taking any steps on the above lines it is essential to know the various causes for nuisance in the insanitary stables and milk stores and also the different factors involved therein. In the case of a stable, generally, the owner leases it out to tenants who keep their animals. While dealing with a stable, we have, therefore, the owner on one side and tenants on the other. The general tendency of the owner is to remain indifferent in regard to nuisance, etc., as he thinks that the tenants keep their own animals and cause nuisance. The tenants in their turn think that they pay the rent and hence the owner is responsible for keeping the stable clean. Between the owner and his tenants, the nuisance goes on increasing to the detriment of the health of the neighbouring locality. Generally no satisfactory drainage arrangements are made and there is the accumulation of waste water. The water stagnates into pools forming breeding places for mosquitoes and makes the whole place muddy and filthy interfering with the very access to the stable. Then there is the accumulation of dung and stable refuse into dung hills hardly few yards away from the stables giving rise to fly nuisance. Most of the stables in the B.S.D. are of this type. The tenants do not care being almost accustomed to living in filthy surroundings, happen what may. Accumulation of waste water and dung from

day to day is a positive nuisance endangering the health of surrounding locality.

7. Then again the quality of milk depends on the health of the animals, which in turn depends on the environmental conditions. If the animals are stabled in a good structure and in hygienic surroundings, their health will improve and the quality and quantity of milk will also improve immensely. In insanitary stables the health of the animals is undermined and the milk is poor in quality and quantity. On account of insanitary surroundings the milk is easily contaminated and serves as a vehicle for the transference of disease to consumers. The ill-effects will thus be far reaching. Milk must therefore be clean and safe and it can only be produced in sanitary stables and under hygienic conditions.

(ii) TECHNIQUE

8. To obtain the above hygienic conditions it is necessary to pay attention to all the following details :—

(1) Reservation of Areas for Stables

Milch cattle stables cannot be allowed near human habitation on account of reciprocal disadvantages to animals, milk, and man. They should be located in open spaces outside the residential area and they should be zoned out. The zones should be definitely marked out so as to keep the stables and dwellings apart. While zoning out the areas care has to be taken to see that access from main road and distance from Railway station are convenient. In this respect it is not at all necessary for the Local Authority to acquire the area to be reserved for stables. It is enough for the Local Authority to zone out certain areas, no matter who the owners are.

(2) Drainage

This is of the greatest importance as no stables can and should be allowed when drainage arrangements or facilities do not exist. The best method is to drain the stable away, i.e., to remove the waste water immediately through Municipal drains or sewers if and when they exist. If drains do not exist, then a requisite area should be set apart where the waste water can be taken by means of pucca channelled drains to different parts of the plot so that it may be possible to utilise the water on beds where a farm should be created and maintained for complete absorption of all the waste water so as to prevent water-logging. In Kurla such a stable and farm actually exist.

(3) Removal and Disposal of Dung

That the dung should be removed from the stable premises, every one will admit. But such a requisition can only be made on the stable owner when the Local Authority has set apart a place to which the dung can be removed. The most suitable and convenient place for dumping dung is in a pit at the outskirts of the town, which can be emptied and the contents can be sold as manure and the same pit can be used again for the next year. This arrangement has been resorted to in Kurla.

(4) Water Supply

Pure water supply is indispensable for a milch cattle stable. Milk is a fruitful medium for the growth of disease germs. If polluted water is used and the milk is contaminated the disease germs will thrive in milk and cause positive harm to consumers. When there is a Municipal water main, water supply should only be from the water main. Where no such facilities exist, water from deep and sanitary wells should be allowed. Stables should not be allowed where a wholesome water supply is not available.

(5) Stable

This will include the following :—

(a) Stable Proper

The stable should be so built that it will provide facilities for rest to the animals, drainage, scavenging, ventilation, inspection and lighting.

- (i) *Flooring.*—The flooring should be paved and sloped to a drain. The floor space per head of cattle should not be less than 12½ ft. x 5 ft. The animals can be tied tail to tail or head to head. The former arrangement is much better than the latter, although the latter has one advantage. In the tail to tail arrangement the animals do not face one another and there are no chances of one animal transferring infection to another standing opposite through inhalation. There is one defect however since the urine and other droppings are likely to splash and contaminate the milk while milking the animals. In the face to face arrangement there is no chance of the milk being thus contaminated, but the animals standing face to face are likely to infect each other, if any animal is suffering from infectious disease. But if a passage of 3 ft. width is provided between two rows in tail to tail

or face to face arrangement, the above defects will disappear. Moreover as stated below the passage will be useful for inspection.

- (ii) *Drains.*—The drains should be half channelled and covered over in order to avoid accidents to animals while moving to and fro.
- (iii) *Scavenging.*—The flooring should be smooth but not slippery when it is cleansed and washed. Washing is essential to remove all the dirt. As the animals are generally kept in the stable day and night, cleaning is required to be done several times during the course of 24 hours so that the animals would remain free from contamination.
- (iv) *Ventilation.*—As the animals remain all the time in the stable, it is very essential to provide good ventilation. The sides of the stable should be open. Dwarf walls should be allowed up to 3 ft. high. The roof should not be less than 10 ft. high from the floor of the stable. 3 ft. wide passage between every two rows of animals will provide an aerial passage facilitating ventilation when several rows of animals are kept in a stable. But in any case care should be taken to reduce the number of rows of animals and the maximum accommodation should never be more than 100 animals in each stable. There should be sufficient open space surrounding the stable up to an extent of at least 15 ft. which should be free from any encroachment.
- (v) *Inspection.*—Inspection of animals from time to time is necessary to detect diseased animals. Inspection is also necessary to enforce the cleanliness of the stable. To carry out inspection inside the stable, 3 ft. wide paved passage should be provided between every two rows of animals, whether arranged tail to tail or face to face. The more frequent the inspections, the more will be the precautions taken by the stable owner to keep the stable clean.
- (vi) *Lighting.*—The animals are milked in the noon and at night. At night lighting arrangements are quite necessary so as to help the milkmen to milk the animals and to carry their milk pots free from contamination. Unless facilities are given, it will be difficult for the milkmen to cultivate any sanitary sense. Electric lighting is convenient and should be enforced wherever it is available.

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(b) Washing Platform and Watering Troughs

The buffaloes are generally washed twice a day. This is more for the sake of the buffaloes than for the sake of cleanliness. It is said that if the buffaloes are not washed daily their yield of milk gradually diminishes. On account of frequent washing, sufficient water supply is quite necessary. The washing platform should be sufficiently wide, being not less than 1/7th the floor area of the stable and should be paved and drained. Watering troughs should be pucca so that the water may not be spoiled.

(c) Dung Bin

Dung from each stable should be removed at least once in a day and till the time it is removed, it should be temporarily stored in a dung bin. If the dung bin is not provided the dung generally remains in the stable premises or it is thrown anywhere outside and this causes nuisance. Good and clean habits should be enforced on the milkmen by giving them proper facilities for storing dung. The dung bin should be away from the stable and constructed pucca so as to hold the dung of all the animals for 24 hours. The capacity should be regulated at the rate of at least 2 cubic feet per head of cattle.

(d) Godown for Storing Hay and Fodder

A godown for storing hay or grass and fodder is necessary. It should be detached from other buildings, for fear of risk from fire. If there is no godown the grass and fodder are stored anywhere inside or outside the stable, which arrangement not only interferes with light and ventilation of the stable but also it is attended with definite risk of fire. The godown should be of limited size in order to hold limited stock. It should not be allowed to be used for residential or any other purpose. The material used for the structure should be C.I. sheet or any other fire-proof substance.

(e) Dwelling Rooms for Tenants

The owner of a stable is generally very callous towards his tenants. He gives them no room for living. The stable is practically used both by tenants and their animals, as the former cook, live, and sleep in the stable. Cooking inside or near the stable is dangerous and living in the stable is injurious to the tenants. If rooms are provided for the tenants the nuisance caused by their occupation of the inside and surrounding open spaces of the stable will be eliminated. A separate room may be provided to keep milk pots safe from contamination. Otherwise the

pots are usually kept outside on the ground where they are exposed to contamination.

(f) Privy and Tenants

As no dwelling rooms are provided, also no privies are provided for tenants, who however live on the premises and spoil the open spaces adjoining the stables by squatting. Privies are therefore necessary and so they should be insisted upon along with dwelling rooms. They should be suitably located to prevent contamination of milk by flies, etc.

(g) Open Spaces

However good the stable structure may be, the surrounding open spaces should be paved in order to keep them in a sanitary condition. All the open spaces require to be paved and drained so as to ensure perfect cleanliness on the stable premises. It is no use partially paving the open spaces just touching the stable and leaving the rest in a muddy condition. If the open spaces are not paved, the formation of mud and filth making the entire place filthy and dangerous for the production of milk. Clean open spaces add to the cleanliness of the stable and improve its appearance.

(h) Access

Suitable access from the stable to a main road is indispensable to facilitate inspection and attention to the cleanliness of the stable. With a good access the dung and stable refuse can be conveniently and quickly removed from the stable. Access should be sufficiently wide for at least a cart. It should be a metalled road at least 4 ft. wide. Where access is not possible, stables should not be allowed.

(i) Animals

The floor space is the factor for fixing the accommodation which should be up to a maximum of 100 animals in a stable. The number of animals generally fluctuates, as the buffaloes which become dry are replaced by those yielding milk. If there be several tenants such fluctuations are more frequent. Generally on the pretext of this practice excess animals are kept in a stable and unless the inspection staff is very vigilant this practice is bound to be abused. No facilities should, therefore, be given in this respect. The stable owner must be made to keep the animals always within the licensed number. Another practice which needs to be checked is that of keeping calves in the stable. They are generally neglected and allowed to die of starvation. But at times the keeping of such calves is tried to be justified on the pretext that some of the buffaloes do not give milk without their calves and when such keeping of calves is conceded big calves are kept in large numbers either

inside the stable or in the neighbouring open spaces. It is therefore very desirable to insist upon a small separate structure for such calves which should not at the same time be used for keeping adult animals. Then generally a he-buffalo is kept in every stable and concession is asked for keeping the same over and above the licensed number of animals. It is however necessary to restrict the maximum accommodation within which he or she buffaloes should be kept, lest the floor space would be curtailed, per head of cattle. Animals should always be kept inside the stable. Stabling outside should be prohibited.

(j) *Compound Wall*

A compound wall for fencing and screening a stable is necessary. If the owner can build several stables all of them may be included in the same compound. The stables should be screened by a compound wall at least 8 ft. high. The area circumscribed by the compound wall can conveniently be treated as the stable premises and the owner should be compelled to pave all the open spaces in this area. This is quite necessary to prevent stagnation of water and the consequent breeding of mosquitoes and thus preserve the sanitation of the stable as well as its surroundings. The various structures, e.g., the (1) stable proper, (2) godown, (3) washing platform, (4) dung bin, (4) well if necessary, (6) dwelling rooms, and (7) privies should all be located on such a stable premises and fenced by a high compound wall. It should be the aim of every local body to create such stable premises within its jurisdiction.

(k) *Storing and selling milk, butter and ghee*

When stables of the above type are constructed the production of milk would be much improved. But the milk produced under hygienic conditions requires also to be stored and sold under similar conditions. The place therefore where milk, butter and ghee are stored, distributed and sold must also be licensed and put under proper control. The following suggestions in this respect are offered :—

- (i) *Premises used for Storing Milk.*—This should be quite sanitary. The flooring should be paved and the walls should be plastered and preferably painted or be of Japanese tiles so as to admit thorough cleaning from time to time. The room used for storing milk should not be used for cooking or sleeping purposes. It should be quite separate and free from contamination.
- (ii) *Milk Vessels.*—The vessels used for storing or vending milk should be scrupulously clean. The pots should be covered. The measures should be kept hung inside the milk

vessel so that it will not be necessary to touch the milk. Brass containers with a bib cock at the bottom are very handy and sanitary and should be made compulsory particularly when the milk shop is away from the stable. In such cases it should be further insisted that before despatching such cases to the milk shops the owner shall seal the top lids with seals generally used to seal meters. If then the milk from the can in the shop is found to be adulterated the owner cannot shirk his responsibility by throwing the blame on his servants. The vessels should be kept on a counter inside the room and not quite facing the road where the milk is liable to contamination. Care should be taken to see that milk is not handled by diseased persons.

9. The above details if scrupulously followed will help to give rise to sanitary stables and milk stores. Sanitary stables and milk stores can be kept sanitary only by constant cleaning, washing and such other precautions. Strict observance of these is entirely dependant on strict, frequent and surprise inspections from time to time by superior officers of the local body concerned. These superior officers must again be independent of the members on that local body. In a local area where the milk trade is prosperous there are always some representatives of that trade on the Board of the local body. These persons always try to interfere and bring pressure on the inspecting staff. This can only be done away with if the inspecting staff is independent of members. In order to effectively enforce observance of all the requirements of stables and milk shops the system of licences should be introduced. The importance of a licence can be realised, and obedience to instructions can be expected, only when a reasonably high licence fee is levied ; and the fear that it is subject to suspension or revocation for default of its conditions, and that it can be renewed only on payment of fresh licence fees is constantly present before the eyes of the licensee. Without a licence there should be no stable or milk store or shop.

(iii) **LAW**

10. A licence as suggested above should be given subject to the conditions stated in the Local Body's by-laws regarding stables and milk stores and shops.

11. As stated in para 38 of this note the local areas in the B.S.D. are governed by various Acts. The suggestions made in this note are however based on the provisions of the B.M.B. Act, 1925 which gives

wider powers to a local body than those in B.D.M. Act or the D.L.B. Act.

12. The power of making by-laws to control milk shops and stables is given to a Municipal Borough under Section 61 (1) (f) and (g) of Bombay Municipal Boroughs Act of 1925.

13. Section 61 (1) (f) provides for the prescription of conditions on which licences may be granted, refused, suspended or withdrawn for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, or for making, storing, or selling butter or other milk products. Section 61 (1) (g) (i) likewise makes provision for the inspection of milch cattle and prescription and regulation of the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle sheds in the occupation of persons following the trade of dairy-men or milk sellers. Section 61 (1) (g) (ii) makes provision for securing the cleanliness of milk stores, milk shops, and vessels used by milk sellers or buttermen for milk or butter. By-laws need to be framed strictly in accordance with these provisions in the respective Sections stated above. Otherwise they will be treated as *ultra vires*.

14. Looking however to the absolute requirements of a stable as suggested and at the provisions in the existing Sections, it appears that the following additional provisions should be included in the respective Sections so as to enable the framing of by-laws embodying all the said requirements :—

(1) Godown for storing hay and fodder, (2) dwelling rooms with privy accommodation for tenants, (3) paving and draining of all open spaces on the stable premises, (4) metalled access from the stable up to the main road, and (5) compound wall.

15. The Section 61 (1) (g) (i) should therefore be amended as follows :—

“for the inspection of milch cattle ; and prescribing and regulating the location, access, screening, construction, dimensions, ventilation, lighting, cleansing, drainage, water supply, and open spaces of dairies, cattle sheds, godowns, and dwelling rooms used or permitted to be used by persons following the trade of dairymen or milk sellers.”

16. The licence which is necessary under Section 61 (1) (f) should include all the conditions and restrictions stated in the by-laws under Section 61 (1) (g) (i) and (ii) as suggested above.

17. The stable owner should be compelled to apply for, and obtain the licence and then abide by all the conditions of the said licence so

that he alone shall be responsible to the Municipality for the fulfilment of all conditions in respect of this stable and on failure he can be punished.

18. Regarding storing or selling milk or butter the person who actually conducts the business should be called on to apply for and obtain the licence and then abide by all the conditions of the licence. The owner of the premises is in no way concerned and hence should not be called on to take a licence. The licensee will be responsible for all acts done by his servants.

19. The by-laws, however, cannot give any summary powers to a local body to deal with a defaulting stable or milk shop owner. Such a power is however given in Section 178 B.M.B. Act. Clause (1) of this Section reads : “No person shall, for the purposes of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a licence from the Standing Committee.”

20. Under Clause (2) of this Section 178 the Standing Committee can withdraw a licence once given by serving one month's notice on the party but according to the proviso to the same clause if the conditions of the licence are contravened the licence can be withdrawn even without tendering such a notice.

21. According to I.L.R. 33 Bom. 334, if a Municipality arbitrarily misuses these powers a Court can interfere. But without misusing these powers a Municipality can under Clauses (1) and (2) of Section 178 B.M.B. Act effectively control stables and milk shops without constantly resorting to a Criminal Court. The threat of the cancellation of his licence is at times enough to bring round an erring stable owner or milk trader. But some stable owners are often callous and persistently commit breaches of the conditions of their licences and even after their licences are cancelled by the Municipality they keep on running their stables or milk shops. Such obstinate persons can be dealt with under Clauses (3) and (4) of Section 178, B.M.B. Act, which run as under :—

(3) Whoever so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such licence, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of conviction for the first such offence.

(4) Upon a conviction being obtained in respect of any place under Sub-section (3) the Magistrate shall, on the application of the Municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

22. Section 178 holds both the owner and occupier of a place used for a milch cattle stable or for storing or selling milk or butter liable for using the said place without a licence. It is not, however, clear to whom the licence should be issued, i.e., whether to the owner or to the occupier. This point is important because in case of contravention of the conditions of the licence, the said licence is liable to be withdrawn.

23. In the case of a stable the owner allows tenants to occupy his stable. The animals are therefore kept and the nuisance is caused by the tenants. It is then contended that the owner is not responsible for any excess animals kept by them or for any nuisance caused by them, and hence for these breaches the owner should not be held responsible for acts beyond his control. Such a contention appears plausible and in order to bring the tenants under proper control it is sometimes suggested that licence should also be granted to them so that they, and not the owner, can be held responsible for any breaches of the conditions of the licence and punished. But in practice this suggestion cannot be adopted. The licence refers to the structure, open spaces, washing platform, dung bin, animals, removal of dung, etc. There are several tenants using the same stable, open spaces, washing platform and dung bin. In the case of such offences as nuisance caused by the non-removal of dung, it will be very difficult to bring the offence home to a particular tenant as the other tenants would not come forward to aver against him. The tenants, moreover, have no personal interest in a stable and they change stables as and when they like. Then again, as the tenant in the B.S.D. has his permanent abode upcountry he is at times prepared to sacrifice his temporary interest in the milch cattle here. It is this fact which weighs so much against prosecution of tenants. If the licences are, therefore, granted both to the owner and his tenants there will be a number of licences issued in respect of one and the same stable with the result that with the multiplicity of licences each licensee would throw the blame on others and only chaos would result. The owner will remain quite indifferent on the pretext that as he does not occupy the stable he has committed no nuisance. It will not be thus possible to hold a single person responsible even if the nuisance is there. In order, therefore, to remove the anomaly the owner of the stable should alone be made to bear all the brunt of the responsibility as it is he who enjoys the rent of, and has interest in his property. He must be directly and solely held responsible to fulfil all the conditions of the licence. In such a case

there will be only one person to be dealt with and things can be put right immediately. In order to fix the responsibility on the owner the words "No person shall, for the purposes of trade, use or permit to be used" in Section 178 may be substituted by the words "No owner shall, for purposes of trade, use or cause to be used by lease." In that case the by-laws under Section 61 (1) (f) and (g) (i) should be so framed as to require the owner of the stable to comply with every requirement in respect of his stable.

24. In the case of the place where milk or butter is stored and sold by a tenant the position regarding the licence is different. The owner of the premises has no hand in the trade and the tenant should alone apply for and obtain the licence and abide by all the conditions of his licence. The owner will not be responsible for breach of the conditions of the licence, but when the amendment to Section 178 B.M.B. Act suggested above is sanctioned the owner of the premises shall be liable if he does not stop the place from being used as milk shop or store as soon as his tenant's licence for the same is cancelled. The by-laws under Section 61 (1) (f) and (g) (ii) should however be so framed as to require the person actually conducting the trade to do everything in respect of his milk store.

25. Section 178 of B.M.B. Act 1925 casts heavy responsibility on the licensee to abide by his licence and gives wide powers to the Municipal Borough to grant, revoke, refuse, and renew a licence and to get the stable closed. According to this Section there can be no stable or a milk shop without a licence.

26. The evil arising out of insanitary stables or milk shops can be rooted out with a bold, definite and straight-forward policy on the part of a local body, co-operation on the part of the magistracy, and prompt action on the part of the police when action under Section 178 (4) has to be taken. In a prosecution under Section 178 (3) the unlicensed stable owner usually pleads that (1) his stable is very old, (2) he is paying taxes regularly, or that (3) he is very poor. By putting forth such excuses he tries to win the sympathy of the Magistrate who is even at times led away by an allegation that the Municipality is harassing the stable owner. The Magistrate may go into the merits of the case but the only thing with which the Magistrate is concerned in prosecutions under Section 178 (3) is whether the owner possesses a licence. If the Magistrate weighs the pleadings of the stable owner at its true worth he will at once realise how an unlicensed stable owner is a danger to public health.

27. With a view to discourage repetition of stable offences the latter part of Section 178 (3) makes a provision for a daily fine in the case of continuing offences. But in practice it is difficult to secure a conviction for such an offence as the accused attempts to show in a case for a continuing offence against him that it was not lodged within six months' period from the date of the commission of such offence as required by the proviso to Section 200 B.M.B. Act. Such a contention is based on *Emperor v. Becharadas Narottamdas Munshi*, 32 B.L.R. 768 (1930) in which it was held that "limitation for a prosecution for a continuing offence runs from the time when the offence is first committed." In para 30 a suggestion is made for the amendment of the latter part of Section 178 (3) to meet an objection like the one referred to above in a continuing stable offence. In that case a corresponding amendment in the proviso to Section 200 B.M.B. Act would be necessary so as to exclude the continuing stable offences from the operation of that proviso. The amended proviso should read as under :—

"Provided that no prosecution for an offence under this Act or By-laws framed thereunder, save in the case of continuing offences under Section 178 (3), shall be instituted except within six months next after the commission of such offence."

28. However as Section 178 (4) provides for a closure of a stable after a conviction is once secured under Section 178 (3) the above High Court decision is not quite perplexing in the matter of stables. On the Municipality's application for closure the Magistrate has to issue an order calling on the owner to close his stable. But in practice the Magistrate gives a hearing to the stable owner and at times this practice is abused and every effort is made to delay the issue of such an order. In fact the practice is unnecessary when once the offence of running an unauthorised stable has been proved. Any delay in this respect means giving a lease of life to the nuisance. The practice therefore needs to be discontinued.

29. In the order under Section 178 (4) the Magistrate has to appoint persons or take steps to prevent the place of the unauthorised stable, etc., being so used. The expression "persons" in the Section would include a private person or a Municipal Officer. But in view of the fact that there is no provision for recovering the expenses of effecting the closure under Section 178 the appointment of a Police Officer to deal with closure is bound to carry more weight than the appointment of a private person or even an Officer of the Municipality. In their application under Section 178 (4) B.M.B. Act therefore a Municipality should request a Magistrate to appoint a Police Officer to effect the closure and

also ask for the service on the accused of an order in writing for the closure of the premises and directing the discontinuance by him of the forbidden use so that action under Section 188 I.P.C. can be taken in case of disobedience. With the machinery at the command of the police the question of expenses for effecting the closure would not arise. If the closing of the stable under Section 178 (4) is promptly followed by action under Section 188 I.P.C. by the Magistrate for any contempt of his order in a single case in a local area the other stable owners in the same area would be more careful in abiding by the conditions of their licences and in ousting undesirable tenants. All this requires that, not only the Municipal or Local Authorities but also the Magistrate and the Police should deal with the insanitary stables more sternly in their own sphere of duty.

30. In para 26 above some of the stock pleas put forth by persons prosecuted for stable offences are given. In addition to those pleas the accused in cases under Section 178 B.M.B. Act seek to take advantage of a few loopholes in that Section. A few instances of this type are enumerated below with corresponding suggestions to amend the Section in question.

I. Sub-section (1) says that "No person shall for the purposes of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk, etc." The word "permit" is very ambiguous as the offence has to be proved by showing that the accused had actually permitted his place to be used for stabling milch cattle or for storing or selling milk, etc. When a stable owner finds that a prosecution under Section 178 is being lodged against him he deftly informs the Municipality that his tenant or tenants though called on to vacate do not comply with that notice and as such he is not responsible because he does not permit his place to be used as a stable. He then sits quiet and brings the same defence before the Court and the Magistrate accepts this version and acquits the accused relying mainly on his superficial story. The word "permit," therefore, is unhappy and it requires to be properly substituted with another suitable word. In the above case, if the person really wanted to have his place vacated by the tenants he would have secured an injunction for their ejection and expelled all of them. The words "permit to be used" in Section 178 (1) need therefore to be substituted by the words "causes to be used by lease."

II. The proviso to Sub-section (2) of Section 178 empowers a Municipality to withdraw a licence without giving any previous notice to a licensee if he has contravened any of the conditions of the licence. When excess animals are brought in the stable and this breach brought to his notice, the owner of the stable says that he is charging and receiving

rent for the licensed number of animals only in his stable and so he is not responsible for the excess animals. He further alleges that the excess animals, if any, were brought by his tenants without his knowledge. Then again when a nuisance is caused in the stable, the owner says that he has not caused the same and alleges that he has not contravened the conditions of his licence and so he is not liable and his licence should not be withdrawn and if the licence has already been withdrawn without any notice the owner contends that the Municipality's action in doing so was illegal and *ultra vires*.

Anticipating the above or similar pleas the Municipality must arm themselves with sufficient documentary or other evidence to justify its action in cancelling a licence without previous notice and satisfy the Court in case under Section 178 (3) that their action was in no way arbitrary or malicious but bona fide. If the licensee shirks the blame for any breach of conditions the Magistrate's attention can be drawn to *Martin v. M. C. Night*, 2 Mun. Corporation Case 245, according to which the licensee and the actual offender are both liable. However, to make this point clear the proviso to Section 178 (2) may be amended as under :—

2. "Provided that where the licensee has himself contravened or suffered others to contravene any of the conditions of the licence, etc."

III. While suggesting amendment to Section 178 (1) in paras 23 and 30 above it has been proposed to substitute the words "causes to be used by lease" for the words "permits to be used." A similar amendment needs to be made in the first line of Clause (3) of Section 178. But the more important amendment that needs to be made in this clause is about "continuing offence." As stated in para 27 above the Bombay High Court view in *Emperor v. Becharadas Narottamdas Munshi* makes it compulsory for a local body to file a complaint for a continuing offence within a period of six months from the time when the offence was first committed. In Section 178 (3) the wording is "after the date of the conviction for the first such offence." Reading the words "first such offence" with the case quoted above it would seem that the legislature intended to debar any prosecution for a subsequent offence of a stable owner committed more than six months after the date of his first conviction in a case under the first part of Section 178 (3). But if this be really the view of the legislature it would mean that they wanted to give a *carte blanche* to an offending stable owner to run unauthorised insanitary stables or milk shops, etc., after the expiry of six months from the date of his first conviction. In such a case the nuisance from insanitary stables would increase rather than diminish. It therefore appears that the word "first" in the phrase "first such offence" in this sub-section

needs to be interpreted from a common sense point of view. Accordingly the word "first" would mean "foregoing" with reference to a subsequent offence. Thus at any time after the very first conviction, but not after a period of six months from the next preceding conviction, an offending stable owner can be prosecuted. But this interpretation of the word "first" would not ordinarily be acceptable and so to remove the ambiguity the words "date of the conviction for the first such offence" in the last sentence of this sub-section should be substituted by the words "date of the last conviction for a similar offence."

The Sub-section (4) of Section 178 enables the Local Authority to get a stable closed for keeping animals therein. But it is a constant worry to the Local Authority as after the order for the closure of the stable, the stable may be vacated for some time, only to be reoccupied again. The power given by Section 178 is, therefore, set at naught, thus making the efforts futile and introducing again the same source of danger to public health. If the stable is ordered to be closed, and steps are to be taken to prevent the same from being so used, the best step to eradicate the nuisance altogether will be to pull down the whole structure. This is more essential in cases where the structure occupies the only open space between residential buildings, so that the pulling down of the entire structure will add to the betterment of public health, which is otherwise partially secured by only closing down the structure for purposes of stabling animals. Power should therefore be given to the Local Authority to pull down the structure on payment of compensation to the owner. In the case of unlicensed store of milk or butter only closure of the place will suffice. It will not be necessary to pull down the premises as it is not a source of danger like a stable. The above Sub-section deals with the place used for keeping animals or for storing or selling milk or butter. The Magistrate has to order closure of the place or pulling down of the structure on the application of the Municipality. Pulling down of the structure will be necessary only in the case of a stable. Hence the amendment should be as follows :—(4) "Upon a conviction being obtained in respect of any place under Sub-section (3), the Magistrate shall, on the application of the Municipality but not otherwise, order such place to be closed and, on the further application of the Municipality but not otherwise in respect of stable, order the structure to be pulled down on payment by the Municipality to the owner of reasonable compensation to be determined by the Magistrate and thereupon the Magistrate shall appoint the Police Sub-Inspector to prevent such place being so used. The Magistrate shall also take other steps as provided under Section 188 I.P.C. in case of defiance of his order."

Then there is the stable which though complying with all the provisions of the by-laws may be situated in a thickly populated locality and

therefore be a source of intolerable nuisance. A Local Authority should be empowered to give notice to the owner of such a stable to remove the same within two years of the date thereof on payment of compensation by the Local Authority. If within two years such a structure is not removed the owner should lose the right to compensation and the Local Authority should be empowered to get the structure removed at his cost. The amendment may be on the lines of similar provisions of the City of Calcutta Municipal Act which is as follows :—

“478. The Corporation may make by-laws generally for carrying out the provisions and intentions of this Act ;
Power to Corporation to and in particular and without prejudice to
make By-laws. the generality of the foregoing power they may make by-laws.

35 (b) For declaring areas in which no person shall keep milch cattle for the purpose of supplying milk for sale, subject to power being given to the Corporation to give such compensation as they think fit in respect of any cattle-shed constructed in accordance with the plan sanctioned by the Corporation within two years of the publication of a by-law under this sub-clause, provided that such structure is removed within the time fixed by the by-law.”

IV. There is still one drawback that during the pendency of the prosecution against the accused, there is no provision in the Section 178 B.M.B. Act of 1925 or anywhere in the B.M.B. Act of 1925, whereby the accused can be restrained from conducting his unlicensed stable or store of milk or butter. As a matter of fact much time is lost till a conviction is secured against him, order for closure of the place is passed by the Magistrate, and steps are taken to actually close down the place. From public health point of view it seems necessary to bring restraint on the accused during the pendency of the case to close down the place. None of the Acts concerning Local Bodies in the Bombay province provide for restraints to nuisances from stables or other sources. Under Rule 1 of Order XXXIX of the C.P.C. a Civil Court can grant a temporary injunction while under Section 144 Cr. P. C. certain Magistrates can issue temporary orders in urgent cases of nuisances. Then again under Sections 55-57 of the Indian Specific Relief Act I of 1877 Civil Courts can grant permanent injunctions. But when a local body moves in this direction the Civil Court or Magistrate may refuse to grant an injunction or issue an order if the Court or the Magistrate thinks that the Municipality is not directly affected by the existence of the unlicensed stable or store of milk. According to Clauses (g) and (i) of the Specific Relief Act “an injunction cannot be granted to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance” and “when equally efficacious relief can certainly be obtained

by any other usual mode of proceeding.” The Civil Court may intervene if it is shown that the nuisance is such as to affect the life or health of the public. It will also be difficult to get an order from the Magistrate that the nuisance from a particular stable is such as to require an order under Section 144 Cr. P. C. The evil effect of an insanitary stable, though many and far-reaching do not come within the ordinary run of Judges or Magistrates. Hence an exclusive provision in the B.M.B. Act itself appearing in the following Sub-section (2-A) may therefore be added to the B.M.B. Act :—

(2-A) Where in any case it is proved by affidavit that any land, shed or building in a Municipal Borough is being used by a person as a stable, milk shop or store, and is referred to in Section 186 without a licence from the Magistrate, the Magistrate may by order grant a temporary injunction restraining the use of the land, shed or building until the disposal of the case or until further order.

The reason for including the offensive trades within the above amendment is obvious. Besides the nuisances from the above trades there are many others from unauthorised drains. The Government think it necessary the above proposed amendment should be suitably modified so as to include the nuisances from

A perpetual injunction according to Section 53 of the Civil Procedure Code Act 1877 can only be granted by the decree made upon the merits of the suit. The defendant is not to be debarred from assertion of a right or from the conduct of his defence which would be contrary to the rights of the plaintiff. The Local Authority desirous of securing a perpetual injunction against a nuisance from a stable, etc., should file a Civil suit.

31. While enumerating the several pleas usually put forward by the accused in stable offences in para 26 above it is pointed out that one of such pleas is that the milkmen who conduct their business are poor and therefore unable to carry out all the requisitions. But the various requisitions which have been based on sanitary principles, and hence if they are not complied with public health would suffer. In fact if the milkmen were to neglect their trade they must undertake the responsibility involved in supplying unsafe milk to the public. Anything that is likely to affect the health of the public must call for immediate action in the law. In such cases the interests of an individual milkman should be taken into consideration. The importance of a pure

be over-estimated and the sooner this is realised the better will be the milk supply of the place. Above all the greatest precaution needs to be taken against milk being contaminated with dirt. Such a contamination is positively injurious and is the root cause of dangerous diseases like Typhoid, Cholera, Tuberculosis, etc. It must be noted that whilst a pure and clear milk supply is a boon and a blessing, an impure one is responsible for more sickness and mortality than any other food. It is, therefore, vital in the interest of public health that the milch cattle stables should be improved on modern lines and small and insanitary stables should be discouraged. The large stable on the other hand is a source of much profit to the landlord as is evidenced from the rent per animal per month which varies from Rs. 10/- in Bombay to Rs. 4|8/- in Kurla.

32. There is yet another variety of stables. These are run by small agriculturists or persons of small means. The number of animals in such stables rarely exceeds 5. More often than not the capital invested in such stables comes from a petty moneylender or a hotelkeeper. Sometimes the proprietor of this stable is a retired menial servant of a Railway or a Commercial or Industrial concern who has received some gratuity, etc., from his former employees. Milk from such stables goes to the small hotels in the neighbourhood or sympathising neighbours. The stable in such cases does not fulfil most of the conditions that have to be imposed on milch cattle stables used for trade purposes. The reason for this is that the proprietor has not the means to comply with all these requirements. His sole object is to make a small fortune by carrying on a side business. In the B.S.D. as elsewhere also, such minor milch cattle stables thrive because there is no adequate provision in the local Acts to control them or because there are difficulties in collecting the requisite evidence to make out a *prima facie* case.

33. Some of the practical suggestions to collect material before lodging a case against such stable owners are as under :—

- (1) To take a photograph of a milk purchaser while coming out of the stable or of the offender selling milk.
- (2) To send a bogus customer to purchase milk from the offender.
- (3) To make a panchnama with the following details :—
 - (a) Existence of a stable with the number of animals therein and the conditions of the stable and of its surroundings.
 - (b) Breed of the animals and the fact whether they are dry or in milk.

- (c) An approximate estimate of milk which these animals would yield.
- (d) Status of the owner and the number of members in his family.
- (e) Person who milked the animals and who took out the milk and the time when either of these acts took place.
- (f) Whether the customers purchased milk on cash payment or on credit.

Many more suggestions on the above lines can be made but there are also practical difficulties in complying with these suggestions and then leading the evidence in Court. Generally residents in the neighbourhood of an offender or the people who have dealings with him naturally sympathise with him. They are unwilling either to serve as Panchas or depose against the offender in a Court. The offender too, foreseeing the trouble, would try his best not to furnish correct information necessary for the Panchanama or for the prosecution. The Court will have to be convinced that not only on a particular occasion but on several others the party has milked his animals, taken the same milk out of his house and sold it to another party. Unless this link is complete the accused can attack the prosecution evidence by putting interpretations thereon in his favour. When the weakness in the prosecution evidence is thus exposed the Magistrate has no alternative but to acquit the offender.

34. The above discussion would show that it is more difficult to control private stables than those openly carrying on milk trade. It is at the same time equally true that unless private stables are effectively controlled there can be no effective control over milch cattle stables for trade purposes. The only provision in the existing act is to frame by-laws under Section 61 (1) (e) B.M.B. Act. D. B. Mehta has framed model by-laws in this respect. But under these by-laws a Municipality cannot insist upon pavement, drainage and washing arrangements in such a stable or insist on cleansing them. Moreover, the number of milch cattle cannot be restricted in such a manner as to discourage trading in milk on a small scale. The model by-laws, therefore, need to be amended so as to include the above provisions.

35. The number of animals in private stables can be controlled best if licences are issued and Section 61 (1) (e) will have to be so amended as to include a provision for licensing the number of animals in a private

stable. Of course the fee for such animals need not be as high as that for animals in milch cattle stables for trade purposes. One of the conditions of such a licence for private use should be that it would be cancelled if the licensee is found to sell milk. The form for an application for such licences should be prescribed and printed and no licence should be granted if the application be not in such a form. In this form the party should be called on to furnish particulars about his family members, his status in life, the variety of the animal he wants to maintain, etc. The licence should be granted on the strength of the information in this form. If the information supplied be found to be wrong the party can be dealt with under Section 177 I.P.C.

36. In view of the above remarks Section 61 (1) (e) can be amended as under :—

- (e) (i) Prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof and the construction, dimensions, ventilation, lighting, cleansing of the place to be used for the purpose as may be necessary to prevent danger to public health ;
- (e) (ii) Prescribing the conditions on which licences may be granted, refused, suspended or withdrawn for keeping milch cattle for domestic use.

37. It is desirable to chalk out a uniform policy in regard to all milch cattle stables whether for trade purposes or private in the B.S.D. on the above lines so as to remove insanitary stables. In the absence of united action insanitary stables are bound to flourish where there is no proper control. If owners of insanitary stables get shelter in some parts in the B.S.D. the milk supply will not improve. Milk from insanitary stables can be undersold, thus hitting hard the stable owners maintaining sanitary stables. It will be irksome to the Local Authorities to apply the rules strictly in their area when they see insanitary stables in the adjacent area enjoying freedom. Haphazard application of rules in the B.S.D. will therefore defeat the purpose of improving the milk supply.

(iv) GENERAL

38. Bombay Suburban District is divided into several local areas which are governed by different Acts as shown below :—

Name of the place.	Local Authority.	Act.
I 1. Bandra, Khar & Santa Cruz. 2. Kurla.	Municipal Boroughs.	B. M. B. Act 1925.
II 3. Ghatkopar and Kiroli. 4. Vile Parle and Andheri. 5. Juhu.	District Municipalities.	B. D. M. Act 1901.
III 6. Malad. 7. Kandivli. 8. Borivli. 9. Chembur. 10. Mulund.	Notified Area Committees.	do. Chapter XIV.
IV 11. D. L. B. B. S. D. excluding the above areas.	District Local Board.	Bombay Local Board Act 1923.
V 12. Dahisar (B. B. & C. I. Ry.)	Village Panchayat.	Bombay Village Panchayat Act of 1933.
VI 13. Versova.	Beach Sanitary Committee.	Bombay Village Sanitation Act of 1889.

39. Of all the Acts referred to above the B.M.B. Act 1925 contains substantial provisions to control stables. There are no provisions corresponding to those in Sections 61 (1) (e), (f), (g) and 178 of this Act in any of the other Acts referred to above. While therefore amending the above Sections and Section 200 of the B.M.B. Act on the lines suggested in this note it will be necessary to amend the other Acts as well by embodying therein these corrected Sections. As the Village Panchayats and Sanitary Committees are minor local bodies subordinate to a District Local Board and as they cannot be in a position to maintain independent staff to control efficiently milch cattle stables in their areas the work of controlling such stables in these areas can be entrusted to the District Local Board, B.S.D. In that case the Village Panchayat Act, 1933, and the Village Sanitation Act need not be amended.

40. After the B.M.B., B.D.M. and the Bombay Local Boards Acts are amended the Local Bodies concerned will have to frame by-laws under the amended Sections. These will have to be the same throughout the B.S.D.

41. Along with a uniform provision in the Acts and By-laws throughout the Bombay Suburban District there should be for the reasons stated in para 9 above an independent executive staff so that there would be less interference with the work of effectively controlling the stables. An independence of spirit cannot be expected unless the executive staff is drafted from a separate department of the Provincial Government.

42. There is yet another course that can be suggested to control the stables in the B.S.D., and it is to merge the B.S.D. in Bombay. The problem is already before Government and needs to be pushed on chiefly in the interest of public health of the City of Bombay and the B.S.D. It is needless to discuss at great length here the advantages of the Greater Bombay Scheme, but if it materializes it would be possible to effectively control the stables with the efficient sanitary staff of that City. Of course, the Greater Bombay of to-morrow must not follow the same exclusive policy in respect of milch cattle stables which is being followed now. There would be available vast open space in the B.S.D. for conveniently locating such stables and the only question to be tackled then would be to select sites for such stables and then to effectively control them.

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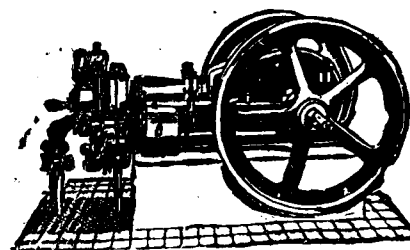
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Maharashtra Local Self-Government Conference.

8th and 9th October 1938, at Ahmednagar.

PRESIDENTIAL ADDRESS

of

K. F. NARIMAN, Esq., B.A., LL.B., M.L.A.,

Chairman of the Reception Committee,
Brothers and Sisters, Delegates and Friends,

Allow me to thank you sincerely for this honour that you have thought fit to confer upon me by asking me to preside over this most important Divisional Local Self-Government Conference in Maharashtra. Although I have had some experience of civic administration in the City Corporation, still I must confess my ignorance about the working of Local Bodies outside the City. I will therefore leave the local problems to be dealt with by the local leaders, who, I presume, have made proper study of the same. I will confine my remarks to the general development, progress and history of the rise and growth of Local Self-Government in British India. I also propose to refer to certain general principles of Local Self-Government and submit some suggestions to you for your consideration.

Whatever our pride in the glorious past, whatever our legitimate claim and desire for the future, when we face the sad realities of the present situation, we are at once reminded of the tragic fact that we in British India, in this our ancient, traditional and glorious Fatherland, that was the birth-place of Democracy and Representative Government, have been left at least half a century back behind, politically, economically and otherwise, as compared with the other modern progressive, civilised countries, both in the East and the West.

The first step in the direction of the experiment for Local Self-Government in India dates so far back as 1792—Statute 33 of George III—when by a Resolution from Fort William, it was suggested to nominate a small non-official body in Presidency Towns of Calcutta, Bombay and Madras to look after the local civic problems of these places. By one of the provisions, power was given to the Governor-General of Bengal to appoint Justices of the Peace and it was enjoined as one of their important functions that they should employ scavengers for clearing streets and repairing roads, and for this purpose, the Justices in the three Presidency Towns were authorised to collect small house assessments to procure funds. This is the seed and the beginning of

Local Self-Government in the country. About 20 years after, a further step was taken and the powers and duties of these Justices were enlarged and they were entrusted with the task of policing and also discharging small Magisterial duties. Step by step they enlarged the Civic responsibilities, and began keeping of registrations of births and to meet the further expenses they increased their sources of revenue by levying small taxes on shops, stalls, music, carriages, horses, etc. These have still survived in the shape of licence fees. Subsequently the Justices formed themselves into what was described as Board of Conservancy, consisting of officials and Justices re-appointed every three years and then they supervised and controlled the Civic Administration discharging both Executive and Administrative functions.

Some years later, by Act II of 1865, what was then described as a full-blown Municipal Constitution was constituted separating the administrative affairs from the Executive, the former in the hands of the Board, whereas for the latter a Chief Executive Officer was appointed, called the Municipal Commissioner. The first Commissioner for our City of Bombay was one Mr. Arthur Crawford, a gentleman who has left his mark in more than one sense. The Board still consisted of Government nominees. The civic conscience had not yet awakened, and the rate-payers scarcely knew what their rights and privileges were. The main feature of this, what is described as the Father of the Municipal Act, not only for Bombay, but for the rest of the Country, was that the Municipal Commissioner, i.e., the Executive Head, was kept independent of the Administrative Board and since then the Municipal civic struggle of Bombay was centred round the main issue, as to whether the Executive powers should be vested in the Corporation or should remain, as had been for years past, in the hands of an independent Executive, known as the Municipal Commissioner, appointed by the Government, though removable by three-fourth majority of the Corporation. The tussle on this issue has been of long standing and even in subsequent years, when the rate-payers were awakened to the rights and privileges and began to take interest in the Civic affairs, they were divided into two groups, one advocating existing position of an independent Executive, another claiming that right for the Corporation. However, strange as it may appear, Sir Phirozesha Mehta, the founder and creator of Local Self-Government institution in the City, and indirectly for the Country, was a staunch advocate of keeping the Executive powers in the hands of the Municipal Commissioner, independent of the Corporation, though under a strict control and supervision of that body with the power of the purse. Till his death he adhered to this view on the ground that it was the only way to maintain efficiency and uprightness of the Municipal Administration. Transferring that power to the whole

body and thus dividing their responsibility, would result in chaos and adversely affect both efficiency and discipline, introducing a sort of corruption in public service. Wisdom and foresight of that great statesman appeal to some, who argue that amidst the party politics, the present arrangement as conceived by Sir Phirozesha Mehta is the best. We may state that we are still striving for that great reform, viz., transfer of power of appointment of the Head Executive to the Corporation, and there are many sound arguments that could be advanced on both sides. In other respects undoubtedly this premier Self-Government Institution in India has made very large strides and it is now a fairly representative body with large majority of elected members with elected Mayor, with complete control over the purse, powers to levy certain local taxes and generally to carry on the Civic Administration without interruption or interference, and from an income and expenditure of about 30 lakhs in 1867 we have now come to a magnificent figure of nearly 3½ crores, which, I presume, is larger than that of the largest Indian State in the Country. The last reform will practically completely do away with nomination. Thus by gradual stages, we have reached a fairly progressive stage in the Local Self-Government administration, so that from a purely nominated body of Justices, to a mixed body of Government nominees and elected representatives of general tax-payers with the enlargement of Franchise of Rs. 10/- rent-payers. The next step will be to reduce Franchise still lower to Rs. 5/- rental basis and to do away with nomination. We have not reached our goal yet, which in our point should be adult suffrage so that every man and woman on attaining majority, and not otherwise disqualified, should be entitled to have a voice in selection of their representatives. That the nomination should be confined to two or three officials such as in the City of Bombay, the Commissioner of Police, the Executive Engineer and the Port Trust Chairman with a view to enlighten the Corporation on subjects coming within their purview and similar essential officers in the mofussil, and above all with the right of appointment and dismissal of Chief Executive transferred to the Corporation, with no external interference or encroachment,—such is the goal at least in Local Self-Government which we desire and hope to attain very shortly.

This experiment of Local Self-Government was, as is rather impertinently well-known, started by the foreign rulers as a training ground for recruits in the larger and higher field of Politics; the idea of Democracy and Representative Government of this kind is not foreign to our land. Centuries before the so-called Parliamentary system and Democracy was introduced in the West, it is a known historical fact that Democracy and Representative Government in rather a crude form had existed in our Country when every village and every town had its 'Panchayat' or

'Jirga' and the existing Local Bodies are nothing more than an enlarged, refined, reformed, systematised, organised and glorified Panchayats of the olden days. Thus it is rather presumptuous on the part of our western rulers to assert and claim that they want to try experiments in Local Self-Government with a view to train us for larger responsibilities in politics, whereas as a matter of fact it is our ancestors who gave this idea to the West and pulled them up from a state of chaos into a state of civilised administration.

Now coming up to the last stage of Municipal reforms in British India, I may state that since the assumption of powers by the Congress Ministries, the following circulars had gone to all bodies inviting suggestions and proposals for progressive Municipal reform. The main points on which the information was sought and suggestions invited were :—

- (1) Whether it is desirable to abolish the system of making nominations on Local Bodies.
- (2) Whether the system of joint electorate with reserved seats for minorities be introduced in place of separate electorate.
- (3) Whether the Franchise should be widened and, if so, to what extent.
- (4) What steps should be taken to improve the finances of the Local Bodies.
- (5) Whether there should be a regular cadre of chief officers and other important officers of Local Bodies such as Health Officers, Engineers, etc.
- (6) (a) What improvement can be effected in the administration of Village Panchayats, especially with regard to their judicial powers and duties.
- (b) Whether election to Panchayats should be by ballot only.
- (c) Whether special officers should be appointed under Section 95 (3) of the Village Panchayats Act, 1933, to supervise and control the system of existing Panchayats in as many villages as possible.

It is gratifying to note that so far as I am aware the response from all Municipalities on the above has been encouraging and in the right direction.

Whilst I am certain that all the Municipalities and Local Bodies will greatly appreciate these patriotic and nationalistic efforts of the Congress Ministries to democratise the Local Bodies and make them progress in the right direction and offer all encouragement and co-operation

and active assistance to achieve that laudable object, it is also necessary at this juncture to sound a note of warning and raise a mild protest against another practice and procedure that is certainly objectionable from the Local Self-Government point of view and is equally disastrous and detrimental to its future growth and development. It was rightly expected and claimed that with the advent of Congress Ministries, the Local Bodies would enjoy better and more real self-government and certain undesirable restrictions and encroachments imposed by the foreign bureaucracy would disappear.

In that respect we must confess that the high hope and expectations have not been realised. In this laudable desire and hurry to introduce much needed reforms, very often the fundamental rights and privileges of Local Self-Government have been trampled upon and what appears most extraordinary, radical and basic changes have been introduced at times even without reference to Local Bodies and sometimes even in spite of their protests. It is but natural that on principle several Local Bodies even of this Province should raise a protest against what they consider as encroachment upon the normal and legitimate sphere of activities, viz., virtual extinction of school boards as actually active functioning bodies and transference of their duties and responsibilities to Government officials.

Whatever the justification for such a drastic step, and it must be admitted to our shame that several speakers during the debate in the Legislature made a strong case for this penalty, still we cannot help remarking that the step by itself is a great blow to the whole cause of Self-Government and is bound to retard its further progress. It amounts to a whole-sale condemnation of your most important department and is an adverse verdict of your own Parliament that you are not fit, without external aid and supervision to manage your own affairs, even on the control of primary education and due to internal bickerings and communal poisoning, you had made a miserable mess of the whole affair and in the interest of primary education itself, it was deemed necessary to deprive this power from you.

It should be the endeavour of all Local Bodies in the Presidency to start applying the inner purge and cleansing process and if the state of affairs is really so rotten as to justify such a drastic and insulting reform, then you must all combine to take organised and systematic steps and efforts to put an end to such a disgraceful state, so that this stigma should be immediately removed and the School Boards should be considered fit and qualified to look after the primary education affairs of your Province. Similarly in more other small matters, such outside encroachment and interference has been on the increase instead of

diminishing. You must try to resist these interferences and encroachments and fight for your Local Self-Government rights and privileges and thus not only preserve what you have gained but also gradually see that you get more and more rights so that Local Bodies may grow into ideal institutions so far as Civic and Municipal matters are concerned.

It is possible that in the beginning we may make mistakes but it is only through blunders and pitfalls that we can rise on the ladder of success and unless we are prepared to risk and venture we will never gain anything. That this tendency of excessive interference is not confined to our Presidency is apparent from a similar complaint from the distance South as can be seen from the following authentic Press Report :—

TAMIL NAD LETTER

(Reproduced from the *Times of India*)

Dated 12th September 1938.

“Inroads on Powers of Local Boards”

A COMPLAINT

“The unusual spectacle of a Congress dominated District Board condemning the Congress Government of Madras with regard to the latter's increasing inroads on the powers of the District Boards was witnessed at the last meeting of the Coimbatore District Board. The Board ‘deprecated the present policy of Government in transferring all important powers exercised by District Boards to Government officials, contrary to the spirit of the Madras Local Boards Act and thereby defeating the very objects for which these bodies existed.’ Another resolution considered Government's ban on members and Presidents of Local Bodies visiting alone girls' schools ‘most ill-conceived’ regarded it as ‘an insult’ and demanded cancellation of the orders immediately. The President said that to pass a general order affecting all District Boards for the misbehaviour of one or two members of District Boards was too drastic an action.”

We must remember that this dangerous practice and precedence laid down by Congress Governments, can be authoritatively quoted and followed by other Governments, if by chance political situation changes. If we do not raise a voice of protest even on principle now, you will not be able to make any complaints even for more serious aggressions in future.

When we have all assembled here for concerted move and collective action in a Conference like this, it is but meet and proper that before

we disperse, we should lay down certain rules and principles for future application and guidance.

This Conference of Local Institutions, in addition to the points mentioned in the Government Circular should also insist on :—

(a) That whenever there is a proposal of any new legislation or amendment of any existing law, bye-law or rules, affecting the working and administration of Local Bodies, the same should first be submitted and circulated for expression of opinion to all Local Bodies concerned and no bill or measure should be drafted without taking into account the considered opinion of these bodies ; as far as possible, such a measure should emanate and initiate from the Local Bodies themselves.

This is an elementary rule of procedure which was respected even by previous autocratic and foreign Governments in their dealings with the Local Bodies, but we have to state with regret that in a recent and very glaring case that elementary rule of Constitution and courtesy was ignored by the Popular Government, and the complaint of the Local Bodies that a measure that meant a death warrant to School Boards, was introduced even without their formal opinion and consultation, was a just and legitimate grievance and let us hope that such a serious lapse widening the gulf between the two will not recur again. In view of such recent instance, it becomes more imperative to reiterate the necessity for the fundamental rule of procedure stated above.

(b) That there should be no inroads or encroachments on the already existing limited powers of the Local Bodies, but on the contrary every opportunity should be given for their self-expansion and self-development as full-fledged and independent Local Self-Government Institutions. In case of individual lapses, the defaulting institution should be dealt with separately but on no account the general principles of Local Self-Government should be violated and all Local Bodies should not be penalised for the fault or failings of a few. For instance, if a particular Local Body or group of Local Bodies are found defective, the Government may deal with them separately by suspending or otherwise, but it would not be fair to inflict general restrictions on all on account of the fault of the few.

(c) The power of appointment and dismissal of all posts, executive and administrative, should vest in Local Bodies and no officer should be imposed on a Local Body without its previous consent and sanction. Similarly all other civic or village schemes should ordinarily initiate and start from Local Bodies and Government should not step in unless and until its advance and interference is sought for by the Local Body concerned.

It is a mistaken notion to think that all wisdom and statesmanship and administrative capacity are monopolised and concentrated only in the minds and heads of powers that be. My long experience tells me that, the greater the interference from so-called advisers, guides and philosophers, including the heavenly-born Bureaucratic "Steel Frame," the greater the bungling, particularly in financial matters of the Administration. In our City of Bombay, the greatest financial disasters, both in civic as well as in political administration had come from the so-called heavenly-born officials of the superior wisdom. Years ago, on this false assumption, a high European official was appointed the first Municipal Commissioner of Bombay, Mr. Arthur Crawford, but in a few years he made such a mess of Municipal Finances, that there was an uproar in the City. The Government had to appoint a Commission and to displace him, with the result that for the first time the Municipality had to borrow a heavy loan of Rs. 30 lakhs from the Government. Similarly, the Backbay Bungle resulting in loss of crores and imposing a perpetual financial burden on the Presidency is again the outcome of the fertile White Brain of the so-called superior wisdom of Heppers and Lloyds. Since our Bombay Corporation had determinedly followed and pursued the policy of Indianisation of high and low Municipal services, since the date that each and every department of our Municipality is manned from top to bottom by Indians, the financial position as well as the general administration in the point of efficiency, discipline and in every other respect is considerably improved and decidedly better, than when each head of the Department was a highly paid European officer from abroad. We must rid ourselves of the inferiority complex and eradicate from our minds the insulting and humiliating notions, that we as Indians are lacking in initiative and capacity in administration, and that for every new idea and for every new scheme, we must seek the advice and guidance of some so-called foreign or secretariat expert or Indian mystic. We must develop a sense of confidence and unless we exhibit sufficient initiative and venture, it will not be possible for us to make any progress in any direction. Why should we be so much nervous and afraid of making blunders and mistakes? It is only through such pit-falls of mistakes and blunders that we can push our way through the intricacies and difficulties of various problems. Therefore this Conference should, before dispersing, enter into an organised systematic plan for agitating and fighting for those elementary civic rights for genuine and real Local Self-Government.

In order to qualify and equip ourselves for this higher civic status, we must in the meantime, show our best qualities and features, so that none dare suggest that we desire more than we deserve. We must therefore carefully consider and imbibe a few rules and particulars of

Municipal Administration. First and foremost, in these civic temples of Service, there should or could not be any discrimination or distinction between caste, creed or religion or even class. There should be a complete spirit of comradeship and equality, all inspired by a common spirit of service, striving for the common good of all citizens without discrimination or distinction. In this respect I must make a particular reference to what we unfortunately hear about discriminative and disgraceful treatment of the so-called 'Harijan'—depressed—classes.

During our Assembly sessions at Poona, we were pained and grieved to hear the tragic tales of oppression and tyranny exercised by the so-called upper-classes over these unfortunate depressed class population. They were denied even such a bare necessity of life as water, and instances were quoted where poor Harijan aged and infirm women, coming from 10 and 15 miles to fetch a pot of water, were forcibly prevented even from drawing a potful of water from village wells, and there were instances where after these poor people had touched the wells, the well water was polluted with dirt and filth; similarly with regard to even the use of other public properties, maintained from public funds, such as schools, public parks, gardens and even roads. It is your duty as common representatives of all people, to see that such distinction, with regard to the use of municipal properties, provided out of public funds, does not exist in any part of your Province, and you should insist, at all cost, upon the common user of such public property for all classes and sections of the people.

You should maintain a very high standard of public service and your attitude and behaviour should, like the wife of Caesar, be above suspicion. Very often there is a clash of public duty and private interest. At such critical moment you should rise above all temptations and never allow yourselves to draw any extra benefit on account of your public position. This conflict of self-interest and public duty is really the test of purity of public service.

We often hear of complaints of nepotism and patronage with regard to the distribution of Municipal services. Merit and merit alone counts, and no other consideration should be allowed to come in the way to influence in these appointments. It was openly charged that School Boards had to be suppressed because they were convenient exploiting and hunting ground for selfish communalists. Thus before we seek improvement from without we must dispassionately and courageously search for faults and defects within. First try to remedy and urge them before applying for external white-wash.

Again, allow me to point out that there is another mistaken notion about Municipal duties, that the members, by attending the meetings at

stated intervals once a week or a fortnight, discussing some Municipal problems sitting round a table and dispersing after passing some resolutions, think that they have discharged their duties as representatives, and that it is no part of their duties to make themselves personally acquainted with the Civic problems of the day. Not only during the time of the elections, but throughout the term of your membership, you must always maintain and renew human contact and touch with your electorate. From my personal experience, I can assure you, that sanitary rounds, in your wards, particularly in the poorer localities and the slum areas, are quite essential and necessary, if you really desire to discharge your duties honestly and conscientiously by your electorate.

No amount of written complaints or oral statements will give you any real idea of the deplorable state and conditions in which a very large section of the dumb, illiterate, voiceless, suppressed section of the population reside, particularly in large towns and cities. They have become accustomed to this sort of animal life for so many years that they consider it as normal human existence, and have no desire, and make no effort to improve their conditions. You must not wait till you hear of some complaint from them, because these complaints will never come. It is for you to go knocking at their doors during your sanitary rounds, and satisfy yourselves by personal survey of the slothful and inhuman conditions in which these poor people stay. A little effort on your part, a little expense, will improve their lot a good deal, and as far as possible it should be your duty to see that the tragic contrast that exists in modern cities, between the aristocratic upper class localities and the slum areas, if not eradicated is at least minimised as much as possible ; that will alone establish a human touch.

But no amount of vigilance, efforts and labour on the part of the Representatives alone will result in much good, unless there is a corresponding co-operation and assistance from the rate-payers themselves. I always maintain that in order to improve the efficiency and standard of any Municipal Administration, it is necessary first to awaken the Civic conscience of the rate-payers themselves. There should be a well-organised, representative, well-conducted Rate-payers' Association, and the two together, representatives in the Municipalities and the Association outside, should work hand in hand for the common welfare, uplift, improvement, peace and happiness of the area. I would also appeal to the intelligent young men and women to take more interest in the Civic affairs and devote some time of leisure hours in rendering some sort of useful, free and voluntary Civic service.

Remember that implications and consequences of a failure of Local Self-Government are far-reaching and disastrous ; its results go far

beyond the Civic and Municipal limits. If the experiment of Local Self-Government in the country is a failure due to defective civic standard and lethargic civic conscience, then all our cry for Political Swaraj will be a cry in the wilderness and with all our sufferings and sacrifices and all our demonstration for fitness, the tragic failure of Local Bodies will always be flung by our Imperialist enemies, with a pertinent logical question : " If you cannot manage smaller and less important and less difficult civic and Municipal affairs, without constant outside interference and supervision, how can you be entrusted with much larger political affairs of the whole country ? "

In order to avoid such an embarrassing question you must make the Self-Government Institutions a great success and prove to the world that in this land of democracy and civilisation, we need no training and no experiment. We are born democrats and anti-fascists and hence our Local Bodies are as they should be—ideal and models worthy to be copied by modern democracies and representative Governments of the world.

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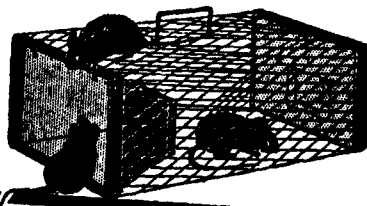
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VILLAGE IMPROVEMENT WEEK

By DURLABHJI P. DESAI,
President, District Local Board, Surat.

Part I.—The Functions of the District Local Board

The management of the District Local Board affairs has been entrusted to the Congress Party by the L. B. Voters of the District and the party being in a large majority in the Board, it is but natural that the attention of many may be focussed on the institution. It will not be again surprising if many entertain high hopes about the work of the party. It is necessary, therefore, to consider how the people can be served under the present circumstances. The D. L. Board should therefore first fully acquaint the public of its present circumstances and gain their full confidence in them without which no good work will be possible. It is specially important that the financial position of the Board should be explained to the public and it should be made clear what can and what cannot be achieved with the resources available. This statement is, therefore, issued so that the people may know the programme of work as laid down by the Congress Party in the D. L. Board.

The area of the Surat district is 1,651 sq. miles and the population 568,648 souls, excluding that of municipal limits, spread over 777 villages of the district.

The main functions of the D. L. Board are as under :—

- (1) Construction and repairs of large roads in talukas.
- (2) Management and upkeep of L. B. human dispensaries in the district.
- (3) Management and upkeep of Veterinary dispensaries in the district.
- (4) Vaccination department.
- (5) Construction and repairs of wells and other water supply works.
- (6) Management of cattle pounds.
- (7) Prevention of epidemic diseases.
- (8) Primary Education. (This function is being carried out through the agency of a separate institution, viz., the School Board, but the D. L. Board is responsible for the finances on this account.)

The main sources of income of the D. L. Board are as follows :—

- (1) One anna local fund cess.
- (2) Receipts from cattle pounds.
- (3) Income from sand and kankar.
- (4) Government grants.

The income from one anna local fund cess is about Rs. 1,60,000, 1/3rd of which is spent after primary education. The income from sand and kankar is about Rs. 18,000 and from cattle pounds Rs. 11,000. Out of the Government grants received, the principal one is that on communications and is about Rs. 30,000.

The principal expenditure of the Board is as under :—

	Rs.
(1) Cattle pounds	5,300
(2) Human dispensaries	31,000
(3) Vaccination	12,300
(4) Grants to dispensaries other than Local Board which are availed of by the rural public ..	9,000
(5) Veterinary dispensaries	6,500
(6) Provident fund	4,000
(7) Repairs to buildings	1,500
(8) Roads	1,16,000
(9) Water supply	11,500
(10) Pay, etc., of the general establishment ..	19,500
(11) Pay, etc., of the Engineering establishment ..	20,000

Part II.—How can the Board's Financial Position be made sound ?

It will be seen from the above figures that after deducting the expenditure on account of general administration an amount of about Rs. 80,000 to Rs. 1,00,000 is available to the Board for expenditure on roads. The Board at present has in its charge various classes of roads of the total length of 466 miles and would require an amount of Rs. 2,30,000 to keep them even in a fair condition of repairs at the rate of Rs. 500 per mile. It will thus be seen that the Board can afford to spend at present only 1/3rd amount of what is necessary, i.e., five annas in a rupee. The result of this state of affairs has been that nearly all of the roads of the Board have gradually been reduced to a very bad condition and the expenditure made after them is wasted. There are two ways of improving this state of affairs. One is to improve the finances of the Board by levy of taxation and the other is to relinquish some roads and retain only those

which are of Taluka importance. No steps can be taken for increase in taxation unless the public opinion is cultivated in its favour and, therefore, some of the roads will have to be relinquished and the matter is under the consideration of the Board. The present administration expenditure of the Board is high and the Board has appointed a Committee in the matter and called for its report and suggestions. But the economy so made will not go a long way in materially improving the finances of the Board.

The public should know, therefore, the programme of the new D. L. Board under the above circumstances.

Firstly, it will effect all possible retrenchment in the administration charges. As said above, there will be no substantial improvement on account of this reduction. It is the first duty, however, of the Board to run its administration economically.

Secondly, it is essential that strict supervision should be kept over the works of the Board and a Taluka Committee with a Chairman has been appointed for the purpose in each taluka and every member of the Committee has been enjoined to keep supervision over all the works within the area entrusted to him.

This administrative improvement, however, will not touch the question of village improvement. Only those villages which have a Local Board school or which are nearby the Local Board dispensary or which are situated near a District Local Board road can appreciate the work of the Board and that too to a limited extent only. The others at the most get the benefit of the vaccination department of the Board. The result has been that most of the villages have been out of touch with the D. L. Board although functioning for a number of years. There has been no change in the condition of village roads which is really deplorable. It may be that the Local Board may have served the public in some respects but in particular direction it has rendered positive disservice, that is, it has made them dependent and they have lost the sense of self-help. The people somehow seem to entertain an idea that because the Local Board is there, making of every sundry road is the work of that body and that they have nothing to do in that respect. The villages have not been able to make any progress on account of this dependent attitude. Had the people been educated to help themselves, so far as necessary, from the beginning, this state of affairs would not have arisen. The people shall have to be self-supporting if it is seriously meant to improve the villages and the establishment, therefore, of a village panchayat is necessary everywhere. The present Congress Ministry has, therefore, taken up the work of enacting a new Village Panchayats Act. The work of repairing the village roads is not difficult if the villages

appreciate the value of self-help and are united. The people can look to the roads within the village area and although it is difficult for them to make them pakka, they can ask for help in that respect from the grant at present being made available by Government for approach roads and even the D. L. Board will also help so far as its finances permit. The Board and the Government can help only those villages which have helped themselves by doing earth-work of the roads in the village and no outside help is possible in the other case.

Part III.—The Scheme for a "Village Improvement Week"

Taking all the above facts into consideration, the D.L.B. have fixed up a programme of celebrating a "Village Improvement Week" every year. The main purpose of this celebration is to make people to set apart one week of the year for work in the cause of the improvement of the village out of the fifty-two weeks devoted wholly to finding means for the maintenance of life. This duty to the village should be explained to everybody. Out of the seven days of this Village Improvement Week, four should be spent after the earth-work of a selected road in the village by every male and female member of the village, one for cleaning the village, one after tree-plantation and development of industries and the last day should be observed as a holiday. The details of the programme of this week have been fixed by the D. L. Board and will be published for the information of the public. The scheme of the Board to put the above scheme into effect will also be published. The President, Vice-President and the other members of the Board will tour from village to village to make the programme successful and it is hoped that full co-operation will be given by every Congress Taluka Samiti and Government officer also in this behalf. The D. L. Board is of the opinion that, if we really love our village and feel that it should be kept clean enough for habitation and made ideal, every one of us should give full effect to the programme of the Village Improvement Week. It is the duty of everyone to make this programme successful and remove the apathy shown for a number of years towards the improvement of our villages. If one only realises this and the co-operation of all is forthcoming, we are sure the condition of the villages of the district will have been changed within a period of five years. A change in life will come and we will be able to prove that the village people also know how to live well as is their right. It is hoping against hope to believe that the Central or the Provincial Government or the D. L. Board will improve the villages. It is on that account that this scheme of self-help has been formulated by the D. L. Board for improvement of the villages and we pray that every brother and sister will have sufficient inspiration to give their full co-operation.

VILLAGE IMPROVEMENT WEEK SCHEME

As it is most important that the feeling of collective life, destroyed to a great extent after the advent of British Rule but enjoyed by our almost independent villages from times immemorial, may revive, that there may be self-consciousness for their own administration and primary necessities and that the attitude of resignation on account of the habit of ever depending in every matter on Government and Local Board may be eradicated and the urge of self-help take its place in the cause of the improvement of villages, the D. L. Board, Surat, formulates the following scheme of "Village Improvement Week."

A "Village Improvement Week Committee" consisting of the President and eleven other members shall be appointed by the D. L. Board to put into effect in all the villages of the whole district the programme of the week. This Committee shall have all powers in connection with the execution of the scheme. A sum of Rs. 300, to be increased in future if necessary, will be sanctioned by the D. L. Board for the necessary propaganda work for this scheme through issue of leaflets and holding of meetings.

This Committee will first visit every taluka and hold necessary meetings to educate public opinion and form a Sub-Committee for every taluka consisting of the D. L. Board members of the taluka, the members of the Working Committee of the Taluka Congress Committee and the leaders of the taluka or such persons who may be elected as such at a public meeting. The work of carrying out the scheme in every village of the taluka will be the concern of this sub-committee and a village committee for every village shall be appointed by it and the programme of the week carried out through it. Where there is a village panchayat in a village, the programme will be carried out through that body.

PROGRAMME

The First Four Days—(Work Days).—Some urgently necessary and permanently useful work of the village such as earth-work of the village road, deepening of the tank or spreading sand and kankar on the road etc., should be undertaken during these days.

Fifth Day—(Cleanliness Day).—Sweeping and cleaning of all the public roads in the village, removing any filth and dirt near the wells and spreading over of sand kankar or chhara, providing a drain to carry

away the spilt water of well, impressing upon the people the necessity of going to ease themselves not anywhere and having moving pit-privies and any other such matter should be undertaken on this day.

Sixth Day—(Industries and Tree Plantation Day).—Some fruit-giving and shady trees such as a nimb tree should be planted in the public places of the village on the day and a tree should be planted per each house in the village preference being given to some fruit-giving tree such as the income-giving mango tree, etc. Over and above the tree-plantation, some other convenient activity such as the spinning of the wheel which provides man with his necessity of clothes and is beneficial economically should be undertaken and efforts made to continue it.

Seventh Day—(Holiday).—All should make merry on the day. The fronts of the houses should be cleaned in the early morning and decorated with "Sathias." The malaria destroying tulsi may also be planted. A "Prabhat Feri" may be taken out singing national songs. In the afternoon, a competition of games by boys may be held and prizes awarded to the successful competitors.

In the evening at five o'clock a meeting of the village should be held and resolutions such as the following passed :—

(a) This meeting of the people of village in taluka assembled on the last holiday of the Village Improvement Week resolves that we fully understand the idea behind the "Village Improvement Week" which is that self-help is the best solution for the uplift of villages and, therefore, will celebrate every year a "Improvement Week" as done this year and make all efforts to make our village ideal.

(b) We whole-heartedly support the prohibition of intoxicants like liquor and toddy which play a large part in the deterioration and heart-rending poverty of the people and, therefore, hereby resolve to make all efforts to eradicate this evil from our village and hope that the Government will be pleased to introduce Prohibition immediately in our taluka.

(c) This meeting hereby resolves that a village panchayat be established in the village so that we may not have to depend on others for our necessities, be able to manage our own affairs and be able to settle civil and criminal cases ourselves.

(d) This meeting hereby resolves that every male and female member of the village should use hand spun and hand woven Khaddar.

Those who cannot do this on account of poverty should use cloth made in our own country. The other domestic articles used should also be Swadeshi.

(e) This meeting hereby resolves that we shall establish or get established a school, night school or a class and library for the adult members of the village for removing illiteracy from the village.

After the meeting is over, the people should make a mass prayer and arrange for holding "Garbas" and "Bhajan-Mandalis" at night.

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METHODS OF TRAINING PUBLIC FOR LOCAL SELF-GOVERNMENT

- (a) Start training the family—at home. Inculcate good habits at home : they will overflow into the city.
- (b) Extension lectures with lantern-slides in all parts of the city on every Sunday.
- (c) Cinema shows showing clean cities in the west as contrasted with our dirty cities here.
- (d) Health exhibitions—as are now regularly organised in Calcutta.
- (e) Clean-up Campaigns and demonstrations—say once in six months—which will thoroughly clean-up all houses, roads, lanes and parks and remove all waste, foul and rubbish matters from city limits. Householders will do well to clean up their houses from top to bottom once in a month. They will be appalled to find how much of really unnecessary waste of rubbish they have slowly and unconsciously gathered in their houses. Catalogues, waste newspapers, unimportant letters which need not be kept, stray booklets, broken and useless furniture, old utensils, garments, beddings, etc., all these accumulate unconsciously when really they ought to be promptly rejected. Instead of that, they are generally deposited in the cellar or kept on the tops of almirahs. They needlessly take up air-space and promote dirt, dust, mosquitoes, illness and ill-health. A house should be neat and tidy. The more things we have the more difficult it is to keep things neat and tidy. To limit one's domestic goods to just what is needed needs courage, wisdom and long vision but it is the first condition of a neat and tidy house. We all need not be saints living on six annas a day but the knowledge of limits is the first postulate of human wisdom.
- (f) Ward Associations—which will undertake essential civic duties and keep a vigilant watch on civic affairs and civic services. Every resident should do some civic duty by turns. It may be inspection, supervision, propaganda or social service. These turns will come round once in six months or more. It is not merely an opportunity—it is a social and civic obligation on all of us.

- (g) Ward competitions might be held and prizes, medals, certificates and distinctions might be awarded. The corporation services might be recruited from people found successful in civic service.
- (h) Stringent by-laws and regulations are needed to keep the city clean. In the European cities a person is fined if one throws any refuse, even a piece of paper, into the street. That is how they keep clean. We ought to enforce similar regulations which will have a great educative value.
- (i) Schools should arrange to impart civic instruction to the children—boys and girls—regularly. By training them early in life we would educate the whole family.
- (j) Distribution of cheap literature—pamphlets and leaflets—in Bengali, Hindi, Urdu and English.
- (k) The rate-payers must be kept regularly informed of municipal problems and the day to day municipal business in our cities. The *Calcutta Municipal Gazette* is doing the work for the last 13 years excellently by educating the public in the problems of Municipal Government but it suffers from the initial handicap that it is an English periodical which does not reach a very large number of people. A vernacular edition of it would be of immense value in broadcasting information and creating civic interest.

Not even the most perfect civic organisation in the world can be efficient, unless the citizens themselves cordially co-operate.

—*Calcutta Municipal Gazette.*

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MOTOR TRAFFIC AND ROADS

BY S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E.

Some months back Mr. Ormerod of the Cement Association had given an excellent lecture under the auspices of the Cement Concrete Association to show the enormous progress in the science of road design and construction and to show in particular the development of roads in Germany and had shown excellent magic lantern slides illustrating his remarks. This whole lecture is since published in the *Concrete Journal*. I was invited to attend and I desire to put on paper and give publicity to my views on the subject of the motor traffic and its relation to Road Construction in this country.

At the outset, I must express our gratitude to Mr. Ormerod for his excellent lecture and for the zeal with which he had collected all the information by personal visit and photographs. The system of German roads is no doubt very good and I also agree with Mr. Ormerod that a time has come when it is necessary to think of some new and more efficient road system whereby the enormous outlay on roads in this country can be systematised, so as to derive the best possible advantage out of the amount available and to have no waste consequent on our following the antiquated ideas of road construction and not giving proper attention to the conditions of traffic.

The main point is to have a proper kind of road for that sort of traffic which the road is expected to carry so as to avoid waste or too early deterioration of the roads. If a road section is too heavy for the traffic passing over it, the extra money spent on it is a pure waste of national resources which could have been usefully spent on some other work. If the road is too light for the traffic the surface is broken up in no time and the money used is lost beyond recall.

Therefore we should have the correct kind of surface; and this requires a lot of experimental work, which can only be put in by trained and unbiased experts. Those who start with the presumption that an asphalt surface is the best are no use in such experiments. Those who have their eyes dazzled by conditions in the prosperous West are also no good. Those who distort the figures, derived from their experiments to serve their selfish ends are worse still. I might quote an instance using imaginary figures. A macadam road for a certain traffic lasts for only three years. An asphalt road lasts for eight years and a concrete road for 20 years. Taking the economics on the whole, the cost per year for an average of 30 years are say 3 : 2 : 1½. So far so good. But if an expert advises an asphalt road because it is cheaper than the macadam road he is only telling a half truth and hiding that with 30 years expenses averaged the concrete road is much cheaper. Why then restrict your experimental calculations to a few years only and not a longer period? The financial loss that has been suffered by the Government and Local Bodies by these half digested experiments and half told truths is very great. Naturally a policy followed by Government finds its followers among the Local Bodies, who

think that the system followed by the Government is the best system both financially and technically. I am afraid the subject has not been receiving the care and attention it ought to receive and the loss caused therefrom is very great. Probably the Government with its vast resources can afford to spend money on experiments which may fail, but the condition of the poor local bodies is very bad as they can afford to do such a work only once. Even in case of Government such a loss is not justified.

I may be excused if I might give some instances. The road from Nasik Road to Nasik Town, has a very heavy traffic and Government tried to carry out some experiments on that road. A portion was laid out as a concrete road and the Government report on this road was, I think, that concrete was a failure as a surfacing material. The report came before the Road Board, when I was a member, and I protested strongly that all the world over and in other parts of India too, concrete roads have been a success and if there was a failure in Nasik, it must be due to the incompetence or insincerity of the men in charge of this experiment. Any-way after my protest the whole thing was examined by a committee and a table was prepared showing the relative values of these road surfaces. In this table also, I think that the relative values of road surface efficiency have been only half told and a case almost made out for asphalt. I have written so much on this subject that I will not repeat my arguments on this head.

This surface is now renewed with a central strip of Asphalt and two side widths of concrete. This means that all the money spent on this road upto this time is wasted. How much is spent since the road was taken up for repairs so as to be fit for motor traffic and how long each experimental portion of surfacing has lasted would be interesting reading if a full report is published by the P.W.D.

My question now is, "Who is responsible for all this loss"?

Incidentally I might here mention that my criticism in all these matters was much deprecated and I was shunted out of the Road Board shortly after this.

A second instance may not be out of place. Road from Bandra to Andheri on the Bandra Ghodbunder Road was asphalted. Can the Government find out figures of money spent on the repairs of this road both current and special repairs, charging all the items to the work and say that their figures are in keeping with those given in their table showing the economy of asphalt roads? I am sure the figures would be far in excess of those estimated in this table.

A third instance, now of a Local Body. They asphalted at a cost of about Rs. 20,000/- a road from the Railway Station to the Grand Trunk Road going through the town. The asphalting lasted only 6 to 7 months, and the road was ruined to such an extent, that it was a misery to travel by that road. They are trying to asphalt it again now on more modern lines.

The question which I want to ask is this—who is responsible for the great waste of public funds in the case of Government administration when the men in charge are subject, knowingly or unknowingly, to certain

fads which are put in their heads by interested and selfish corporations and who claim to be authorities on the subject? Minor voices of protest have been drowned, and many millions of good Indian money, forced from the starving cultivators' pockets have been spent abroad to enrich the foreign capitalist manufacturers of asphalt and machinery and the so called foreign experts. Who is also responsible for the sums spent and wasted by the poor municipalities who try to ape the systems of the mighty Government and who fall a prey to the persistent propaganda of the interested capitalist corporations?

I am sorry I had to dilate on this preface to my subject proper, because I feel that unless I make my point of view clear, I will not be properly understood.

Turning now to the question of roads, these can be divided into two parts—

- (1) Roads in cities and towns,
- (2) Roads passing through villages and open country.

And we will deal with these.

(1) Roads in Cities & Towns

The one great important fact in these roads that requires consideration is the dust nuisance and its effects on the population and I suppose there can be no difference of opinion if I say that all precautions must be taken to prevent dust. I have written a separate paper on this subject and so I will only take my conclusions from that paper.

(a) In large cities where there are a great number of private cars, buses and lorries for transport of men and goods, all the roads must have dust proof surface. I would invariably propose concrete roads well designed. I would also say that asphalt is costly foreign luxury which should be discarded. But anyway, this question should be investigated by a good impartial and nationally minded inquiry committee. In these towns, footpaths, etc., must be provided, and people trained to confine themselves to the proper footpaths and after a sufficient interval of training, pedestrians using the road in preference to the footpaths should be prosecuted. The improper use of footpaths, by vendors, beggars etc. must be penalised.

(b) In small towns, where there are few or no private cars but there are a good number of bus services, and where there is no necessity of a transport service of heavy lorries, all heavy traffic must terminate outside the town limits, the private cars being allowed to use particular good roads in the town, with a rigorously enforced speed limit.

I am sure this will meet with the approval of all persons who have the interest and well being of India at their heart.

(2) Roads Passing through Villages and Open Country

Of these, roads passing through villages, if they are through roads, should be diverted so as to pass outside the village, having approaches on both sides to the village. When this is done, there is now only one problem, that of the roads passing through the open country.

Naturally, this is a great problem and we have to approach it from various standpoints—

- (i) Is the traffic so great that it justifies a costly road-surface?
- (ii) Even if we have a very heavy traffic are we justified in spending public money on this item to the extent demanded?

(3) Motor Traffic

In the film shown by Mr. Ormerod, we found the road in Germany having (a) footpath for pedestrians, (b) a track for cyclists, (c) one strip 50 feet in width to take the traffic going in one direction, with 25 feet reserved for vehicles going and 25 feet for vehicles overtaking and crossing, (d) a central hedge, (e) same as c, (f) same as b, and (g) same as (a) for traffic in the other direction. Now what is the intensity of traffic in this case? We see from the illustrations shown that when the cyclists gate is closed for a few minutes there are hundreds of cyclists waiting. The poor pedestrians do not come in the picture at all or probably in Germany there are no pedestrians, one car being distributed between 24 persons of the population. In India there are few cyclists using these country roads, hundreds of pedestrians of course, because we have one motor vehicle between 3,000 or 4,000 persons in the country as I will show later on as against 1 for 24 persons in Germany in 1933.

The registration number in 1933 when we are comparing the German figures was about 45,000 for this Province. (Nos. Z, Y, X and W 5,000). Of these, about 15,000 must be out of commission. So the total number of motor vehicles was nearly 30,000. I wish I could get correct statistics of the cars running in towns and running in the country. But, I can only guess that 80% of these will be running in the towns and cities and only 20% using the country roads habitually. So that the motor vehicles using country roads would be about 8,000 in 1933. Taking the present number at N 5,000, the total number registered from the advent of the car to this day is 65,000. Of these about 25,000 must have disappeared and about 40,000 must be in existence. Of this 20% would be only 8,000. So there is no underestimate if we say that not more than 10,000 motor vehicles are habitually using the country or rural roads to-day.

So now we must come to the conclusion that only 8,000 to 10,000 motor vehicles are using the road outside the towns. These can be divided into three classes—(i) Touring Cars. These are in almost all cases private cars and used by the rich alone. In this case we might be sure that in many instances they are used for personal pleasure only. Take the instance of a man who has to go from Bombay to Poona. There are fast trains provided, running at different hours of the day, which provide a means of travelling more comfortable and economical than those provided by a journey by car. Hence there is no justification for the use of a car for this journey, except for those who want to satisfy their own vanity in going by a car from Poona to Bombay. This is a national waste which should receive no encouragement from Government. (ii) Passenger Buses. These buses when they use the road for running services parallel to the Railway line have no justification for their existence. People can travel best by Railways. The Government of India are taking a serious view of this as their Railway

system is being disorganised for want of traffic. When there is a limited traffic, it is a national waste to have two parallel organisations for transport purposes. (iii) Motor Lorries for transport of goods. Except on feeder roads and on roads which are cross country, not served by Railways and not parallel to them, motor lorry transport is not a necessity. A system of motor lorry transport parallel to Railway is a sinful national waste. If the Railways are not efficient, make them so. If the cost of transport is costly, agitate to get it down to a proper level. Supposing the distance between two stations is 100 miles and the Railway overcharges by as much as two annas per maund. You send five hundred maunds per day by lorry service. The apparent gain is Rs. 62-8 per day to the consignee. But to have a road of heavy section fit for the heavy traffic and to maintain it efficiently would cost lakhs of rupees per year, including the interest, wear and tear in maintenance charges. Thus the State has to spend lakhs in order that the transport saving of Rs. 20,000 might be made to some people, the railway on which much capital has been spent running idle.

If we take the total number of motor vehicles in the Bombay Presidency as denoted by the Registered number at the end of 1936 for comparison with the numbers available from other countries the comparison would be interesting and instructive. The numbers at the end of 1936 were in the T series, or the total from 1900 to 1936 was 60,000. Taking 25,000 as out of running we have a total of 35,000 motor vehicles for Bombay. The figures of other countries are—

Country.	Motor Vehicles.	Per mile.	Per head of population.
Germany	2,427,000	11.2	1—27
France	2,605,000	6.4	1—16
England	2,758,000	15.4	1—17
Bombay Province	35,000		1—600

Motor Vehicles per 1,000 population 1936:—

Germany	37.0
Great Britain	54.9
France	62.1
U.S.A.	205.0
Bombay	1.55

As against this there are millions of carts all over in the country and during the last 20 years, at least, no one seems to have considered their difficulties except perhaps to think of putting restrictions on them. One great man thinks of forcing them to use motor tyres, another greater man wants to prevent them from using good roads and so on, and these great men have their followers among our own people, who find it convenient to believe in them and to support them. Has any one ever considered that an asphalt or concrete road in rural areas is a great inconvenience to carts and tongas because when the surface is even slightly wet the animals slip and injure their legs and knees? While going up a gradient, the bullocks cannot exert their strength because there is no friction between the hoof of the animal and the road-surface and the poor animals slip and fall. This makes the improved road unfit for the bullock cart and drives the transport business to the motor lorry. I do not know if any economist

would recommend this as a national economy. The transport of the cultivators products from his own home, to the nearest market place is best and cheapest done by a bullock cart. A lorry service for this purpose would upset all village economy and would entail an unnecessary expense on the cultivator.

Taking the financial side, the amount Germany has spent on these roads from 1934 to 1936 is £54,000,000 or roughly 70 crores of Rupees or five years total income of the Bombay Provincial Budget. The American scheme of new roads was colossal, about 100 years income from the Bombay Budget. Can we spend any money by way of loans and add to our taxation by way of interest and other charges on these loans simply for the sake of the few rich who want to go in their own cars from Bombay to Poona or from Bombay to Ahmedabad in preference to the Railway? As it is we are paying sufficiently for fads ingeniously foisted on us at the instigation of foreign manufacturers.

We have before us the history of the improvements to the road surface during the last 15 years in India. The men who framed and carried out all the schemes of road improvements outside the cities and towns were under the influence of petrol companies and their organisers and representatives who wanted to boom asphalt and did boom it. The Government Road Board contained vested interests, motor dealers, asphalt companies and transport associations, all of whom are interested in seeing the increase of sales of cars, accessories and petrol and had no concern for the interest of poor India and Indians. The officials were, I suppose, all dominated by British interests and influenced by the vested interests who dictate to them. A few men representing Indian interests were a sorry minority who would not get sometimes a seconder to their proposals. The contemptuous smiles on the faces of many of the superior beings representing the vested interests and their official supporters when one talked of India and Indian interests would intimidate many a less stout hearted champion of India. And this body settles the programme of the roads financed out of Petrol fund.

Besides, if petrol tax is received from petrol sold to motor vehicles plying, why should not the portion derived from petrol used by cars using road surfaces in Bombay City, not be given to Bombay Municipality? The appropriation of the whole fund by the Government in exclusion of Local Bodies is both iniquitous and unjust. The use that is made, is unjustifiable and simply at the dictation of the vested interests. Part of it is the poor man's money used for the benefit of the rich car owner. The growing present day tendency of hankering after greater speed is one of the factors that tend to create this demand of a very good and smooth road. These speed fiends want to go all out and at a speed of 50 to 60 miles, not caring for what happens to the other traffic. The history of Andheri-Versova Road is a case to the point. This road was in charge of the District Local Board. A demand was made for improving this road by a few motorists living in Versova and many going to Versova for holiday and week-end pleasures. I, as President of the District Local Board, told them that as all the money used for the repairs comes from the poor cultivator who is satisfied with his tonga journey, there is no justification in spending his money on a heavy section road. A toll was proposed but was vehemently opposed by the same vocal section of motorists. They approached the Automobile

Association and even the Government. But I had the same reply for all. I told them that the road is good for a car going 15 miles per hour and on a short journey of 4 miles, no appreciable saving in time can be effected by going 30 miles an hour.

The vocal section has now succeeded and Government have provincialised this road and are asphaltting it at a heavy cost. I do not know whether the expenditure is justified or not.

Thus we can see that there can be no case for the construction of heavy roads at very great cost in the rural areas.

But even supposing there is a case, are we justified in spending public money on this work? The tax-payer who feeds the Provincial Exchequer is the poor cultivator, half-starving and hard hit by the incidence of taxation. The village roads are most neglected and for years we have not been able to spend any money on these roads. The apathy was so great, that in one of the Road Board meetings, I moved that while taking a census of roads, a statistics of village roads might also be taken, but the superior majority in their zeal for provision of asphalted roads for motor car owners, threw out the proposition. We must spare what we can for village roads for the poor cartman to cart his goods. And as it is his money, he deserves a consideration.

I suppose it would be better if we consider the expenditure on roads for motor traffic not in the abstract but as a subject correlated with other Provincial subjects both from a financial and common-sense view.

The amount available for expenditure on works of public benefit in every Province is dependent on, and a certain portion of provincial revenues. This amount is to be spent on works such as education, water supply in villages, medical relief, sanitation and improvement to agriculture in rural areas which are the primary needs of the public and then on works such as roads which are no doubt very important from a cultural and material point of view. Roads no doubt would increase the value of the agricultural produce. But unless the cultivator gets a good water supply and efficient medical aid, he cannot keep his body in good trim and then he must have a good system of agriculture which can give him a tolerably good and abundant crop. So I call these things the primary needs. Then comes the other primary need of education which tries to elevate his mind and tries to make him fit as a member of the social and civic world and also fit to take his place as a member in the national and political life of India. I am only speaking of the rural population, because the urban population have their own municipal administrations which in some way cater for their needs. The man who contributes the greatest amount to the Provincial Exchequer is the cultivator and upto this time his case has gone by default. What use would a good motor road be to a cultivator who has no sufficient crop to suffice for his family needs? What has he to gain by the cheap transport of his crop which is only 50% of what his land would have yielded provided he had the help of Government in advising him a better commodity to grow in his land and in a better method of cultivation? What use would it be if after taking the crop to a market in a motor lorry speedily without loss of time (time has not much value in the case of weekly markets which most of the cultivators have to visit) the dealers

take advantage of the ignorance and swindle him in rate, in the measures or weights and also in the accounts? So then the total amount of money available has got to be rationed out among the city and town areas according to their needs and also among the rural areas according to their needs, bearing in mind the fact that the poor rural area man is helpless and has solely to depend on the efforts of others. The city man has an initiative of his own, some resources of his own, to draw upon and can express his grievances in a way which makes them effective.

There must therefore be some sort of proportion in the amounts to be spent on each of these heads and the amount to be spent on roads must be determined from this calculation. The demand of the motor owners and importers to make more money available for the roads must be taken at its real value and the money made available must not cripple the provisions of other items. It is argued that money can be spent by loans raised by the Provincial Governments. There can be no objection to this provided however that the interest charges on these items are borne from the petrol tax and not from the ordinary revenue. There has been enough burden on the ordinary revenue from Bombay Development bungle.

I will here have a word to say about the principle underlying the expenditure on roads from the petrol fund and the possible relations between the amounts spent from the provincial revenues and local bodies budgets. The present condition is such that these three are watertight compartments. The petrol fund is spent, very largely, on provincial roads, in providing drains, bridges and in improving the surfaces of roads which are generally inter-provincial roads. The P.W.D. grants are spent on provincial road repairs and the local bodies grants on repairs to roads within their areas. The last two are not even sufficient for the current repairs under the present scheme of unrestricted motor bus services and competition. Thus in this scheme there is no place for village roads. Taking instances, fifty lakhs of rupees, say, are spent on improving the surface, grades, nala-crossings and alignment in places of the Bombay-Poona Road, making it better and more convenient for the pleasure of motor car owners and for the speed fiends. What use is this road as an access for the poor cultivator from his own village to the outside world and to civilisation unless all the villages have good village roads to join on to the Bombay-Poona Road? Will those who criticise this road programme as a programme by capitalists, carried out by a Capitalist Board for the capitalist car owner be far from wrong? The indirect effect, as I have said above, is to drive the transport work from the indigenous cart to the capitalist lorry owner and driver. The same may be, and is, the objection of the common people to the Bombay-Ahmedabad Road. We of course should not forget that these roads are a means of inter-provincial communication and advance guards of increase of civilisation. But one part of the country highly developed with no corresponding development in the village will tend to keep the masses in a lower stage of material progress for ages to come. There must be at all times some sort of a reasonable proportion between the amounts spent on all these items, if civilisation is to have a steady increasing hold over people.

This then is our case of motor transport and roads. Germany, with a census of 2,400,000 motor cars, in 1936 when we had only 30,000 plying on

all our roads in Bombay province, or having a fleet of cars one hundred times of what the province of Bombay could boast of in 1933, can afford to contemplate and carry out a programme of roads of a heavy section. Germany has very great manufacturing centres. It has its own factories producing motor cars. Every car we buy, every pie we spend on oil and petrol and on all accessories is sent to a foreign country. Germany has an average income of 600 or 700 rupees per year per man as compared to a poor Rs. 26/- per head per year in India. But with all that if the German has to spend a pfenig out of that income on foreign materials he will rather go without it, whereas most of our programmes are ear-marked for spending on foreign manufactures.

I can assure Mr. Ormerod, that when we can manufacture our own cars and possess millions of them we will have hundreds of thousands of miles of roads of a section heavier and better than the German section. Then we will have our own designs, utilising our products only and giving relief and benefit to our population. Any present programme will be for the benefit of the foreign manufacturers of cars and materials of construction, and for the benefit of the capitalists owning and using a car in preference to a train. That time is yet to come and when it comes we will be prepared for it.

In conclusion, I have to request those in the charge of roads not to be carried away by the selfish propaganda of the foreign capitalists manufacturers of motor cars and asphalt and to waste the money of the starving Indian peasant on the costly luxury of motor roads till such time as there is a need for such roads and till we can spare money for such roads from our other nation-building works.

I congratulate the new Bombay Government on their investigation of the problem of village roads and on the funds they have made available for this work during the last year. This will remove some of the disparity between the amounts spent on the two items under discussion. I have to request the Government not to be carried away by the arguments of interested parties who are used to carrying out a great propaganda to serve their own ends.

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CONCRETE AND ASPHALT ROADS

By S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E. (Bom.)

A VERY misleading propaganda is being carried on in favour of asphalt roads with the result that crores of rupees are being spent on that form of road surface which is *uneconomical*.

As the money—almost the whole of it—comes in some form or other from the pockets of India's starving public either as central, provincial or local bodies' taxation, very vigorous and concerted efforts must be made to counteract this misuse of funds. A great portion of this money goes out of our country. The drain is increasing every year. I am however confining my remarks here only to the economics of road making.

I therefore propose to give a very short summary of the reasons in favour of the more *economical* kind of road construction, viz., cement roads.

Any road surface is made up of two ingredients :—

(1) That material which goes to make up the wearing surface of roads. It consists, in all road surfaces, of pieces of stones called road metal. This, if used by itself on a road surface technically has no power of cohesion and hence would be dislocated by traffic immediately. For every 100 cubic feet of road surface we require 100 cubic feet of this metal including voids.

(2) Some binding or cementing material which helps to keep the road metal in position. For every 100 cubic feet of road metal we require generally 50 cubic feet of this binding material.

As regards ingredient number one—For all important roads in any part of the country, considerations about cost are governed by the common factor that any stone easily available in the locality can be used. Therefore the cost of this road metal is nearly the same in all forms of road surface, except that for concrete roads it is more selected and hence a little more costly.

As regards ingredient number two—This is *mainly* of three kinds:—

- (a) Ordinary earth, murum, etc., in common roads ;
- (b) Asphalt or substances of the same kind, in asphalt roads ;
- (c) Cement, in cement roads.

(a) The ordinary earth or murum as a cementing material is easily reduced to dust by passing vehicles and is blown away by the wind or pumped out and blown by motor traffic causing what is called dust

nuisance. It is thus a very transitory and unsatisfactory binding material for heavy traffic and fast traffic.

(b) Asphalt or kindred substances. These when heated can be forced in the interspaces of stone metal in liquid or semi-liquid state. These can bind the road metal together, prevent dust and are resilient when subjected to impact of passing wheels as long as they are solid. They are affected by heat and become viscous or semi-liquid in heat and therefore *can be forced out of the interspaces* by passing traffic and can be removed in this condition when they stick to wheels, hoofs of animals and feet of men travelling by the road. The mixture between the asphalt and the road metal is *purely a mechanical mixture*.

This road crust has no strength of its own to withstand pressure of traffic, but acts as a resilient soft and smooth cushion between the foundations of the road and the traffic. Constant softness in heat tends to produce a wavy corrugated surface which is very uncomfortable for traffic. So then the greatest defect of this surface is that it presupposes a very good and strong foundation unyielding to the traffic passing over it and hence when comparing the cost, the whole cost including the foundation has got to be considered.

When the asphalt in this semi-plastic condition is subjected to constant traffic great smoothness of the surface is produced in the road surface and this is very bad for the animals. I have seen horses slipping and falling on the Bombay roads and loaded bullock carts finding it impossible to go up even a flat gradient when the surface is moist. The bullocks fall down and damage their feet and knees. The carting traffic is therefore necessarily driven to the motor lorry from the ordinary bullock cart, and this disturbs all the economic equilibrium of rural India. So then *unless and until you are prepared to stop all animal driven traffic* asphalt is not worth considering.

(c) When cement is used as the cementing materials, as its name indicates the very function it has to achieve, you may be sure the material is ideal for this use. Once it is well made and cured ready for use it attains a hardness and compactness which it always maintains. The process of formation of the road is a *chemical* process and the whole road is a monolithic structure of an equal hardness in the metal and the cementing material, so that every part can be calculated and designed to a nicety. Temperature does not affect its structure once it is set and cured, during rains contact with water does not harm it all. There is no need for elaborate foundation, because the road is designed to carry the load by itself.

The surface maintains the smoothness or roughness once given to it and hence when once the road is made slightly rough during construction, the draft animals have no difficulty in using the road under all conditions of heat and moisture.

The greatest advantage of the cement road is that all the materials required are available or manufactured in this country and therefore fully Swadeshi. The road therefore has everything to recommend for its construction.

The only thing to consider in the cement concrete road is its first cost which is rather high compared with other forms of roads. But it is much more lasting and the cost of annual maintenance is very little so that if we calculate the total cost and maintenance charges, the cost at the end of 12 years is cheaper for the cement road than for any other kind of road. The following table gives the comparative costs at the end of 12 years, for 100 square feet of road surface :—

(From *Cement Concrete Handbook*).

Cement Concrete 9"—6"—9"	Rs. 53-12
6"—4"—6"	Rs. 37- 6
3" Bituminous Grouted wearing surface with seal coat	Rs. 64-12
2" Asphalt Concrete	Rs. 65- 8
Water bound macadam	Rs. 66- 1

The costs were calculated by the Associated Cement Companies in 1937 with cement costing Rs. 2-10 per bag. Now that the bag is at about Re. 1-12 with a certain rebate for road use, the cost is much cheaper as the costliest item in the road surface is cement concrete.

At the end of 12 years the whole life of the asphalt road would be almost run out and the cost of the renewal of the top crust is comparatively great, whereas the concrete road has at least 20 years of good and useful life and even after that the old concrete base serves as a very good foundation.

The superiority of concrete roads can best be judged from the fact that most of the important countries, including the United States of America which is the most important asphalt producing country, have a programme of concrete roads. One fails to understand why poor India should be forced into a programme of asphalt roads.

The total mileage of all kinds of roads, pukka roads and lengths of asphalted and concrete roads in different provinces of this country compiled by the Government of India to the end of 1935 would be interesting and would show the truth of the statement I have made about the pernicious propaganda in favour of asphalt.

Extra Municipal Motorable Roads in India

Province.	Mileage of Roads of all kinds.			Mileage of waterbound macadam Roads.			Mileage surfaced with asphalt and allied substances.			Mileage of Concrete surfaced Road.		
	P.W.D.	Local.	Total.	P.W.D.	Local.	Total.	P.W.D.	Local.	Total.	P.W.D.	Local.	Total.
Madras ...	1,398	30,524	31,922	846	20,348	21,195	16	22	38	—	7	7
Bombay ...	7,728	19,404	27,132	6,533	4,691	11,224	91	416	507	5	16	21
Bengal ...	1,121	18,784	19,905	448	2,722	3,210	451	169	620	9	14	23
United Provinces ...	3,051	14,032	17,083	3,618	4,520	7,138	390	2	392	21	—	21
Punjab ...	4,008	6,371	10,379	221	926	1,247	2,430	300	2,730	—	—	—
Behar & Orissa ...	1,668	18,396	20,064	1,226	3,173	4,389	200	35	235	—	—	—
Central Provinces ...	7,147	2,452	9,599	4,765	837	5,652	111	—	111	—	—	—
Assam ...	2,238	3,598	5,836	400	272	672	184	7	191	1	—	1
N. W. Frontier ...	1,726	497	2,223	731	1	732	208	33	241	—	—	—
Delhi ...	124	6	130	18	—	18	105	—	105	1	—	1
Coorg ...	324	59	383	236	7	243	25	—	25	—	—	—
Baluchistan ...	1,961	683	2,644	93	12	105	90	33	123	—	—	—
Ajmere-Merwara ...	325	—	325	174	—	174	65	—	65	—	—	—
N. W. F. Agency ...	1,079	43	1,122	75	—	75	271	28	289	—	—	—
Total British India...	33,899	1,14,849	1,48,748	18,001	37,519	55,599	5,149	1,013	6,162	37	37	74

Thus we see that in extra municipal roads in British India at the end of March 1935, out of a total of 6,236 dustproof road surface only 74 miles were concrete road, thus giving a percentage of less than 1.2% of the total modern surface. In municipalities who generally play to the tune of their master's voice, the percentage must have been still less. So one can imagine the pernicious effect of the propaganda.

To recapitulate and conclude :—

The only possible economic form of road construction for a dust-proof road is a concrete road.

(1) It is a monolithic construction which can withstand the load it is expected to bear without any outside help because *it is designed to bear such loads*.

(2) It has uniform hardness in all its parts and can therefore have uniform wear and tear on all its surface. Hence there are no ruts, no pot-holes, no soft parts.

(3) Owing to its quality mentioned above it requires very little or almost no expense on maintenance and thus obviates heavy recurring expenditure.

(4) It maintains the same hardness and a uniform strength at the variations of temperature usual in this country and hence cannot distort and take up a corrugated surface.

(5) It is cheaper in the end even when calculated for a short period of 10 or 12 years and very much cheaper if calculated for longer periods.

(6) All the materials needed are purely indigenous and hence it is the road which encourages the economic development of India.

(7) *Vice versa* also any money spent on asphalt roads is money from the pockets of Indian tax-payers spent on foreign products and therefore ill-spent and wasted.

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WATER SUPPLY

By S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E. (Bom.)

PART II CONTAMINATION

CHAPTER I

CONTAMINATION OF WATER SUPPLY

This is a very important point on which the well-being of the public using any water supply is dependent and which, therefore, has got to be considered in all its aspects. We have given in another part of this book a classified list of impurities and also the methods of removing impurities. We now want to study how to prevent the contamination of the sources of water and also trace what contamination water is subjected to from the source to the place it is actually used by the consumer. The dangers of using impure water are very great. A good many of the water-borne diseases are bad enough, e.g., guinea worm (*वाह*), diseases of the intestines due to bad water, but some are dangerous and must be prevented at all cost as they are likely to spread in the form of epidemics, such as typhoid and cholera, causing attacks to hundreds and thousands and death to a considerable percentage of the total attacks.

The contamination naturally divides into the following sub-heads among others :—

(A) Contamination of water before purification :—

- (1) Contamination while water is passing through air and soil and over the surface of the earth ;
- (2) Contamination of stores of water ;
- (3) Contamination of running water in rivers and streams ;
- (4) Contamination of the water during its passage through channels, ducts and pipes.

(B) Contamination of water after purification :—

- (5) Contamination in service reservoir ;
- (6) Contamination during the passage through pipes laid for distribution ;

- (7) Contamination after it reaches the consumer
- (a) in his storage tank,
 - (b) in his own house.

We will now take each of these separately.

(1) Contamination While Water is Passing Through Air and Soil and Over the Surface of the Earth

We have seen that water having a very great solvent action during its passage through air takes up

- (i) many of the gases in the atmosphere in solution ;
 - (ii) the impurities floating in the atmosphere including particles of organic and inorganic matter.
- (i) The gases in solution tend to make the water in many cases charged with alkalies and acids and though in itself the solution *may* be too dilute to affect the human system by itself, still when it comes in contact with organic or inorganic substances in the soil through which or over which it passes, increase the solvent action of water, so that if pure water would have dissolved only a small percentage of the salts in the soils, the alkaline or acid water dissolves a greater proportion. In some cases we find that when pure water cannot dissolve some of the salts, the alkaline or acid water can dissolve them to some extent. Take for instance water charged with carbon dioxide flowing over chalky soil. The water itself is not able to dissolve the chalky soil but when charged with the CO₂ gets the power of dissolving chalk and making the water charged with calcium salts. These salts do not contaminate the water but tend to make it hard. The water obtained from the rain during the first few showers after a dry spell of weather or after a continued break for a long time is necessarily as described above, but with a continuous rain after sufficient time has been allowed for the first few showers to absorb all the impurities, the rain water is probably the purest form of water till it reaches the ground and I have seen some municipalities collecting this water on roofs of buildings and using it as distilled water.

(ii) As regards the suspended matter which is found in the air and which is carried by rain water in the form of suspended impurities, those which are organic owing to the pulverised particles of organic matter are really harmful in many ways and such water when stored might be a very good breeding place for many germs of disease. The inorganic dust washed in by the rain water though not so harmful as above is still bad. The atmosphere is cleared of these impurities during the first few showers and the rain water after these showers is nearly pure in this respect.

But the great difference between these two kinds of impurities brought in by water during its passage through air is that whereas in the case of gases the subsequent passage of water, through or over soil, tries to charge the water with different sorts of dissolved impurities during the passage of water, the second sort of impurities are intercepted by the soil by the straining action of the particles of soil, and the water loses part of or all the impurities, though the water takes up new impurities in the soil as noted below.

The amount of impurities and dust taken up by the water would naturally depend on the quantity of such impurities present in the air at the time when rain is falling. The air in a congested town or city being full of all sorts of impurities, the rain water collected in such a place would be full of all impurities, including dust, smoke particles, bacteria or germs floating with the dust in the air. In a manufacturing town all the waste products of the manufacture that can find their way to the air will be present in the water. Thus the water obtained from the first showers in the towns would be filthy and impure enough to be almost unfit for any human use. In some old towns the water collected in the special cisterns from rain is used for domestic supply for months afterwards and such water is bound to be bad.

After having absorbed all the impurities as described above, water comes in contact with the earth. It is then divided into two portions—the one that sinks in the soil and comes up again as springs or well water, and the other that flows over the surface and joins the streams and rivers to be utilised as flowing or stored water for human use. That which evaporates is lost for use for the time being.

The portion that filters through the soil and comes out as spring or well water, undergoes many changes depending upon the nature and composition of soil through which it passes. The alkaline and acid impurities are used in developing the chemical action of water on the ingredients of the soil. All those materials which are affected by these alkaline or acid solutions are dissolved in water and give many salts in solution, many of them tending to make the water hard water, a few of them harmful such as salts of antimony, lead, mercury, tin, zinc, arsenic copper or cyanide. But fortunately in most parts of our country, these salts are not found in the soil. As regards the impurities in suspension, some of them are retained by the soil depending upon the filtering character of the soil.

But the greatest danger of contamination of this water lies in the surface crust of the soil. This is made up of alumina, sand with a good percentage of organic matter. This organic matter is composed of animal and vegetable products. Animals drop all their refuse such as excreta, etc.,

on the ground, and some dead animals large and small are left lying on the ground and some of the putrid and putrefying products of this matter are always found in the crust of the earth in all stages of decomposition. Vegetable matter such as leaves, barks, roots and flowers falling on the ground, is also found in all stages of decomposition in the surface crust. Many towns and villages have got their dung heap, dumping grounds of kachra and night-soil, through which water has to pass on its way to the well or spring.

The result is that water filtering through soil takes up all these impurities and is very harmful in its character for human use. But the danger is much greater when such water is stored in wells and tanks about which we will deal later on when thinking of such stores. These stores are very good breeding grounds or culture beds for the bacteria of some diseases.

When however water passes through the lower layers of earth, these layers have got more or less greater hardness and compactness and are able to filter the water better and purify it to some extent as described under filters. The lower layers besides are not so full of the animal and vegetable products, because most of the bad and putrefying substances are washed out year after year by rains and the products now left in the lower strata of the soil are more or less inorganic in nature, almost fossilified by age and pressure of each super-incumbent layer. There is no danger of the water getting any new organic contamination, though the danger of getting more and more inorganic salts in solution is greater. That is the difference between the shallow wells and deep wells as we have discussed in a previous part of the book.

Now coming to that part of water which flows over the surface and joins the streams and rivers or what is called the surface water, we find that this water becomes more and more impure during its flow. All the impurities the water absorbs during its journey through the air are still there when it comes in contact with the soil. The only probable change would be that all these alkalies and acids formed during the journey through the air which are of an unstable nature are lost and some of the alkalies and acids do act on the organic and inorganic matter of the surface during the fast flow over the surface. But taking into consideration the vast amount of organic matter at the surface and the meagre percentage of the alkalies and acids in the rain water, the effect of acids and alkalies is very inappreciable.

The impurities of the organic animal and vegetable matter form a very great proportion of the surface, and water flowing over the surface

carries many of them away with it as they are lighter than the mineral portions of the crust and tend to rise to the surface of the flowing water. The velocity of the water at the top being greater than at the bottom, they are easily carried away. Thus we see that the first flood over the surface contains very bad water and in many reservoirs this is allowed to escape by means of gates opened during monsoons or over the waste weirs which take away the surface waters. It is for this reason also that in many catchment areas of town water supplies, human habitations and cultivated fields are not allowed. Municipalities like Bombay acquire large tracts of villages like Khardi. In one State the authorities acquired lands of rice cultivation in the catchment area as the rice cultivation adds to the vegetable impurities and manures such as fish manures are used for rice cultivation and are harmful if they find access to a store of water.

CHAPTER 2

(2) Contamination of Store of Water

We will consider the water after its passage through the air and over or through the surface of the soil. The impurities it has absorbed are all there and we will see what effect the storing has on these impurities.

The alkaline and acid character of the water is still there, though in a less degree as the unstable alkalies and acids get broken up in water and gases of which the latter escape again into the air. The dissolved impurities once they come in the store are still there. They exist in a diluted form when there is a large quantity of water in the well after additional rain, but exist in a concentrated form when there is no new recoupment of the water but on the other hand, so much water is lost by evaporation at the surface of the well or store. This is one of the reasons why wells become more and more brackish with the approach of and during the hot season. The suspended impurities of inorganic nature are allowed to settle slowly to the bottom, causing a silting up of the bed. But this is only a nuisance from an engineering point of view as it diminishes the storage capacity and reduces the water available. Large reservoirs have steadily silted up and the storage capacity and water available have been reduced to such an extent as to reduce their storage value very considerably. Thus we see the vast reservoir near Gokak almost all silted up. But this is not an evil as far as contamination is concerned, as it does not affect contamination at all except in a very minor way.

But the most important from a contamination point of view are the organic impurities which are not heavy enough to sink to the bottom and

which generally float at or below the surface. These generally go on putrefying more and more in contact with the water which is necessary to hasten their putrefying action. Some of them which were dormant in this respect all through the summer start putrefying in the stores of water when washed in there during rains. The exact chemical changes that take place during the putrefaction are many and varied and known only to expert chemists. The water is bad enough for the use of men for domestic purposes if the organic impurities are present on a large scale. But the greatest danger is that such a water is the sure and fast breeding ground or culture bed for germs or bacteria of diseases such as typhoid and cholera which visit us in an epidemic from time to time. Guinea-worm found in step wells thrives under such conditions of inorganic impurities.

But nature provides some very strong purifiers for these impurities. The oxygen of the air has a very considerable effect on these organic impurities and on the germs and purifies the water to some extent by its action. The sun's rays also have some effect and purify the water to some extent. One effect however of the sun's rays is to facilitate the growth of some minute vegetable fungi which would never have been there if the light had no access to the water.

These two purifying agents can only be useful in all those cases where the surface of water is exposed to them. Taking the case of a deep well the diameter being small, and the layers of air below the ground surface being generally left undisturbed except to a small depth near the top, the action of the purifying effect of the air is generally very little. Besides, the air that settles down to the top of the water is generally heavier and consequently more impure air, and in case of wells more than 20 or 25 ft. deep, the action of the purifying effect of air is almost nil and the water comes in contact only with the more impure strata of the air which imparts its impurities to the water. As regards sun's rays, in the case of deep wells which are necessarily of a small internal diameter, the rays reach the water for a few minutes at noon and their result also is nearly nil.

In the case of large expanse of water stored in village tanks, reservoirs, etc., both these purifying agents have their action and tend to purify the water in their own way. But the evaporation of water is very great and more than counteracts the effects of the purification. The quantity of water wherein these impurities have to mix becoming less and less every day, the percentage of impurities per litre or cubic foot becomes more and more, ending in a horrible condition when there is very little water in the shallow village tanks. It is at such times worse than the sewage effluent of towns.

Now coming to the impurities which are added to such stores of water after they are stored, we find that those impurities which float in the air and settle down on all surfaces every second and minute of time all the year round are also deposited on the surface of the water. If we have a table in a house exposed for a day or two, a small layer of dust is deposited on the surface and the layer is thicker the longer the surface is undisturbed. All this layer of dust is deposited on the surfaces of water and absorbed therein, minute after minute, day after day, and the amount of impurities thus absorbed depends upon the nature and amount of dust thus deposited.

Next we have the impurities and actual contamination of water by the agency of birds, animals and trees, which go on dropping their impurities such as excreta, feathers, in the case of living animals, and leaves, roots, bark, flowers, fruits, etc., in the case of trees. We find many trees on the wells, and these trees give home and asylum to birds and animals and all the droppings of the living animals and also the trees go on making the water impure. During their flights, birds drop their excreta, feathers, etc., and in some cases the well itself forms the home of some small birds and animals and the dead animals drop in the well making the water very much worse and unfit for human use. As regards the large expanses of water the addition of these impurities is very common, and we find large groves of trees on the boundary of such reservoirs of water, with the effect that the amount of impurities added is very great.

The next class of impurities are those added by the contact of the stored water with the men and animals using the stores of water. In the case of these stores to which men and animals get direct access, they dip their feet, hands and others of the body in the water. The men wash their bodies, clothes, pots, buffaloes, cows and other animals in the water making it extremely impure and presenting all the germs and impurities on the bodies coming in contact with the water, to the water. Where the men and animals have no actual contact with the water and water is drawn by means of pots, the ropes for drawing water and the pots used indiscriminately from the household store, also impart the impurities and contamination to the well, and they are communicated to the other users. Take the case of a house having a typhoid or cholera patient in the house. The whole household stock of pots is subjected to the contagion from the patient as there is no idea of segregation of the things actually required for the patient or of disinfecting those to be used for drawing water from the well. The rope is thrown after use in the verandah where it can take up all the germs that are found there. The result being that with one patient in the village, the well water is affected

and polluted and the spread of the disease is very fast. The fast spread of typhoid and cholera in villages and from one village to another can partly be traced to these agencies.

The last and worst source of pollution of wells and other stores of water is from the surface or subterranean flow of waste and drainage waters to these stores. Taking the case of a well, unless and until the masonry steining or wall is carried to the hard impervious strata (presuming of course the well draws its water below such impervious strata) and unless and until the masonry steining itself is watertight all water that falls or that is spilled by the side of the well, and such water is plentiful, will find its way to the well water. The drains from the nearest houses will send their contingent of pollution to the well by filtration of this water to the well. In one important town, depending on well water, I saw an open *nala* taking away the drainage water from a congested part, through another congested part. The public draw their supply of water from private wells which are technically shallow wells, not reaching the impervious strata on both sides of this *nala*. The result is an annual visitation of cholera with its appalling death-rate and of typhoid with its slow but sure and horrible tortures. This town has no business to use the well water but must have a scheme of public water supply controlled by the municipality. And to crown all this, this open drain and also the drainage of the populous Railway colony is let off in a large river (considered sacred) about a mile upstream from a causeway used as an important road where the people bathe, wash clothes, wash animals, and where the cartmen, coming from distances, water their animals and in the noon on their way to the market, sit down for their midday meal and drink the water. I think such colossal ignorance of the poor and uneducated and indifference of the rich and educated at the helm of civic affairs can only be found in India. Probably, however, the financial aspect has got to be considered and will go a long way in mitigating the blame.

The advisability of the flow of such water to an open reservoir need not be discussed because what we have said of the shallow wells applies to such reservoirs with a greater force.

There are many sources of possible contamination under the circumstances usually associated with superficial or shallow wells, e.g., ordinary impurities of the soils of towns, leaking drains, cess-pools, middens, neglected basket privies, manure heaps of stables, pig sties, burial grounds and decaying vegetable and animal matter. The habit of performing personal ablutions and cleaning garments at the mouth of insufficiently protected wells is also a source of risk.

CHAPTER 3

(3) Contamination of Water Running from Rivers, Springs, Tanks and Reservoirs

These sources of water supply must be very carefully guarded against pollution. Nobody must be allowed to wash, clean pots, wash cattle, etc., in these supplies and people must be given facilities for taking water from these sources. Ghats are provided in many places. The water of rivers and streams being running water can carry any pollution that it gets to long distances and the contamination will be carried from village to village or town to town and affect large number of people. As against this there is the tendency of natural purification by the aeration of the water during its flow and by the action of sunlight on the water. The greatest danger of contamination is at the time when the stream is very low during the summer. In many cases the drainage of the towns and villages is discharged in these rivers and the water is made unfit for miles down stream. This problem of rivers pollution was investigated in England by the Rivers Pollution Commission, which has given a very valuable report. But conditions in England and in India are different and what holds good in England would not hold good in India. Because, whereas they have rainfall all the year round in England and therefore the volume of water flowing in the rivers during the highest flood and that flowing during the time when the flow is at its lowest, do not vary so much as in India. If the proportion is 5 to 1 in England it may be 10,000 to 1 in India. So that if the pollution is extremely diluted at one time it is very much concentrated in another. I would advocate such an investigation in India, and in various localities in India where the rainfall ranges from a few inches a year to hundreds of inches a year and where the rainy season extends from a few days in the year to about 5 or 6 months in the year. In the interest of hundreds of millions of people concerned, the expense on this investigation would be well deserved. Many large towns and cities have their water supplies on these rivers and hence the problem is very important.

In rural areas, Local Boards have got special powers to deal with contamination of water supplies, whether they are private or public. Sections 54 to 58 of the Local Boards Act give powers to the President of the District Local Board to prosecute anyone who pollutes a water supply. But these powers only appear in the Act and are rarely exercised, if at all.

The danger is not so apparent in the case of rivers which carry large volumes of water but it must be understood that it is still there and that

these rivers are the carriers of diseases. The cholera that prevailed at Pandharpur during the Ekadeshi fairs (Pandharpur has now a good drinking water supply) is a good illustration of this. But apart from actual pollution by such cholera germs it must be admitted that our habits in this respect are very dirty and repulsive. My brother Hindus will excuse me when I say that our religious ideas need a thorough revision in the matter of the disposal of ashes and bones and cremated persons, the cremation of corpses and bathing. I observed at Cawnpore dead bodies being cremated upstream from the bathing ghat, and half burned sticks of wood were floating from the funeral pile to where the people were taking bath, to wash off all the sins of the lifetime! I have read that half burned human remains are seen floating in such places and in spite of the religious sacredness of the Ganges, I would have utter distaste and repulsion even to bathe in such water, what to say of putting it in my mouth for drinking. At Pravara Sangam in the Ahmednagar District, I had once to drink water flowing over a layer of human bones and ashes and I preferred to be without food and water. Is it not necessary for Hindus to reform in this matter and for legislation to stop all this? However much it may be supposed to be meritorious for the souls of the departed few, to the surviving many, it is unsanitary and dangerous and as such it has got to be stopped particularly as all great rivers of India provide the only available water supply to hundreds of millions of people in India. Would not public-minded councillors and honourable members induce Government to legislate against the pollution of reservoirs, rivers and other water supplies?

In the case of rivers separate zones should be marked out for different purposes along the banks of the river. The first zone should be for taking away water required for domestic use. The second zone downstream from the first, for water required for washing clothes, etc. The third for bathing and the fourth for watering cattle. Ghats should be provided in each case so that the public using the water may not raise all the mud in the water by wading in the river with a muddy bed.

CHAPTER 4

(4) Contamination of Water during its Passage through Channels, Ducts and Pipes

Having thus considered the contamination of water in the sources of water supply such as wells, springs, reservoirs, village tanks, streams and rivers, we have now got to consider the contamination that is possible during the conveyance of water from the source to the purifying plant which we presume to be located as near the service reservoir as possible,

so that the purified water may have as few chances of contamination as possible.

This question is not so important in cases where the public water supply is purified by the purification works as described in the book. But this being a costly item for the installation of the purifying works and also for the recurring charges of the plant, none but the larger towns can undertake such works.

But in many parts of the Province where there are irrigation systems, the canals flowing through or near large villages are the sources of water supply of the large and small villages and the water of the canal is the only source of supply to many people. And hence a study of the contamination of such water is important from the point of view of the villagers and the rural units of Local Self-Government such as Village Panchayats.

The water of these channels is drawn from the reservoirs which are generally very large and far out in the country and hence there are fewer impurities in this water. Again the volume of water being very large, the dilution of the impurities is very great and we expect to find fewer impurities in the water when it is being drawn in the channel, and the water is fit for human use. But once it starts its journey in the channel, the impurities start accumulating in the water. In the first place the channels being shallow and the velocity of water being very sluggish, weeds are formed in many of these channels and the rotting of weeds in and out of water contributes a large amount of vegetable organic matter which makes the water bad. Then comes the improper use of these channels. They are used for washing hands and feet, washing clothes, bathing, cleaning vessels, watering animals, washing animals, washing and cleaning vegetable and other garden and field produce to be taken to the market, I have seen them being used as dumping places of kachra and filth. The dust raised by the passing carts, cars, animal on roads nearby is deposited in the water by the wind. The water in or near villages is really bad. Add to this the two very great factors which go to make the life near a canal village unbearable. One is the formation of the permanent pools of water in all low-lying areas thus giving good breeding ground for mosquitoes and causing a lot of malaria and secondly the use of manures for the irrigated fields which when they decompose during the process of being useful for the crops give out awful stench and breed a host of ordinary and extraordinary flies which make the propagation of diseases very easy when they settle in swarms

on the foods and drinks of the people. The result is that the vitality of the people in these canal villages is very low and the impure and contaminated water acts in a detrimental way on them and we find the general health of the people very bad. It would be possible for the Village Panchayats to have wells in suitable places where the water can filter through a sufficient width of land and thus remove many of the impurities and contamination, and keep a control on the wells and add germicides and disinfectants from time to time. But the funds at the disposal of such Panchayats are not enough even to contemplate of such a scheme of capital cost and recurring charges. Even supposing such a scheme is made and pure water is available the public will not use it as they get the flowing water in the channel without any effort and they have simply to go to the bank of the canal and do what they like whereas in the case of wells they would have to exert in drawing water from the wells. Besides even though in theory the public wells are open to all people alike, the social ostracism on the so-called lower grades of men is so great that they dare not take water at the wells and are forced to take water at the lower end of the canal after it passes through the village and carries with it all the filth, impurities and contamination.

Thus the water supply carried by channels is in a condition which is very bad and generally unfit for human use. In case of streams supplying the same amount of flow, the velocity of water and the flow through and over sandy bed purifies the water at least partially.

In modern science when these channels are done away with and the various kinds of pipes are used for town and city water supplies, all these sources of impurities and pollution disappear and water is supplied at the end of the pipe in almost the same condition of purity or impurity as when it entered the pipe, except in so far as regards some germs which may have entered have some time to multiply, and except also for the addition of some salts of iron due to rusting and incrustation of the materials of the pipe when it comes in contact with the water. But these additions are generally a negligible quantity. That is why water conveyed in pipes is better than that conveyed in channels or ducts. Some of the authorities instal their purification works so that all water entering the purification works, however impure it may be, is then purified, and if the standard of purification is high, we get good and pure water coming out of the works.

We will now see if there are any impurities or contamination in the next stages of supply till and after the water is supplied to the population.

CHAPTER 5

(B) CONTAMINATION OF WATER AFTER PURIFICATION

(5) Contamination in Service Reservoir

The addition of impurities or contamination in the service reservoir is not much and can be avoided by care of the reservoir.

In many places the service reservoirs are open and situated within a convenient reach of the public and they do not hesitate to use it like one of the town cisterns. It may not be possible for the municipal authorities to exert a control and prevent contamination of water. And then all the contamination coming in from human access as described in many cases above described, will come in the reservoir, the only pity being that the expenditure on purification is lost. Open reservoirs also are liable to get all the contamination from birds, animals, leaves and roots of trees.

The best solution is to have a closed reservoir as is done in many cities and also to have a strict control over the same.

CHAPTER 6

(6) Contamination During Passage Through Pipes Laid for Distribution

Theoretically speaking, from the service reservoir to the consumer's pot, water ought not to have any contamination. In those cases where there is a good drainage and consequently where the sub-soil is not super-charged with the sullage water, where the pressure of water in a pipe is good, and where the system is continuous so that the pipe is full of water under pressure at all times of the days and nights, there need not be any contamination as said above. But the "ifs" are very seldom found in ordinary towns. There is generally no drainage and all or the greater part of the sullage water is absorbed in the soil which carries the distributing pipes. The pipes are easily attacked by some of the acids or alkalies so formed and very soon are full of holes, allowing the water to leak through if the pressure inside is more than the pressure outside. But if for any reason the pressure inside is less than that in the outside, the outside filthy contaminated water is drawn in the pipe, mixes with the pure water and contaminates it. In case of intermittent system, there is vacuum in the pipes and the outer filthy liquid is easily forced in the pipes to be taken away to the poor unsuspecting consumer with the first delivery of water when the flow of water is resumed.

Investigations were made in Bangalore of the causes of contamination of the distribution system and the results are given below :—

The water sub-mains laid in the conservancy lanes were, for financial reasons, mostly, of cheap and undersized galvanised pipes extended as and when funds permitted.

The continued inadequacy of the Municipal conservancy staff and of the arrangements for the disposal of the night soil as well as sullage have rendered these conservancy lanes and other areas breeding places of dangerous bacteria.

In many of the City lanes, there were no leak-proof drains, till lately, but only earthen drains which helped the soil to absorb the sewage, etc., from neglected trap doors. In such soil it is seen that the filtered water sub-mains had been laid.

The intermittent system of supply of water combined with leaky latrines and choked up box drains and neglected street gutters were the cause of contamination during the hours of non-service.

The neglect of even the ordinary rules of health and sanitation in the laying of water services even through latrines or drains or nearest to dust-bins or any dangerous and insanitary material under circumstances that cannot well be appreciated at this distance of time is another cause of the pollution of filtered water. In such situations these pipes could only carry what was called filtered water but more truly it was a liquid that had potentiality to produce gastro-enteritis or typhoid or dysentery in its worst form.

Added to these defects, the habits of our poor and lower class public are not conducive to the maintenance of either inner individual house cleanliness or the composite, street or village or town cleanliness. With the full belief that we are cleaning the mouth of a tap, we pollute it with ash or other earthly matter collected immediately from near the tap where the soil might already have been highly contaminated.

Outside the houses, they render matters worse by throwing rubbish indiscriminately on the open street in spite of dust-bins having been provided. Children are allowed to commit nuisance in day time in the open streets and it is not uncommon that even adults do the same under cover of night.

There is yet another form of pollution. This is the deterioration of private galvanised pipe service with age. Normally when laid in good soil 10 to 12 years is their maximum life. But in defective soils saturated with filth, even 4 to 5 years is enough to cause pinholes, pittings and perforations. In places where they are laid in narrow lanes or near urinals and open lavatories, their life is a matter of one or two years only. The contamination occurring in a long perforated galvanised pipe line laid in such localities can well be imagined. Notices are given to get them rectified when they are in private premises. But failure to

attend to renovate cannot be followed up under the existing by-laws with closure of service or prosecution as they lack the statutory power.

How during the rainy seasons such pollution occurs and how it spreads can therefore be easily imagined. This can only be prevented when our habits improve and a proper underground system of drainage is in working order over the entire city.

CHAPTER 7

(7) Contamination of Water After it Reaches the Consumer :

- (a) in his storage tank ;
- (b) in his own home.

Now we have only one more and final aspect to consider and that is, what are the contaminations that are likely after the water leaves the public supply ?

(a) In some towns where the supply is intermittent, pipes are led to a storage tank at the top of the building where water is admitted by a pipe controlled by a ball valve, so that when the tank is full upto a certain level the pipe is automatically closed and no water is allowed to come in. When the water is at any height lower than this, the ball valve again operates and opens the pipe for flow of water. There is a set of piping leading from this to the consumers so that water may also be available from this store when the main supply is closed. There is generally one tank or a couple of tanks joined together for this storage for the whole building. During the hours the water supply is on, the consumers can get water directly from the mains.

This arrangement is no doubt very convenient to the consumer who has water available to him all the hours of the day and night and is of the greatest importance where the flushing system of latrines is used. But the water in the storage tanks is liable to all sorts of contaminations. The tanks are on the roof of the building, and they have small flap doors. These doors are inadvertently left open or do not fit closely and close properly and sparrows, pigeons, mice and all sorts of dirt and dust go in. They are not directly supervised by anyone from day to day or at closer intervals and a dead bird or mouse may be there for a long time. The water therefore is liable to pollution. The water is also liable to be stale and to absorb foul or impure air. These tanks are square iron tanks and the dirt or slime in the corners can never be cleared even if the tank is cleaned.

(b) In the consumer's own house the liability of contamination also is great. The pots in which the water is stored are a great source of contamination. The earthen pots which are used for storing water by the

middle-class and poorer classes cannot be cleaned and when they are large pots, once it is brought in and used, it continues to be used till it is broken, getting filthier and filthier as time goes on, harbouring, God knows, how many millions of germs or bacilli. Many families who use smaller pots make it a point to heat these on a strong fire once a week or so and thus all the germs are killed. But this is not possible for the larger pots of poorer people. Earthen pots are thus a very sure source of contamination.

The other kinds of pots used are galvanised iron pots, iron pots, brass pots and copper pots. Galvanised iron pots are good till the galvanised polish lasts. Once this rusts away, they are only ordinary iron pots. The iron pots though much better than earthen pots (which are porous and hence germs can go and lodge and breed in the pores) have got a rough surface which gives place for germs to lodge to some extent though they cannot penetrate beyond the surface. These can be cleaned from time to time and heating will completely destroy all the germs.

In the case of copper and brass pots, the surface being smoother, no space is given to the germs to lodge and hence such pots are the best of all. Moreover, the presence of slight amount of acid in the water can act on the copper and produce copper sulphate which is a germicide. These pots therefore have got in them the property of killing germs in water if water stands in them for some time. But of course, they are only safe as long as the rate at which germs are multiplied is less than that at which they are killed. If however the water is full of germs which multiply faster than the copper sulphate in the pots can kill then the storage in such pots is not safe.

This is probably the reason as to why our forefathers used copper and brass pots for water. They have of course to be cleaned very effectively day after day so that the water comes in contact with the polished brass or copper surface and not with slime that accumulates on the bottom and sides. Such pots with slime are as bad as earthen pots giving full scope and opportunity for the germs to multiply and the water not coming in contact with the copper surface does not produce any copper sulphate to kill the germs.

So far about the contamination due to storage. The system of having a large pot of wide opening full of water and of dipping with the human hand any pot available in this pot storing water introduces the danger of passing on all the impurities of the hand and also of the small pot, and of the place where the small pot was resting, to the store of water and of contamination thereby.

The best measure is to boil all water for drinking, put in a clean pot preferably copper or brass with an efficient cover at the top cleaned every day, and having a small cock at the side near the bottom, taking water only through the cock, so as to avoid all contamination of this store. By this method all germs are killed by the boiling of water, no new contamination is introduced in the store and even if the pot or the hands of the man taking the water from the cock are dirty, the contamination does not go beyond himself and is not passed on to the store.

If possible a good efficient family filter would be best to store water for drinking purposes. The presence of typhoid and other diseases and the misery of loss caused by these is so great that all precautions are justified and necessary.

CHAPTER 8

STANDARD OF PURITY OF WATER SUPPLY

We have said so much and laid so much stress on the standard of purity of water supply that we must have some idea of what this standard is.

After all, all water is impure. Only the scale of impurities varies in different samples of water. The utmost that we can achieve is to have a standard of maximum impurities per litre of water, so that when any sample has impurities less than this it is safe for use and when another sample has more impurities than this in the given quantity it is unsafe.

The best place to take water for analysis of a domestic supply is at the place where water is delivered to the consumer so that by delivering water of that standard of purity the local authority has done its duty. If any contamination comes after that, it is the consumer's look out and it is for him to look out for means to remedy the impurity. In the case of a well from which the public draw water the sample must be taken from the well. In a tank or river whence the public take water the sample must be taken from the place where the water is taken. In cities where water was delivered in cisterns as in the old days in Poona, the sample must be taken at the cistern when the people take water and in a modern pipe supply with house connections, the sample must be taken at the house connection. The water should be allowed to run for a few minutes before the sample is taken. The sample should be collected in a clean bottle, sealed and sent immediately to the chemical analyser.

The standards of *maximum impurities* for different waters are as under :—

STANDARD SPECIFICATION FOR MINIMUM PURITY

Pipe Water

Hardness	..	..	5	degrees.
Chlorine	..	..	1.00	parts in 100,000
Nitrites	..	..	0.20	do. do.
Nitrates	..	..	0.30	do. do.
Ammonia	..	..	0.10	do. do.
Organic Carbon	..	..	2.00	do. do.
Organic Nitrogen	..	..	3.00	do. do.
Albumenoid Ammonia	..	..	0.01	do. do.

Bacilli to be :

No faecal bacilli in 20 c.c.

No organisms of Class I in 100 c.c.

Total colonies under 50 per c.c.

Lake Waters (from Turner's Sanitation)

Good Lake Water should contain :

- (1) less than 100 colonies per c.c. (on agar at 37 deg. C.) ;
- (2) no lactose fermenters in 20 c.c. ;
- (3) no organisms of Class I in 50 c.c. ;
- (4) the few faecal organisms isolated should belong to Class II and lactis aerogenes should be plentiful.

Fair or Usable Lake Water :

- (1) should not contain more than 200 organisms per c.c. (agar 37 deg. C.) ;
- (2) lactose fermenters should not be present in less than 5 c.c. ;
- (3) no organisms of Class I should be present in less than 20 c.c. ;
- (4) lactis aerogenes should largely predominate.

A Lake Water is suspicious :

- (1) if it contains more faecal organisms than 1 in a c.c., even though these be confined to Class III ; as this indicates that the lake is very low and conditions are suitable for the spread of cholera.

A Lake Water should be condemned :

- (1) if it contains organisms of Class I in a c.c. or less ;
- (2) if faecal organisms are present in the characteristic proportions seen in fresh faeces ;

- (3) if lactis aerogenes are absent or scarce. It should be remembered that 48 hours will make an enormous difference in the purity of a lake water.

Well and Spring Waters

A Good Water should contain :

- (1) no faecal bacilli in 20 c.c. ;
- (2) no organisms of Class I in 100 c.c. ;
- (3) total colonies under 50 per c.c.

River Waters

Good River Water should contain :

- (1) not more than 100 colonies (on agar at 37 deg. C.) ;
- (2) faecal organisms not exceeding 1 in 10 c.c. ;
- (3) no organisms of Class I in 50 c.c.

Any faecal organisms present should belong to either Class III or to the more resistant Class II.

Fair or Usable River Water should contain :

- (1) not more than 300 colonies (on agar at 37 deg. C.) ;
- (2) not more than 1 in 1 c.c. of faecal organisms and no organisms of Class I in less than 20 c.c.

The faecal organisms present should consist mainly of mixtures of Class III and Class II and there should be a tendency for one class of organisms to preponderate.

River Water should be condemned :

- (1) if total colonies are more than 800 (on agar 37 deg. C.) ;
- (2) if lactose fermenters are present in number of 10 to 100 per c.c. ;
- (3) if organisms of Class I exceed 1 in 5 c.c., or if the faecal organisms isolated (Class I being absent) are rich in varieties, such as occur in an emulsion of faeces.

CHAPTER 9

ADMINISTRATION OF PUBLIC WELLS

As we have seen from the foregoing consideration of contamination of water of wells that it is necessary to have a strict and efficient control over wells, especially over public wells which supply water to so many people.

It is generally estimated that the "cone of supply of a well has a radius of four times the depth of the well." So that if any waste liquid is spilled within this cone, there are chances of its finding its way to the water and of polluting it. So that if a well is 50 ft. deep, there should be nothing to contaminate the water within 200 ft. of the well. All water spilled, all water thrown must be taken outside this range.

In the administration of public wells, we have to take into consideration the habits of the people. The pots and rope for drawing water are not necessarily clean. The public are in the habit of taking their bath, washing clothes, cleaning pots, etc., at the side of the well, so that part of the dirty and polluted water splashes back in the well and vitiating the water in the well. Some part of the water is allowed to sink in the soil just near the well. This makes the sub-soil from the ground level to the water level a dirty water-logged insanitary mass, supplying all sorts of contaminations to the water in the well.

It is therefore necessary to take precautions against all these defects and against all these dirty habits of the people. A sanitary and good well should have the following requisites satisfied :—

- (1) The well should be sunk to the impervious strata and should tap water from such strata only. All water coming from soil above this strata should be prevented from entering the well.
- (2) Masonry, or concrete work should be provided from the ground level to the impervious strata and to some depth about a foot or two in the impervious strata. This work must be waterproof so as to prevent all water from the upper pervious layers of earth to penetrate in the well. All joints of the masonry work should be filled in with cement pointing.
- (3) A wall of at least 3 ft. in height should be constructed above the ground level so that water may not splash back in the well even if it is spilled on the ground level.
- (4) Around the well a pavement of good stone should be provided, so as to be at a level about 6 inches above the ground level.

The arrangement should be as under :—

- (a) All soil 8 or 10 ft. for ordinary wells and more for larger wells, all round from the outer edge of the wall should be removed at least 3 ft. in depth and some hard murum should be put in, watered and rammed upto about 6 inches below the ground level.

- (b) On this murum, a layer of 6 to 8 inches of good lime or cement concrete should be laid and well watered. The concrete should be laid in such a way as to give a slight fall of about $\frac{1}{2}$ inch per foot away from the well. The concrete should be well watered and cured.
- (c) On this concrete good paving of Shahabad or some other stone of a thickness of about 2 inches should be carefully laid in cement joints, taking care to maintain the slope away from the well. A well-laid and well-cured cement paving with a little richer cement mixture will also serve the purpose. The paving should be laid leaving an offset of about one foot from the end of the concrete at the outer edge to accommodate the curbing as per (d) below.
- (d) Good hard stone curbing stones should be provided at the outer edge of the pavement. The stones should be at least one and a half feet in length and 4 inches to 6 inches in thickness. The top portion should be rounded off in a semi-circle so that there should not be any edges for people to strike on and hurt themselves. The coping should be fixed so as to have the end of its semi-circular top about 6 inches above the paving level. It will then go through the concrete into the murum below so that it will be firmly fixed and cannot easily be knocked out. This curbing will prevent all water falling on the pavement from flowing to the soil beyond the pavement and will allow it to be collected and led away as provided in (e) and (f) below.
- (e) There should be two openings in this curbing each at 180 degrees from each other to lead away the water to drains described below.
- (f) This water should be led away from the well by means of good concrete or stone gutters 12 inches opening and 12 inches deep for ordinary wells and larger size for larger wells. The gutter should carry away the water as far out as possible, at least outside the cone of supply mentioned above.
- (g) This water if necessary should be passed through a rough filter bed so that it may not sink in the ground in its crude form of sullage water.
- (h) At some distance from the well a separate place for bathing should be provided. It should have a concrete or paved flooring arranged in such a way that the water can be collected in a gutter and taken away by joining this gutter

to the main gutter in (f) above. A good stone about $2\frac{1}{2}$ ft. x $2\frac{1}{2}$ ft. should be provided 9 inches to 12 inches above this paving for the facility of washing clothes. The whole arrangement should be screened so as not to offend the public sense of decency by offering a view of the bather.

- (i) Convenient pulleys for drawing water should be provided on all sides. A rope and a pot provided at every pulley will prevent the contamination which everyone coming to draw water brings from his or her own home.
- (j) The best arrangement is to provide a covering for the well and to have a pump for drawing water. The water should be pumped in a reservoir which should be emptied and cleaned periodically. Water should be supplied by means of taps from the reservoir.

There is no doubt a very efficient control will have to be kept on these taps as people have a tendency to waste water so easily available.

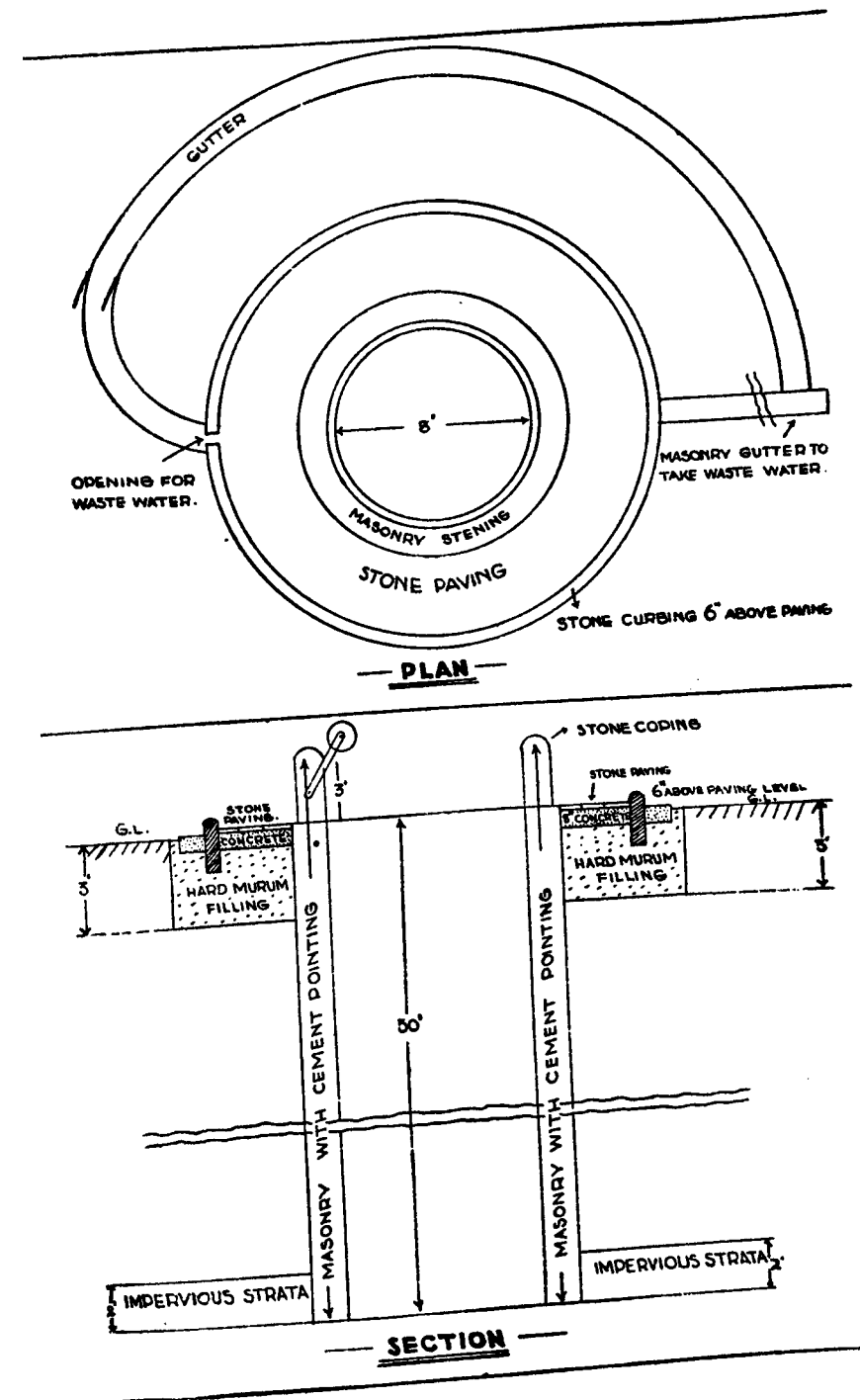
Electric automatic pumps in those places where electricity is available are very convenient and clean. They work as long as the water level in the tank is below a certain arranged level and as soon as this is reached they stop.

If all this care is taken then only the wells will not be a dangerous spot for the village. Of course the whole arrangement costs something and the Village Panchayat will have to meet the cost.

From time to time the water in the well will have to be disinfected. For this purpose lime and potassium permanganate would be the best. The dose would depend on the impurities in the water and the volume of water in the well. The disinfectant should be put in a bucketful of water well stirred and poured into the well overnight and the water used the next day. Every bazar day the well should be disinfected. During epidemic special care has got to be taken.

The wells should be open to all classes of people irrespective of caste and creed, not only in theory but in actual practice.

The sketch opposite this page will illustrate the arrangements.



PAY OF PRIMARY TEACHERS

**Statement, issued by the Executive Committee
of
“ All Gujarat Primary Teachers’ Association ”**

The Executive Committee of “ All Gujarat Primary Teachers’ Association ” which met at Surat on 28th August 1938 have issued the following statement :—

From the very beginning, Government have culpably neglected the primary teachers in the matter of pay. So early as in 1887, on their own initiative, Government had sanctioned a particular scale of pay for primary teachers, wherein the pay of Rs. 60 was fixed as the maximum salary for a third year trained teacher. But it took Government a considerably long time to put that scale into actual practice. Curiously enough, even now after a lapse of more than sixty years the maximum salary of a third year trained teacher remains the same, whereas the maximum salary of public servants in all other departments has, since then, been more than doubled. At the instance of the then Principal of P. R. Training College for Men, Ahmedabad, R. S. Madhavlal Harilal Desai, in 1894 Mr. Chimanlal (now Sir Chimanlal) Setalvad took up the fight on behalf of primary teachers by bringing a resolution in the Bombay Legislative Council, proposing an increase in their salaries. But the resolution proved ineffectual. This state of things continued unremedied till 1914. A special Darbar grant of Rs. 50 lakhs at the time of the Coronation of His Majesty Emperor George V for the progress of primary education came to the rescue of these poor and neglected but nonetheless useful public servants. The result was that in 1914 the primary teachers were able to secure for themselves the salaries sanctioned for them in 1887 ! It was only when the portfolio of education came in the hands of Sir Ibrahim Rahimtulla that Government for the first time sympathetically considered the question of the salaries of primary teachers. A system of regular time scale increments in their salaries was introduced and a maximum pay of Rs. 75 was fixed for third year trained teachers with an arrangement that 10% of teachers should get that maximum pay of Rs. 75. Later on in addition to the usual salaries, war allowances were also granted to them so the maximum salary of Rs. 87-8, including Rs. 12-8 of war allowance was being paid to 10% of the total number of third year trained teachers up to 31st March 1923.

After 1921 the salaries of public servants in all departments were revised. The principle that was followed in revising these salaries was that in no case should a public servant get as his revised salary less than what he was getting as his pay including the allowances when the revision took effect. If for nothing else, at least for the sake of appearances, Government had to revise the salaries of primary teachers also. But this revision in their case turned out to be a curse instead of a blessing. This revision took place in 1923. At that time the maximum salary of a primary teacher, including the war allowance was Rs. 87-8. But in this after-war revision his maximum salary was reduced to Rs. 60! the same as was fixed in 1887! In this revision over and above the regular salary, an undesired and undesirable element of attendance allowances was introduced in spite of the protests of primary teachers themselves and even of the administrators. He, who is responsible for introducing this element of attendance allowances in the salaries of primary teachers has done an immense harm to them. If in this revised scheme of 1923 no attendance allowances were introduced, there would not have been such a discontent and uproar among the primary teachers in regard to their salaries as is found at present. If in the revised scheme of 1923, instead of these attendance allowances, a regular scheme of salaries had been introduced, neither the Government nor the Local Authorities would have dared to reduce the salaries of primary teachers, once sanctioned, as has been actually done at present. There seems to be a great misunderstanding in the mind of the Hon'ble Minister of Education and also in the minds of others regarding these attendance allowances. They seem to think that these allowances are something extra paid to primary teachers over and above their usual pay as a special favour for keeping good attendance and so there is no harm if they are now discontinued, whereas the real fact is quite the otherwise. These allowances were meant to be a part of the primary teachers' salary. They are taken into account while calculating his leave salary and pension and pension contribution is paid to Government by the Local Authorities on the amount of these allowances. To discontinue the payment of these allowances is nothing but the reduction in the salaries of primary teachers. In no other department, the salaries of public servants, once sanctioned and given are reduced in such a way.

In 1925, when the Primary Education Act of 1923 was put into operation, the administration of primary education was handed over to Local Boards. That was another misfortune to poor primary teachers. The Local Boards, in the name of retrenchment began to discontinue the payment of attendance allowances. Had the administration of primary education not been transferred to Local Boards but had remained with Government, the latter would not have dared to discontinue the

payment of attendance allowances. In the case of public servants of other departments there was only a cut of 10% and 5% in their salaries on account of retrenchment and that cut lasted only for a year or two but in the case of primary teachers the cut comes to 30% to 35% and that cut has been going on for years and years together.

The District Local Boards often bring forth the plea that since Government have cut down the Education grant paid to them they have been obliged, much against their will, to discontinue the attendance allowances. But this plea is not only unconvincing but misleading. If that were the only reason why the attendance allowances of the primary teachers are discontinued, the cut in the salaries of the primary teachers must be in proportion to the cut in the Education grant. Now when the cut in the Educational grant has been restored, attendance allowances, in fairness to teachers, must at once be continued. Again if the income of the Local Boards has decreased on account of the cut in the Educational grant, due to them, there ought to be a proportionate reduction in the expenditure of all the items in the budget. There ought also to be a *pro rata* cut in the travelling allowances of the members of the School Boards and also a *pro rata* cut in the salaries of the administrative officers, supervisors, clerks and peons. But they have been all along paid their full salaries. Only the primary teachers have been singled out to be the victims, to suffer on account of the cut in the Education grant to the Local Boards.

The primary school teachers are often taunted by the Hon'ble Minister of Education and other public leaders that they have no other occupation but to grumble in season and out of season in regard to their salaries. To taunt primary teachers in such a way is like adding insult to injury. Are public servants in any other departments paid so miserably as the primary teachers? Has there ever been such a big cut in the salaries of the public servants in other departments? Has the cut in the salaries of the public servants of any other departments been continued for so many years? What else can the poor primary teachers do but grumble since Government never care to redress their legitimate grievances?

An argument is often brought forward to justify the low salaries of primary teachers that the salaries of primary teachers in Bombay Presidency are higher than those of other provinces of India. Even if that be a fact, it is no justification for paying such miserable salaries to primary teachers in Bombay Presidency. Compared with other provinces in India, Bombay Presidency is richer and their people pay more taxes to Government than they do in other provinces. Again the standard of life and cost of living in Bombay Presidency are much higher than in other

provinces and therefore teachers in Bombay Presidency ought to be paid better salaries than what they are paid in other provinces. Are not public servants in other departments also paid higher salaries in Bombay Presidency than what they are paid in other provinces of India? If at all the comparison is to be made, it should be made between the salaries of primary teachers and those of public servants in other departments, having the same qualifications.

In conclusion, we, the primary teachers of Gujarat, humbly and respectfully but at the same time most firmly and emphatically beg to invite the attention of Government to the fact that we do not ask for any new increase in our salaries. What we ask is that Government and the Local Authorities should give back to us what they have taken away from us in the name of retrenchment. Give back to us what was sanctioned in the scheme of 1923. We do not want the attendance allowances that are veritable apples of discord and which can at any time be taken away from us under one excuse or other. Include these attendance allowances in the regular salaries, prescribe for us a new scale of salaries that shall include the attendance allowances sanctioned in 1923. So long as this demand of ours is not granted, discontent is bound to remain among primary teachers and to expect solid and sincere work from discontented teachers is like expecting a boat to sail in sand. We are determined to get our pay revised on the lines stated above. So long as it is not done we shall not remain in peace but shall continue our agitation and give no peace to Government and the Local Authorities.

Another request of the primary teachers in regard to their salaries is that Government should forthwith withdraw the permission, granted by them to the Local Authorities to pay a monthly salary of Rs. 15 to untrained teachers. When the peons of administrative officers get Rs. 25, bailiffs in civil courts and postal peons get Rs. 30 and even Bhangi sweepers get Rs. 18, to pay only Rs. 15 to primary teachers is nothing but to ridicule and humiliate the sacred profession of teaching.

Surat,
28-8-38

P. K. DESAI
President, All Gujarat Primary
Teachers' Association.

RESOLUTIONS AT THE LOCAL BODIES DIVISIONAL CONFERENCE, AHMEDNAGAR, DATED 9th OCTOBER 1938

1. Government should be requested to pay annually to the District Local Board the grant equal to 50% of the net cost for the maintenance of Human Dispensaries after deducting the private donations from the total expenditure or one-third of the actual expenditure as per Rule 14 of the Government-grant-in-aid Dispensary Rules.

Government should be moved to fix the grant for Veterinary Dispensaries exactly on the same rates as it was fixed for Human Dispensaries.

In view of the heavy expenses incurred by the Boards for the break of epidemics, Government should be requested to pay grant equal to 50% of the total expenditure incurred by the Board or to pay a fix grant for this purpose annually.

Proposed by: K. B. Deshmukh.

Seconded by: P. K. Bhapkar.

Passed unanimously.

2. The dual system of P.W.D. and D.L.B. carrying out separate administration of ordinary public works including irrigation works in any district, causes a lot of unnecessary expenditure and consequent waste to the tax-payers. This Conference, therefore, urges on the Government to abolish the ordinary P.W.D. Divisions and to hand over the works to those D.L.Bs. who have got and maintain properly trained and approved Engineers of the Engineer-cadre. The cost of maintenance and supervision should be borne by the Government as at present. The Minister of Local Self-Government be requested to take up the necessary amendment of Local Boards Act.

Proposed by: K. B. Deshmukh.

Seconded by: S. B. Thorat.

3. Mileage grants should be given by Government on all Road works as before.

Proposed by: K. B. Deshmukh.

Seconded by: Sardar S. B. Thorat.

Passed unanimously.

4. This Conference disapproves the methods of allotment of grants for approach Roads through the Road Committee as at present. Such grants should be ear-marked for approach Roads and should be made

directly to the Local Boards without any reference to any such Committee. The District Local Board should spend this amount in consultation with the elected members of the Legislatures of that District.

Proposed by: K. B. Deshmukh.

Seconded by: Hari Ramji Pokhale.

Passed unanimously.

5. (a) Share of petrol-tax should be given to the District Local Board and the Municipalities in proportion to the consumption thereof within the District.

(b) Expenditure on large schemes of asphaltting roads out of petrol-tax should be stopped until necessary works like bridges, city roads, etc., are completed.

Proposed by: K. B. Deshmukh.

Seconded by: V. R. Deshmukh.

Passed unanimously.

6. This Conference regrets that Government have taken a drastic, undemocratic and unjustified step in the enforcement of P. E. Act on local bodies and prefers that the whole responsibilities for finance and administration of P. E. Act should be shouldered by the Government by abolishing the present School Boards.

Proposed by: S. S. More.

Seconded by: (1) P. R. Kanavde,
(2) S. R. Bhagvat,
(3) S. B. Thorat.

Opposed by: (1) U. R. Bogawat,
(2) S. R. Patani,
(3) K. S. Firodia.

7. In order to augment the resources of the Local Boards, this Conference recommends to the Government that local fund cess of one anna in the Rupee be levied on all forest produce including forest lands leased for cultivation.

Proposed by: K. B. Deshmukh.

Seconded by: D. H. Gogate.

8. Local Bodies should be allowed to have exclusive control over the administration of Weights and Measures Act and the surplus income should be credited to its funds.

Proposed by: K. B. Deshmukh.

Seconded by: V. J. Takté.

9. As Local Bodies are managing certain functions transferred to them by Government it is necessary for due discharge of these, that the same facilities as are available to Government Department in respect of expert legal and technical advice, should be also available to Local Bodies and this Conference recommends to the Government that the said advice should be given gratis.

Proposed by: K. B. Deshmukh.

Seconded by: Mr. Nikam.

10. A Provincial Insurance Company should be formed for the insurance of the lives of the employees and properties of the Local Bodies.

Proposed by: Sardar S. B. Thorat.

Seconded by: K. B. Deshmukh.

11. The Local Bodies should be allowed to lease road-side or other land and buildings, and the rent should be credited to Local Bodies.

Proposed by: Sardar S. B. Thorat.

Seconded by: Mr. Chaugule.

12. The cess on excise revenue should be credited to the District Local Board Fund, as before till the said income is completely stopped.

Proposed by: Sardar S. B. Thorat.

Seconded by: R. G. Chaphekar.

13. Proportionate share out of the receipts from land revenue and court-fee stamps should be allotted to the Local Bodies in that District.

Proposed by: Sardar S. B. Thorat.

Seconded by: S. R. Patani.

14. The buildings and site plans should be allowed to be approved by the Engineer of the Board and after the completion certificate of the said Engineer, Government should grant $\frac{2}{3}$ grant-in-aid within a period of six months.

Proposed by: Sardar S. B. Thorat.

Seconded by: K. B. Deshmukh.

15. Village Panchayats should be encouraged in every village over a population of one thousand and the Board should grant the minimum share of one-fourth of the assessment out of that town, and the Government should grant equal contribution.

Proposed by: Sardar S. B. Thorat.

Seconded by: A. G. Awate.

16. There should be a cadre of officers (C.O., H.O., A.O., Engineer, Head Clerks and Accountants), who serve in the Local Bodies and their transfers should be made with approval of the authorities of the said Local Bodies provided however the control over the cadre shall be vested in a non-official Provincial Body elected by Local Bodies.

Proposed by: Sardar S. B. Thorat.

Seconded by: (1) S. S. More,
(2) D. R. Joshi.

17. District Local Board should be allowed to lay out canals with a view to improve the conditions of the agriculturists in the district and the water rate charges, should be credited to District Local Board through the Government, if the Board has incurred expenditure for the said construction. The Government may take proportionate shares for the recovery of the said tax.

Proposed by: Sardar S. B. Thorat.

Seconded by: V. R. Bhalariao.

18. The Local Bodies should be encouraged to undertake public utility concerns, such as supply of electric energy, etc., and the income therefrom should be allowed to be credited to the said body in the district.

Proposed by: Sardar S. B. Thorat.

Seconded by: S. N. Jamdar.

19. (a) The Village Panchayat should receive all income by the sale of sand, stone, etc., within its town-wall.

(b) Road-side lands and trees, etc., thereon within Panchayat area should vest in Panchayat.

Proposed by: Sardar S. B. Thorat.

Seconded by: R. G. Chaphekar.

20. The election of members of the Panchayats should be by ballot-box.

Proposed by: Sardar S. B. Thorat.

Seconded by: A. G. Awate

21. Three years tax arrears may be collected by revenue authorities instead of one in the case of Village Panchayats.

Proposed by: Sardar S. B. Thorat.

Seconded by: V. B. Jadhav.

22. Panchayat should be permitted to deposit funds with the nearest approved Co-operative Bank or Postal Savings Bank.

Proposed by: Sardar S. B. Thorat.

Seconded by: V. B. Jadhav.

23. Power to appoint Secretary with the sanction of the Standing Committee of the District Local Board should be retained in the case of Village Panchayats.

Proposed by: Sardar S. B. Thorat.

Seconded by: (1) S. S. More,
(2) A. G. Awate.

24. There should be control of the District Local Board and not of Government officers over the Village Panchayats.

Proposed by: Sardar S. B. Thorat.

Seconded by: D. H. Gogate.

25. Water analysis charges levied by Government are excessive and should be reduced considerably.

Proposed by: V. S. Chinchorkar.

Seconded by: N. M. Vajirkar.

26. Non-agricultural assessment should not be levied by Government as it retards development of towns and discourages people from building houses outside the city limits.

Proposed by: V. G. Chaphekar.

Seconded by: V. B. Jadhav.

27. Government should give facilities by way of cheap loan, etc., to enable Local Bodies to remove the slums and afford facilities to the poor and particularly to the Harijan population to build houses on suitable sites.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

28. Municipalities should continue to possess right to levy terminal tax on goods carried by Railways or Motors as before and steps be taken to amend Government of India Act which interferes with such rights of the Municipalities by transferring the subject to Federal List instead of the Provincial List.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

29. Local Bodies should be authorised to levy the minimum tax of 3 pies per unit on electric energy consumed within the area (in view of the fact that Electric Supply Companies are obtaining great profits on their undertakings) whereas responsibility for expenditure for development of town falls solely on poor finances of Local Bodies.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

30. The opinions of Excise Advisory Committees regarding location of liquor shops should be held binding on Government Departments.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

31. Local Bodies should be allowed to receive the proceeds of entertainment-tax levied by Provincial Governments within their respective limits.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

32. Marriage registration by Local Bodies should be compulsory and Local Bodies should be permitted to levy registration fees.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

33. All open lands within municipal limits excepting private lands and lands specially reserved by Government should vest completely in municipalities. Municipalities should have full right to let them or put them to special uses. Government should not claim any share in the income derived from this source.

Proposed by: V. S. Chinchorkar.

Seconded by: S. N. Jamdar.

34. Moral instruction should be imparted in schools.

Proposed by: N. G. Jadhav.

Seconded by: A. G. Awate.

35. The tenure of office of the Presidents of District Municipalities should be one year as is the case in Borough Municipal Act instead of three years.

Proposed by: The Chair.

36. Salaries of the Secretaries of the Panchayats should not exceed 1/12th of their income.

Proposed by: The Chair.

37. Gram Panchayats should levy prohibitive fees on public shows which have a tendency to harm public morals.

Proposed by: The Chair.

38. Government is requested to consider (a) whether Trimbak Municipality can be endowed with powers of a Pilgrim Committee and (b) whether charges or Police protection at present levied from Trimbak Municipality during Sinhasta should not be foregone.

Proposed by: The Chair.

39. Local Boards should rest content with putting notice boards stating that their public wells, etc., are open to Harijans, etc., but should also try their level best to see that injunctions are carried out in practice.

Proposed by: The Chair.

40. Expenses for maintaining lunatics within municipal area should not be recovered from municipalities as, it is understood, they are not recovered from Local Boards.

Proposed by: The Chair.

41. Nominations should be abolished from Pilgrim Committees appointed under Municipal Acts on the grounds on which nominations have been abolished from Local Bodies.

Proposed by: The Chair.

42. Every Local Body should become a member of the Institute and should give full co-operation to it.

Proposed by: The Chair.

43. Every Local Body should encourage its employees to take L.S.G.D. Diploma and should give special promotion to those who possess the same.

Proposed by: The Chair.

44. Local Bodies should give preference to L.S.G.Ds. when recruiting its staff.

Proposed by: The Chair.

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STATISTICS RELATING TO LOCAL BODIES IN THE PRESIDENCY OF BOMBAY FOR 1936-37

MUNICIPALITIES

Population and Constitution of the Municipalities in the Presidency
during the year 1936-37

Number of Municipalities ...	...	...	130
Population within Municipal Limits ...	...	...	26,45,509
Number of Members of Committee ...	...	...	2,467
(a) Ex-Officio ...	...	...	126
Nominated ...	...	...	442
Elected ...	...	...	1,899
			2,467
(b) Officials ...	...	...	138
Non-Officials ...	...	...	2,329
			2,467
(c) Europeans ...	...	...	27
Indians ...	...	...	2,440
			2,467

Income (in Rupees) of the Municipalities in the Presidency
during the year 1936-37

Heads of Income	Amount
Opening Balance ...	42,92,552
Municipal Rates and Taxes	24,66,175
Octroi ...	27,30,243
Terminal Tax ...	26,31,189
Tax on Houses and Lands ...	5,44,897
Tax on animals and vehicles ...	77,765
Tax on professions and trades ...	4,33,070
Tolls (on roads and ferries) ...	36,29,497
Water rate ...	26,445
Lighting rate ...	13,43,013
Conservancy (including scavenging and latrine rates) ...	8,81,736
Other taxes ...	1,47,64,030
Total Municipal Rates and Taxes	

<i>Heads of Income</i>	<i>Amount</i>
Realisations under Special Acts	
From pounds	59,492
From Hackney carriages	13,090
From licences for the sale of spirits and drugs	
From other sources	66,992
Total	1,39,574
Revenue derived from Municipal Property and Powers apart from taxation	
Rents of lands, houses, serais, dak bungalows, etc.	3,65,084
Sale proceeds of lands and produce of lands	1,53,004
Conservancy receipts (other than taxes and rates)	78,131
Fees and revenue from educational institutions	2,40,912
Fees and revenue from medical institutions	79,648
Fees and revenue from markets and slaughter-houses	8,19,604
Fees and revenue from tramways	3,721
Other fees	1,89,446
Fines under Municipal and other Acts	70,504
Interest of Investment	
For General purposes	1,64,855
For Educational purposes	3,869
For Medical purposes	6,201
Premium on loans	10,527
Total	21,85,506
Grants and Contributions for General and Special Purposes	
From Government :—	
For General purposes	81,874
For Educational purposes	9,90,224
For Medical purposes	1,31,092
From Local Funds :—	
For General purposes	24,178
For Educational purposes	31,148
For Medical purposes	35,101
From other sources :—	
For General purposes	79,045
For Educational purposes	8,746
For Medical purposes	37,105
Total	14,18,513
Miscellaneous	
Recoveries on account of services rendered to private individuals	71,763
Other items	
Total	3,99,398
Total Income	4,71,161
Extraordinary and Debt	1,89,78,784
Sale proceeds of Government Securities and withdrawals from savings bank	
	9,07,292

<i>Heads of Income</i>	<i>Amount</i>
Loans :—	
From Government	
Raised in the Market from private individuals	5,23,730
Realisations of Sinking Fund for repayment of loans	31,27,978
Advances :—	
Permanent	6,572
Others	13,74,258
Deposits	64,09,969
Total	1,23,49,799
Total Receipts excluding Opening Balance	3,13,28,583
Total Receipts including Opening Balance	3,56,21,135
Incidence of taxation per head of population	Rs. 5-9-4
Incidence of income per head of population	" 7-2-9

**Expenditure (in Rupees) of the Municipalities in the Presidency
for the year 1936-37**

<i>Heads of Expenditure</i>	<i>Amount</i>
General Administration and Collection Charges	
General Administration	8,86,265
Collection of Taxes	7,58,291
Collection of Tolls on Roads and Ferries	1,61,023
Survey of Land	10,987
Refunds	59,275
Pensions and Gratuities	1,79,961
Annuities	8,104
Total	20,63,906
Public Safety	
Fire	1,77,340
Lighting	10,64,720
Police	172
Rewards for the destruction of wild animals and snakes	2,582
Total	12,44,814
Public Health and Convenience	
Water Supply :—	
Capital Outlay	7,36,642
Establishment, Repairs, etc.	14,07,203
Drainage :—	
Capital Outlay	3,96,378
Establishment, Repairs, etc.	3,01,144
Conservancy	26,11,799
Sanitation Charges	2,55,471
Hospitals and Dispensaries	9,72,284
Plague Charges	2,12,681
Vaccination	57,089

Heads of Expenditure

	Amount
Markets and Slaughter Houses	2,88,992
Pounds	34,942
Dak Bungalows and Serais	10,970
Arboriculture, Gardens, etc.	1,59,009
Registration of Births and Deaths	41,191
Public Works :—	
Establishment	3,00,711
Buildings	2,63,742
Roads	15,37,410
Stores	7,013
Total Public Health and Convenience	96,98,266

Public Instruction

Schools and Colleges	37,89,165
Contributions	2,68,109
Libraries, Museums, Menageries, etc.	51,339
Total	41,08,613
Contributions for General Purposes	1,16,205

Miscellaneous**Interest on Loans :—**

Interest due on account of years previous to year of report	32,321
Interest due on account of year of report	4,63,952
Discount	561
Actual cost of Works done for Private Individuals	64,106
Miscellaneous Charges	7,19,954
Total Miscellaneous	12,80,894
Total Expenditure	1,85,12,698

Extraordinary and Debt**Investments :—**

In Securities (other than for Sinking Funds)	6,26,996
In Savings Banks	3,83,943
Payment to Sinking Fund	1,61,017
Repayment of Loans	16,14,511

Advances :—

Permanent	79,732
Other	17,55,089
Deposits (includes Capital Expenditure)	84,37,741
Total Extraordinary and Debt	1,30,59,029
Total Disbursements	3,15,71,727

Closing Balance	40,49,408
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DISTRICT BOARDS**Number and Constitution of District Boards in the Presidency for the year 1936-37**

Number of Boards	28
Number of Members	
Elected	437
Ex-Officio and Nominated	131
	568

Income (in Rupees) of District Boards in the Presidency for the year 1936-37

Heads of Income	Amount
Opening Balance	56,48,904
Land Revenue (including revenue due to Canals)	1,29,739
Provincial Rates (including Local Rate, Patwari Cess, Village Service Fund, etc.)	35,94,505
Interest on Education and Dispensary Securities	96,978
Police (Cattle Pound)	(a) 2,64,530
Education	(b) 94,78,521
Medical (including Health)	(c) 2,31,715
Receipts from Scientific and other Minor Departments (including Public Gardens, Veterinary Work, Experimental Cultivation, Exhibitions and Fairs)	63,114
Receipt in aid of Superannuation and Compassionate Allowances (Contributions for Pensions and Gratuities)	
Miscellaneous (including sale of materials and sale of rents of nazul and buildings)	4,86,491
Railway Irrigation (minor works) and Navigation (local canal)	6
Civil Works	20,45,367
Debt	28,67,762
Total Income (excluding Opening Balance and Debt)	1,63,90,966
Incidence of Taxation per head of population	Rs. 0-4-2
Incidence of Income per head of population	Rs. 1-2-5

(a) Includes Rs. 3 on account of Law and Justice.

(b) Rs. 94,11,998 received from Education Primary and Rs. 66,523 received from Education other than Primary.

(c) Rs. 1,99,442 received from Endowments and Contributions; Rs. 32,273 from

**Expenditure (in Rupees) of District Boards in the Presidency
during the year 1936-37**

<i>Heads of Expenditure</i>				<i>Amount</i>
Administration (General Establishment)	...	...	...	5,98,351
Police (Cattle Pound)	...	...	...	97,948
Education	...	...	...	... (a) 1,07,43,174
Medical :—				
Hospitals and Dispensaries	...	...	...	2,79,092
Sanitation and Vaccination	...	...	...	2,63,766
				(b) 4,08,138
Total Medical (Public Health and Convenience)	...	...	...	9,50,996
Scientific and other Minor Departments (including experimental cultivation, exhibitions and fairs, veterinary, public gardens, etc.)	...	...	...	1,48,234
Civil Works :—				
Buildings (objects of expenditure) :—				
Education	...	...	...	1,08,662
Medical	...	...	...	33,280
Other	...	...	...	1,26,126
Total	...	...	...	(c) 2,68,068
Communications	...	...	...	(d) 19,50,264
Water Supply and Water Works	...	...	...	(e) 3,49,464
Drainage Works	...	...	...	
Other Works of Improvements	...	...	...	1,966
Establishment and Contingencies (including tools and plants, etc.)	...	...	...	5,88,451
Total	...	...	...	33,00,582
Miscellaneous and Debts :—				
Miscellaneous—(remaining Heads of Expenditure)	...	...	...	
Debt	...	...	...	27,14,899
Total Expenditure (including Debt)	...	...	...	1,90,45,939
Total Expenditure (excluding Debt)	...	...	...	1,63,31,040

(a) Rs. 1,06,39,474 spent for Education Primary, and Rs. 1,03,700 spent for Education other than Primary.

(b) Other Expenses.

(c) Original Works Rs. 1,78,229, Repairs Rs. 89,839.

(d) Original Works, Rs. 5,93,755, Repairs Rs. 13,56,509.

(e) Original Works, Rs. 2,13,695, Repairs Rs. 1,35,769.

ates as on the 31st March, 1935

Province.	weather ble Earth ads.		Other Motorable Roads (which cannot be classified under various headings).			Total.		
	Local.	Total.	P.W.D.	Local.	Total.	P.W.D.	Local.	Total.
Madras	746	5,075	31	1,093	1,124	1,398	30,524	31,922
Bombay	060	8,490	104	1,026	1,130	7,728	19,404	27,132
Bengal	705	9,860	1	4,691	4,692	1,121	18,784	19,905
United Provinces	849	8,849	20	610	630	3,051	14,032	17,083
Punjab	122	6,376	3	...	3	4,008	6,371	10,379
Bihar and Orissa	682	12,703	5	414	419	1,668	18,396	20,064
Central Provinces	656	1,095	8	9	17	7,147	2,452	9,599
Assam	935	2,125	1,035	1,315	2,350	2,238	3,598	5,836
N. W. Frontier Province	110	762	35	133	168	1,726	497	2,223
Delhi	5	5	...	...	...	124	6	130
Coorg	...	...	...	...	...	324	59	383
Baluchistan	80	1,071	18	552	570	1,961	683	2,644
Ajmer-Merwara	...	87	...	...	...	326	...	326
N. W. F. Agency and Tribal Areas	...	209	...	...	...	1,079	43	1,122
Total British India (excluding Burma)	950	56,707	1,260	9,843	11,103	33,899	1,14,849	1,48,748
Total Indian States	588	21,215	2,049	2,944	4,993	47,015	15,120	62,135
GRAND TOTAL	538	77,922	3,309	12,787	16,096	88,914	1,29,969	2,10,883

Bombay at various places about the province. nel surd work has been done largely with residual thement is almost entirely with tar.

Bengal natural asphalt has been used, but the majority of wo itumen. Roads under the heading "other low a c roads." in almost exclusively.

* Prior to separation.

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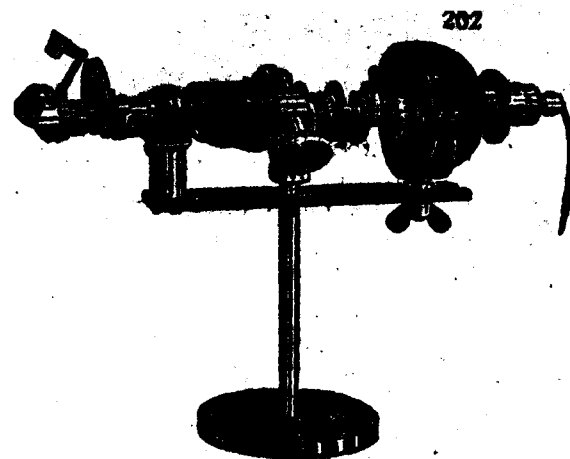
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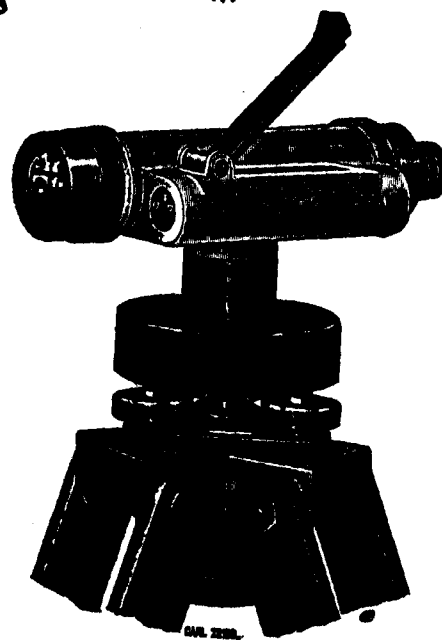
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PRINCIPLES OF COMPULSORY LAND ACQUISITION*

(AN ANALYSIS OF THE LAW AND PROCEDURE)

By **CHUNILAL D. BARFIVALA, M.A., LL.B.**

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Introductory

GOVERNMENT of every country is based on the implied assent of every member thereof that his own individual interest shall be subordinated to the common welfare of the community as a whole. In consideration of the benefits derived from ordered government, every person must be prepared to sacrifice his private interests. The governing maxim is that 'Regard for the public welfare is the highest law'. *Salus populi est suprema lex.*

The sovereign power in every State so frames its laws as to make the interests of private persons subservient to those of the public and to take care that where they are in conflict the latter should prevail.

The State is supposed to have a reserved right or a "super-estate or interest in all property" and every owner of property is holding it subject to this paramount right of the State.

Every State therefore arrogates to itself the right to take private property for public purpose.

A State which respects private property, however, does not confiscate such private property even for a public purpose. Such confiscation would mean that the burden of contributing to public good is made to fall exclusively on an individual instead of being distributed equitably on all the members of the community. The policy of out and out confiscation, which, as Mr. Laski points out, may be possible in the revolutionary Russia, has not so far been adopted elsewhere in the modern States.

In order therefore to reconcile the conflicting claims of private property and the public good—the State compensates such person for the loss of his private property.

This right of the State appropriating private property for public purpose is known in America as "**Eminent Domain**".

"Nor shall private property be taken for public use, without just compensation" says the Federal Constitution of the U. S. A. In a recent work, an

* This article is a reproduction of a portion of the Author's forthcoming book on the subject—*Editor*.

eminent American authority explains the economic function of this power of Compulsory Acquisition or Eminent Domain thus:—

“The principles by which property is valued under the law of eminent domain can be understood only in the light of the purpose that this extraordinary power is assumed to serve. Under any legal-economic system known as one of ‘private property’ or ‘capitalism’, the ordinary mode of acquisition of property rights is through what is called a ‘voluntary’ purchase, in which the buyer and seller agree upon a transfer at a given price. This price is arrived at by the procedure of bargaining and is determined by the familiar forces of competition. Even the sovereign governments, or the public-utility companies that are treated in some respects as agents of the governments, acquire by far the major part of their property rights in this way.

“But it has long been recognized that certain types of property essential to the needs of government or of a public utility cannot always be acquired at a fair price except by expropriation rather than by a voluntary transaction. Real estate, particularly though not exclusively, belongs in this category. What a State or city needs when it constructs a public road, and what a railway needs when it lays a track, is a group or line of particular tracts of land, not merely any land of a given quality. Unarmed with the power of eminent domain, efforts to secure these tracts at a reasonable price would almost certainly be frustrated by owners who would wilfully refuse to sell at any price, or who would demand a ‘holdup’ price.

“Accordingly, political tradition and constitutional law sanction the expropriation of private property for public purposes on payment by the taker of ‘just compensation’.”¹

Applying these principles to the Land Acquisition Act,² we find that immovable property (‘lands’) of every person may be compulsorily acquired for a public purpose. The unwillingness of the person to part with his lands or his private needs cannot weigh with the authorities. “Public welfare is of greater importance than private necessity.” *Necessitas publica major est quam privata*. Public purpose for which lands can be compulsorily acquired has been described in an important decision of the Bombay High Court as “an object or aim in which the general interest of the community as opposed to the particular interest of individuals is directly and vitally concerned.” The Land Acquisition Act has constituted ‘Local Government’ as the final judge of what a public purpose is. Decisions of the Local Government on the subject are final. Courts have no appellate powers in the matter.

¹ J. C. Bonbright, “The Valuation of Property”, page 408.

² The text of the Act is printed in Appendix No. IV.

As regards the compensation to the person whose lands are compulsorily acquired the Act lays down specific rules as to what matters shall and what matters shall not be taken into consideration when awarding compensation. The principle underlying these rules is not that the man dispossessed of his land, shall be **reinstated** in the same favourable position as he occupied before, but that he must receive market value of his lands *plus* all damages incidental to such acquisition, such as damage caused to his other lands, expense of removal to new premises, etc. The Act goes further and allows him a special solatium of 15% over the market value. These important **Canons of Compensation** are given in sections 23 and 24 of the Act.

The bases of compensation in England and India differ. The English Law lays stress on private property and carries its sympathy with the owner of acquired property by attempting to reinstate him in his original position. The Indian Law lays emphasis on public purpose and compulsory acquisition and bases its theory of compensation not on the principle of reinstatement but on that of the market value.

The comparison is well brought out by Mr. Anderson in the following words:—

“Though it would not be correct to describe the Act as confiscatory, still it undoubtedly causes hardship to individuals because it restricts them to the market value of what is taken from them. Although all actual pecuniary losses, even the cost of moving and the loss on earnings resulting from interference with the goodwill of business and the like, are taken into account and paid for, there are many sentimental losses which cannot be paid for because they have no market value. The Act does not command what is known as reinstatement under which a man losing a property artistically improved at great expense and enjoying advantages of scenery, etc., might claim to be reinstated in another property, at however great a cost, possessing the same amenities. This is not what the Act offers but only the current prosaic market value. The owner whose land is notified is in the same position as if he were compelled to sell by some sudden reverse of fortune. He cannot stand out for a reinstatement value, but only for what a fair-minded purchaser will offer him in the existing state of the market. It is the legitimate aim of all officers administering the Act to secure for the public all land required for the use of the State at the least burden to the tax-paying public; on the other hand, no one should be deprived of his property even on the ground of State necessity without giving him at least as much as a prudent private purchaser would pay. Since the Act therefore imposes a burden on those whose land is taken, it must be interpreted like penal statutes strictly in favour of the private party and every irregularity prejudicing him is fatal to proceedings thereunder.*

* For further remarks See Chapter VI.

Mr. Mirams¹ has drawn attention to the following general principles deducible from the provisions of the Land Acquisition Act:—

- (1) Sale by the owner is compulsory. There is no option.
- (2) The compensation is not necessarily the value of the property to the owner himself but is the market value of the property dealt with in theory, in the most lucrative manner.
- (3) Compensation is intended to cover all the loss suffered by the owner, apart from the value of the property taken, e.g., 'injurious affection' or 'severance'.
- (4) A part only of a house or building without the consent of the owner is not allowed to be acquired.
- (5) No credit is allowed for any betterment which may result from the carrying out of the works contemplated.
- (6) The value of the property is to be calculated at the date of the notification under sec. 4.

Lands can be purchased by local bodies by private negotiations, without having recourse to the Land Acquisition Act. There are, however, special advantages for proceeding under this Act. We enumerate these advantages hereunder.

The following advantages may be claimed for proceedings under the Land Acquisition Act:—

I. The Land Acquisition Act secures an **indefeasible title** to the land; when possession of the land is taken by the Collector under the Act it vests absolutely in Government free from all encumbrances.²

In ordinary transfers of property, the Transferor transfers to the Transferee all the interests which he is capable of transferring. He cannot transfer a title greater than his own.

In the case of the Land Acquisition Act all the rights of every person in the land are extinguished. All rights before existing, e.g., right of way over the acquired land, absolutely cease. No right of way can survive even though the adjoining owner has no access left to his property.

Even the mortgage lien of the mortgagee does not follow with the lands acquired under the Act. The lien is transferred to the compensation money into which the property is converted, property itself being freed from all encumbrances.

¹ Mr. Mirams has been quoted in this book from his valuable work "Valuation of Property."

² Sec. 16.

II. All further disputes about the measurement, etc., of the land will be put a stop to. There will be a **guaranteed certainty about its identity**.

III. This procedure **shortens** correspondence and **negotiations**.

IV. Transaction will be overboard and **no private influences** regarding prices, etc., will play in the matter either with the executives or with the members of a local body.

V. For **large schemes** and plots, this is the only suitable method though for small insignificant places, where question of title is not involved, private negotiations may be a speedier and a better remedy.

VI. Land taken in virtue of the Land Acquisition Act **does not require any Deed of Transfer** or registration or other document. In case of ordinary transfers of property no valid title would pass to a local body if sale-deeds are not properly executed.

VII. "When a price can be agreed upon in easy preliminary negotiations and there is no dispute or objection, still formal proceedings under the Act will give very little real trouble. Complications may easily arise through private acquisitions. The following are known to have occurred:—

- (1) Sons have repudiated alienations by their father on the ground that they were a joint family and the father individually had not the power of alienation.
- (2) The person who accepts the price has been found not to be the real owner.
- (3) Suits have been brought to set aside the sale on the ground that undue official pressure was applied to the parties.
- (4) Minors are not bound or estopped by all Acts of their guardians (*I.L.R. 17 Bom. 199*). No waiver of right is possible where the party is a minor, a limited owner (e.g., a Hindu widow), receiver, trustee, executor, etc."¹

"It will, therefore, always be **wiser**" says Mr. Anderson "**even in the simplest case**, to make the acquisition through the simple formalities of the Act."

It should, however, be borne in mind by the local bodies that there are certain disadvantages in proceeding under the Land Acquisition Act.

Disadvantages

(1) In consideration of the compulsory nature of the Acquisition, the Court has to award under section 23 (3) of the Act, in addition to the market

¹ Mr. Anderson is quoted from his "Manual of Land Acquisition".

value of the land, a sum of 15% on such market value. This solatium acts as an additional burden on the resources of local bodies where large schemes are undertaken.

(2) If the acquisition increases the value of the other land of the owner which is not acquired, this increase in the value cannot (under section 24, *sixthly*) be deducted from or set off against the compensation which the owner obtains for his acquired land. Technically this increase is known as 'betterment'. The Land Acquisition Act does not recognise this modern doctrine of 'betterment'. It permits the owner to enjoy this unearned increment. Under the Bombay Town Planning Act the local authority is entitled to recover from the owner a portion of this increased value.

In this connection see also section 15A of the Bombay Town Planning Act as amended by Bom. Act XXI of 1938, for clearance of areas which are congested and insanitary. Under this section a town planning scheme can be made for such areas and contributions levied under section 18 of the Act.

(3) "The whole tenor of the Land Acquisition Act presupposes that the land in excess of the actual necessity will not be proposed for acquisition."¹ The Municipal Acts [e.g., the District Municipal Act, section 90 (2)] expressly provide that lands in excess of requirements may be purchased and the excess may be subsequently sold away. Under this provision municipalities are entitled to acquire all the lands which in their opinion are likely to increase in value on account of improvements carried out by acquisition and sell the excess at enhanced prices. The municipalities are thus enabled to 'recoup' their expenses of improving the area. This salutary principle of recoupment is not recognised by the Land Acquisition Act.

This policy of allowing local bodies to acquire more land than necessary and to sell away the excess is known in America as "Excess Condemnation".

¹ Anderson.

CHAPTER I

WHAT ARE THE OBJECTS OF THE ACT?

The Act lays¹ down the law

- (i) for the acquisition of land needed—
 - (a) for public purposes and
 - (b) for companies, provided the purpose of the acquisition is
 - (i) to erect dwelling houses for workmen employed by the Company or
 - (ii) for construction of such work as is likely to prove useful to the public
- and
- (ii) for determining the amount of compensation on account of such acquisition to be paid to persons interested:—
 - (a) out of (wholly or partly)—
 - (i) public revenues, or
 - (ii) some fund controlled or managed by a local authority
 - or
 - (b) by a company.

In the above narration of the objects, the following expressions require to be clearly understood.

Meaning of Certain Words:

I. Land

Section 3 (a) without giving an exhaustive definition of 'Land' explains that over and above what is ordinarily understood by the term, 'Land' includes,

- (a) benefits to arise out of land, e.g., mines, minerals, etc.
- and
- (b) things attached to the earth, i.e.,
 - (i) rooted in the earth as trees;
 - (ii) embedded in the earth as walls or buildings.
- (c) things permanently (not temporarily) fastened to anything attached to the earth, e.g., machinery affixed to the foundations by means of bolts and nuts—meant not to be removed but imbedded for the permanent beneficial enjoyment (not necessarily irremovable) except, perhaps, for repairs or inspection.

¹ Preamble and Sec. 6 and Sec. 40.

The 'Land' is thus equivalent to what is defined as "an immovable property" in section 3 (25) of the General Clauses Act, 1897.

NOTE.—(1) Land includes easements, etc.

(2) Land Acquisition Act does not permit the acquisition of some interest only in the land, e.g., an easement (a right of way, etc.) apart from the land. All the interests in the land must be acquired together.¹

(3) Crown Lands cannot be acquired under the Act.

II. Public Purpose

What is the meaning of 'Public Purpose' for which land can be acquired?

This phrase has been left undefined in the Act. Section 3 (f) gives a partially inclusive and not an exhaustive definition by explaining that over and above the ordinary meaning of 'Public Purpose' the expression shall include acquisition of "Village Sites".

'Public Purpose' being incapable of acute definition, may be described as to include—

"An object or aim in which the **general interest of the community** as opposed to the particular **interest of individuals** is directly and vitally concerned" (*Batchelor J.*).

NOTE.—The public utility must be such that Government can prescribe the terms on which the public may use it.

NOTE.—

(1) Land acquired for one public purpose may be used for another public purpose, provided the second purpose is such as does not infringe the rights of others and is not inconsistent with the purpose sanctioned in the notification or outside the statutory authority of the local body.

(2) "Public purpose" must be immediate, bona fide and not illusory or merely ostensible. Supposing that in future a certain plot may be required for a public purpose (say, a hospital) but if we waited long, prices might go up, therefore it would not be proper to acquire under the pretext that it is to-day required as "an open space".

(3) It seems that it would not be permissible under the Act to acquire more land than is absolutely required (say, for road purposes) with a view to profitable disposal of the surplus to reimburse the expenses (i.e., for **recoupment** purposes)².

¹ Section 3 (i).

² Anderson, para 32, p. 11.

Such recoupment is possible as 'betterment' under the Bombay Town Planning Act, also under the Bombay City Municipalities Act, the Bombay District Municipal Act and the City of Bombay Municipal Act.

III. Village Sites

'Public purpose' is defined to include provision for '**village sites**' in district, where Government have declared that such provision is customary¹.

'Village site' is not land reserved in a village for communal purposes but land which is reserved for being parcelled out as house sites and also all lands on which houses have been built.

When, for example, it is found desirable to relieve overcrowding in villages, and for preserving sanitation in villages, large areas, taking into account present as well as future requirements, may be acquired under this Act.

"Formerly District Local Boards could acquire lands to relieve overcrowding. But now as a general rule such acquisitions by Local Boards is not permitted."²

IV. Persons Interested

Who are the '**persons interested**' in the compensation?

The expression 'person interested' is left undefined. It depends, in fact, on the nature of **ownership** which a person has in property. It may be³

- (1) Absolute as in the case of free-hold,
- (2) Limited as leasehold;
- (3) In possession;
- (4) In expectancy as reversion after expiry of time or dependent upon a contingency;
- (5) In severalty as in the case of a person at one time; and
- (6) In community as vested in two or more persons as joint-tenants with the right of survivorship or as tenants-in-common.

It is, however, stated to include

- (1) persons claiming 'an interest' in the land; and
- (2) person interested in the **easement** affecting the land.

We have noted above that the word 'Land' is used in a very wide sense, including several particulars as soil, buildings thereon, any charges on it, etc. So also the 'person interested' means either the person in whom is vested the

¹ Section 3 (f).

² Anderson, para 34 (6), p. 13.

³ Mirams.

lump of several things or particulars as the soil, etc., and other interests which constitute the word 'land' or the person in whom is vested each of the several things or particulars which has a separate existence and is capable of being dealt with separately.

- NOTE.—(1) It is possible that a person may be interested in the compensation without having interest in the land strictly legally, e.g., Hindu females have various rights in a joint family. Therefore they may have interest in the compensation though not in the land.
- (2) Quarrymen, ploughmen, workmen, etc., are not persons interested though they may suffer damage on account of the land being acquired from the owners.
- (3) A tenant with a term of years, also a lessee holding over, (not a tenant-at-will),
A mortgagee,
Owner of a dominant easement,
A purchaser at a revenue sale,
An attaching creditor,
(but not a mere holder of a money decree against the owner) } are persons interested.
- (4) Government is not a 'person interested' in the land even where Government may have land revenue to recover.

V. 'Which are the persons entitled to act'? "When persons interested are under disability such as minority, lunacy, etc.¹

- (1) **Trustees** are entitled to act for persons beneficially interested.
- (2) **A married woman** to which the English Law applies—whether of full age or not—is entitled to act as if unmarried and of full age.
- (3) Guardians of minors,
Committees or Managers of lunatics or idiots, } are entitled respectively to act for minors, lunatics or idiots.

Provided

- (1) the interest of such persons is not shown to the satisfaction of Collector or Court to be adverse to the person interested.

¹ Section 3 (g).

- (2) person interested may appear by 'next friend'; failing that, Collector or Court may appoint a guardian for the case to act.
- (3) provisions of Civil Procedure Code apply in such cases of appearance by next friend or guardian.
- (4) person entitled to act shall **not be competent to receive compensation money** unless he is competent to alienate the land and receive and give a good discharge for the purchase money in a voluntary sale.

VI. Company means a Company¹

- (i) **registered under** the (1) Indian Companies Act;
(2) English Companies Act;
or
- (ii) **incorporated by** (a) an Act (1) of Parliament, or
(2) Governor-General-in-Council,
(b) Royal Charter, or
(c) Letters Patent;

and includes

- (iii) a society registered under the Societies Registration Act, 1860, and
(iv) a registered society within the meaning of the Co-operative Societies Act, 1912.

and also includes

- (v) **an industrial concern** (not being a company) ordinarily employing not less than 100 workmen, desiring to acquire land for
(a) the erection of dwelling-houses for workmen employed therein
or
(b) amenities directly connected therewith.²

¹ Section 3 (e).

² Section 38A.

CHAPTER II

ACQUISITION PROCEDURE

Stages:—The following are the important stages in the acquisition proceedings.

(1) Application

- (a) In the first place there must be an application from
- | | |
|---|--------------------------------------|
| (i) A department of Government | } moving for acquisition of the land |
| (ii) A local body (supported by proper resolution) or | |
| (iii) A company etc. | |
- (b) The application should contain
- (i) the purpose for which acquisition is required,
 - (ii) plan of the land,
 - (iii) schedule with particulars of area,
 - (iv) cost estimate of acquisition,
 - (v) statement that provision has been made for payment of award and costs.

NOTE.—Provision must also be made for payment of costs of measurement and correction of land records, etc.

(2) Duty of the Collector

(a) Collector's reference to Acquisition Officer

If a separate acquisition officer is appointed, the Collector refers the application to him for inquiry and report whether everything is in order, i.e. plans, area, estimates and whether he has any objections to suggest against such acquisition.

(b) Land Acquisition Officer's Report

The special Land Acquisition Officer institutes inquiries, makes necessary inspection, collects required data, prepares rough estimates, and submits his report to the Collector.

NOTE.—If no separate Acquisition Officer is appointed, the Collector himself conducts all these inquiries.

(c) Draft Notification

The Collector on being satisfied that Acquisition should proceed submits **draft notification**¹ to Government through the Commissioner.

(3) Preliminary Notification

The Provincial Government on being satisfied that land in any locality **is needed or is likely to be needed** for any public purpose, a **notification** to that effect shall be published in the *Official Gazette*.

NOTE. — (1) Such notification is obligatory in all cases—even in case of urgency.

(2) in the schedule to the notification, the land may be described as 'approximately'—Ordinarily a little larger area may be included—rather than too small.

(3) before issuing notification Local Body may be asked by Government to enter into an agreement to pay all the cost of acquisition, etc. to Government.

(4) Public Notice of the Notification

(1) Immediately after the publication of the notification (though no time is prescribed) public notice of the substance of notification should be given at convenient places in the locality.

(2) Such notice shall be addressed to the 'the persons interested' either by names or generally.

NOTE.—Person interested means person entitled to claim an interest in the compensation.

(3) **Contents** of the Notice.—It shall contain—

(a) the substance of the notification (sec. 4) with schedule of the property.

(b) appointment of date before which **objections** should be raised.

(c) intimating that opportunity will be given to hear a party or his pleader.

(4) Legal Consequences of issuing such notice²

It facilitates preliminary investigations because on the issue of such notice—

It becomes lawful for—

(i) any officer authorised by Government, and

(ii) his servants or workmen

to do the following acts, viz.—

¹ Section 4.

² Section 4 (1).

- (i) to enter upon, survey and take levels of any land in the locality,
- (ii) to dig or bore into sub-soil,
- (iii) to do all other acts to ascertain the adaptability of the land for the purpose,
- (iv) to set out boundaries and intended line of work,
- (v) to mark such levels, boundaries and lines by placing marks and cutting trenches,
- (vi) to cut down and clear away part of standing crop, fence or jungle,

provided

- (1)¹ At least seven days' notice in writing shall be given before entering into any (a) building or (b) enclosed court or garden attached to a dwelling-house—unless the occupier waives notice.
- (2) Such officer at the time of such entry pays or orders payment of damages to be done on account of such cutting down of crops, etc.

NOTE.²—(1) If sufficiency of amount tendered is disputed the officer shall refer the matter to the Collector or Chief Revenue Officer of the District—whose decision shall be final. No reference can be made to the Court in such a case.

- (2)³ Wilful obstruction, or filling up, destroying, damaging or displacing any trench or mark will render the offender on conviction before a magistrate to imprisonment upto 1 month or fine upto Rs. 50 or both.

(5) Objections to Acquisition

(a) Raising of objections

Any person interested

- (a) may raise objections in writing
- (b) to the Collector
- (c) within 30 days of the Notification (not Notice) under section 4 or such further time as the Collector may allow.

(b) Nature of admissible Objections⁴

The following objections are considered admissible, under the rules framed by Government.

¹ Sec. 4 (2).

² Sec. 5.

³ Sec. 48.

⁴ Rules of the Govt. of Bombay under Sec. 5A, Appendix No. III.

They must be specifically stated :—

- (1) The notified purpose is not properly or genuinely a public purpose.
- (2) The land notified is not suitable for the notified purpose.
- (3) The land is not as suitable as other land.
- (4) The area proposed is excessive.
- (5) The objector's land has been selected maliciously or vexatiously.
- (6) The Acquisition (1) will destroy or impair the amenity of historical or artistic monuments and places of public resort, (2) will take away important public rights of way or other conveniences or (3) will desecrate religious buildings, grave-yards and the like.

(c) Collector's (or Land Acquisition Officer's) Duties¹

He shall—

- (1) give opportunity to the objector of being heard either in person or pleader;
- (2) record the objections in his proceedings;
- (3) consider whether the objections are admissible according to Rules;
- (4) decide whether it is desirable to hear oral or documentary evidence which he has a right to call ;²
- (5) if he admits evidence, he shall afford the other party an opportunity of cross-examining it or rebutting it by other evidence.
- (6)³ After completing the record of evidence the Collector shall submit his report and recommendations as to each objection, whether admissible or inadmissible, for the orders of Government.

Decision of Government⁴

The decision of the Provincial Government on the objections shall be final.

(6) Final Declaration⁵

When the Provincial Government is satisfied

- (1) that the particular land is required for a public purpose or a company, and
- (2) that the compensation is to be paid
 - (i) by a company (an agreement to be made with the company under sec. 40),

¹ Anderson, para 30, p. 10.

² Sections 14 to 40.

³ Sec. 5A (2).

⁴ Sec. 5A (2).

⁵ Sec. 6.

or (ii) wholly or partly out of public revenues,

or (iii) from some fund controlled or managed by a local authority,

Government shall make a final declaration that such land is so needed.

NOTES.—(a) Such declaration shall be published in the *Official Gazette*, stating

(i) the district in which land is situated,

(ii) purpose of acquisition,

(iii) approximate area,

(iv) the place where plan, if any, may be inspected.

(b) Such declaration is conclusive evidence that land is needed for a public purpose or a company.

(c) Government can acquire the land only after such declaration is made.

(d) Land actually acquired should not differ from that described in the declaration, otherwise proceedings will be void.

(7) Acquisition Order.¹

After declaration under section 6, Government directs the Collector to take order for acquisition and on receipt of such order the Collector proceeds to take action.

NOTE.—sections 6 and 7 of the Act prescribe the conditions precedent to the exercise of jurisdiction and if their provisions are not complied with, the acquisition would not be under the Act and Government if they take possession will be liable to be sued for trespass.

(8) Collector thereupon

causes the Land to be

(1) marked out,

(2) measured, and

(3) planned.

NOTE.—Wilful obstruction will render a person, on conviction, liable to imprisonment upto 1 month or fine upto Rs. 50/- or both.²

(9) The Collector thereafter causes general & special notices to be given as under:³—

¹ Sec. 7.

² Sec. 46.

³ Sec. 9.

The Collector shall cause

(A) General public notice to be given

(1) at convenient places near the land

(2) stating

(a) Government intends to take possession of the land

(b) claims for compensation may be made to the Collector and shall further state

(1) particulars of the land

(2) time and place (not earlier than 15 days) where persons or their agents may appear and state in writing duly signed:—

(a) nature of their respective interests

(b) amounts and particulars of their claim

(c) objections to measurements.

(B) Special Notice.

The Collector shall also serve similar notice to

(1) occupier (if any)

(2) all such persons

(i) known } to be interested;

(ii) believed }

(iii) entitled to act for persons (1) (2),

as reside or have agents authorised to receive service—within the district. If not so residing or having agent—to the last place of residence or business by post in a letter registered under the Post Office Act.

NOTE.—Non-service of notice is not by itself fatal if the claimant had otherwise notice of the proceedings.¹ Otherwise notice is imperative.

(10) Requisition to make statement

The Collector may require any person interested to make a statement (not earlier than 15 days after requisition) containing

(1) name of any other person having interest in the land or part thereof as:—

(1) Co-proprietor,

(2) Sub-proprietor,

(3) Mortgagee,

(4) Tenant, or

(5) Otherwise;

¹ I. L. R., 43 Mad. 280.

- (2) nature of such interest; and
- (3) rents and profits received or receivable within last 3 years.

NOTE.— Under the Indian Penal Code, a person is bound to supply this information (Sec. 175 & 176 of the I. P. C.).

(11) Inquiry by Collector & Award¹

The Collector shall on the date appointed in the notice under section 9 inquire into objections regarding

- (1) **measurement** made,
- (2) **value** of the land,
- (3) **respective interest** of the persons claiming compensation,

and make an award under his hand of

- (1) the true **area** of the land,
- (2) **compensation** which should in his opinion be awarded,
- (5) **apportionment** of the compensation among persons interested or believed to be so, of whose claim he has information (whether they have appeared before him or not).

- NOTE.— (A) (1) Award is then filed in the Collector's office.
 (2) Award is final regarding the above 3 points.
 (3) The Collector shall give notice of the award to persons who were not present either in person or by their representatives. (Section 13).
 (B) The Collector may adjourn the inquiry from day to day.²
 (C) The Collector can enforce attendance and compel production of documents for this inquiry under the Civil Procedure Code.³
 (D) The Collector is guided by section 23 and section 24 in awarding the amount of compensation.⁴

(12) Taking Possession

Collector may take possession

- (1) **After award**—at any time, possession may be taken after 15 days of notice to take possession given under section 9.
- (2) **Before Award**—
 - (1) (a) in case of **urgency** wherever the Provincial Government so direct, or
 - (b) only of waste arable land.

¹ Sec. 11.
² Sec. 13.
³ Sec. 14.
⁴ Sec. 15.

- (2) in case of sudden change of navigable river or other unforeseen emergency—if required for the Railway Administration for maintaining traffic or making river side or ghat station or convenient connection or access to such station.

NOTE.— In case of buildings, notice of 48 hours or longer, if necessary should be given to owners to remove movables.

- NOTE.— (1) Whenever possession is taken before award, the Collector should give (1) compensation for standing crops and trees, (2) damages caused by sudden dispossession not excepted in section 24.
- (2) Wherever the Provincial Government so desire, provisions regarding hearing of objections under section 5 (a) shall not apply to cases of emergency under section 17 so that final declaration under section 6 may be made immediately after preliminary notification under section 4 (1).¹
 - (3)² If the Collector is opposed or impeded in taking possession, he can enforce surrender if he is himself a magistrate otherwise he can apply to the Magistrate or Commissioner of Police to enforce surrender to him.³

(13) Legal Effect of Collector's taking possession

The legal effect of Collector's taking possession, either after the award or in case of urgency before the award, is that the **Land vests in the Government free from all encumbrances.**

- NOTE.— (1) If, however, the provisions are not strictly complied with but are made a cloak for attempting to obtain an indefeasible title under the guise of a public purpose the proceedings do not operate to create a valid title in Government.
- (2) **Disposal of the Land after acquisition.**
 "Under section 16 acquired land vests absolutely in Government free from all encumbrances. Obviously therefore Government can do what they please with it. It would be inadvisable to acquire land ostensibly for one purpose and to use it for another purpose, more particularly if the second purpose were one for which it could not be compulsorily acquired under the statute, but it does not appear that the former owner would have any remedy. Speaking generally and assuming that the change of

¹ Sec. 17 (4).
² Sections 183 and 186 of the I. P. C.
³ Sec. 47.

purpose was a bona fide error and not due to a desire to avoid law, land which has been acquired for a specified purpose may be used for any other purpose."¹

(3) Transfer of Clear Possession and Correction of Land Records.

- (i) The Acquiring Officer must take possession and see that the possession is clear and good, i.e., tenants are evicted and occupied structures or standing crops, etc., are removed. When Acquiring Officer has obtained perfectly clear possession he can then duly pass it on to the applicant.
- (ii) Acquiring Officer must also take steps to get the Land Records, namely—(1) the Record of Rights, (2) The Village or City Survey Map, (3) the Land Register,—corrected. When land is acquired for a local body land assessment is generally remitted.
- (iii) Sixty years' adverse possession would defeat Government title to land if possession is not taken when it should have been taken.

¹ Anderson, page 110.

CHAPTER III

JURISDICTION OF CIVIL COURT

The Land Acquisition Act creates a special jurisdiction and provides special remedies. Such jurisdiction is exclusive and the ordinary jurisdiction of the Civil Court is ousted.

The Act provides for references to the Court under five sections viz., Sections 18, 30, 35, 37, and 49. They are dealt with in the following order :—

I. On what points can references be made under the Land Acquisition Act ?

References can be made as regards—

- (1) the amount of compensation for standing crops and trees and damages etc., in cases of emergency under section 17.¹
- (2) as to the true area taken.²
- (3) as to the apportionment of the sum awarded.³
- (4) as to the investment of money deposited in respect of lands of persons incompetent to alienate.⁴
- (5) regarding disputes as to the estimate of damage during temporary occupation.⁵
- (6) regarding disputes as to the condition of the land or the expiry of temporary occupation or any matter connected with the agreement regarding damages during temporary occupation.⁶
- (7) for settlement of the question as to whether any land is part of a house, factory, etc.⁷

NOTE.—

- (1) Provisions regarding references to Court are unilateral in so far as Government (or the applicant who apply for acquisition through Government e.g., Local Body or Chief Officer) cannot invoke Court if dissatisfied with the award.⁸
- (2) No reference lies against award of compensation for damages by Collector or Acquisition Officer in respect of preliminary entry under section 5.

1 Section 18.
 2 Section 18.
 3 Section 18 or Section 30.
 4 Section 32.
 5 Section 35 (3).
 6 Section 37.
 7 Section 49.
 8 Section 50, proviso.

- (3) No reference lies against the decision of Provincial Government under section 5A that a particular piece of land is required for a public purpose.

II. Appeals (Section 54).

When the District Judge's award exceeds that of the Acquisition Officer, the Collector has to see the advisability of preferring the appeal and if he decides that an appeal should be made he has to apply to Government for sanction. An appeal, if Government sanction, will then be to the High Court and, if necessary, a second appeal will be to the Privy Council from the decree of the High Court (Sec. 54). These appeals are subject to the provisions of the Civil Procedure Code. Thus an Appellate Court has inherent power to consolidate appeals under Sec. 151 of the Code (45 I. C. 468). Thus from a decree of the District Court there is an appeal to the High Court and from a decree of the High Court to the Privy Council. From a single High Court judge hearing a reference there is an appeal to the High Court consisting of a Bench of two Judges and from their decree to the Privy Council.

III. Civil Procedure Code, 1908—Applicability of provisions of— Section 53.

The Claimant before the Land Acquisition Court is in the position of the Plaintiff. Proceedings in Court on a reference are in the nature of suits.

Section 53 of the Land Acquisition Act lays down that the provisions of the Civil Procedure Code will apply to all proceedings under the Act except where any provisions of the Code will be inconsistent with the provisions of the Act, for example, the following provisions of the Civil Procedure Code will apply:—

- (1) Power to add New Parties.¹
- (2) " " restore to file a case dismissed for default.²
- (3) " " order for discovery.³
- (4) " " call for records.⁴
- (5) " " consolidate proceedings.⁵
- (6) " " review.⁶
- (7) " " appeals⁷ etc.

¹ Or I r 10 (2).

² Or I r 4.

³ Or XI r 12.

⁴ Or XIII r 10.

⁵ Or XLVIII.

⁶ Or I r 1.

⁷ Or XLV.

IV. Costs

Section 27 of the Land Acquisition Act deals with costs. Every award must state costs incurred in the proceedings and by what persons and in what proportions they are to be paid. Costs are ordinarily payable by the Collector when the Collector's order is not upheld unless the owner's claim was extravagant [Section 27(2)] or he was negligent in putting his case before the Collector.

NOTE.—

(1) Costs referred to in section 27 are (i) process fees, (ii) expenses incurred to summon witnesses, etc., and (iii) pleader's fees.

(2) Although costs are in the discretion of the Court, generally the successful party gets his costs.

V. Court-fees and Stamp Duty

An award or an agreement made under the Act is not chargeable with stamp duty. Neither is fees required to be paid for a copy of the award or agreement by a person claiming under it.¹

VI. Limitation

The following periods are prescribed under the Act.

1. For entry by an officer or his servant into a building or enclosed court attached to a dwelling-house after publication of a notification under Sec. 4 (1), unless the occupier consent at least **7 days'** notice in writing is necessary.²

2. A person interested who wants to **object to the acquisition** of land must apply in writing within **30 days** of the notification under section 4 of the Act.³

3. A claimant will require a notice of not less than **15 days' time to appeal and state the nature of his interest** in the land.⁴

4. Section 18 of the Act lays down the period of limitation within which **an application for reference** should be made.

- (1) For a party who has not accepted the award but who was present or represented at the time of the Collector's award.....
Six weeks from the date of award.

¹ Sec. 5.

² Sec. 4 (2), proviso.

³ Sec. 5A.

⁴ Sec. 9 (2).

(2) For a party who has not accepted the award.....

(1) **six weeks** from the date of the Collector's notice under section 12 (2).

or (2) **six months** from the date of the award, whichever period shall first expire.

5. Under section 35 **temporary occupation** of waste or arable land must not exceed **three years** from the commencement of the occupation.

6. For reference under section 49—Any time **before the award**.

NOTE.—(a) When the last day for reference is a holiday an application may be made on the day on which the Court re-opens.

(b) No extension of time is allowable on the ground of minority. (25 I. C. 448).

(c) Time taken for obtaining copy of the award is not excluded from computing the period of limitation prescribed by section 18.

(d) A suit by the real owner for the recovery of money paid by Government to another person in respect of land acquisition should be brought within 6 years from the date of the payment.

(e) A month's previous notice in writing of any intended suit or proceeding against any person for anything done under the Act (sec. 52). This does not apply to appeals. Section 52 refers to tortious act done under the Act.

(f) In computing the 15 days' notice prescribed in section 9 (2) the day of service and the date fixed for hearing is to be excluded.

VII. Res judicata :—If a person omits to press any part of his claim before the Land Acquisition Court, the matter will become **res judicata** and cannot be litigated afresh in a Civil Court. So also an adjudication as to the right of persons claiming compensation concludes the question between the parties and is **res judicata** in subsequent proceedings¹ but it is not **res judicata** as regards **other parts** of claimants' property held under the same title.²

VIII. Review :—The Collector cannot review an order awarding compensation passed by him as the Civil Procedure Code does not apply to proceedings before him. He is not a Court.

There is nothing in the Land Acquisition Act which debars the Land Acquisition Court from reviewing its own order and hearing an application for review.³

¹ Section 3 (d).

² I. L. R. 29 Mad. 173.

³ I. L. R. 20 Mad. 269.

⁴ 58 I. C. 510.

As the Land Acquisition Officer holding an inquiry and making an award under section 11 is also not "a Court" within the meaning of section 115 of the Code, he is also not a Court subject to the appellate jurisdiction of the High Court within the meaning of section 15 of the Charter Act. The High Court has therefore no power to review an award of the Collector in the exercise of its revisional jurisdiction or of the powers of superintendence vested in it under the Charter Act.¹

IX. Revision :—The fact that an appeal is allowed from an award of the Land Acquisition Court is conclusive of the fact that the Court is subordinate to the High Court. It follows that all the rules laid down in the Civil Procedure Code form its guidance. The exercise by the High Court of its revisional powers has never been questioned.²

When the District Judge declines to exercise jurisdiction being of opinion that he is precluded from hearing the case the High Court interferes and there is no want of revisional jurisdiction in the High Court.³

¹ I. L. R. 38 Cal. 230.

² I. L. R. 17 Mad. 371.

³ 1934 All 280 (F.B.).

CHAPTER IV

REFERENCE TO COURT UNDER SECTION 18

Nature of Proceedings:—The Act contemplates that there should be a fresh inquiry by the Court. A reference to Court is not, therefore, in the nature of an appeal. The Court cannot go behind the reference as it has no appellate authority over the Collector.

Court:—means a principal Civil Court of Original Jurisdiction unless the Provincial Government has appointed a judicial officer within the specified local limits for the purpose of the Act.

When the Collector makes an award under section 11 of the Act about (1) the true area, (2) the compensation, and (3) apportionment—the remedy of the parties aggrieved is to apply to the Collector for reference to the Court for a judicial decision. (The conditions for such application and the period of limitation within which the application should be made should be strictly observed.)

1. Who can apply to the Collector for a reference ?

- (1) any person interested,
- (2) who has not accepted the award, may apply to the Collector to refer the matter to the Court.

2. On what objections a reference may be demanded ?

Reference may be required by the applicant whether his objections be to

- (1) the measurement of the land,
- (2) amount of compensation,
- (3) persons to whom compensation is payable, or
- (4) apportionment of the compensation.

3. What are the requisites of a valid application for reference ?

- (1) **Person interested** who has not accepted the award should require the Collector to make a reference to the Court.
- (2) Application must be in writing.
- (3) The application must state the grounds on which the objections to the award is taken.
- (4) Application must be made **within the period** prescribed under the Land Acquisition Act, viz.—
 - (i) Within **6 weeks** of the date of the Collector's award—if applicant was present or represented when the Collector made his award.

- (ii) (a) Within **6 months** of the receipt of **notice** from the Collector under section 12 (2) of the award to persons not present or not represented ;

or

- (b) Within **6 months** of the date of the Collector's award (No question of notice of the award arises in such a case), whichever (a) or (b) shall first expire.

NOTE.—(1) The award made by the Collector under section 11 regarding measurement of the land, amount of compensation and apportionment thereof, is the result of his inquiry and valuation which are administrative and not judicial in character. Award is not, therefore, a judicial decision. Strictly speaking it is an 'offer' made by the agent of Government. It, therefore, binds no one but (1) the Government who are estopped from contesting its agent's offer and (2) the persons who accept the offer and convert it into a contract.

- (2) No local authority on whose behalf land is being acquired shall be entitled to demand a reference under section 18, though it may appear and adduce evidence for the purpose of determining the amount of compensation.¹

- (3) Those who have not accepted the award cannot file a suit against the Collector but can compel the Collector to refer the matter to the Court for a judicial decision by observing the procedure laid down in section 18 mentioned above. **If the Collector refuses to refer**, the applicant can file a suit and the Court would compel the Collector to refer.

(Here there is divergence of views of different High Courts, some Courts holding that there is no remedy against the Collector's refusal to refer).

- (4) Collector's authority to make a reference is restricted by the statutory conditions prescribed in section 18. He cannot make a reference on a time-barred application. Where he does make a reference on a time-barred application through inadvertence, his action will not bind the Government.

4. Further Proceedings on a Reference under Section 18

On a valid application for reference being made—

The Collector shall state the following particulars for information of the Court :—

(i) Collector's Statement to Court

- (1) Situation and extent of land with particulars of trees, buildings or standing crops thereon.
- (2) Names of persons believed to be interested.

¹ Sec. 50.

- (3) Amount awarded for
 - (a) damage caused at the time of preliminary entry¹,
 - (b) damage caused in case of emergent entry under section 17,
 - (c) amount of compensation.
- (4) If the amount of compensation is objected, the grounds on which the amount of compensation was determined.
- (5) A schedule containing
 - (1) particulars of notices of award served upon parties and
 - (2) written statements made or delivered by interested parties.

(ii) Notice of Reference²

Court will issue notice—

- (1) specifying the date when it will determine objections and
- (2) directing appearances of persons on whom it is served

—to the following persons :—

- (1) the applicant,
- (2) persons interested in the objection—except those who have consented to receiving payment of compensation awarded without protest,
- (3) the Collector—if objection is regarding
 - (i) the area or
 - (ii) amount of compensation³.

(iii) Scope of Proceedings⁴

Inquiry in the Court shall be restricted to a consideration of the interests of the persons affected by the objections, e.g.,

When the only objection taken was to the amount of compensation, the Court cannot consider an objection to measurement which is a distinct objection.

Proceedings shall be in open Court⁵—where duly authorised pleaders may represent parties.

¹ Section 5.

² Section 19.

³ Section 10.

⁴ Section 21.

⁵ Section 22.

CHAPTER V

COMPENSATION I

(Positively)

(Section 23)

The Act provides that private property may be acquired for public purpose provided such person is compensated for the loss of his property. It goes further and lays down specific rules for arriving at the correct amount of compensation payable. The Collector or the Land Acquisition Officer has to bear these rules in mind when he makes his award under section 15. If the matter goes to Court, under section 18 for example, the Court will be guided by these rules. These important **canons of compensation** are laid down in sections 23 and 24 which should be committed to memory, by every one who has to deal with acquisition matters.

These canons in the first place specify positively what matters shall be taken into consideration when awarding compensation and in the second place, negatively specifies matters which should not be taken into consideration.

The first group is dealt with in section 23 and the second in section 24. Both together give a complete Code of Rules.

We enumerate in this Chapter the *positive* Rules. Chapter VIII deals with *negative* Rules. See also Charts I and II, pp. 433 and 434 *post*.

A. In determining the amount of compensation to be awarded the Court shall take the following into consideration :—

- (1) **The market value of the Land** at the date of the publication of the preliminary notification under section 4 (1).
 - (a) **Market value** (See Chapter VI).
 - (b) of the '**Land**' = all the aggregate interests in the land.
 - (c) at the **date of the preliminary notification** under section 4 i.e., the date when it is notified that the land is likely or is needed for a public purpose or a company. This is in English Law called '**a notice to treat**'.
- (2) The **damage** sustained by the person interested, by reason of the taking of any—

Standing crops or trees which may be on the land, when the Collector takes possession thereof.

NOTE.—These standing crops or trees are included in the definition of the 'land' because they are 'things attached to the earth'. Therefore their value is to be included in the market value of the land.

- (3) Damage, (if any), sustained by the person interested when Collector takes possession, by reason of **severing such land from his other land**.

Severance—See Chapter VII.

- (4) Damage, (if any), sustained by the person interested when Collector takes possession by reason of the acquisition **injuriously affecting**
- (1) his **other property** movable or immovable **in any other manner**.

or

- (2) his **earnings**.

Injurious affection—See Chapter VII.

- (5) If in consequence of acquisition person interested is compelled to **change his residence or place of business**—reasonable **expenses** (if any) incidental to **such change**.
- (6) The damage, (if any), bona fide resulting from **diminution of profits of the land** between the time of the publication of the **declaration** under **section 6**, and the Collector taking possession.

1. In addition to market value of the land—the Court shall award a **sum of 15%** on such market value.

NOTE.—(1) This 15% shall be awarded also on the value of the standing trees or crops because they form part of the 'land'. But no addition is to be made to other damages and costs awarded under this section 23.

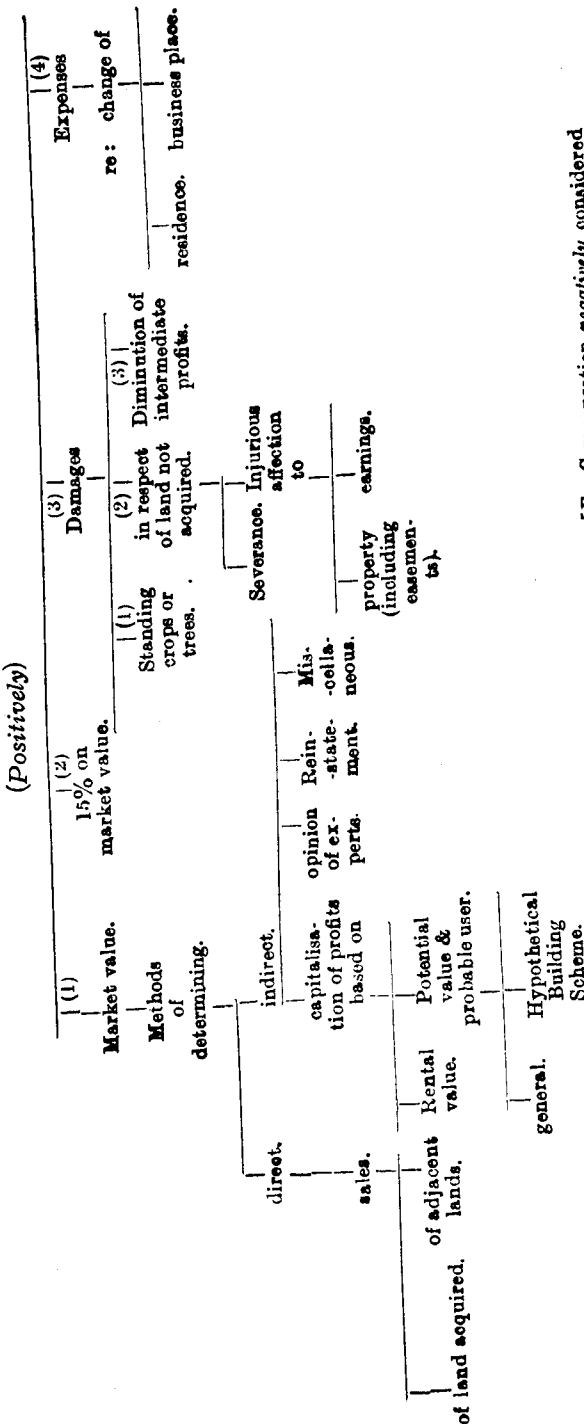
- (2) The City of Bombay Improvement Trust Transfer Act, 1925, being repealed its provisions relating to improvement schemes have been incorporated in Chapter XII-A of the City of Bombay Municipal Act, 1888. Section 354S makes applicable some of the provisions of the Land Acquisition Act, 1894, with certain modifications to acquisition of land otherwise than by agreement.¹

¹ Bombay Act No. 13 of 1933, Section 35.

COMPENSATION I

(Section 23)

(Positively)



[For Compensation negatively considered
S. 24, See Chart overleaf]

COMPENSATION II
(Section 24)
(Negatively)

NO COMPENSATION
TO BE PAID
FOR

Urgency of acquisition.	Disinclination of Owner to part with his land.	Damages not recognised as injury according to law.	Prospective Decrease in value of acquired land.	Prospective Increase in value of acquired land.	Prospective Increase in value of remaining land of the owner i.e., other than acquired.	Improvements subsequent to notification.
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LOCAL BODIES AND THE INDIAN NATIONAL CONGRESS

By B. PATTABHI SITARAMAYYA

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Author of "The History of The Congress"*

THE British people have created seven zones around themselves which traverse the physical, the intellectual and finally, the moral (or immoral) drains of life. That is to say, in familiar Indian terms, they have erected seven *parikrams*, or seven protection walls, around the central citadel of power. That citadel is the one of commercial supremacy of the British, established through a couple of centuries of hard striving, and protected by political and military power in the centre. The British Empire is installed on high by merit raised to a bad eminence, and surrounded by the army (Indian and British) as also by a cordon of British Civil Servants, the Government officers in the various departments. The third zone or protection wall is the legislature; the fourth, the law courts; the fifth, colleges; the sixth, local bodies; and the seventh, the titled aristocracy. Now the last, apparently the least significant, is really the most important; whereas what appears to be the most patent, is really the most latent of all these protections. Let us study these walls of protection, one by one, and try to undo the denationalization that has befallen the country, through foreign rule. For it is not merely political serfdom that we are suffering from, but social, economic and cultural serfdom as well.

The Title-Holder

Proceeding from the surface to the centre of this series of trenches erected by British Government to safeguard their authority, we find that the title-holders are a mere handful; and yet, the amount of awe and regard they inspire in the common people, the peculiar sanctity with which they are endowed by the representatives of the Crown in India, not to speak of the privileges to which they are admitted, the precedence and priority of place assigned to them in Durbars and public meetings of official origin, and the promptness with which they get concessions for water supply for their lands, licences for their trades and bounties for their industries, all these go to show how the title-holder is a rich specimen

of humanity in bondage, by no means to be neglected, albeit that he is eternally selling his country only for his own selfish ends. He is the *minion* of officials, the favourite of bureaucratic fortune, who has admission into halls of honour and places of power. The first thing that we should do is to do away with these titles. Mahatmaji has nicely dispelled the mystery and halo surrounding the title-holders. Gandhiji said that to this end we should surrender our titles, and in the eight Congress Provinces, "the titles are to be abjured," say the Congress Ministers. The charm and the magic of the titles, *Rao Saheb, Khan Saheb, Rao Bahadur, Khan Bahadur, Diwan Bahadur, C.I.E., C.S.I., Knight, K.C.I.E., K.C.S.I., Kaiser-i-Hind* gold and silver medals—all these must disappear. The title-holders are an artificial "class" of British supporters, who have been eternally betraying the interests of the nation. They will have to go.

Local Boards

Then the Local Boards must be entirely overhauled. The system of election now in vogue is largely outlandish, leading to indescribable corruption. Universal adult franchise was regarded as the panacea to all evils. But the wider the franchise, the more will be the danger of groups controlling the results of the elections, because such groups may not be formed on the basis of any principle but will be merely brought into existence for communal, caste or sectarian considerations or for rank rowdyism. A way must be found out of the quandary. Elections there have to be, for the popular will must find expression through adult franchise; but whether the methods in vogue will suffice, or some adaptation of the principles underlying the elections in ancient days (and still in current practice in some parts of India, to wit, *jirgas*) will have to be introduced, is a question now to be settled to tackle the problem of corruption which has struck deep root in our Local Bodies. As, noticeably, corruption is more on the increase with the development of popular institutions and the extension of franchise, this matter has to be investigated thoroughly and systematically uprooted. Party life and party government have introduced into the Local Board politics the undesirable "Tammany Hall" methods which must be checked betimes. We also discover the same corruption in regard to administration and establishment of Provincial Autonomy. There is another form of tyranny which has to be suppressed, the tyranny by Congress organizations in some places and by Congressmen in others. The abolition of nominations in the Local Boards has served to take away the official block, but, the process of purification must yet be undertaken on a wide scale so as to purge the Local Boards of the besmirching elements therein.

Congress in Power

When once the Congress has decided to capture Provincial Legislatures and to form Provincial Ministries, the question naturally arises whether the Congress should not logically capture Local Bodies, for these are limbs of the Provincial Governments. These are the institutions which have been carefully kept in hand by the British Government in India all these years through the exercise of a close control over their composition as well as functions. The amendment of the Constitution of the Calcutta Corporation, it will be remembered, was one of the twelve great problems kept in view by Lord Curzon, problems which sought their culmination in the partition of Bengal on 16th October 1905, and which ultimately ended in his own resignation before time. Although the Local Self-Government Act was passed as early as 1882, just three years before the birth of the Congress, as a sob to the Cerberus of the rising national movement in India, yet, till this time last year, the nominated element and the official block were there as bulwarks of British Imperialism. It was these Local Bodies that voted addresses to Governors and Viceroys and gave demonstrations of loyalty to the Crown and its representatives. Every incoming Viceroy was welcomed by the Corporation of Bombay; and likewise, every outgoing Viceroy was bidden farewell. At one time, when public life was still in its embryonic stage, these Local Bodies were the organs of public life, the accredited mouth-piece of the people, voicing the public view on every new proposal, every intended change in the constitution, every Bill placed before the Legislature. That was why they were so carefully kept immune from all infection by the virus of nationalism.

But now, as the conditions have entirely changed, the Local Bodies are like the radical pulse that throbs in unison with the impulse of the central heart, which is Provincial Autonomy. If Provincial Self-Government has come to stay under the aegis of the Congress organization, it would be no more reasonably possible to let go the Congress hold on the Local Bodies, than it may be for the physician to ignore the pulse-beats tested by the watch for detection of sound or idiosyncratic symptoms in the cardiac cycle of the patient.

The Electorate to Local Bodies

On the principle or policy of capturing the Local Bodies there were conflicting opinions till recently, but to-day, when eight provinces have come under the rule of Congress Ministers, no such divergence of view or attitude is possible. On the contrary, it is inevitable that Congress should not only take possession of these bodies but retain its control over them. In fact success or failure in these elections constitute the barometer that indicates the pressure of the Congress atmosphere. If we lose in

by-election, it means that the hold of the Congress on the affections of the people has weakened. This, however, must be taken as being only broadly true; for the considerations that sway popular decisions on a mass scale are many and varied. The same body of voters that were sworn in the name of the Congress at elections to the Provincial Legislatures, may not accept a candidate chosen by the Congress at Municipal elections. Their view and vision become necessarily circumscribed, their attachments and affections are regulated by ties of consanguinity or bonds of caste and community. Sometimes they are apt to be prevailed upon by a powerful and lively sense of personal gain in relation to the Local Bodies. Nevertheless the fact remains that not to vote for a Congress nominee is to sit in judgment over Congress decisions, to seek to vary them by one's own passions, prejudices and predilections. It must be admitted that any such laxity would undoubtedly indicate a weakening of Congress discipline. It must, therefore, be our duty first to see that we run a candidate for every vacancy and succeed in every election, and also to see to it that members so elected remain true to the Congress pledge, loyal to Congress ideals and that they observe Congress discipline.

Disciplined Public Service

It is really here that we have been disappointed. The personnel of our choice has not been satisfactory in a fair percentage of cases. The candidates chosen sign the Congress creed, but they fail to imbibe the Congress spirit. They allow their selfish ends to gain over public interests. They are perhaps connected with certain contracts in private capacity, and they do not like that the lowest tender should be accepted in these cases. The proceedings, therefore, raise a storm of objection, agitation and opposition. If the Chairman asserts his right or authority, it upsets the delicate balance of majorities and minorities in the strength of a Corporation and then put the Executive to a lot of trouble. The Executives' problem is whether to continue in service or resign in the circumstance of the altered balance which has weakened the majority. If he does not resign but continues to plod on with the wavering and uncertain majority, he runs the danger of being one day called upon to explain his conduct and be held responsible for all the latches, deviations and indisciplines which, though nothing much individually, assume monstrous proportions. The fact that such latches or trenches were the direct results of the numerous compromises of principle and policy naturally following in the wake of the weakening of the majority's position, does not, at a later stage, help him to clear the charges directed against him and arising from his indecision and hesitation when he should have, at the outset, severed his connection. All events must be judged with strict regard to the time, place and circumstance of their

occurrence. It is easy to be wise after the event. Nor can we demand that earlier events should be judged by later experiences. When the majority was beginning to melt away, people opposite were not willing to declare their incipient hostility. They affected to be friends, and the loss of friendship is really a psychological process slow in onset and sure in course. There is no doubt that at some stage or other the leader finds himself in the hours of dilemma and usually, at any rate more often than not, he was influenced by a longing and lingering desire for power which tries to obscure the uncomfortable, from one's vision and obfuscate one's judgment.

Exaggerated Reports

It is easy—profoundly so, to exaggerate the measure of corruption that has crept into Congress-manned Local Bodies. But it is always much better that we exaggerate it rather than have it underrated. The fact is, that a Congressman is expected to be pure and even immaculate in his dealings. The wearing of Khaddar is regarded by the public as the emblem and hall-mark not alone of patriotism but of purity of character. The white of the Congress flag betokens the same. And when a Khaddar-clad Municipal Chairman, or the President of a Local Board, is even suspected of being privy to or directly concerned with any shady transaction, the finger of universal scorn is pointed at him. The country expects the observance of a code of ethics which is solemnly avowed by each man. There are men in society who frankly avow that they are not concerned with any of the Ten Commandments. But a Congressman and a Khaddar-clad Congressman at that, cannot afford to be a moral wreck. This is the reason why a Congress office-bearer, wherever he may be holding that office, is judged with extra severity and sternness. That is why we who are answerable for standards must strive, in all possible ways, to enforce our high standards on our workers as well as on Chairmen and Presidents.

Lapses and their Remedies

What are these lapses of which we make so much? Before narrating them, let it be clearly understood that what we are aghast at is not the quantity or volume of immorality,—but the very fact that it exists. Often does a Municipal Chairman or a Local Board President start for the polling booth with a retinue of 28 Gandhi caps, but when he counts the majority that he has secured, he is surprised to find that he had only twenty-two votes against the twenty-one of his rival. Who are the defaulters? In three Municipalities where Congress had majority, the election results revealed that the defeat of the Congress candidate was due to the failure, on the part of six, eight and eleven members

respectively, to vote for the Congress candidate. What is worse, most of these defaulters swear that they voted for the particular candidate they were supposed to vote for. How are we to find the truth? What evidence can be adduced in support of any disciplinary action that may have to be taken? And not to take any would mean that the culprits are let scot-free. More than corruption, more than complicity in contracts, this failure of truth and common honesty is reprehensible beyond measure. Such a thing could never have occurred in 17 municipalities out of twenty. But moral efficiency cannot be judged, like intellectual capacities by the percentages of marks secured by examinees at a university. Tests of honesty are such that candidates can pass therein only by scoring cent per cent.

The Pitfalls of Executive Servants

By far the worst of the weaknesses and failings of the Congress Chairmen and Presidents is their desire, once on the saddle, to continue anyhow to ride the horse of Local Bodies. No matter whether the bit is broken or the reins are snapped, or the feet are off the stirrups or that the saddle itself is slippery, the rider wants to trot and canter and gallop. No one can perform these feats unless he is an acrobat or an athlete. A political executive head, who sticks in office against a growing minority (which has even become a majority) can only do so by entering into collusion with the opposite party. But, instead of capturing his opponents, he gets captured himself and soon finds himself in their heavy grip from which he cannot extricate himself. Quite imperceptible is the process, which reduces a person covetous of power to the unenviable position of monstrous indignity by insidiously drawing him into vortex of intrigue, much as a man is drawn into an eddy. The real danger to a man on the extreme verge of a precipice is when he lets go his hold at the edge, not when he strikes against a rock at the bottom. The last is the necessary culmination of the first predicament.

"Log-Rolling" in India

Besides these major dangers, there are such minor ones as yielding to the pressure of party men in return for petty favours. Log-rolling is a common falling in America, and it looks as though it has come to stay in India. We must nip it in the bud. Shares in contracts are bad enough, but greed for power is a monster that holds its victim in octopus-like grip. Congressmen elected to the positions of executive headship have to avoid these pitfalls and save themselves from political and moral perdition. Some of these crop up in the shape of commission in regard to text books, or as remuneration paid for works privately

executed and offered as a consideration for votes. In matters like acquisition of sites for party men, housing schools in buildings belonging to party adherents, collecting party funds from contractors, it has been our practical experience to detect the corrosive canker of corruption. The sooner we change all this, the better will it be for the Congress. The Augean stable must be cleared of the rancour of communalism, and sectarianism. These are worse in effect than party warfare. We must frankly own that in the Congress circles, which must be steeped in nationalism, attachment to men of one's own community has become not only known but has taken place of a well-established maxim. This is an insidious disease that is undoubtedly eating into the vitals of nationalism and public life. Glaring mistakes are found where men of long standing in service have been thrown to the wolves to make room for a raw youth who is favoured because of the fact that he belongs to the same community as the President! The fallacious favourism based on territorial proximity, not merely provincialism, or districtism or villageism, prevails with the most eminent of our officers. Let us hope that such misdemeanour shall not in future be condoned, tolerated or explained away on the ground of youth and inexperience.

But what should we say to levying fees for appointments, and charging remuneration for favours done in cash or kind? It is a matter of shame that there should be complaints against Congressmen having questionable relations with mistresses of schools! It is only when Provincial Congress Committees can rise to the occasion and weed out such men altogether that we can hope to purify Congress circles. It is no use lamenting our shame or sorrow, we must obliterate it.

Greater Dangers—For Local Bodies

Local Bodies offer greater temptations than Legislatures. For, where in the former there is administration; in the latter there are only deliberations. It is possible that the Legislatures also would lend themselves to misbehaviour by members. But the immediate temptations attendant on the work in Local Bodies constitute the real danger as they conveniently suit the status of one and all. We in the Congress are neither in possession of full power to weed out all excrescence with a stern hand, nor are we living in that amorphous condition when less ethically minded people and parties might condone or even connive at these lapses. The Local Bodies, in a word, constitute the real touchstone of Congress character and by the verdict based upon the experiences in them should Congressmen be prepared to be judged whether they are genuine or counterfeit.

Another interesting development has been noticed in regard to the Local Board elections. Factional spirit has permeated the village

panchayats (of which there are 4,500 in the Madras Presidency), and about 20 to 25% happen to be superseded on account of internal dissensions. A special officer is appointed to preside over the superseded *Panchayat* Boards. The special officer is lost between the two contending parties and is hardly able to achieve any better work than the rival factions whose place he has taken. Quarrels and even hooliganism are the common features evident on the eve of *Panchayat* Board elections. Often times, the people of the village subscribe the necessary funds for the ensuing litigation, Civil or Criminal, arising out of the quarrels. These factions develop on either side to the point of inducing to murder. Such cases of *Panchayats* are known where murders are committed in connection with these periodical elections. One recent occurrence is noteworthy in that the minor party, which was involved in a murder, happened to threaten the voters of the village that they would belabour the defaulting voters. The major party thought it wise to teach a lesson to the minor party by belabouring their leader in advance so as to inspire a healthy (or unhealthy) fear in the voters. Thus each party canvassed its votes on the basis of threats of punishments in case the voters did not cast their votes in their favour.

The Worst Phase

This is by far the worst phase in the development in the *Panchayat* elections. But only a cynic would rush to the conclusion that because such atrocities and murders are taking place, all elections should be abandoned. The litigious spirit which has been fostered in the people is largely traceable to the uncertainties of law courts and the absence of authority to rule in the village elders which used to be a potent instrument for rendering justice in local disputes. The practice of deciding disputes at Courts, situated at huge distances from the scenes of offences or disputes, has put a premium upon falsehoods. Indeed, the Law Courts have become places where contending parties can play fast and loose with the ends of justice.

We have to overcome all these evils instead of merely sermonizing and displaying holy horror at the evils of democracy and the voting system. Obnoxious features in any new institution should be readily tackled to shape. Time alone will develop a due sense of proportion, a sense of propriety and perspective for balancing the rights and duties of citizenship.

—With acknowledgments to
"The Calcutta Municipal Gazette",
26th November, 1938.

VOTE FOR WOMEN HOW THEY USE IT

By JATINDRA MOHAN DATTA, M.Sc., B.L.

THE Women Suffrage Movement and the enfranchisement of women in India is mostly of post-war development. Though the municipal franchise was granted to the Women of Bombay and Madras Presidencies,—the two *pardah*-less major provinces, about 25 years ago, it was so limited in character that it did not make any impression on even the women concerned. No protest, therefore, was made when it was withdrawn some years later in Madras.

Feminine Suffrage—A Post-War Development

Three fundamental causes led to this post-war development of the Feminine suffrage movement. First, the time was psychologically ripe. A new era was beginning for the Indian people through the introduction of the Montague-Chelmsford Reforms in the Indian Government which planned to give a basis of representative government on a much extended scale than before. The door was being opened to complete Self-Government but only men were being invited to enter into the promised bliss. The fact was ignored that it was the women,—the mothers, wives, sisters and daughters—who composed half the people of the country. And it was through the joint efforts of men and women that the agitation for political Reforms was carried. During the political agitation for Home Rule for India, between 1914 and 1917, women began to wake up to their position of exclusion, by the British-Indian law, from any share in representative government. And then they began to take an increasingly active part in politics. The internment of one of themselves, the late Mrs. Annie Besant, greatly stimulated political activity and political self-consciousness amongst our women. The moment was ripe for public expression of their feelings when the late Mr. Montague, the then Secretary of State for India, came here, in 1917-18, to study and investigate Indian affairs at first hand. The men in India were also too enlightened and too fairminded to allow this discriminatory injustice to women to go unredressed.

Secondly, the deep veneration accorded by the Hindu religion to the feminine aspect of human life, in equality with the masculine, is reflected by the importance and the number of our goddesses, in company with the gods, and also by the injunction for the wife at all ceremonies performed by a Brahmanical Hindu to appear and assist her husband; the general attitude of respect and veneration shown to every mother, with equal intensity by Hindus and Muhammadans; and the idea behind

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the sanctity of the *pardah*, all these factors contributed to the easy enfranchisement of women.

Thirdly, the long and strenuous agitation for the vote by women in Britain, and their recent victories (their enfranchisement by Lloyd George in 1918) had brought the whole question of the inclusion of women in public life vividly to the consciousness of all educated Indian men and women. It was also realised, by the supremely thoughtful, that it is also a matter of National and International necessity that Indian women should be given equally high status as women are accorded in other parts of the British Empire.

The Indian National Congress elected Mrs. Annie Besant (then an internee), in the teeth of opposition, as its President in December, 1917. The precedent for including women in modern Indian political life has been a marked feature of the Indian National Congress, in which since its inception, women have voted, apart from being delegates and speakers. This year (in 1917) created the record of the election of a woman as Congress President. To name only one amongst the many ladies who took prominent part in the early days of the Congress, we may mention the names of the late Mrs. J. Ghosal (Sm. Swarna Kumari Devi), the eldest sister of Tagore.

When Mr. Montague came to India, the All-India Women's Deputation waited upon him in Madras on the 18th December, 1917, and claimed enfranchisement. But the Montague-Chelmsford Report of 1918 makes no mention of women, although the widening of the electorate was suggested. When the Government of India Bill was introduced into Parliament in 1919, a number of Indian deputations proceeded to London to give evidence before the Joint Select Committee of Members of both Houses of Parliament, which had been appointed to place the Reforms on a workable basis. Mrs. Annie Besant, Mrs. Sarojini Naidu—the Nightingale of India, Mrs. and Miss Heerabai Tata were the women who were heard by the Committee and who strongly urged the extension of the franchise to women in India.

Traditional Policy of Non-Intervention

But the British are a conservative people. The House of Commons decided that the question was one for the Indians to answer for themselves, and while retaining the sex disqualification in the Government of India Act of 1919, they framed the Electoral Rules in such a manner that if any Provincial Legislative Council should decide by a resolution in favour of women's franchise, women should be put on the electoral register of that Province. This is the only provision regarding franchise matters which might be changed under the new Government of India Act. The Legislative Council had no power to alter the disqualification

of sex which stands against women's rights to stand as candidates for election to the Councils.

Sympathetic men in India were not slow to take advantage of this provision in the Electoral Rules and enfranchise their womenfolk. Madras was the first Indian Province to enfranchise women. This it did within a year of the inauguration of the new Reforms. Bombay followed suit. In February 1923, a world suffrage record was made by the unanimous vote of the United Provinces Legislative Council in favour of women suffrage. In Bengal, the progress of enfranchisement was not so rapid. In September 1922, Mr. S. M. Bose, Bar-at-Law, moved a Woman Suffrage Resolution in the Bengal Legislative Council, which was debated for three days but finally defeated by 57 votes to 37, the entire bloc of Muhammadan members voting solidly against it. In August 1925, however, the Bengal Council passed a Woman Suffrage Resolution on a voting majority of 54 to 38; other provinces also enfranchised women. During the discussions at the several Round Table Conferences, Indian opinion supported enfranchisement of women on a more liberal scale. Thus, under the Government of India Act of 1935, women have not only the right to vote and to stand as candidates in all the Provinces, but they have certain seats specially reserved for them. We have detailed the progress of the enfranchisement of women at some length above only to show that their enfranchisement is very recent; and that in India, men, generally speaking, are not opposed to the franchise being extended to women.

Use of Franchise

Now we shall deal with the question: What use women have made of their votes?

In 1926, when the females voted for the first time in Bengal the percentage of the female voters who voted in the Council Elections was the highest in the non-Muhammadan (mainly Hindu) urban constituencies, *viz.*, 23.1 as against 48.3 for males; and lowest in Muhammadan rural, *viz.*, 7.7 as against 37.02 for males. In the Anglo-Indian constituency it was 22.05 as against 35.8 for males. This is very significant—for the Anglo-Indian women are neither illiterate nor do they observe *pardah*.

The lesser female attendance at polls is not confined to Bengal. We give below the attendance of female voters in relation to that of the general electorate in the several provinces in 1929, in recorded percentages of those attending polls to the total electorate of the several classes. It will be seen that in every province, where the relevant statistics are available, the female attendance is less both for the Council and the Central Assembly elections. It will also be noticed that even in those

provinces where there is no *purdah*, the female attendance at polls is considerably less than that of *men*.

Percentage of those who voted

PROVINCE	COUNCIL		ASSEMBLY	
	Women Voters	All Voters	Women Voters	All Voters
Madras	18'1	43'1	11'5	31'0
Bombay	6'5	16'5	3'2	7'4
Bengal	(13'6)*	26'1	—	1'9
United Provinces	3'9	24'6	3'3	14'2
Punjab	5'6	38'5	7'5	55'4
Bihar & Orissa	5'4	33'2	3'0	21'5
Central Provinces	8'8	33'3	—	40'9
Assam	6'5	28'3	—	—
Burma	14'0	18'0	—	17'6

The figures are for 1926.

It may be urged that the lesser polling by women was due to the fact that there were no women as candidates. Let us now deal with the attendance of women at the elections held under the new Government of India Act of 1935.

Percentage of votes polled to the number of electors in the contested constituencies

PROVINCE	PROVINCIAL LEGISLATIVE ASSEMBLY		PROVINCIAL LEGISLATIVE COUNCIL	
	Women Voters	All Voters	Women Voters	All Voters
Madras	31'5	51'6	55'1	80'1
Bombay	42'4	51'7	56'4	77'4
Bengal	5'2	40'5	20'5	46'6
United Provinces	19'3	58'3	35'5	70'2
Punjab	33'6	63'7	—	—
Bihar	7'9	59'2	67'3	66'2
Central Provinces	24'5	54'8	—	—
Assam	29'2	71'4	91'6	94'0
N.-W. F. Province	71'4	72'8	—	—
Orissa	6'6	58'9	—	—
Sind	34'7	54'2	—	—

Generally speaking, the female attendance at the polls is less ; but in some cases, *e.g.*, in the North-West Frontier Provinces Assembly elections and in the Assam Council elections it is almost equal to that of males ; and in the Bihar Council elections the female attendance is *greater*. We shall now see how the women have voted in the seats reserved for women.

Percentage of attendance

Province	In women's seats	Provincial average
Madras	Women	44'6 51'6
Bombay	General Urban	35'8
	Rural	78'7
	Md. Urban	—
Bengal	General Urban	20'48
	Md. " "	28'38
United Provinces	General	57'4
Punjab	Muhammadan	48'93
	Sikh	44'67
	General	69'78
Bihar	General	59'74
	Md.	—
Central Provinces		42'0 54'8
Assam		55'84 71'35
Orissa		43'02 58'87
Sind	General Urban	—
	Md. " "	72'0 54'2

So far as voting in seats specially reserved for Women is concerned, we find that in four cases in four different Provinces the female attendance at polls is higher—considerably higher in 3 cases, than the respective provincial averages. It is also higher than their attendance at seats open to *men*.

Now we shall deal with another aspect of women's active interest in politics, *viz.*, the number of women candidates who came forward to stand for the reserved seats. In the following table of the number of seats reserved for women, the number of women candidates as well as the number of such seats filled up without contest are shown province by province.

Women in Provincial Legislatures

Province	Seats reserved for women	Candidates	Seats filled without contest
Madras ...	8	18	...
Bombay ...	6	9	3
Bengal ...	4	8	1
United Provinces ...	6	14	1
Punjab ...	4	12	...
Bihar ...	4	6	2
Central Provinces ...	3	5	1
Assam ...	1	2	...
Orissa ...	2	4	...
Sind ...	2	4	1
Total ...	40	82	9

Thus for 31 seats there were 82 candidates ; for every seat reserved for women there were 2.64 candidates. This compares favourably with the total of provincial figures. For 1,379 seats for which there were contests 3,757 candidates stood ; and this work out to 2.73 candidates for each seat.

Some women have been elected to the different provincial legislatures from seats *not* reserved for them. We give below their names and the seats which they have been able to capture from men.

Madras Legislative Assembly

Constituency	Name of Member
1. Shermadevi General Rural	Sm. Lakshi Ammal.

Bombay Legislative Assembly

2. Bombay City General	Mrs. Hansa J. Mehta.
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U. P. Legislative Assembly

3. Dehra Dun District General Rural	Mrs. Sharmada Tyagi.
4. Muzaffarnagar West General Rural	Sm. Satyavati Devi.
5. Etah South General Rural	Sm. Vidyavati.

6. Farrukhabad North General Rural ... Mrs. Uma Nehru.
7. Rae Bareilly North-East General Rural ... Mrs. Suniti Devi (Mitra).
8. Fyzabad West General Rural ... Maharani Jagdamba Devi.
9. Bara Banki General Rural ... Sm. Prabati Kunwar.

U. P. Legislative Council

10. Sitapur, Hardoi and Kheri Districts Muhammadan Rural ... Musammat Qudsia Begum.

From the above list it appears that the United Provinces are far ahead of other provinces. In the U. P. Legislative Council a Muhammadan woman has been elected ; and she is the only Muhammadan woman in all India to capture a man's seat. In the U. P. Legislative Assembly as many as 7 seats out of 226 open to *men* have been captured by them ; and both relatively and absolutely the proportion and the number is the highest in India. To crown all, the United Provinces are the first to have a Woman Minister in Mrs. Vijayalakshmi Pandit ; and she is the only lady to attain Cabinet rank in all India.

Women in India are progressing fast ; and they are coming into their own rapidly. And in this, despite the *purdah* and Miss Mayo, they are helped and not thwarted by men ; they did not meet with such "manly" opposition as her sister in Europe and America had to face for several decades.

Corporation Elections

We have been dealing with the Council elections so far, now we shall deal with the Corporation elections. Women got their votes in the Calcutta Corporation by the casting vote of Mr. H. E. A. Cotton, then President of the Bengal Legislative Council, when Sir Surendra Nath Banerjea's Calcutta Municipal Act was passed—the voting for and against enfranchisement of women being equal. Women are also eligible for election as Councillors. There have been five general elections ; in the first three women did not come forward as candidates. In later elections, they were candidates ; and some of them were returned.

We give below the statistics which we have collected through the courtesy of the Electoral Rolls Department.

1924	No. of Voters		No. of Voters who attended the poll		Percentage	
	Male	Female	Male	Female	Male	Female
Non-Muhammadan ...	61,023		...	...	...	...
Muhammadan ...	8,657		(Figures not available)		...	...
1927						
Non-Muhammadan ...	50,000	7,493	...	...	...	...
Muhammadan ...	8,414	1,172	(Figures not available)		...	...
1930						
Non-Muhammadan ...	48,542	6,800	17,039	1,428	58'0	64'0
Muhammadan ...	7,805	1,084	3,770	449	36'0	47'0
1933						
Joint Electorate ...	58,975	8,713	38,264	4,326	65'0	49'0
1936						
Joint Electorate ...	68,544	10,087	30,744	3,059	45'0	30'0

From the available data it would appear that the interest of women in the Corporation elections is rapidly increasing. Some, however, say that the figures are vitiated by certain notorious factors.

—With acknowledgments to
"The Calcutta Municipal Gazette",
26th November, 1938.

SCHOOLS AND LITERACY*

By R. V. PARULEKAR, M.A., M. ED. (Leeds)

THE purpose of this Paper is to ascertain numerically the capacity of the Indian Primary Schools to produce literates—literates judged as such by the Census standard of literacy. For this purpose, an attempt will be made to correlate the Census literacy statistics and the Educational statistics of British India during the decade 1921-1931.

Having ascertained this, the failure or *wastage* (as it is generally called) of the Primary School system to produce literates, will be further investigated statistically. My findings on both these vital topics materially differ from the views now current in the country.

Incidentally I shall refer to only two of the many administrative measures which deserve consideration in any discussion on the improvement of the primary system. They are—(1) the promotions of pupils and (2) the age of admission to schools.

In British India (excluding Burma) the following figures show the position of literacy in 1921 and 1931 :—

	1921.	1931.
Population (in lakhs)	2,338	2,568
Literates (in lakhs)	150	181
Percentage of literacy	6.4	7.0

The apparent gain in the number of literates was 31 lakhs. This number is the net increase. The gross increase must be far greater. From the 150 lakhs of literates of 1921, some must have died during the decade, and their places must have been filled up by an equal number of new literates. The death rate among literates of all ages for a decade, is 23 per cent. Out of 150 lakhs, therefore, 35 lakhs must have died during the decade. The gross output of new literates living in 1931 must, therefore, be 66 (31 + 35) lakhs. In order to find out the total output of new literates during the decade, account must be taken of those new literates who must have died during the decade. The death rate among new literates in a decade comes to 5 per cent. Therefore the total output of new literates during the decade 1921-1931 would be 68.5 (66 × 100) ÷ 95 or say, 70 lakhs.

* A paper read at the meeting of the New Education Fellowship held on Friday, 30th December 1938, in connection with the 14th Session of the All India Educational Conference.

Nearly the whole of this number of new literates (70 lakhs) must have been the product of the primary schools. For there were hardly any extra-school agencies which could contribute substantially to the output of new literates during the decade. These 70 lakhs of new literates sent out by schools must have completed the course of a particular primary class which must be the minimum test for literacy as laid down by the Census standard. What may be that class?

Various opinions are expressed regarding the class the completion of which gives literacy as defined for Census purposes. Some hold that it is the fifth year class. The official opinion in Bombay adheres to this view with remarkable tenacity. Others and their number is large, consider that it is the fourth year class that gives literacy. While yet a few have vaguely hinted that it may be the third year class. In order to ascertain which of these three views is nearer the truth, it would be necessary to find out the number of pupils who have been able to complete the course of each of these three classes during the decade. From the annual reports on Indian Education it is possible to find out the number of pupils who were on the rolls of each of these classes for each of the years in the decade. It may be assumed that those who were rendered literate in the year 1921 were counted in that year's census and similarly those who became literate in 1931 were counted in the 1931 census. It is, therefore, necessary to take the figures of the ten years, from 1922 to 1931.

But the total number on rolls of a particular class in the decade, contains many names which are repeated for two or more years. The number of such repeaters is very large in Indian schools. The number of repeaters is not available. Hence it is necessary to have recourse to the figures of pupils "promoted" from each of the three classes to the next higher class during the decade. The number of promoted pupils does not contain "repeaters," for the name of a pupil who is once found fit for promotion from a class is never repeated on the rolls of that class. Even the figures for "promoted" pupils are not available for British India. They are, however, available for Bombay for most of the years of the decade 1922-1931. They are as follows :—

Class.	Number on rolls in the decade. (000)	(Bombay)	
		Number promoted in the decade. (000)	Percentage of Promotions.
5th year class	925	477	52
4th year class	1,150	697	61
3rd year class	1,468	845	58
2nd year class	1,716	1,017	59

These Bombay percentages are applied to the figures for British India (excluding Burma) in the following table :—

Class.	Number on rolls during the decade. (in lakhs)	Number of promoted pupils in the decade. (in lakhs)
5th year class	42	22
4th year class	73	45
3rd year class	109	63
2nd year class	150	89

A glance at the above table shows that the only figure which is the nearest to the figure of new literates (70 lakhs) deduced from the census statistics is the one (63 lakhs) which is yielded by pupils who had completed the 3rd year class. Other assumptions, viz., the 5th or the 4th year class being the test of census literacy, are not borne out by the above investigations. It may be argued that the application of the Bombay percentages of promotions to the figures for British India may not be quite correct. While admitting the force of the contention, it is necessary to state that the Bombay percentages on the whole being on the upward level, there is good reason to believe that the application of the Bombay percentages will not materially vitiate the conclusion reached, viz., that the completion of the third year class gives literacy.

Many high-placed officials have tried to prove by a comparison of the Census and Educational statistics, that the passing or completion of the 4th year class gives literacy as judged by the census standard. In attempting to do so, however, they have neglected to properly account for deaths among the literates or have taken no proper account of the equally important factor of repeaters. And yet they seemed to be satisfied with their conclusion simply because it happened to coincide with the view which they held to be uncontestable.

Having arrived at the conclusion that the completion of the course of the third year class gives literacy as assessed by the census standard, it would be pertinent to enquire what that definition is. The Indian Census definition of literacy is the ability to read and write a letter. In all the countries of the world whose census definitions of literacy are available, the Indian definition is the strictest one. It is shared by two other countries only, viz., Ceylon and the Straits Settlements, all three under the rule of the British. In all other countries including the British Dominions, the definition is very simple, viz., the ability to read or write or to read and write. Even the simplest mastery over these arts is enough for census literacy. In the U. S. A. for instance, a literate person is one

who has the slightest chance of schooling. When India is compared with other nations in point of literacy this fact must not be lost sight of.

The next question to be enquired into is to see how far pupils who join primary schools do go up from class to class till they are able to complete the course of the third year class and thus acquire literacy. This brings us to the most important question of Wastage in primary schools.

The following table shows the number of pupils in the first three classes in British India (including Burma) in the year 1934-35 :—

Class.	Pupils. (in lakhs)	Percentage.
1st Year	52	57
2nd Year	22	24
3rd Year	17	19
	91	100

The above table shows that out of 100 pupils in the three classes, only 19 are reading in the third year class and thus will have a fair chance of acquiring literacy. In a perfect system of schooling there ought to have been 33.3 pupils in that class instead of 19. The system is, therefore, 43 per cent wasteful. According to this method the Wastage in Indian primary schools, as they are at present conducted, would be 43 per cent.

Another method of calculating wastage representing pupils who leave schools before acquiring literacy may here be considered. In 1922 there were in British India (including Burma) in primary schools 475,000 pupils of 5 to 10 years of age. Nine years later, i.e., in 1931, the census statistics revealed that there were in British India 230,000 literate persons of 15 to 20 years of age. Now, out of the 475,000 pupils, death must have removed about 9 per cent in the nine years, leaving alive in 1931 about 432,000 persons. Out of these 432,000, however, 230,000 were found to be literate in the 1931 census. This means that out of 100 persons reading in schools in 1922 about 54 became literate and 46 did not. The wastage here comes to 46 per cent.

The first method gives wastage at 43 per cent, while the second method places it at 46 per cent. In any case Wastage in Indian primary schools from the point of view of acquisition of the census standard of literacy, need not be taken beyond 50 per cent. And yet when the question of wastage is discussed in official reports its percentage is often carried to a figure which is round about 80. Bad as the system is, I have only to submit that it is not as bad as it is made out to be. The situation is not hopeless. It is easily amenable to improvement.

The causes of this Wastage may be several and they are often correctly analysed and remedies for improvement prescribed. I do not propose to enter into their enumeration here. I would, however, pick out one cause only and discuss it here. That cause is the tendency to failing pupils and thus making them repeat a class for a year or even more. Calculations show that taking pupils in the first three classes, schools in British India fail more than 50 per cent of the pupils annually. The percentage is the greatest in the first year class. This is indeed the most discouraging thing in Indian education. It is, I believe, at the root of the whole question of wastage of which so much is now-a-days heard. The question is of the utmost importance and it is worthwhile to hear what a weighty Commission of Enquiry into the Philippine system of education said about it in 1925. The Commission found that in 1924, the failures in the Philippine primary school system amounted to about 34 per cent (while our percentage today is more than 50). They were so much struck with that high percentage of failures that they made certain observations which we in India would do well to take to heart. They wrote :

“The story of progress of pupils through the elementary grades is the story of non-promotions. Schools are established in order that children may be taught, not that they may be failed.”

“Can this administrative situation be condoned ? It is the emphatic judgment of the Commission that it cannot. That an adequate defence be found for any school system that fails more than 10 per cent of its pupils is extremely doubtful.”

“Should there be any ‘failures’ at all in a school system—failures in the sense that children must repeat the work of a grade or a considerable part of it. The answer of the Commission is ‘No’.”

Lastly a pertinent remark may be quoted.

“Children should not be allowed to repeat school grades indefinitely. Repetition does them little good. It does others much harm. **Children are frequently promoted when not prepared.**”

Failing pupils seems to have been a characteristic tendency of the Educational Administration of this country since its very inception. In good old days the view was often expressed by Indian Educational Administrator that every pupil who entered the first year class was a potential matriculate if not a graduate, and at every rung of the ladder he must be very firmly set up. Whatever may be the value of this view, it did not matter much so long as the schools catered mostly for “classes.” Now that the “masses” are coming to schools, the outlook must be entirely changed. In fact it is the first principle of mass education that every child who enters the school must be enabled to go up from class

to class in the shortest possible time. Every part of the administrative machinery must be made to serve this most fundamental principle of mass education.

The evil of non-promotions is at its worst in the first year class where, in some provinces, hardly 33 per cent of the pupils are promoted from that class. Competent observers say that when once a pupil is promoted to the second year class, he generally sticks to his schooling. If, therefore, by any means we can improve the situation and send on pupils from the first year class in large numbers to the second year class, much of the wastage will be automatically eliminated and the capacity of our schools to send out a large number of literates will be very much enhanced. Here again the causes of this hopeless mess of the first year class are several and remedies are not far to seek. I shall, however, confine the discussion to only one factor which I consider to be the most potent. I mean the age of admission of pupils to the first year class. Although 6 is the age which Compulsory Education Acts have prescribed for admission, Indian Schools have not given out the long-established practice of admitting pupils of lesser age to schools. Even today in the first year class 25 per cent of the pupils are of ages below 6. This serves as a great handicap to the proper handling of the first year class pupils. Modern education is "mass education" and in its very limitations which are mainly financial, it precludes individual attention which is so very necessary for very young children. In the absence of facilities of individual teaching, the only course left open to the Educational Administrator is to admit only such children to the public primary school as will easily profit by the kind of mass teaching which is available in the schools. The pupils must be sufficiently developed both mentally and physically before they are admitted to classes where sufficient individual attention cannot be given to the beginners. What is then the age at which a child is fit to be admitted to such a school? Various considerations point out that India should adopt 7 years as the age of admission to a public primary school. Six is not the proper age and to admit children below six is very improper. Some of the reasons which lead one to prescribe seven as the age of admission to school are given below.

If we take a survey of the various countries of the world and examine the age of admission to school prescribed by each, we find that countries with economic and social background like that of India have prescribed 7 or 8 as the age of admission. India should not set aside these precedents. Children of 7 or 8 are so much mentally developed by the natural process of learning through environment that they can learn more quickly and with greater certainty of retention the traditional knowledge given in schools. This view finds ample support in the findings of a

Committee in Switzerland who have recently pronounced very emphatic views on the question, after careful investigations. They say :

"All those competent to judge emphasized the point that in many cases children are not yet ripe for schools at the age of 6."

"The development of the organs of the senses is still incomplete in the six year old child. . . . The seven year old child is from every point of view superior to the six year child. . . . In the medical point of view the age of six is, therefore, to be described as definitely too early for admission to schools."

These views of the Committee which investigated the question scientifically were shared by the Swiss Pedagogues who embodied their experience in the following words : "The experience gained every year with six year old children confirms the fact that they are generally not yet fit for school. They tire quickly both physically and mentally and it frequently happens that a child who has started too young and has been described by its parents as very forward, fails after a short time and is overtaken by other children."

An American educationist, Mr. Washburn, writes in this connection "we have conducted experiments as to the most efficient time for children to begin reading and have found that it pays to wait until the child has reached a mental age of 6½ years."

Mr. Chaturvedi (of U. P.) in his Educational Survey of a District, after a very careful study of the "Infant" class pupils, observes that in that class the progress of boys below seven is extremely precarious and that older boys fare much better.

The Indian child enters on a new phase of life when he is above 7 and nearer 8, from the point of view of his physical well-being as will be seen from the following figures of mortality :—

Age.	Mortality per cent.
4	2.74
5	1.93
6	1.45
7	1.15
8	0.94
9	0.83
10	0.79
11	0.81
12	0.84

This resistance to disease and death is definitely strengthened when he has passed the age of 7. The age period 8 to 10 is the best part of an

Indian child from the point of view of his physical vigour and consequent mental alertness.

Another confirmation of this physio-psychological fact in the case of the Indian child is supplied by the Hindu Scriptures where it is laid down that a Brahmin boy should begin his education at the age of 8 from conception, i.e., after he has passed the limit of 7. Would it not be true to say that the ancient writer of the Scriptures must have based the age of formal learning on extensive observations and experience? The cult of learning in India among certain classes and communities has been carried on uninterruptedly from times immemorial.

It is important to note that the Zakir Hussain Committee on the Wardha Scheme of Education reiterates this ancient Indian practice in the matter of the age of admission to schools.

FUTURE OF LOCAL SELF-GOVERNMENT IN INDIA*

By SUDHIR KUMAR LAHIRI

THE present system of local self-government was introduced in India more than half a century ago. Although some of the western countries have, during the period, achieved remarkably significant results in this very important sphere of administration, it cannot be claimed that the Indian system has yet been laid on anything of the nature of a stable foundation. A comparison of the position of local bodies in India with the conditions under which such bodies have grown and developed in those countries shows, beyond the possibility of any doubt, the need of a complete reconstruction of the existing Indian system of local self-government, if it is to serve its real purpose. For all practical purposes, local bodies in this country are still in the leading strings of a dominant bureaucracy, and these have so far made very slender progress in spheres of activities which have been recognised as appropriate and legitimate realms of work and endeavour of modern local self-governing bodies.

2. In any discussion of the question of the development of local self-government in India, it must be borne in mind at the outset that the present system suffers from a serious organic defect. The authors of the system frankly admit that it is not based on any indigenous foundation. The fact that India possessed a vast network of self-governing village communities, that India's cities were in many cases administered by popular boards, and that the people of the country enjoyed the advantage of such institutions, for thousands of years prior to the advent of British rule, was completely ignored by the framers of the present scheme of local self-government in India. Though the structure and technique of the existing organisation are modelled on the British pattern, it is, in reality, a cross between the British and centralised systems of the European continent.

3. Since local bodies were first brought into existence in India by the British, several attempts have been made to liberalise them and widen their spheres of activities. The late Lord Ripon was, perhaps, the

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first among British Indian administrators to realise the essential importance of a far-sighted and statesmanlike policy in this matter. It was officially declared that it was not primarily with a view to improvement in administration that Lord Ripon's scheme of local self-government was put forward and supported, but that it was considered chiefly desirable as an instrument of political and popular education. While acknowledging that there should be a certain measure of control and inspection on the part of Government, Lord Ripon warned that it would be hopeless to expect any real development if the local bodies were subjected to check and interference in matters of detail. The next effort in the direction was essayed by Lord Morley, who, as Secretary of State for India about twenty years later, appointed the Royal Commission on Decentralisation, which dealt comprehensively with various aspects of the problem of local self-government. The Commission, in their report, issued in 1909, made important recommendations; they urged the adoption of a liberal measure of reform beginning from the village; they recommended the grant of larger powers to local bodies, along with an extension of their spheres of work. This, no doubt, they thought, would occasionally lead to mistakes and mismanagement, but they considered that local bodies could attain responsibility only by the exercise of larger powers and by having to bear the consequences of their errors. "They cannot make real progress," the Commission added, "if constantly kept in financial leading strings, nor can local self-government become a reality, if local bodies are habitually protected against themselves." The next attempt is associated with the memory of the late Mr. Edwin Montague, who, in collaboration with the late Lord Chelmsford, in their report on Indian Constitutional Reforms, 1918, laid down that there should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control.

4. But all proposals for reform in the domain of local self-government have, for all practical purposes, so far proved abortive. It is now a matter of history how the bold and wise policy enunciated by Lord Ripon was wrecked by the British bureaucracy in India. The consideration of the recommendations of the Decentralisation Commission was delayed for about a decade and then these were taken up for consideration along with the scheme of Constitutional Reforms envisaged in the Montague Report. Although the Montague Report laid down a broad and generous line of advance in the sphere of local self-government, it cannot be denied that except in a few, very few centres, local self-government still remains to be made a reality.

5. The Simon Report has drawn a very dismal picture of the results of the working of local bodies, particularly during the period the principle of dyarchy was in operation. Some of the suggestions of admini-

strative reform made by the Commission are, no doubt, deserving of careful consideration, and to these a reference is made in a subsequent part of this paper. But the Commission appear to have been anxious to tighten the control exercised by Provincial Governments over local self-governing bodies. This runs counter to the spirit of reform advocated successively by Lord Ripon, the Decentralisation Commission, and Mr. Montague, who had all definitely laid down that the accepted policy must be to allow the boards to profit by their own mistakes and to interfere only in case of grave mismanagement.

6. In the Report of the Joint Parliamentary Committee, appointed in 1933, to consider proposals relating to Indian Constitutional Reform, on the basis of which the provisions of the Government of India Act of 1935, were framed, there is a small paragraph in which reference is made to the question of local self-government. While emphasising the importance of the development of local self-governing institutions in this country, simultaneously with the introduction of Provincial Autonomy, the Joint Parliamentary Committee express the hope that Indians would, from the first, give attention to this question. Though this subject did not directly come within the scope of this enquiry, they were, the Committee said, fully conscious of its general importance. "Indeed," the Committee observed, "the progress of self-government in the Provinces of India will depend on the growth not only of responsible governments at the top, but also of local self-governing institutions from the bottom—from the village community or *panchayat* upward. It is thus that the great mass of the Indian peasantry, constituting a vast majority of people . . . can be trained in those qualities . . . of responsible citizenship which may hereafter entitle them to the full Provincial franchise. These are matters upon which Indians must form their own conclusions; but we venture to express the hope that they will, from the first, give full attention to them."

7. It has been seen that those responsible for the creation and administration of local bodies in this country have not so far been agreed as to the main principles on which these are to be based. The universally accepted principle of responsible self-government is that a people participating in such government should be allowed to bring into existence popular institutions in the conduct of whose affairs they are to profit by their own mistakes and that there should not be any outside intervention except in cases of serious maladministration. When this principle is applied to local self-governing areas we come across local bodies of a genuine character. In India there has been very great hesitation and disinclination on the part of the authorities to endow local bodies with any real autonomy. During the days of dyarchic government the provinces had, of course, an opportunity of translating into action the

principle as enunciated in the Montague Report. Knowing the conditions under which the Montague constitution was worked, and the restricted sense in which the principle was generally applied, one does not find it difficult to understand the reason why the authorities exhibited such solicitude to return to the control of the provincial centre. With the accession of Congress Ministries to power in so many provinces, it may be expected that they would at once direct their attention to this most important sphere of administration. It is of the utmost importance that there should now be a thorough overhauling of the entire system of local bodies in India.

8. It must be clearly realised that any tinkering with the problem will not be of much use. The situation demands a reconstruction of the entire system of local self-government. In the first place, the system should be set up on the basis of a wider and more independent electoral franchise. The present franchise is generally a restricted one and is based mainly on the principle that only those who have a financial stake in the area are entitled to be voters. With this is combined the method of nomination of certain proportion of members. It appears that the time has come when a wider franchise based on the rights of citizenship should be introduced. The method of nomination should, besides, be entirely discarded and local bodies constituted entirely on the elective basis. So long as local bodies are constituted partly on the basis of nomination by Government, these cannot be worked as independent and responsible local self-governing institutions. Indeed, it cannot be denied that the continuance of this feature, although it is admitted that in some cases an endeavour has been made to eschew this pernicious system, has been responsible for many of the glaring defects in the management of local self-governing institutions in this country. As a sequel to this step, the official element of such bodies, in cases where it is considered desirable to retain it, should be debarred from voting. The function of the official element should be more as advisers, friends, and helpers than as irresponsible wire-pullers exercising an indirect control with its concomitant evils.

9. Closely associated with the question of franchise is the problem of minorities. Communal representation of certain communities in legislatures has been introduced with the ostensible object of safeguarding the interests of minorities. But in some of the provinces, especially favoured majority communities have also been provided with this device as a protection against the minorities. Once introduced in legislatures, the system has been extended to other spheres of government, and it wellnigh threatens to be a serious menace to any peaceful progress and efficient administration. Those acquainted with the working of local bodies in India during recent years are aware as to what extent these

have been overpowered by the rising tide of communalism. The Simon Report describes this as a "serious difficulty which militates against sound local government." The report adds: "Communal and the caste dissensions, which are today the most serious problems in Indian politics, have naturally affected local bodies. The violent sectional antagonism between Hindus and Mahomedans or the Brahmmins and the non-Brahmins has certainly impaired the efficiency of local bodies. It has tended to prevent the employment of the fittest persons in administrative posts, and factious quarrelling has in many instances occupied the attention of the members to the exclusion of all other considerations. The Commission do not indulge in the slightest amount of exaggeration when they point out that this is the greatest obstacle to the development of a sense of common citizenship, which is the necessary basis for healthy civic life. The late Sir Austen Chamberlain, while discussing the minorities problem in Europe, as representing the British Government, was reported to have said at an important meeting of the Council of the League of Nations, in 1925, that it was certainly not their intention to establish in the midst of a nation a community which would remain permanently estranged from national life. Their object was, he added, "to secure for the minorities that measure of protection and justice which would generally prepare them to be merged in the national community to which they belonged." It was rather singular that an evil which, in the case of European countries, the British Government were most anxious to eschew, should be imposed upon India in the most repulsive form and in gradually increasing doses, notwithstanding the warning of any imposing array of critics of distinction and note. It cannot be claimed that Indian leaders and public men have been able to handle the question with the requisite courage and foresight. They should have set their face resolutely against a device which is wholly opposed to the democratic principle. If local self-government is to be developed properly it is essential that a system which disintegrates and debases national life should be abandoned. The ministers of autonomous provinces should emulate the example of countries such as Switzerland, after-war Russia and Czechoslovakia which have succeeded in solving the problem of minorities better than others.

10. A serious hindrance to the efficient administration of local bodies in India and their proper development arises from the fact that the areas of many of these bodies are unmanageably large. It would help a clear understanding of the problem of areas if it is stated at the outset, that the term "local bodies" includes, for the purpose of this paper, both rural and urban local self-governing bodies from the smallest to the largest in size. As the Simon Commission point out: "The size of the average district, which is normally the unit for rural self-government, is

in Madras about 6,000 square miles, in Bombay about 5,000, in the United Provinces about 2,500, and in Bengal about 2,700 square miles. Compared with the average area of an English administrative country, which is about 970 square miles, these are units so unwieldy as to add greatly to the difficulties of administration, while the average population of a district is also far higher than that of an English county." There can be no doubt that a careful consideration of the real purposes of local self-government, in the present conditions of development of the country, will at once show the need of readjustment of the areas of local self-governing bodies. The trend of recent legislation does not, however, indicate any realisation on the part of those engaged, or interested, in the administration of local bodies in India of the importance of tackling this problem. When rural boards were first introduced, the original idea was to have sub-divisional boards as units instead of district boards. This plan was, however, abandoned after some discussion among officials, and except in Assam in all the other provinces the most important unit of rural self-government has so far been the district boards. There are Sub-divisional, *Taluka* or Circle Boards, subordinate to the District Board in some of the Provinces, and Union Boards, taking in their ambit, villages or groups of villages, are of recent origin, but functions of a very minor character are generally entrusted to them. The present movement in favour of abolition of the sub-divisional system and of retention of the district as the unit of rural local self-government does not appear to be a move in the right direction. The experience gained during the last fifty years shows that owing to the large areas of district boards, it becomes extremely difficult to realise the real objects of local self-governing institutions. It was expected that the establishment of such bodies would give an incentive to the development of a proper civic sense and a wider inculcation of civic qualities, and that these would be a training ground for men of the right type, resident in the area, for the efficient administration of their common affairs, in their common interest, and for their common benefit. The absence of a proper system of communications, the illiteracy of the vast mass of people, undue encouragement of the exploiting instinct of designing people, and the bureaucratic way in which such bodies have so far been administered by the officialdom and their influential henchmen, have all stood in the way of any commensurate achievement of the real purpose of local self-governing institutions in India. In some of the western countries also there is a strong movement for a readjustment of areas of local self-governing bodies. Although the conditions in those countries are not on all fours with those in India, the experience gained in the working of such institutions in India as also elsewhere indisputably point to the need of a re-adjustment and smaller areas.

11. What the situation demands is that villages or groups of villages should be organised as primary units of rural local self-government in the first instance. These should be the foundation of the super-structure of local self-government in the country. In fact, the Royal Commission on Decentralisation in India urged, more than a quarter of a century ago, that it was most desirable, alike in the interests of decentralisation and in order to associate the people with the local task of administration, that an attempt in this direction should be made. "The foundation of any stable edifice which shall associate the people with the administration must," they held, "be the village as being an area of much greater antiquity than administrative creations such as *talhsils*, and one in which the people are known to one another, and have interests which converge on definite and well-organised objects like water-supply and drainage. It is probable, indeed, that the scant success of the efforts hitherto made to introduce a system of rural self-government is largely due to the fact that we have not built up from the bottom." It is most unfortunate that no proper heed has so far been given to this most important recommendation. Any organisations that have been attempted in this direction have tended to become somewhat like replicas of departments of Government. These have not, therefore, been and can never be, effective instruments of local self-government. This essential reform should, besides, be associated with a readjustment between rural and urban local self-governing bodies of the same area and joint-action in certain matters and the application of the principle of federation, in certain cases, as has been successfully done in some western countries and is being attempted elsewhere. There is, undoubtedly, a vast field of development to be looked for in this direction.

12. As the sphere of work of local bodies in India is tremendously restricted, compared with the ampler powers and larger functions of local authorities in the progressive countries of the West, efforts should be made to secure for the former an extended and a more varied scope of work. The health of the people, highways and transportation, housing and civic planning, education and public libraries, museums and art galleries, public utility services, the relief of the poor and unemployment, the police and public safety, all these engage the constant attention of local self-governing institutions in such countries as England, the United States of America, etc. Provincial Governments in India should be asked to direct their attention to this matter, with a view to enabling local bodies to undertake, gradually, activities in such directions under the guidance of properly constituted authorities. A part of the work that is done by Government from the Provincial Centre may very well be entrusted to local bodies so far as the people in their respective areas are concerned, under proper safeguards and after adequate arrangements for

an efficient conduct of business had been provided. In matters of public health, relief of the poor and the unemployed, public education, specialised social welfare work, increased and increasing efficiency of administration of local authorities, augmentation of the income of the people and of local authorities through industrial and agricultural enterprises, local authorities in some of the western countries have achieved very remarkable results. "For the average English citizen," said the late Professor Graham Wallas, "the possibility of health, of happiness, of progress towards the old Greek ideal of 'beautiful goodness' depends on his local government more than any other factor in his environment." This shows how lofty is the ideal of local self-government among western thinkers.

13. No less striking is the actual progress the local self-government has achieved in the various spheres of life of a modern citizen. The great stress that American cities put on the promotion of education is shown by the fact that about one-third of their total outlay for current purposes is devoted to this object. Indeed, it is claimed that it is, perhaps, among educational lines that American cities have made their greatest advances during the last fifty years. Equally impressive is their care for the furtherance of social welfare. The distinguished American historian and publicist, Charles A. Beard, bears testimony to "the growing demand that a relentless war shall be waged to prevent undeserved poverty." Referring to the remarkable achievements of British local authorities, in their introduction to the recent work on "A Century of Municipal Progress," the Editors, Prof. Harold J. Laski and Messrs. W. Ivor Jennings and William A. Robson, of the University of London, state :—

Local Government in the past hundred years has halved the death-rate and reduced the infantile mortality rate by three quarters. It has taught us to think of Cholera, which used to be a periodical menace as something remote and oriental. One hundred years ago people expected to have the small-pox as now they expect their dogs to have distemper; today, on the average, it is the cause of one in a million deaths. One hundred years ago, the Webbs have told us, nearly every person was either recovering from or sickening for enteric fever; now it causes less than six in a million deaths. The other infectious diseases and such diseases as tuberculosis have been reduced to proportions, which would have been regarded a century ago as almost Utopian. These are facts which can be proved by statistics. We cannot prove in that way the enormous increase in the comfort and convenience of the people. Nor can we prove in the same way that without the development of the educational and related services modern commerce and industry would be impossible. Yet a moment's reflection shows that it must be so. The enormous developments in the technique of industry and of business administration have been possible only because we are not merely a healthy but also a literate people. Indeed, our whole democratic system rests upon an educated electorate.

Russia's efforts in such directions are, perhaps, unequalled by any other country in the world. If the abysmal ignorance and illiteracy of the vast mass of Indian people, the depth of poverty in which they are sunk, and the indescribable misery and suffering in which they lead their cheerless existence without food, without clothing, without shelter, are to be removed, and that as quickly as possible, the only way this should be attempted is by following methods similar to those which have succeeded elsewhere, of course, adapting them to the conditions of India. It is by an extensive development of local self-governing institutions, institutions which train people to rely on their own efforts, that India may expect to achieve her own salvation more effectively and more efficiently than by any other means.

14. There is another sphere in which measures are required to be taken for securing efficient and honest administration. The Simon Report very properly points to the need for an efficient local self-government service. It cannot be said that there is any exaggeration in the statement made by the Commission that appointments in local bodies are often made for considerations other than those of efficiency and that the failure made for considerations other than those of efficiency and that the failure to appreciate the need of an efficient service for local bodies accounts for many of the defects of such bodies in India. The other suggestion that deserves notice in this connection is that there should be a clear distinction drawn between the spheres of action of the elected Chairman and of the chief paid officer of the local body, and that each local body should have a competent official analogous to the English Town Clerk or Clerk to the County Council, who is the chief paid officer at the head of the body. These suggestions, which have already received support in certain cases, should be given effect to, to the fullest possible extent. There should be a well-considered system for the appointment of suitable persons to the local self-government service. Any scheme that may be introduced should be based on the principle of selection by the competitive test.

15. In this connection it is not out of place to suggest that very substantial results in the sphere of rural reconstruction may be achieved through local bodies if and when it is found possible to have a well-knit and properly organised system of local self-governing bodies beginning from the village all over the country. Rural reconstruction, if it is to be real, must embrace the manifold activities of the community and should not rest content with stray activities, such as, a primary school here, and a tube-well there, a so-called co-operative credit society at a third place, and the presentation of a derelict bull elsewhere. By intelligent planning the entire country-side along with urban areas may be gradually renovated: Small industries and agriculture may be improved and reorganised, and the health, wealth and prosperity of the people may be

promoted. Existing villages may be improved simultaneously with the building of new villages and small towns on up-to-date and scientific lines suitable to the conditions of the people. I do not see why it is not possible to have Village Improvement Acts, or Rural Reconstruction Acts, or Small Towns Improvement Acts, after the various City Improvement Trust Acts, which have succeeded in the case of big cities.

16. It may be asked, who will provide the immense funds required for the very ambitious project that has been placed before the public? Some addition to the income of local bodies from local sources may be expected when a comprehensive scheme like the one suggested is taken up for adoption. If a part of the activities directed by the Provincial Government from the centre is transferred to a local body, assistance of a substantial nature from the Government must be demanded and be forthcoming. As municipal bodies in some of the western countries have received substantial incomes from municipal trading, efforts in this direction may be made with a view to securing an income from public utility services and other enterprises such as the development of cottage industries, the promotion of agricultural sale and supply, etc., on well-planned and accepted lines. "The third great source of Local Government Revenue (in England) comes from what is generally known as Municipal Trading. Nearly £120,000,000 comes in to the local exchequers from this source each year, and the total tends to increase. Taken as a whole, the services for which a specific charge is made to the actual consumers or patrons of those services are not run for the purpose of financial profit, the idea is rather to supply efficiently and cheaply" (E. L. Hasluck—*Local Government in England*). "It may be said, I think, that the municipal utilities have played an important part, both materially and in a psychological sense, in helping to realise the ideal of a national minimum of civilized life for every member of the community. They have moved steadily in the direction of making the body of consumers of utility services coincident to the body of citizens." (William A. Robson—in *A Century of Municipal Progress*). In addition to these, for the promotion of a scheme like the one under discussion, recourse may very reasonably be taken to borrowing, the borrowed amount to be liquidated from the additional income that is sure to accrue to the people from the improvements introduced, according to some approved long term arrangement. Lastly, some assistance may also be expected from people of the locality agreeing to render voluntary service for the betterment of the material and moral condition of their fellowmen and for affording relief to them in their suffering and distress. A very significant contribution in this matter has been made by Russia where the performance of some free active social service in his free time is expected

from every citizen, though the choice of service is freely left to him (*Vide* "Soviet Communism" by Sidney and Beatrice Webb, Vol. II).

17. A fundamental question in the matter that requires a proper settlement is as to how far Government should be allowed to exercise control over, and interfere with, the working of local bodies. The accepted principle so far has been that laid down by Lord Ripon in the eighties of the last century when, as Viceroy of India, he launched his scheme of local self-government in this country. That principle has been amplified and further strengthened by Mr. Montague's declaration on the subject. The Simon Commission evidently based their judgment on wrong premises when they declared it to be a grave error on the part of the authorities in India to fail to realise the need of control by the Provincial Governments over self-governing bodies. In the brief that Government placed on the subject before the Commission, they apparently gave them to understand in definite terms that local government in India was understood "in the sense of a representative organisation, responsible to a body of electors, enjoying wide powers of administration and taxation and functioning both as a school for training in responsibility and a vital link in the chain of organism that make up the Government of the country." That this was an extremely exaggerated and unreal picture of the actual position of local self-government in India, will be admitted by all acquainted with the administration of local bodies in the country. That is what Pandit Jawaharlal Nehru says of them in his *Autobiography*:

The whole steel-frame of municipal administration, as erected by Government, prevented radical growth or innovation. The financial policy was such that the municipality was always dependent on the Government. Most radical schemes of taxation or social development were not permissible under the existing municipal laws. Even such schemes as were legally permissible had to be sanctioned by Government, and only the optimists, with a long stretch of years before them, could confidently ask for and await this sanction. It amazed me to find out how slowly and laboriously and inefficiently the machinery of Government moved when any job of social construction, or of nation-building was concerned.

And again:—

This frame-work is neither democratic nor autocratic: it is a cross between the two, and has the disadvantages of both. That a central government should have certain powers of supervision and control may be admitted, but this can only fit in with a popular local body if the central government itself is democratic and responsive to public needs. Where this is not so, there will either be a tussle between the two or a time submission to the will of the central authority, which thus exercises power without in any way shouldering responsibility. This is obviously unsatisfactory, and it takes away from the reality of popular control.

The Simon Commission stood aghast at the momentous (!!) change in local bodies that was wrought by the formula on the subject laid down in the Montague Report. Pandit Jawaharlal describes the change in the following words :—

The department of Provincial Government dealing with Local Self-Government was presided over by a Minister ; but, as a rule, this presiding genius was supremely ignorant of municipal affairs or, indeed, of any public affairs. Indeed, he counted for little and was largely ignored by his own department, which was run by the permanent officials of the Indian Civil Service. These officials were influenced by the prevailing conception of high officials in India that government was primarily a police function. Some idea of authoritarian paternalism coloured this conception, but there was hardly any appreciation of the necessity of social services on a large scale. Government is always a creditor of the municipalities, and, next to the police view it is the creditor's view that it takes of them.

The distinguished writer of the extracts quoted above held the position of Chairman of a very important municipality for two years after the Montague Constitution came into operation. It is fortunate that there has been an end to this unhappy condition in the United Provinces for the time being at least. The recommendations of the Committee on Local Self-Government, appointed by the U. P. Government, a summary of which has just been published in the Press, may be taken to usher in a new era of development of local self-government on national and popular lines in that Province. As has been already indicated, public opinion in India is in favour of the principle of complete autonomy and a minimum of outside intervention.

18. It cannot be denied that a grave danger faces local bodies, namely, their capture by designing and unprincipled persons for their own selfish ends. Effective measures should be taken to put down this serious evil. The well-known Congress leader, Dr. B. Pattabhi Sitaramayya, has a singularly outspoken article on "Local Bodies and the Indian National Congress" in the recently issued Fourteenth Anniversary Number of the *Calcutta Municipal Gazette*. The writer sets out at some length the most glaring evils that threaten the future development of local self-governing bodies in India, and severely castigates those responsible for the abuses. Fostering of party-spirit, countenancing of intrigue, encouragement of greed and the exploiting instinct, abetment of bribery and corruption, and various other dishonest practices are mentioned as debasing the administration of local bodies in the country. As Dr. Pattabhi Sitaramayya suggests, severe steps should be taken to counter such pernicious tendencies and check their further growth.

19. Finally, it must be remembered that if local self-government is to be developed adequately and on right lines there should be an intensive

campaign for the inculcation of civic ideals among the people. This should be accompanied by a wider diffusion of education, the most potent instrument for the uplift of the people in all spheres of their lives. It is essential for the success of local self-government in the country that the people should have a proper training in civic knowledge, and be encouraged to take interest in the affairs of the local bodies with which they are concerned and look upon them as their own. Where the people of a locality do not possess a genuine sense of loyalty towards their local institutions, have no real concern for the common weal, and do not feel any enthusiastic regard for the welfare of the general body of citizens, at such a place local self-governing institutions can hardly be expected to flourish.

—With acknowledgments to
"The Calcutta Municipal Gazette",
24th December, 1938.

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THE PROGRAMME OF STREET LIGHTING

By S. S. NAIK, B.A., B.Sc. (Edin.), L.C.E.

Having now got all the other details of the street lighting scheme, we must now fit in the whole scheme in a business-like manner to the money we can spend on the scheme. It may surely be possible, if we have enough money, to have very good well distributed lighting during all the hours of the night so that there may be no accidents due to defects in street lighting. But the funds at the disposal of the municipality are so limited and the amenities to be provided are so many that street lighting need not have precedence over other items. In many towns the expenditure on street lighting is so heavy comparatively that many more useful and necessary items have got to be starved or dropped altogether.

I give below the cost of street lighting per year in some towns where the cost is comparatively great and hence disproportionate and also of somewhere it is comparatively moderate. The charges in the City of Bombay are only 3.15 per cent of the total income.

Table Showing Annual Income of Cost of Street Lighting and
Proportion Between the Two

Town.	Total Income. Rs.	Percentage of cost of street lighting to Total income.	
		Cost of street lighting. Rs.	Total income.
Ahmednagar	3,10,953	6,439	2.07
Pandharpur	3,24,040	7,226	2.15
Ahmedabad	50,56,474	1,17,116	2.30
Poona City	17,98,856	54,184	3.10
Satara	1,30,385	4,849	3.70
Nipani	1,03,043	4,075	3.95
Sholapur	10,65,220	41,075	4.00
Belgaum	2,06,458	9,194	4.46
Jalgaon	2,73,664	16,198	5.15
Bhusawal	1,58,085	8,514	5.40
Bijapur	2,87,203	17,304	6.03
Nasik	3,42,771	20,524	6.30
Dhulia	2,43,655	14,111	6.35
Anand	41,055	3,078	7.50

Good conditions as regards cost.

Gadag-Betegeri	2,64,517	20,678	7.80
Bagalkot	96,226	7,623	7.98
Bandra	8,00,565	64,021	8.00
Dharwar	2,39,973	21,857	9.10
Broach	2,86,487	27,108	9.40
Mehemedabad	24,575	2,383	9.70
Thana	2,14,759	21,210	9.80
Matheran	68,111	6,654	9.80
Panvel	40,900	4,103	10.10
Viramgaon	87,076	9,566	11.00
Kalyan	1,26,074	14,575	11.40
Bhiwandi	51,969	6,003	11.50
Surat	11,87,765	1,46,034	12.40
Poona Suburban	1,88,927	24,861	13.10
Godhra	1,07,107	14,090	13.10
Rander	61,779	9,204	14.80
Bassein	46,062	7,447	16.20
Vile Parle	2,10,134	36,272	17.50
Juhu	10,514	2,219	21.00
City of Bombay	3,18,20,725	10,00,000	3.15

Bad conditions as regards cost.

It is therefore necessary to study the requirements of every town and to arrange the scheme so as to get the greatest benefit in the amount available. In order to achieve this a programme must be framed to suit the convenience of the traffic and other conditions.

The Programme depends on two factors :—

- (a) Natural conditions ;
- (b) traffic and other conditions.

(a) Natural Conditions

Light is required only when there is no natural light of the sun or the moon.

Taking first the light due to the sun, we find that days and nights are of unequal lengths in different seasons and therefore the time of lighting would be different in different months and weeks. But if we take an average, for every short day in the month of December we will find a corresponding long day in June, and therefore we can roughly say that during all the 365 days we can assume on the average, the sun to give direct light for 12 hours out of the total 24 hours, provided we neglect sudden darkness in the evenings in the rainy season.

We can get some sort of light during the twilight when the light from the sun is reflected and refracted even when the sun is not directly visible and the more distant the place is from the equator the longer is the duration of the twilight. In India the twilight is on the average half an hour before sunrise and half an hour after sunset and during this time we do not require the street lights.

This however is a controversial point, as the light during the period of the twilight is not very good and effective. Supposing we take the case of a driver of a car coming from the bright sunlit open country into a narrow street of a town having tall buildings on both sides, he will take some time probably a few minutes before he can accommodate his eyes to the partial light of the street. In such congested places many of the accidents happen owing to this characteristic of the human eye. This time therefore is the worst time for motor accidents. The pedestrians are also fagged out by the day's work, and the brain being tired does not respond properly to all the road conditions and signals. Continental and English experience teaches us that the night hazard is four times the day hazard and twilight hazard is still more.

Traffic conditions are changing fast. The most busy time for motor car users is now being slowly shifted to the time between the sunset and the actual darkness, because those who return early from their work, go out for a drive or return from a pleasure trip, before the night meals. In the course of the last few years, it has been noticed that traffic in the evening and at night is increasing much more in proportion than the total traffic during the whole of the 24 hours. Now-a-days 40 per cent of all the traffic on large roads takes place after dusk. This makes the question of street lighting specially difficult.

Most of the roads with regular traffic after dusk are not yet provided with efficient lighting so that the motorist has to depend on his own headlights. For a single car on the road this lighting is good enough, but when there is more traffic in both the directions, this light is a great inconvenience to the oncoming traffic. Consequently it is necessary for him to dim his lights at a considerable distance when traffic is coming from the opposite direction, to avoid glare. From that very moment visibility on the road becomes insufficient whilst often even the dim light of an approaching vehicle still causes dazzle. But the most critical moment is when passing, because it is not possible to see what is standing or moving on the road ahead. The usual result at night on a busy traffic road is that, speed has to be reduced and the oncoming vehicle passed at a very low speed, so that good and constant speed is out of question and driving always remains fatiguing and dangerous. Besides the whole is a vicious circle. If good lights are

provided, the drivers are tempted to put on greater speeds at such times and the danger of accidents is much greater. With dim or no lights the danger is of course there.

Thus we see that even the allowance due to twilight varies in different places and in different conditions. But as a general rule we might take half an hour after sunset and half an hour before sunrise as the allowance for the benefit of twilight. Then as a maximum we require lights only for 11 hours per day.

So the maximum time during which we require lights in a calendar year is :—

$$365 \times 11 = 4,015 \text{ hours.}$$

The next item for consideration among the natural causes is the benefit due to moonlight.

The best rule to observe in considering moonlight allowance is that those lights which are on the average weaker than moonlight are wasted on the road when there is moonlight. The ordinary kerosene oil light is no use when there is moonlight. Some towns using electric lights of 15 or 20 watts at a distance of 170 feet or so have no use of these lights during moonlights. In all other cases the first 8 or 10 days moon and last 8 or 10 days moon in the lunar month have a very weak intensity of light and cannot therefore be utilised for giving any benefit as regards street lighting. The remaining 8 or 10 days can be utilised. Therefore in most of the cases, 4 or 5 days before the full moon and 4 or 5 days after the full moon can be utilised in effecting a saving in places where stronger intensity ratios of street light are used.

To find out the total time of moonlight during the year we again follow the system of averages. On the full moon day moonlight is available all the 12 hours of the night. On the last day of the lunar month, there is no light at all. So generally speaking if we take an average for the year we find that, 6 hours moonlight is available per day during the year.

Thus out of the 11 hours per day, we get a moonlight allowance of 6 hours, so that if we want to utilise all the moonlight that is available we must have lights for :—

$$365 \times 5 = 1,825 \text{ hours per year.}$$

So the minimum hours of street lighting required in any town, taking all possible advantage of the moonlight, are 1,825.

During the rainy season, when the sky is cloudy, there is no moonlight. In those places where the rainfall is great say over 40 to 50 inches per year, there can be no certainty of moonlight during any night even

on a full moon day and if it is clear at any time of the night the sky would be overcast the next hour and it is safest to take all the monsoon as without any advantage of moonlight. The average monsoon is 90 days. Therefore during these 90 days we require :—

$$90 \times 11 = 990 \text{ hours of light}$$

and during the remaining 275 days we require :—

$$275 \times 5 = 1,375 \text{ hours.}$$

So the total minimum period of street lighting would be $990 + 1,375 = 2,365$ hours.

In those places where the rainfall is scanty such as Sind, Rajputana or very little such as Khandesh, Ahmednagar, there is very few overcast nights and these can be neglected. So the same schedule giving full advantage of the moonlight can be applied to such places and the total lighting hours in the year would be 1,825.

In places where the rain conditions are between these two extremes in the case of electric lights a clause should be put in empowering the municipality to ask the company to switch on the lights on any overcast and dark night which might be included in the moonlight schedule.

In towns where there are houses or thick trees on both sides of the streets the moonlight is a doubtful advantage till the moon reaches a certain height and the rays of the moon illuminate a tolerably good portion of the road. There is certainly some advantage when the moonlight falls on the sides of houses and is reflected therefrom on the road and also from the diffused light and refracted light from the atmosphere. The height the moon must reach so as to be of use, depends upon the width of the road and upon the height of buildings at the side of the road.

Supposing the road is 40 feet in width and the building on the road-side is 30 feet in height and supposing that the light received when 10 feet of the road are illuminated is sufficient for all practical purposes, the moon must come up 45 deg. and must not go below 45 deg. to the West so that it may be of use. So that even on a full moon day only 6 hours of the moonlight are useful. These considerations cut out a large portion of the advantage of the moonlight and in very large cities no advantage is taken of the moonlight. In town of a commercial nature with large congested thoroughfare, the advantage of moonlight is taken only when in the latter part of the night the traffic conditions are easy and not congested so that each car can go with its powerful headlights full on most of the time.

(b) Traffic and Other Conditions

The most important item coming under this head is the item of the importance of any place from a traffic point of view. In every town there are various areas of localities which have their importance from different parts of view. Schools, Colleges, Offices areas are unimportant from a lighting point of view as there is no traffic here at night. The main bazaar is important upto some time in the night 9 or 10 p.m. Theatres, cinemas and places of enjoyment have the maximum congestion of traffic from evening to past midnight. Early markets like Crawford market or Byculla market in Bombay are busy very early in the morning say from 3 a.m., there being very indifferent traffic from almost sunset to the abovementioned hours of the morning. Railway stations are congested when the incoming and outgoing trains are expected, an hour or so before and an hour or so after. The steamer and Ferry wharfs are congested when the steamers come in and leave. Take Surat. The night mails to and from Bombay come in between 12 and 2 a.m. This locality will require very good lighting between 11 p.m. and 3 a.m. Poona Railway Station need not have brilliant lights after the Madras Mail leaves at about 1 to 2 a.m. The Ratnagiri ferry wharf is busy between 7 to 10 p.m. and again at about 4 to 5 a.m. Malvan wharf is busy at 1 to 3 a.m. and so on. So in every case the locality has got to be studied and the light programme arranged accordingly.

With the running of bus services and of commercial lorries large towns except the special localities like those illustrated above have a good amount of traffic till say about 12 or 11 p.m. and during those hours the lights must be fully maintained no reliance being placed on the moonlight which gives an intensity of light much less than electric or petromax light. Again as shown above the moon must attain a certain height before it is effective. So generally in all important towns and places, all the lights are kept up till 10 or 11 p.m.

We are now trying to ape the Western life and go to bed late and get up late. So that there is a tendency to have more and more congestion of traffic late in the night than early in the morning. Yet after 11 p.m. there is no need for very bright lights and as long as the streets are demarcated by the lights, the purpose is served for a few stray vehicles or pedestrians.

The best programme for a tolerably busy town would therefore be—

- (a) Switch on all lights half an hour after sunset.
- (b) All lights to be kept on upto 10 p.m. even on moonlight nights. (In some places 11 p.m. may be the limit and in all the time-tables given below take 11 p.m.).

- (c) All the powerful and important lights in the squares and other busy centres where many roads join together should be put on the whole night except for the moonlight allowance.
- (d) After 10 p.m., switch off half the lights that is lights on alternate poles. This will always require a double cable which must be provided for beforehand and cannot be improvised once the system is working.
- (e) On good moonlight nights, say 3 nights before full moon, the full moon night and four nights after full moon switch off all lights after 10-30 p.m.
- (f) During monsoon, have lights as per (c) and (d) above all through the monsoon period, in places with heavy rainfall usually overcast by clouds.
- (g) Switch off all lights kept after 10 p.m. half an hour before sunrise.

In towns of lesser importance where usually the main traffic ceases after sunset, the moonlight schedule may be followed switching off the lights usually one hour after the moonrise and switching them on one hour before moonset so as not to have darkness in the street when the moon is just rising or setting.

A schedule of timings for every day for a month can be prepared and handed over to the electric lighters.

There are 4 or 5 different programmes possible according to the importance of the town and traffic.

Programme A

For large cities like Bombay, Karachi, Delhi and others where a whole night lighting system is necessary.

All the lights to be switched on half an hour after sunset and switched off half an hour before sunrise.

Hours of street lighting— $365 \times 11 = 4,015$ hours per year.

Programme B

For the more important towns with heavy traffic and trade.

- (a) All lights to be switched on from half an hour after sunset to about 10-30 p.m.
- (b) All important and brilliant lights in square, centres and such other congested places to be kept on all through the night.

(c) After 10-30 p.m. half the number of lights, say, lights on alternate poles to be switched off. Such lights to be switched off should be on a separate cable so that they can be manipulated easily.

(d) All lights kept for the whole night under (b) and (c) above to be taken from one cable so as to afford an easy manipulation and should be switched off half an hour before sunrise.

Hours of street lighting taking an average time of switching on as 6-30 p.m. and of switching off as 5-30 a.m.

For lights (a)— $365 \times 4 = 1,460$ hours per year.

„ (b)—a separate account but such lights are few and form a very small percentage of the total lights.

„ (c)—half the number of lights for 7 hours

$$= \frac{365 \times 7}{2} = 1,278 \text{ hours.}$$

Total hours $1,460 + 1,278 = 2,738$ hours per year.

Programme C

For still lesser towns where moonlight advantage is taken for 8 days in the month with 90 days of monsoon.

Same as (a), (b), (c), (d) as above in programme B except that—

(e) All the lights in the rainy season (90 days in the year) to be as per programme items of B.

(f) In fair season (275 days) all lights for 8 nights in the month, 3 nights before full moon, the full moon, night and 4 nights after full moon all the lights to be switched off at 10-30 p.m.

Hours of lighting—

Same as B with saving effected of 8 days in the month of 7 hours for half the number of lights during 9 months.

$$\frac{72 \text{ days} \times 7}{2} = 252 \text{ hours.}$$

Total lighting hours $= 2,738 - 252 = 2,486$ hours during the year.

Programme D

Towns under the same conditions as C but making no allowance for rainy season as the rains are slight.

(a), (b), (c), (d) under Programme B and (f) under Programme C.

Total lighting hours during the year—

Same as B with a saving of half the number of lights for 7 hours during 12×8 moonlight nights.

Therefore saving is $96 \times 7 \div 2 = 336$ hours.

Total lighting hours $= 2,738 - 336 = 2,402$ hours in the year.

Programme E

For small towns which want to take full advantage of moonlight. The schedule of timing will have to be made out month by month according to the timings of the sunrise and sunset and moonrise and moonset, taking care to see that the lights are on at least an hour after moonrise, and an hour before moonset. As regards sunrise and sunset the twilight time should be taken as half an hour after sunset and before sunrise.

During monsoon where rains are heavy no moonlight allowance need be taken.

Hours of lighting require a very elaborate calculation and work out to between 2,000 to 2,200 hours per year.

Thus we see that the programmes are very elaborate ones. In order to have proper saving in the street lighting cost, and also to see that the streets are not without lights when lights are needed and that there is also no wastage of light when it is not needed, expert knowledge is needed and the municipalities will do well to get such technical advice and spend money (not more than a few hundred rupees) to make a recurring annual saving of hundreds or thousands of rupees per year.

In a small town near Bombay, the electric bill of about Rs. 15,000/- could have been reduced to Rs. 11,000/- if the municipality had been careful to take technical advice. In many municipalities all the lights are kept unnecessarily burning during the whole night.

The arrangement of street lights in the street, the power of light needed and the distance at which lights are needed in any particular street require also careful and technical consideration. Many of the municipalities enter into agreements to have lights at every pole of the electric company with a result that many of the lights are unnecessarily there. In Broach for instance outside the town there are 6 or 7 lights on poles about 25 feet apart where such poles are placed on a curve for the purpose of carrying the cables. These lights are all wasted.

A saving of as much as 40 per cent can be effected with such good arrangement and technical advice.

Arrangement of Lights on a Street Surface

The chief object to be achieved in a system of street lighting being uniformity of light on the surface as far as possible, all possible precautions must be taken to avoid glare or patches of light with sudden

variations of intensity in short intervals. However, it is always necessary to have a compromise between the illumination of dazzle and the distribution of the light. A better distribution is more liable to cause dazzle through direct light and vice versa.

The only way of getting out of the difficulty is to use a light source whose direct rays do not dazzle at all or dazzle very little, so that the visible light source does not cause any inconvenience and the reflector maintains its sole purpose of distributing the light over the road surface as evenly as possible. Such light sources exist in the form of sodium lamps whose light by reason of its colour (yellowish), does not dazzle at all or only very little and whose surface brightness is much less than that of the incandescent lamp, because the radiation takes place over the whole surface of the gaseous discharge tube.

Another point for consideration is how road lighting must be effected to obtain the best results. One of the most important conditions for good road lighting is to avoid dazzle through direct or reflected lights. This can be effected by suitable reflectors (known as intensive reflectors) that protect the eye against the direct rays of the light source, but they must also have the function of distributing light over the road surface. An irregularly lighted road with a spot of light here and a spot of light there causes an abnormal strain on the eyes and interferes with calm perception. With such bad distribution of light on the road surface, vehicles and persons can only be perceived when they are within the light radius, which may lead to serious accidents.

So far about the character of the light sources. Now the heights and distribution of lights.

Now we take the height and systems of reflection of light.

With roads carrying important heavy traffic, if the light is too low, it is liable to cast shadows. With roads having a permanent and efficient lighting system, the lighting (mounting height) remains higher under all conditions so that when passing oncoming traffic a proper view of the road is maintained in the first place, and in the second place dazzle does not occur to the same great extent.

The point that better distribution can be achieved by higher mounting height can best be proved mathematically and scientifically.

Take the distance between two lights A and B to be 160 ft. It is obvious that whatever be the intensity of the light source and the mounting height, the brightest point on the road would be at A and B and the dimmest will be at C, midway between these two points, i.e., 80 ft. from A or B. Supposing the mounting height is 10 ft. from the road surface and considering the light source above A marked X, we have—

$$\begin{aligned} \text{Distance of A from light source} &= 10 \text{ ft.} \\ \text{B} &= \sqrt{10^2 + 80^2} \\ &= \text{about } 80 \text{ ft.} \end{aligned}$$

The amount of light received varies inversely as the square of distances—

Amount of light at A.	Amount of light at C.
$\frac{1}{80^2 + 10^2}$	$\frac{1}{1}$
65	1

If therefore the amount of light at C is 1 unit that at A 65 units.

There is some light to points beyond C also but as this is very little it can be neglected.

Taking the light source above B with 10 ft. mounting height marked X, we have light at C = 1 unit and light at B = 65 units. The proportion of light at A, C and B is therefore 65, 1 + 1 and 65 or $32\frac{1}{2} : 1 : 32\frac{1}{2}$ and therefore the brightest spot has a light ratio of $32\frac{1}{2}$ and the dimmest of 1.

Now taking the mounting height as 20 ft., the light source marked Y will give by the same above argument proportions—

$\frac{1}{80^2 + 20^2}$	$\frac{1}{20^2 + 20^2}$	$\frac{1}{80^2 + 20^2}$
68	8	68
17	2	17

or the brightest spot is $8\frac{1}{2}$ brighter than the dimmest spot.

The distribution of light is therefore much better than in the first case with the same distance between the lights and same light source and therefore glare is avoided.

It need not be recorded that there is some loss of light and also some loss of intensity of road lighting by having a greater mounting height. The loss of the intensity of the light on the road surface just below the source of light is greater than at a long distance. Thus in the above example, in the case of 10 ft. height, just below the lamp the distance being increased to double what is in the second case (20 ft. height) the intensity of light is reduced to $\frac{1}{4}$ th. At the farthest point we have considered that is at 80 ft. the intensity is almost the same. So we have only comprised by reducing the intensity at the brightest point and thus reducing the glare.

Having so far studied the distribution of lights on the road surface we must now see what is the best arrangement of lights with regard to the road. Where the streets are not very wide say more than about 25 or 30 ft., the point is not so important because in such places nothing can be done. If however kerosene oil or petromax lights are being used the lights should be placed alternately on one side of the road and the other.

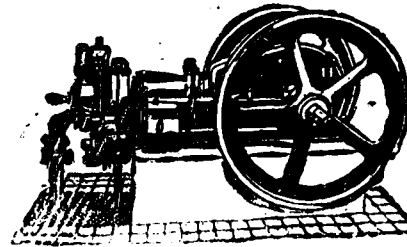
In the case of powerful lights which are generally kept in the important squares and public places, these should be kept in the centre of the square forming a natural traffic island so that all traffic can be forced to go round this island. In this case the central portions of the square being the most congested places for traffic naturally and automatically gets the best illumination thus putting the light to the best advantage, and also serves as a good traffic regulator.

In the case of electric light which has got to be carried on poles or standards, the lights have got to be kept on one side only, giving brighter illumination at the sides, where the traffic is slowest and where comparatively there is no congestion when compared with the central portion of the road. This can be partly remedied by using powerful and efficient reflectors for the lamps and in many of the towns this is the utmost that can be done. Lights on alternate sides of the streets are not possible because such an arrangement would necessitate crossing and re-crossing of overhead electric wires on the road which is very dangerous and not at all desirable.

In places like Bombay on big thoroughfares where the efficiency of lighting is the only consideration, the standards carrying the cables are not utilised for carrying lights. They are carried on wires or rods laid across the road on two high poles one on each side of the road, the lamp being centrally hung to that it can give advantage of its illumination to the most congested part of the road and also the shadows, if any, fall on the least congested side of the road. These lights are specially constructed with reflectors and refractors so as to remove all glare. In places like the Marine drive, there are two lights on every wire rod each at $\frac{1}{3}$ the width of the road so that faster cars overtaking and crossing the slower cars can have full advantage of the light and avoid all accidents due to the insufficiency of light.

As regards the arrangement of lights along the length of the road, there must be a light at every twist and turn and at every crossing. As to what distance apart the lights should be is a matter which depends solely on the importance of the street from a traffic point of view, and not on the poles, so that any agreement with the Electric Company to have a light on every pole is a very defective agreement from the municipal point of view.

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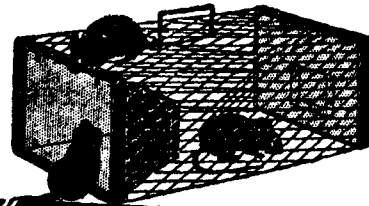
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FURTHER THOUGHTS ON MILCH CATTLE STABLES IN THE BOMBAY SUBURBAN DISTRICT

By "Anonymous"

1. At the outset it may be remarked that the nuisance from milch cattle stables in the Bombay Suburban District is assuming alarming proportions. The growth of this industry in the Suburbs has been very rapid. Thus in the year 1938 there was a total increase of 81 stables, 47 in the District Local Board area, 4 in Kurla and 30 in Vile-Parle-Andheri Municipal limits. In the previous year (i.e., 1937) there was a total increase of 30 stables, 5 in Bandra, 13 in Ghatkopar and 12 in Vile-Parle-Andheri Municipal area. At the present moment there are 221 stables in District Local Board area, 118 in Bandra, 53 in Ghatkopar, 41 in Kurla and 130 in Vile-Parle-Andheri Municipal area. Stables also exist in Kandivli, Chembur, Malad, Mulund and Borivli. At a conservative estimate there are at least 600 milch cattle stables in the Bombay Suburban District.

2. These stables not only fulfil the needs of the local population where they are erected but also they are run on commercial basis for the supply of milk to Bombay and the Suburbs. It can be emphasised therefore that these stables are run for profit and therefore should be adequately controlled. In Kurla, for instance, profits on milch cattle stables are considerable. It has been ascertained there that a room 10' × 10' would fetch about Rs. 5/- per mensem whereas stall rents vary from Rs. 4/8/- to Rs. 2/8/- per animal per month. Profits from capital invested in stables is therefore obviously higher as buffaloes occupy less space than 10' × 10' and stables are cheaper to construct than living rooms.

3. Milch cattle stables in the Bombay Suburban District have increased with such unexpected rapidity that the law has failed to keep adequate pace with this stable-building activity. Only in Bandra and Kurla are there adequate laws under which this industry can be controlled. As a result the milch cattle stables in these areas are better constructed than elsewhere in the Suburbs. In Statement A it is shown in a tabular form the different provisions of the law which apply to different areas in the Bombay Suburban District in respect of milch cattle stables and under which these can be controlled. From this statement it will be seen that there is a multiplicity of laws applicable to the

various parts of the Bombay Suburban District. Except for Bandra and Kurla there is no provision corresponding to Section 178 B.M.B. Act applicable elsewhere in the Suburbs. Also it is only in these two places that provision has been made for the issue of licence. This provision, of course, is very important in two respects : firstly it brings in revenue in the shape of licence fees from the stables. Secondly, the licence, being subject to cancellation, hangs as a sword of Democles on the head of the stable-owner and induces him to keep his stable in a satisfactory condition. From Statement A it will be seen that the District Local Board Act is the most defective in this respect. It has no provision for checking the growth of new buildings or for regulating their use nor has it any penalty clauses with regard to the above matters. Besides, the District Local Board has no power to remove the offending structure by its own agency. It is therefore but natural that as many as 221 badly constructed milch cattle stables have sprung up in the District Local Board area.

4. The state of the law being thus unsatisfactory it follows that the by-laws under the main laws are also defective. The main by-laws on the subject have been tabulated in Statement B. It will be seen therefrom that only Kurla and Ghatkopar by-laws provide for zoning. It is not certain how far the Ghatkopar by-laws providing for zoning is *ultra vires* of the D.M. Act. Very probably it is *ultra vires* of the Act. But zoning seems all important. It should be provided for in all by-laws after the main law is suitably amended. By zoning is meant the setting apart of certain areas in the town where milch cattle stables may be constructed. Such a by-law is fair because it warns would-be property-owners that if they build residential houses in stable zones they do so at their own risk. It tends therefore to localize the nuisance and prevents it from developing in thickly populated localities. It is not necessary for local bodies to buy land and set it apart for stable purposes. It is enough if they zone out certain areas not owned by them as areas where stables may be permitted. From Statement B it will also be seen that there are different standards to which stables in different localities have to conform. There is no reason why these standards should not be the same in the Bombay Suburban District as a whole. For instance in Borivli, Malad and Chembur there is no by-law at all under which stable-owners may be called upon to bring their premises into conformity with certain requirements. Then again there are different penalties under the various by-laws for breach of similar provisions of the by-laws. There is no reason why there should not be uniformity in this respect also.

5. Statement C shows that there are 9,267 milch cattle in the various stables in the Bombay Suburban District, 7,200 of whom are concentrated in the Andheri-Vile-Parle area. Stables in this locality are without any drainage arrangements and are very filthy as no attempts

are made to remove dung from their premises. Most of these stables are also badly constructed from the engineering and public health points of view. It will be noticed, however, that as much as Rs. 10,000 are derived as income from these stables by the Vile-Parle-Andheri Municipality but it does not appear that the local authority is spending even half of this income on controlling this nuisance. The incidence of taxation on these stables in Vile-Parle-Andheri also seems to be low when compared with Kurla, for whereas the latter place gets Rs. 12,333 for 2,493 animals housed in 44 stables, the former gets only Rs. 10,000 for its 7,200 milch cattle kept in 152 stables. The other important localities in this respect are Bandra, Ghatkopar, Kurla and the District Local Board area. The income derived by the District Local Board from its 222 milch cattle stables is only Rs. 1,416 which is insignificant. That is so because no adequate property taxes and licences are levied in the District Local Board area. It may be recommended in this connection that Government should be moved to empower the District Local Board to levy adequate property taxes and licence fees on milch cattle stables so that its income may increase which would enable this local authority to meet the increased liability for more efficient control of the milch cattle stable industry. Unfortunately information from Bandra, Ghatkopar and Juhu Municipalities regarding their income from property taxes and licence fees levied from milch cattle stables in their respective areas is not available and hence comment about these areas cannot be given.

6. The staff employed by most of the local bodies in the Suburbs is neither adequate nor well-qualified for controlling milch cattle stables. Out of the 11 local authorities shown in Statement C only 2 maintain an Health Officer each, while only 3 have under them a qualified Engineer each. Now milch cattle stables are after all buildings and we wish to stress the point that in order to see that stables are properly constructed with impervious materials, etc., it is necessary that qualified Engineers should be engaged by Local Bodies in the Bombay Suburban District. It is not necessary for us to say, further, that milch cattle stables, affecting as they do the public health of the places where they abound, require for their efficient control, the services of qualified Health Officers. It is probable that it will take long before all local bodies in the Bombay Suburban District would be up to scratch in this respect and it is therefore that it is necessary to find out what measures should be taken to ensure that public health is safeguarded in the meanwhile.

7. On the subject of finance it can be pointed out that milch cattle stables can be controlled from the income derived by local authorities from milch cattle stables in the shape of licence fees and property taxes. In Kurla, where stables are controlled efficiently, the annual income from

this source is Rs. 12,333 while the annual expenditure is in the neighbourhood of only Rs. 6,000/-. The staff employed is as follows :—

- 1 Health Officer on Rs. 200—20½—300—20—400.
- 1 Sanitary Inspector on Rs. 75—5—125.
- 1 Assistant Sanitary Inspector on Rs. 45—2½—70.
- 2 Sub-Sanitary Inspectors on Rs. 35—2½—50.

In Vile-Parle-Andheri while the income is Rs. 10,000, expenditure is not as much as in Kurla because no Health Officer is maintained. Hence the lack of adequate control of milch cattle stables in the latter area cannot be ascribed to lack of funds under this head. The milch cattle stables problem in the Bombay Suburban District is not, thus, a financial problem at all except perhaps in the District Local Board, Notified Area Committee and Village Panchayat areas where adequate income can be secured if our recommendation regarding making the milch cattle stables in these localities subject to licence fees and adequate property taxes is accepted. Part of the fines levied by Magistrates on stable-owners also come to the Local Authorities. In 1935-36 under this head Kurla benefited to the tune of Rs. 2,198-4-1. It is not known when the Local Authorities who neglect milch cattle stables would be in a position to provide for adequate staff in this important matter. In the meanwhile the nuisance caused by milch cattle stables is real and pressing. Government cannot stand with folded hands while milk, fly and water-borne diseases spread in the suburbs and in Bombay. It is, therefore, proposed elsewhere in this article that a Government Agency be established to control milch cattle stables in the Bombay Suburban District in those areas where the Local Authorities neglect particular stables.

8. It has been considered necessary to refrain from making any recommendation regarding the shifting of the milch cattle stable industry to Palgarh because there is no requisite evidence to come to any definite conclusion. Hence the question of prohibition of new stables in the Bombay Suburban District is left open here. However, it seems that milch cattle stables give a useful income to the local bodies and their adequate control is not a financial burden on these bodies. Besides one cannot forget that milk is an important item of diet not only for infants but also for adults. Moreover one cannot recommend the "out of sight, out of mind" policy that the Bombay Corporation have followed to date in attempting to drive out stables from Bombay without at the same time controlling the import of milk into Bombay. One would rather advocate the adoption of a legal machinery like that in Edinburgh whose Health Officer, it is said, has the power of prohibiting the import of milk into Edinburgh from a stable situated many miles away which does not conform to Edinburgh standards regarding construction, equipment,

etc. It is difficult to know what would become of milch cattle stables if they were prohibited in the Bombay Suburban District. Would they have to go to Palgarh or will they go elsewhere beyond the searching eyes of Municipal Executives and thrive in their filthy squalour? One would rather that the industry remained inside the Municipal limits in zoned areas, properly controlled by the Health and other Executive Officers than that they should be driven out into the wilds where they cannot be controlled. I cannot therefore recommend the prohibition of further stables in the Bombay Suburban District till one knows for sure that one will be able to control the import of impure milk into the Bombay Suburban District and further that the area to which these stables are confined in future has proper control from men of the type of the best of our Health and other Executive Officers. Also one must know how far this "Palgarh Scheme" will affect the price of milk. If the price of milk rises substantially this measure may affect a section of the population adversely and therefore it would be difficult to find support for such a proposal. As it is, there are vast open areas in the Bombay Suburban District which can be zoned out for this industry and this action of creating zones will not affect the price of milk. In view of what has been said above one would like to keep an open mind on the subject and refuse to make any recommendation thereon.

9. Some matters of detail may now be considered. Under Section 178 B.M.B. Act it is not clear whether the owner of land is liable to be dealt with for a stable standing on his land. As stables are also found in khoti land it is advisable that this should be made clear in order to bring the owners of land also under the ambit of the law. Some stables of long standing are found in thickly-populated areas. Even if they conform to the requirements of the model by-laws still they are a source of nuisance to the locality concerned. For cases such as these it is suggested that a provision similar to the provision in the City of Calcutta Municipal Act should be made by which a stable-owner would be compelled to discontinue leasing his premises as a stable within two years of a notice served on him and on compensation being paid by the Local Authority to him. If he does not cease putting the property to such use within two years then he would forfeit the right to compensation. While on this subject it may be pointed out that this is the only case under which Local Authorities in the Bombay Suburban District can afford to pay compensation for the closure of a place for this use. In other cases compensation would be much too big an item for local bodies finances. In this case also it is expected that compensation will be comparatively less because it is to be paid for the stoppage of a certain use to which a premises is put and not for the acquisition of the land because the latter would continue to be in the ownership of the stable-owner concerned.

In order to save legal costs it is suggested that this power of awarding compensation may be given to Magistrates appointed under the Municipal Acts. Section 200 B.M.B. Act and similar Sections in the other Municipal Acts would also create legal difficulties if allowed to stand unamended. It is necessary therefore that this six months time limit should not apply to milch cattle stables at all.

10. It is not enough that owners of land should be actionable for milch cattle stables thereon but that owners of lands in the Bombay Suburban District should also be compelled to make a monthly return of milch cattle stables on their lands. This will also greatly facilitate the work of the Government Agency mentioned in para 13 below. At present stables spring up, as it were over-night and by the time the Local Authorities take any action they seem to get prescriptive rights and regard themselves as old occupants. Khots should not be exempt from making these returns. It has been observed that stables in khoti land are difficult of control. It is therefore necessary that the consolidated Act referred to in para 13 should apply to the whole of the Bombay Suburban District without exception. In other words, khoti land within the Bombay Suburban District should also come within the ambit of the new legislation so that stables in khoti land can also be controlled by the Local Authority concerned failing which they should be controlled by Government Agency.

11. Detailed observations in respect of milk shops and dairies have not been made because large dairies and retail shops do not exist in the Suburbs. Such as do exist in the Suburbs are not so scandalously neglected as milch cattle stables, nor are there any complaints regarding insanitary conditions in them. But what does need attention is the adulteration of milk or rather the dilution of milk with water. This is more a question of price rather than anything else as it is possible to get undiluted milk with little or no trouble provided an adequate price is paid. It is therefore not necessary that the Government Agency which controls the stables should also be permitted to control dairies and milk shops as well. For one thing dairies and milk shops are easier to control as the occupier and not the owner is the chief party to be dealt with. For another, they seem to be better controlled by the Local Authorities than stables. It is therefore needless to waste the Government Agency's time and energy on a matter which is at present well within the bounds of sanitation.

12. From the above observations it is clear that to control the milch cattle stable nuisance in the Bombay Suburban District with the state of the law in its present chaotic condition is well-nigh impossible. It is therefore necessary to press Government to so amend the existing law as to make adequate provision for the control of milch cattle stables in the

Bombay Suburban District. It would perhaps be advisable to consolidate all the provisions in regard to milch cattle stables in one single Act rather than to pass amending Acts in respect of all the various laws now applying to the Local Authorities in the Bombay Suburban District. This Act should be applied to all the Local Bodies in the Bombay Suburban District without exception. But it should contain a provision that if a Local Body fails to carry out its duties under the Act, then Government should apply the law through its own Agency. It would therefore be necessary to have some Government Agency who would serve notices to Local Bodies in the Bombay Suburban District in respect of stables within their respective limits. If action as pointed out in these notices is not taken by the Local Bodies concerned within the time specified in the notice, then the Government Agency should take the matter in its own hands and deal with the offending stable-owner as provided for under the Act. This, it is believed, will expedite matters and the milch cattle stables will be brought under control in a comparatively short time.

13. Here again, the question of finance will arise. Who is going to pay for the upkeep of the Government Agency working under the Act? It is clear that to control milch cattle stables is the duty of Local Bodies. It has been shown above that there is no financial obstruction to the adequate control of milch cattle stables in the Bombay Suburban District. One would therefore feel that what is recommended below is quite fair. It is suggested that as soon as a particular stable is controlled by Government Agency the revenue from that stable in respect of licence fees and property taxes should go to Government. This would be an adequate sum and Government can easily realise an amount which would be enough to pay for the upkeep of the Government Agency and other incidental expenses. For instance, 41 stables in Kurla alone yield more than Rs. 1,000 per mensem to the Municipal coffers from licence fees and property taxes. Hence, if Government have to control say only 40 out of the 600 stables in the Bombay Suburban District, they would easily realise what they spend under this head.

STATEMENT A

B. D. M. Act	B. M. B. Act	Local Board Act	Remarks
Sec. 48 (1) „ 151 (1)	Sec. 61 (1) „ 186	Sec. 62 (1)	Dist. Mun. Act and Local Board Act are defective in not making provision for licences.
Sec. 49	Same provisions as Sec. 48, D. M. Act	Sec. 62 (4)	Bye-laws to be printed.
Nil	Sec. 178	Nil	Provision regarding control and closing. Only B. M. B. Act provides for closure and says "No licence, no stable."
Sec. 129	Secs. 160 and 162, Cl. (1)	Sec. 52	Enabling sections to issue notices to get right insani-tation etc. Very roundabout. But these provisions are rarely meant to deal with dirty premises etc.
Sec. 131 (1)		Sec. 53	
Sec. 96 (1)	Sec. 123	Nil	These sections are regarding check on new buildings springing up. But no provision in D. L. B. Act.
Sec. 97	Secs. 125, 126	Nil	Regulating huts. But no provision in D. L. B. Act.
Sec. 155	Sec. 193	Nil	Penalty clauses. But no provision in D. L. B. Act.
Sec. 154, Cl. (6)	Sec. 192, Cls. (5) and (6)	Nil	For removal of offending structures by Local Authority itself. But no provision in D. L. B. Act.
Sec. 161, Cl. (1)	Sec. 200	Sec. 70, Cl. (1)	Time limits of 6 months generally.

STATEMENT B
Bye-laws

	Kurla	Virle-Parle	Ghatkopar	D. L. B.	Ore's Model Bye-law	D. B. Meh-ta's Model Bye-law	N.A.C. Bo-rivli, Malad & Chembur	Remarks
Bandra	Bye-law 1 localities	Nil	Bye-law 2 zoning (not sanctioned)	Nil	Nil	No. 1	Nil	Zoning provided in Kurla (and Ghatkopar) only.
No. 44 (B)	Bye-law 2	Nil	Bye-law 4	No. 2	No. 5	No. 2	No. 3	Licensing in only Bandra, Kurla and Bombay satis-factory.
No. 46	No. 4	No. 3		Nos. E 4 & P 5	No. 7	No. 4	No. 9	Stable must conform to certain standards to get permission (and licence).
No. 52	Nos. 7 & 13	No. 9	Nos. 12 & 23	Nos. E 10 & P 13	No. 8	Nil	Nil	Calling upon licensees and owners to bring their pre-mises into conformity with requirements.
No. 64	No. 13	No. 22	No. 23	Nos. E 22 & P 24	No. 10	No. 14	No. 20	Penalties (different). There is no reason why these should be different in different areas.

E=Existing Bye-law.
P=Proposed Bye-law.

STATEMENT C

S. No.	Name of Local Body.	Area of jurisdiction.	No. of Milch Cattle Stables in the area.	Whether a qualified Health Officer & Engineer in the area of Municipality.	No. of Milch Cattle housed in the stables in the area.	The Total annual income, in Rupees.	Income from Milch Cattle Stables.
1	2	3	4	5	6	7	8
1.	Chembur N. A. C.	3 1/7 Sq. Miles	Nil (as regular stables)	—	200 Cattle	9,000	Nil
	Malad N. A. C.	1 Mile in radius	50	—	1000 "	25,564	Rs. 669-10-0 (House Tax only)
3.	Kandivli N. A. C.	1 Mile in radius	9	—	380 "	249	—
4.	Malund N. A. C.	850 Acres	7	—	275 "	11,000	Rs. 435-0-0 (House Tax only)
5.	Borivli N. A. C.						
6.	The Administrator, Kurla Municipal Borough.	5 Sq. Miles	41 licensed 3 unlicensed	Qualified Health Officer and Engineer	2493	4,47,328	Rs. 12,333
8.	Juhu Municipality			Information not easily available	7200	17,000	Information not easily available
9.	Vile-Parle "	5-18 Sq. Miles	152	—	1975	3,774	Rs. 10,000/-
10.	Ghatkopar "	3-25 "	51 (25 Pakka) (26 Katoha)	—	2300	8,11,255	Information not easily available
	Bandra "	3-25 " Bandra, Khar, Santa Cruz, Kalina	134	Qualified Health Officer and Engineer			do.
11.	D. L. B., B. S. D.	153 Sq. Miles	222	Qualified Engineer acts as Chief Officer		1,57,497 (1935-36)	Rs. 1416/-
	TOTAL	18,389 Miles	669	2 H.Os. 3 Engrs.	9267	15,62,667	24,853-10-0

296

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SELECTED CASES ON LOCAL SELF-GOVERNMENT ACTS (Bombay Series)

By **CHUNILAL D. BARFIVALA**, M.A., LL.B.

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[These cases have been selected from the forthcoming volume of *Cases on Acts relating to Local Bodies* (Bombay Series). This work contains an exhaustive analysis of all the cases decided by the High Court of Bombay and reported in the Indian Law Reports and the Bombay Law Reporter for the last 40 years. The work is being published with the kind permission of the Government of Bombay and the proprietors of the Bombay Law Reporter. —Editor.]

1900

Essa Jacob Haji Jamal (orig. plff.)

vs.

The Municipal Commissioner of Bombay and ors. (orig. defts.)

Under section 297 of the City of Bombay Municipal Act, 1888, the Municipal Commissioner is not entitled to prescribe in 1893 a different line setting back the line prescribed by his predecessor in 1888.

The plaintiff was the owner of a house in Chunam Kiln Road near the Bhendy Bazaar, outside the Fort of Bombay. City of Bom. Mun. Act, 1888. Shortly after the passing of the Act in 1888 (Bom. III of 1888), Section 297. a line on each side of this public street was prescribed by the Commissioner in accordance with the provisions of section 297. A new line for the purpose of widening the street was prescribed in 1893. On various occasions the plaintiff was obliged to pull down parts of his house from time to time in 1899 as directed by the Commissioner. He was further required to set back his house to the regular line of the street as prescribed in 1893. The plaintiff thereupon sued the Commissioner for a declaration that the regular line of the said street was the line prescribed in 1888 and that the present Commissioner had no power to alter this line. The lower Court held that the Commissioner had acted within his powers and rejected the plaintiff's claim. The plaintiff appealed to the High Court.

HELD that it was not open to the Municipal Commissioner in 1893 to prescribe a different line setting back the line prescribed by his predecessor.

Section 297 reads as follows :—

- "297. (1) The Commissioner shall prescribe a line on each side of any public street within which, except under the provisions of section 310, no portion of any building abutting on the said street, shall, after such line has been prescribed, be constructed.
(2) A line so prescribed shall be called the regular line of the street."

Jenkins, C. J.—(Extract). Section 297 forms part of Chapter XI of the Act, which is concerned with "the regular line of streets." In section 289 (2) a check is placed upon the exercise by the Commissioner of his powers of widening by fixing the aggregate cost of widening. The purpose of setting back the regular line of the street in the present case is to widen it and not for the purpose of preserving the regular line of that street. The purpose of section 297 is not to enable the Commissioner to widen a public street—that power was expressly vested in the Commissioner by section 289—it is to empower him to secure a regular line of street an end already secured by the line prescribed in 1888. The Commissioner's action was unauthorised.

Russell, J.—(Extract). The Commissioner is not empowered to draw from time to time the regular line of a street. Grave cases of hardships might arise.

I.L.R. 25 Bom. 107
22[31st Aug. 1900.

(Note :—This case is no longer authority since the amendment of the Act in 1905. See *The Municipal Commissioner for the City of Bombay vs. Muncherji Pestonji Choksey, I.L.R. 36 Bom. 405*).

1901

Ranchordas Morarji
vs.

The Municipal Commissioner for the City of Bombay

The one month's notice prescribed by section 527 of the City of Bombay Municipal Act, 1888, is not necessary in the case where the plaintiff sues to recover certain town duties paid by him but which he was entitled to have refunded under section 195.

The plaintiff had paid on importing grain and sugar certain town duties but under section 195 of the City of Bombay City of Bom. Mun. Act, 1888 Municipal Act he was entitled to get them (Bom. III of 1888), Section 527. refunded. He applied for refund but as his claim was rejected he gave the notice of his intention to file the suit. The defendant contended that the suit was barred by limitation and that a notice as prescribed by section 527 of the Act was necessary before the suit was filed. The case was stated for the decision of the High Court under section 617 of the Code of Civil Procedure by the Chief Judge, S. C. Court, Bombay.

HELD that section 527 of the Act did not apply and that no notice of the suit to the defendant was necessary as the defendant could not claim that his conduct had any relation to the execution of the Act if he knowingly and intentionally acted in contravention of its provisions.

Held also that the suit was not one of the class referred to in Art. 2, Sch. II of the Limitation Act, 1877 and was not barred.

Held further that when it is provided in an Act that notice shall be given to the defendant of any suit intended to be brought in respect of an

act done in pursuance or execution or intended execution of the Act or in respect of neglect or default in its execution, such provision does not apply when the action is brought on a contract, for the conduct giving rise to the action is a wrongful act or omission under the contract as distinct from one in the execution of the Act. 99508

The material portion of section 527 of the Act is as follows—

"527. (1) No suit shall be instituted against the Corporation or against the Commissioner or Deputy Commissioner or against any Municipal Officer or servant in respect of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of the Act—

(a) until the expiration of one month next after notice in writing has been, in the case of the Corporation.....stating with reasonable particularity the cause of action..... for the purpose of such suit; nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit—

(c) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered....."

The material portion of section 195 of the Act is as follows :—

"(1) When any article upon which town duty has been paid shall be exported from the city, the full amount of the duty so paid shall, subject to the provisions hereinafter contained, be refunded.

(2) Such refunds shall be paid under such rules as the Commissioner, with the approval of the Standing Committee, shall from time to time frame in this behalf.

Provided that

(a) no refund shall be paid on any article, other than timber or flour, not exported within six months, or on any timber not exported within twelve months of its exportation;

(b)

(c) no refund shall be paid unless the same is applied for within one month from the date of exportation."

Jenkins, C. J.—(Extract). The person seeking the protection of the Act cannot claim—that his conduct has any relation to the "execution of the Act," if he knowingly and intentionally acts in contravention of its provisions. The amount payable by way of refund was ascertained and the Plaintiff's right to receive it admitted, the refusal to refund would have been a deliberate conscious contravention of the provisions of the Act. In such a case it would be impossible to hold that the money was *bona fide* withheld "in execution of the Act" and such conduct would not entitle a person to notice. Notice is not required when the action is brought on a contract for the conduct leading to the action is a wrongful act or omission under the contract as distinct from one in the execution of the Act; and it is the breach of a specific contract that is the occasion of the right to sue. On the other hand, the exemption from this requirement does not apply to all suits in contract as distinct from suits on contract. The reason why a suit of this class is not free from the condition of notice is,

that the suit is not in respect of anything done in breach of a specific contract but in respect of an act or omission in execution of the Act. The present suit is not distinguishable from a suit on a specific contract, so no notice is required. In such a case it could not be held that the money was *bona fide* withheld in execution of the Act and that being so no notice was necessary under Section 527.

I.L.R. 25 Bom. 387
25th Jan. 1901.

Kasandas Raghunathdas (orig. plff.)

vs.

The Ankleshwar Municipality (orig. deflt.)

Civil Courts are not entitled to interfere with the house-valuation made by a municipality under the rules prescribed by law for making the valuation on the ground that the valuation is too high in the absence of proof of malafides, perversity or manifest error.

The plaintiff had brought this suit to recover from the defendant municipality Rs. 7|9|- as the overcharged house-tax alleging that he had been compelled to pay a house-tax of Rs. 12|8|- instead of Rs. 5 which, according to him, was the proper amount leviable from him. He alleged that by its rules the municipality was authorised to impose a tax of four annas per Rs. 100 on the market value of all houses in the municipal limits and that his house was valued at Rs. 5,000 instead of at Rs. 2,000. The Subordinate Judge relying on the decision in *Morar vs. Borsad Town Municipality* (I.L.R. 24 Bom. 607) held that he had no jurisdiction to entertain the suit as it sought to revise the valuation of the plaintiff's house made by the Municipality for the purpose of the house-tax. Plaintiff's appeal was summarily rejected by the District Judge. He thereupon preferred a second appeal.

HELD that in the absence of proof of *malafides*, perversity or manifest error, Civil Courts ought not to interfere with the house-valuation made by the Municipality for the purpose of taxation, unless there is a breach of the rules prescribed by law for making the valuation.

Jenkins, C. J.—(Extract). The plaintiff has not been able to make out that the prescribed rule for arriving at a valuation had not been observed. The rule provided that "the market value of a house means the price which may be expected to be obtained for the house at a sale held under circumstances neither very favourable nor very unfavourable." The mode in which the municipality had arrived at the valuation of the plaintiff's house does not contravene the rule. It was a legitimate method of arriving at the fair selling value of the house. There is no breach of the prescribed rules committed and in the absence of any proof of *malafides*, perversity or manifest error, Civil Courts are not to interfere on the mere suggestion that the valuation is too high.

I.L.R. 26 Bom. 294
25th November 1901.

1902

Vithaldas Dharamdas and others

vs.

The Municipal Commissioner of Bombay

The Municipality is liable for negligence if it excavates a trench for a pipe drawn in a public lane and leaves it open for many days so as to permit rain water to get into it and to percolate through or to saturate the sub-soil and thus to cause a land slip and to undermine the foundations of the adjoining houses.

In the middle of June 1900, the Municipality excavated a trench for a pipe drain in a public lane. This trench remained open till 1st July 1900. There was heavy rainfall in the last week of June. The rain water collected in the trench and by percolation or saturation caused a land slip and in the trench and by percolation or saturation caused a land slip and the collapse of the plaintiffs' house which was close by the trench. The plaintiffs sued the Municipality for damages, alleging that the Municipality was negligent in digging the trench when a heavy rainfall might be expected and leaving it open so as to permit rain water to get into it and to percolate through or to saturate the sub-soil and thus to cause a land slip and to undermine the foundation of the plaintiffs' house. The Municipality contended that the damage was due to the heavy rain and not to the drain and to giving way of the retaining wall of an adjacent tank from which water was removed.

HELD that it could not reasonably be said that the removal of the water from the tank was alone, without anything else sufficient to produce the accident, nor could it be contended that the rainfall could itself have produced the land slip that therefore the trench contributed materially to the accident;

Held further that even if the removal of the water from the tank be a contributory cause for the damage, the Municipality would not be relieved of its liability unless such removal was the whole cause and the drain had nothing whatever to do with it;

Held also that the heavy rainfall by the end of June is nothing very extraordinary in Bombay; and hence it could not be regarded as an Act of God, which would absolve the Municipality from its liability;

Held further that where there was percolation or saturation the drain was the chief cause of the damage to the Plaintiffs' house. This percolation or saturation was due to the trench which the Municipality had dug and to the negligence of the contractors in digging and keeping it open for several days, the defendant Municipality being thus liable to make good the damage.

Held lastly that to be regarded, in law, as the Act of God, the occurrence must be overwhelming and not only unforeseen but incapable of being foreseen and absolutely incapable of being prevented or guarded against.

4 Bom. L.R. 914
10th Nov. 1902.

Tribhovan Chunilal (orig. plff.)

vs.

The Ahmedabad Municipality (orig. deft.)

The words 'think proper' and 'may in writing issue such orders not inconsistent with this Act' in section 33 of the Bombay District Municipal Act, 1873, give a District Municipality wide powers to order the removal of balconies put up by a person to his house abutting on a private street and constructed in defiance of the orders issued by the Municipality but such power must be exercised not capriciously or arbitrarily but reasonably, and the order must be consistent with the provisions of the Act.

The plaintiff sued to obtain a perpetual injunction restraining the Ahmedabad Municipality from removing a *dakhli* or balcony with overhanging eaves which he had constructed over his *otta*. The Municipality had given permission to construct the balcony subject to the condition that it should not extend to the east beyond a point five feet from the northern extremity of the eastern wall of the plaintiff's house. The plaintiff disregarded this condition and under sub-clause 3 of section 33 of the Bombay District Municipal Act, 1873, the Municipality ordered the removal of the structure completed in contravention of their orders.

The Court of first instance held that the street on which the plaintiff's house abuts was not a public street but as the plaintiff had constructed the balcony in defiance of that order, he was not entitled to the injunction sought. The lower Appellate Court held the same view. From that decision the plaintiff appealed to the High Court.

HELD (by Batty, J.)—(Extract). The orders passed by a Municipality under section 33 of the District Municipal Act, 1873, if justifiable must be shown to be consistent with the powers conferred by the Act, otherwise they are neither within the meaning of clause 1 nor legal orders within the meaning of clause 3 of the section. The land affected not being a public street, is not vested in the Municipality by section 17 of the Act and no general power to interfere with buildings on private property is conferred by any section of that enactment. Such interference would necessarily involve an encroachment on the ordinary rights of the subjects and wherever the legislature intended to authorize such interference it conferred the power by apt words.

Held (by Aston, J.)—(Extract). The words "may in writing issue such orders not inconsistent with this Act as they think proper with reference to such building" in section 33 are very wide and give elastic powers to the Municipality in the matter of regulation of new buildings as private property, and there is no reference to a street public or private in the section. The words "not inconsistent with this Act" appear to mean not inconsistent with the aim, scope and object of this Act as shown by its provisions.

Owing to above difference of opinion the case was referred to Mr. Justice Chandavarkar under section 575 of the Civil Procedure Code.

Held (by Chandavarkar, J.)—(Extract). Reading the whole of section 33 of the Act by itself and having regard to its general terms it is clear that the legislature has given to every municipality the power to regulate the construction of buildings, whether they abut on a public or a private street. The power may be exercised, not capriciously or arbitrarily but reasonably, provided the order is "not inconsistent with the provisions of the Act."

Held also that in construing the Acts relating to a municipality we must have regard to their object and policy and construe the sections so as to effectuate the intention of the legislature to better provide for public health and sanitation. If the language of the Act may fairly apply to many different cases and only some cases are specified in other sections it is not straining the language and meaning of the Act if bearing in mind its object we infer that the cases specified are by way of example only and not as excluding others of a similar nature.

(Section 33 of the old Act is reproduced in an altered form in section 98 of the new Act of 1901 but the words "the Municipality may issue such orders not inconsistent with this Act as they think proper" are retained. The order like the one in question would not be consistent with the present Act if the ground over which the balcony and eaves project is private property. Cf. the provisions of clause (1) of section 122 which expressly refer to obstructions and encroachment on public streets and clause (2) refers to obstructions, etc., on open spaces which are not private property.)

5 Bom. L.R. 48
9th Decr. 1902.

1903

Haji Esmail Hajee Essac (plff.)

vs.

The Municipal Commissioner of Bombay (deft.)

and

Ahmed Moosa and another (plff.)

vs.

The Municipal Commissioner of Bombay (deft.)

The power to grant a licence, by the Municipal Commissioner of Bombay or the stabling of milch-cows, under section 394 of the City of Bombay Municipal Act, 1888, includes also the power to refuse the license.

The plaintiff had two sheds which he used as buffalo-stables for a number of years and the Municipality used to grant him licences from year to year during the last twenty years. He applied for a renewal of the licence in April 1903 but was informed that the licence could not be granted as the stable was found to be a source of serious nuisance to the residents of the locality. The plaintiff thereupon filed the suit which was dismissed. He then filed an appeal to the High Court.

City of Bom. Mun. Act, 1888 (Bom. III of 1888), Section 394.

HELD that the power to grant licence under section 394 includes the power to refuse it—it is a purely discretionary power.

The material part of section 394 is as follows :—

"394 (1) No person shall use any premises for any of the purposes hereinbelow mentioned, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, namely :—

(a) * * *

(b) * * *

(c) for keeping horses, cattle or other four-footed animals for sale or hire or for sale of the produce thereof.

Chandavarkar, J.—(Extract). Section 394 prohibits a man from carrying on trades specified in the section in any premises. The power is restricted as to place. The object is to prevent a particular locality in any congested part of the city from being insanitary by reason of trades, which in the opinion of the legislature are injurious to health. Wherever the legislature intended that the power of refusal to grant a licence or a written permission should be restricted they have distinctly said so and specified the conditions of restriction, e.g., section 390 and section 403. There is no such restriction imposed on the power to grant licences given in exactly the same words to the Commissioner in section 394. The power to grant a licence is discretionary but is restricted only as to place. The limit to its exercise is that it should not be arbitrary, vague and fanciful but it must be regular and legal. Here discretion is left by law to the Municipal Commissioner and he has not exercised it arbitrarily.

5 Bom. L.R. 1001
17th Nov. 1903.

1904

Chunilal Thakordas Modi (orig. plff.)

vs.

The Surat City Municipality (orig. deflt.)

Section 86 of the Bombay District Municipal Act, 1901, does not make it incumbent in every case upon a party complaining of an illegal levy of a tax by a Municipality to appeal against the action of the Municipality to a Magistrate or a Bench of Magistrates appointed by the Governor-in-Council to hear such appeals before suing in a Civil Court. Where, however, it was open to a party to resort to the remedy provided by section 86 and obtain the relief which he seeks in a suit, no injunction will be granted as it would not be a proper case for an injunction.

The plaintiff owned a house in Surat and a notice was served by the municipality calling upon him to pay a certain sum alleged to be due from him as arrears of house-tax. He wrote to the municipality denying his liability. A notice of demand was thereupon served upon him by the municipality under section 82 (3) of the Act. The plaintiff thereupon filed this suit for an injunction restraining the municipality from recovering the amount demanded. The municipality contended that the Civil Court

had no jurisdiction and that the plaintiff was not entitled to any relief as he had not complied with the provisions of the Act. The trial Court agreed with this view and dismissed the suit. On appeal the District Court confirmed the lower Court's decree. The plaintiff then appealed to the High Court. It was contended on his behalf that section 86 was not imperative but it is merely advisory. That the procedure prescribed by the section is not preliminary to the filing of a suit in a Civil Court but is merely concurrent. On behalf of the municipality it was urged that where a statute provides a special procedure that procedure should be first resorted to.

HELD that section 86 was permissive merely and that it did not make it incumbent in every case upon a party complaining of an illegal levy of a tax by a municipality to appeal against the action of the municipality to a magistrate before suing in a Civil Court.

Held also that the injunction prayed for in this case could not be granted. By section 56 of the Specific Relief Act an injunction cannot be granted, where efficacious relief can be obtained by any other usual mode of proceeding just as section 86 has provided in the present case. That it was discretionary for a Court to grant an injunction and that discretion must be exercised judicially with extreme caution and only in very clear cases.

The material portions of section 82 (3) and section 86 are as follows :—

"Section 82. (3) If the sum for which any bill has been prescribed as aforesaid is not paid in the municipal office, to a person authorized by any rule in that behalf to receive such payment within fifteen days from the presentation thereof, the municipality may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule B, or to the like effect."

Section 86. Appeals against any notice of demand issued under sub-section (3) of section 82 may be made to any Magistrate or Bench of Magistrates by whom under the directions of the Governor-in-Council, or of the District Magistrate, such class of cases is to be tried.

But no such appeal shall be heard and determined unless

- the appeal is brought within fifteen days next after the service of notice of demand complained of; and
- an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the municipality as follows; that is to say—

(i) * * *

(ii) * * *

- the amount claimed from the appellant has been deposited by him in the municipal office."

Chandavarkar, J.—(Extract). The view that section 86 provides a remedy which ought to be exhausted before an action against a municipality for an illegal levy of a tax can lie in a Civil Court is not warranted by the wording of that Section or of any other provisions of the Act. Section 164 of the Act which lays down the conditions subject to which suits against a municipality can be brought, does not provide that a suit in respect of a notice of the demand of a tax by a municipality cannot be brought unless the party suing has resorted to and exhausted the remedy provided by

section 88. The remedy provided by that section is intended for the benefit of the party on whom the notice of demand is served, and both the language and spirit of the section show that it is permissive.

*I.L.R. 27 Bom. 403
11th March 1903.*

Achratlal Harilal (orig. plff.)

vs.

The Ahmedabad Municipality (orig. deft.)

There is no provision in the Bombay District Municipal Act, 1901, which makes the municipality liable for mere non-repairs of a road.

The plaintiff sued the Municipality in the Court of Small Causes at Ahmedabad to recover damages sustained by him in respect of the injury caused to his horse and carriage in consequence of the Municipality's neglect to repair a certain road. The suit was dismissed by the Judge who held that no action for non-user of statutory powers can lie. The plaintiff then applied to the High Court under its extraordinary jurisdiction urging *inter alia* that the defendant being under a statutory obligation to maintain and repair all public roads, was liable for a breach of this statutory duty. It was urged on behalf of the Municipality that there is no section in the Act which compels the Municipality to maintain every possible road in the town in repairs and that in a case like the present no action can lie and that, therefore, if any loss be caused by the non-repair of the road the corporate body cannot be held liable in damages.

HELD that as the default leading to the damage was a mere non-feasance, the plaintiff's suit fails, for the statute does not impose upon the Municipality a duty towards the plaintiff which they negligently failed to perform.

*I.L.R. 28 Bom. 340.
20th January 1904.*

Emperor

vs.

Pranshankar Gavrishankar

A person who produces the title-deeds and furnishes the information called for under section 96 of the Bombay District Municipal Act is bound to

wait for one month from the date of the orders of the municipality before he proceeds with the intended construction.

The accused applied under section 96 of the Bombay District Municipal Act for permission to build a step to his *ota* or verandah. The municipality acting under that section asked him to produce evidence of ownership title-deeds. Having produced his evidence it was the duty of the accused to wait for a month from the date of the production. He built the step however within the month and he was prosecuted. The magistrate acquitted him. An appeal was preferred to the High Court against his acquittal.

HELD convicting the accused that where a person produces the title-deeds and furnishes the information called for, he has to wait for one month from the date for the orders of the municipality before he can proceed with the intended construction.

The material portion of Section 96 of the Act is as follows :—

- "96. (1) Before beginning to erect any building, or to alter externally or add to any building, or to reconstruct any projecting portion of a building.....the person intending to build, alter, or add shall give to the municipality notice thereof in writing and shall furnish to them at the same time if required by a by-law or by a special order to do so,
- (a) the sanad, if any, in force relating to the site of such proposed building.....in towns and cities,
- (b) a plan showing the levels.....to any existing or projected street.
- (2) * * *
- (3) Before issuing any orders under sub-section (2) the municipality may, within one month from the receipt of such notice, either issue,
- (a) a provisional order.....work shall not be proceeded with, or
- (b) may demand further particulars.
- (4) A building proposed in a notice given under sub-section (1) may be proceeded with in such manner as may have been specified in such notice as is not inconsistent with any provision of this Act or any by-law for the time being in force thereunder in the following cases, that is to say :—
- (a) in case the municipality, within one month from the receipt of the notice given under sub-section (1) have neither
- (i) * * *
- (ii) issued under sub-section (3) any provisional order or any demand for further particulars;
- Provided that no person.....to proceed therewith.
- (5) Whoever begins or makes any building or alteration or addition without giving the notice required by sub-section (1) or without furnishing the documents or affording the information above prescribed or except as provided in sub-section (4), without awaiting.....shall be punished with fine which may extend to one thousand rupees.....

Per Curiam, J.—(Extract). The question whether under section 96 the municipality has jurisdiction or right to call for information regarding ownership must be decided on the circumstances of each case. The accused

having produced the title-deeds and furnished the information he was bound to wait for one month from that date. He might have asked the municipality what the information was wanted for, and he might have refused to produce evidence as to ownership. What his position would have been in that case is immaterial. The municipality has a right under section 96 to call for further particulars and when those particulars are furnished the applicant has to wait for one month. Here the applicant without waiting went on to build the step. He cannot now say that the particulars he furnished were particulars which the municipality had no right to call for.

6 Bom. L.R. 581
30th June 1904.

The Municipal Corporation of the City of Bombay (deft.)

vs.

Vasudeo Ramchandra (plff.)

Where the municipality fails to take sufficient precautions in constructing bridges and embankments in a creek for carrying a direct line, to cope with conditions which might reasonably have been anticipated and damage ensues, the municipality would be liable and cannot plead vis major even if it co-existed or followed on such negligence.

The defendant municipality for the purpose of laying a water duct made embankments and bridges in a creek which caused damage to plaintiff by flooding his lands. The trial Court rejected the plaintiff's claim holding *inter alia* that the direct cause of the damage was the flood and not the embankments. The lower Appellate Court had granted an injunction ordering the municipality to provide sufficient ways in their duct line adjoining the plaintiff's lands so that they might not be flooded in consequence of the line acting as a material obstruction to the floods, etc. The defendant municipality appealed to the High Court.

HELD that *vis major* to afford a defence must be the proximate cause and not merely a *causa sine qua non* of the damage complained of. Neglect to provide for conditions not exceptional may involve liability although *vis major* or exceptional conditions be also established. That before an act of God may be admitted as an excuse the defendant must himself have done all that he was bound to do.

Held also that a plaintiff before he can ask for an injunction must prove that he has sustained such substantial injury by the acts of the defendant as would have entitled him to a verdict at law in an action for damage.

Held further that in such a case to avoid all approach to particularity of direction the injunction should be in general terms, namely, an injunction restraining the defendant from flooding the lands of the plaintiff or causing them or permitting them to be flooded by the works of the defendant corporation.

6 Bom. L.R. 899.
21st Sept. 1904.

Dewakabai (plff.)

vs.

The Municipal Commissioner of Bombay (deft.)

The word "re-construct" in clause (d) of section 342 of the City of Bombay Municipal Act, 1888, means something more than add, alter or repair and does not refer to repairs of ordinary and casual character but to repairs of more or less substantial character and the party undertaking such repairs has to give notice to the Municipal Commissioner of his intention to reconstruct and obtain the leave of the Commissioner. Section 527 of the Act does not apply to a suit to restrain a municipality by injunction from doing an act which is threatened but not done.

The plaintiff is the owner of a house situated in Samuel Street. It consists of a ground floor and four upper floors and he has brought this suit to restrain by injunction the Municipal Commissioner from pulling down any part of the front of her house. The Commissioner contended that he was entitled to pull down such portions of the front of the house as are unauthorized because she has executed them without his sanction and in spite of the intimation of disapproval conveyed by him to the plaintiff before the works in question were undertaken.

HELD that section 527 of the Act does not apply to a suit to restrain a municipality by injunction from doing an act which is threatened but not done.

The relevant portion of section 342, clause (d), and section 527 is as follows:—

"342. Every person who shall intend—

- (a) * * *
- (b) * * *
- (c) * * *

(d) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street; shall give to the Commissioner.....notice of his said intention, specifying the position of the building in which such work is to be executed, the nature and extent of the intended work and the name of the person whom he intends to employ to supervise its execution."

"527. (1) No suit shall be instituted against the Corporation or against the Commissioner.....or against any municipal officer or servant in respect of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act—

- (a) until after the expiration of one month after notice in writing to his.....and, in the case of the Commissioner, or a Deputy Municipal Commissioner or a municipal officer or servant, delivered to him or left at his office or place of abode.....for the purpose of such suit."

Ghandavarkar, J.—(Extract). The works external as well as internal fall within the regular line of the street. The external work consists in

rebuilding the south wall of the house and the internal consist of the removal of the old joists, the planking and flooring and the placing of new joists and planks and *koba* on the three floors of the house. The plaintiff says that the municipal servants threatened to pull down not merely the unauthorised portions of the works but the whole of the plaintiff's house. The municipality contends that these works having been executed without the approval of the Commissioner the latter was entitled to pull down those parts as unauthorised works and that it was never intended to do more but that no notice was ever issued to the plaintiff for executing the unauthorised works. The works executed by the plaintiff are neither addition nor alteration of the building. Though in one sense all reconstruction may be repair there are different degrees of repair. Where repairs are made to a house which do not touch its stability, they are repairs, pure and simple, but if they are of a substantial character intended to add to the stability of the house, they amount to reconstruction whether the repairs are done inside or outside the building. In each case it is a question of fact. The difference between *repair* and *reconstruction* is one of degree, and can be made out by finding whether what has been done adds to or was intended to add to the structural capacity of the building. Reconstruction is but construction over again (*Hoddinolt vs. Newton Chambers and Co., Ltd.* (1901 A.C. 49)). The plaintiff's repairs amount to reconstruction, of that portion of the building which abuts on a public street which stands within the regular line of such street and fall within clause (d) of section 342. The presumption is that these works had to be done because the old works had fallen into decay and weakened the building. They are not repairs of a casual character.

6 Bom. L.R. 1028
6th Oct. 1904.

Hamirsing Fatesingji (orig. plff.)

vs.

The Amod Town Municipality (orig. deft.)

Where a subordinate Court goes by itself into the question of assessment and fixes the amount of house-tax which was the function of the municipality under the Municipal Act the High Court will interfere under section 622 of the Civil Procedure Code as the Court had exercised its jurisdiction improperly.

The plaintiff filed a suit in a Civil Court to recover from the municipality the amount of the house-tax illegally assessed and recovered from him. The Court came to the conclusion that the resolution of the municipality imposing the house-tax was illegal, that the municipality's valuation was illegal and that the Court could enter into the question of valuation and having fixed it the plaintiff was entitled to no relief. On appeal the District Judge held the same view. The plaintiff preferred a second appeal which was allowed to be converted into an application under section 622 of the Civil Procedure Code.

HELD, setting aside the decree and awarding the plaintiff's claim, that the High Court has power to interfere under section 622 of the Civil Procedure Code inasmuch as the Court in fixing the amount of house-tax

exercised the functions which the Legislature had vested in the municipality and so far exercised its jurisdiction illegally.

Jenkins, C. J.—(Extract). There was an illegality in imposing the house-tax and therefore the plaintiff has been compelled to pay a sum which he was not liable to pay. This being so he was entitled to recover it in this suit. It was not open to the lower Courts to discharge the functions which the Legislature vested elsewhere. They have improperly exercised their jurisdiction so that the case falls within section 622 of the Civil Procedure Code.

7 Bom. L.R. 288
21st Dec. 1904.

Emperor

vs.

Nadirsha H. E. Sukhia

A notice under section 231 of the City of Bombay Municipal Act, 1888, requiring a person to construct a drain adjoining a particular part of his premises is ultra vires. If the party receiving the notice requests the Commissioner to reconsider the matter and the Commissioner agrees, the notice will be deemed to have been waived and the Commissioner has to issue a fresh notice and limitation under section 514 of the Act will not run from the original notice.

The Municipal Commissioner of Bombay issued a notice to the accused under section 231 of the City of Bombay Municipal Act, 1888, requiring him to construct a drain or drains for such parts of his premises as required to be drained and to execute certain other works as the Municipal Commissioner held that they were "without sufficient means of effectual drainage." The accused protested and called for certain information as regards the execution of the works and the Commissioner informed the accused that inquiries would be made in the matter. After making the necessary departmental inquiries but without informing the accused the Municipal Commissioner again issued a notice to the accused requiring him, *inter alia* within one month from the receipt of the notice, "to make an open drain in the gully on the west of your premises, the drain to be so constructed that it shall adjoin the west wall of your building." On his failure to comply with the terms of the notice the accused was prosecuted under section 471 of the City of Bombay Municipal Act, convicted and sentenced. The accused then applied to the High Court under section 435 of the Criminal Procedure Code.

HELD that the notice was *ultra vires* inasmuch as it required the accused to construct a drain, adjoining a particular part of his premises.

Held further that on a notice being served by the Municipal Commissioner under section 231 of the Act, if negotiations ensue which are tantamount to a request by the party, served with the notice, and a consent by

the Commissioner to reconsider the matter, such negotiations will have the effect of waiving the notice and it is competent to the Commissioner to issue a fresh notice after the negotiations have closed. Limitation in this event under section 514 of the Bombay Municipal Act will not run from the original notice.

Per Guriam, J.—(Extract). The first principle upon which all Courts of Equity proceed is that if parties, who have entered into definite and distinct terms involving certain legal results—certain penalties or legal forfeiture—afterwards by their own act or with their own consent, enter upon a course of negotiations which have the effect of leading one of the parties to suppose that the strict rights arising under the contract will not be enforced or will be kept in suspense, or held in abeyance, the person who otherwise might have enforced those rights will not be allowed to enforce them where it would be inequitable owing to the dealings which have thus taken place between the parties (*Hughes vs. Metropolitan Ry. Company, (1877) 2 App. Cas. 439 at p. 448*). This principle can be applied in a criminal case when the complaint is to an offence on non-compliance with a requisition that can be kept in abeyance or cancelled by the authority making the requisition. As the accused and the Commissioner had entered upon a course of negotiations which had the effect of keeping the notice in abeyance the accused was led to believe that the Municipal Commissioner would not enforce the strict rights arising under it. Both the parties must be regarded after that as having waived the notice and treat it as not existing and unenforceable. It was competent to the Commissioner to issue a fresh notice after the negotiations had closed as the result of his enquiry. This second notice was therefore legal and valid and the complaint was not time-barred. The requisition in question is not however lawful in the sense that the works which the accused was called upon to execute are such works as are not contemplated by and within the purview of section 231. The object of that section is, as its language shows, to provide "sufficient means of effectual drainage for undrained premises by making a drain which will connect them with a municipal drain or some place legally set apart for the discharge of drain." The essential part of the requisition is then the making of such a drain. But the notice given to the accused has not only required him to make a drain of the kind described in clause (a) of section 231 but he has also been directed to make the drain "in the gully on the west of 'his' premises, this drain to be so constructed that it shall adjoin the west wall of the building." The Commissioner has no power to give such a direction. The principle in *re Khimji Jairam (I.L.R. 24 Bom. 75)*, followed. All the other requisitions are more or less ancillary to the principal requisition which is the making of an open drain. The making of a drain being therefore the essential part of the whole notice leading to the other requisitions and the requisition in respect of that part being *ultra vires* of the Commissioner, the notice must be treated as illegal and the conviction must be set aside. It will be open to the Commissioner to give a fresh notice according to law.

I.L.R. 29 Bom. 35
18th July 1904.

Emperor

vs.

Wallace Flour Mill Company

Under section 394 of the City of Bombay Municipal Act, 1888, the premises should be used for the purpose of storing. The purpose to store must be the dominant motive and the use of a part of the premises for storing would be insufficient if storing is not the paramount thing aimed at.

A certain quantity of oil was found on the premises of the Wallace Flour Mill. The oil was kept in the mill for lubricating purposes and when the supply ran short, a fresh supply was obtained. The company was prosecuted for an offence under section 394 of the City of Bombay Municipal Act, 1888, as the keeping of the oil under these circumstances was such a use of the premises as to render a licence necessary. The accused was acquitted but Government made an appeal under section 417 of the Code of Criminal Procedure, 1898, against the acquittal.

HELD that the wording of section 394 of the Act requires that the premises, in order to attract the operation of the section, should be used for the purpose of storing. The phrase "for the purpose" indicates that it must be the intention of those using the premises to store; that storing must be the object aimed at—the final cause for which the premises are used.

Held also that there is nothing in the exemption which sub-section (3) declares in favour of the mills specified to imply that sub-section (1) was intended in the case of premises not so exempted, to include any use to which they might be put which was merely incidental or subsidiary to the paramount purpose to which the premises are devoted.

The material part of section 394 runs as follows :—

"394. (1) No person shall use any premises for any of the purposes hereinbelow mentioned, without or otherwise than in conformity with the terms of, a licence granted by the Commissioner in this behalf, namely :—

- (a) any of the purposes specified in Schedule M.
- (2) * * *
- (3) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, wool, silk or jute."

"Schedule M.

Purposes for which premises shall not be used without a licence :—

- (1) * * *
- (2) * * *
- (3) * * *
- (4) Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, any of the following articles :—
Blood * * *, Nitro-glycerine, Oil, Oil-cloth * *, Wool."

Batty, J.—(Extract). The contention of the prosecution that the keeping of the oil in the circumstances stated was such a use of the premises as to render a licence necessary under the section was not correct because several of the articles mentioned in the part of the schedule are such as may be required for constant use in almost every private house and it is difficult to believe that the section in question was intended so to be applied. The wording of section 394 requires that the premises, in order to attract the operation of the section should be used for the purpose of storing. The actual use is by itself insufficient in the absence of proof as to the object aimed at. The use of a part of the premises for storing may be incidental and unavoidable. It is not urged that the accused desired the accumulation of oil on his premises. On the contrary, the record shows their supply was for use, not storage.

It is also contended that sub-section (3) of section 394 exempts only mills specified therein. But it is intended only to give exemption to mills for spinning or weaving cotton, wool, silk or jute, in respect of those particular articles with which these mills are concerned and is not intended to touch or in any way affect their liability in respect of any other articles mentioned in Schedule M.

The articles mentioned in clause (d) of sub-section (1) of section 394 are not uncommonly stored in considerable quantities by persons who neither require them for purely domestic use nor for the purpose of trading in them, but who have a continuous demand for them and wish to guard against a rise in the price of such articles and in such bulky materials; this object could not in any case be attained unless a considerable quantity were kept in hand. Storage in this case is therefore exempted, even though it is deliberately made, provided it is only for domestic use. In this case even though the storing is "for the purpose of storing" and is deliberate and intentional yet it is allowed within specified limits of the maximum required for domestic use. Where articles are kept on the premises, not because of a purpose of storing them, but merely because they have not been consumed as rapidly as anticipated or for other similar reason it cannot reasonably be said that the premises are used on purpose of storing. The purpose of intention is the test. The relative quantity of the articles kept in proportion to the exigencies of consumption is in each case an important evidence as to the purpose or intention and such an intention can be negatived if the quantity retained is only reasonably sufficient for the varying exigencies of consumption. The purpose in the present case was to consume the oil and there was no desire to use the premises for the purpose of storing it. The temporary storage in such a case is not designed but unavoidable. Appeal dismissed.

Aston, J.—(Extract). The question is one of degree and intention to be decided upon the facts in each particular case.

*I.L.R. 29 Bom. 193
10th Aug. 1904.*

This case is distinguished from the case of *Emperor v. Nanubhai Haji Ahmed*, *I.L.R. 50 Bom. 760*, under section 151 (4) of the Bombay District Municipal Act, 1901, where it was found that wood was stored for selling.

1905

**Emperor
vs.
Budhoobai**

Sale of fish without a licence from a basket placed on the Chowpatti foreshore is prohibited by section 410 of the City of Bombay Municipal Act as that foreshore is not a market, notwithstanding the fact that the fish was brought from the vessel which was in the water.

The accused was charged before the Chief Presidency Magistrate, Bombay, with selling and exposing for sale, without licence from the Municipal Commissioner, fish intended for human consumption on the Chaupati foreshore contrary to the provisions of section 410 of the City of Bombay Municipal Act. The fish was sold from a basket which the accused had placed on the sand at some distance from the water. The fish sold was fresh and it had been brought from one of the boats then in the Back Bay. The Presidency Magistrate acquitted the accused on the ground that (1) the Bombay City Municipal Act, 1888, did not apply as the place of sale was outside the limits of the City of Bombay; (2) that section 410 had no application as the place was a private market established from time immemorial; and (3) the sale fell within section 410 (2) of the Act. An appeal against the order of acquittal was made by the Government.

HELD reversing the order of acquittal and convicting the accused, that the accused was not protected by section 410 (2) of the Act since the fish was not sold from a vessel but from a basket on the shore, it having been brought from the vessel which was in the water.

Held also that the onus of proving that the place in question was a "private market" lay upon the accused.

Held further that the City of Bombay Municipal Act, 1888, applied to the spot in question, because it came within the expression "City of Bombay" as defined by the Bombay General Clauses Act (Bom. I of 1904).

Section 410 of the Act is as follows:—

- "410. (1) Except as hereinafter provided, no person shall, without a licence from the Commissioner, sell or expose for sale any four-footed animal or any meat or fish intended for human food, in any place other than a municipal or private market.
(2) Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in, a vessel in which it has been brought direct to the foreshore after being caught at sea."

Russell, J.—(Extract). Directly any fresh fish is brought on to the shore the prohibition of sub-section (1) attaches but the prohibition is not intended to apply to anything which has not been actually brought on to the shore. It would be impossible to say that this fresh fish had been sold from a vessel, when as a matter of fact it had been sold from the basket on the shore, it having been brought from the vessel which was in the water.

Private market is defined by section 398 of the Act which says:—"All markets which belong to or are maintained by the Corporation shall be called 'municipal markets.' All other markets shall be deemed to be private and a place like the whole of the foreshore of Chaupati cannot be held to be a private market. The onus that it is so, lies upon the accused and she has not discharged the burden."

The last question is whether the Municipal Act applies to the spot in question. The word "City of Bombay" under the Bombay General Clauses Act, 1904, means the area within the local limits for the time being of the Ordinary Original Civil Jurisdiction of the Bombay High Court of Judicature and by section 4 the City of Bombay as defined in section 3 of that Act applies also unless there is anything repugnant in the subject or context of Bombay Acts passed before the commencement of Act I of 1904. There is nothing repugnant in the subject or context in the Bombay Municipal Act. This being so, the foreshore in question is within the Ordinary Original Civil Jurisdiction of the Bombay High Court of Judicature.

Aston, J.—(Extract). The question whether the Chaupati foreshore between the high and low water-mark is within the City of Bombay is governed by the definition of "City of Bombay" contained in the Bombay General Clauses Act and not by certain provisions of the City of Bombay Municipal Act which divides the City into wards for electoral purposes.

I.L.R. 30 Bom. 126
9th Aug. 1905.

1906

The Surat City Municipality (orig. deft.)

vs.

Chunilal Manecklal Ghandi (orig. plff.)

A person who offers himself as a candidate to be elected a councillor in the municipal elections but whose name was not included in the list of candidates published by the Receiving Officer appointed by the Collector under Rule 13 of the District Municipal Election Rules cannot sue the municipality for a declaration that he was entitled to be elected as a councillor and for an injunction restraining the municipality from holding the elections without adopting him as a candidate and without receiving the votes of his voters.

The officer concerned with the question was the officer mentioned in Rule 13 of the rules.

At the time of the election of Councillors for the Surat City Municipality, the plaintiff offered himself as one of the candidates but his name as such candidate was not included in the list of candidates published by the Receiving Officer appointed by the Collector under Rule 13 of the District Municipal Election Rules, Rule 13.

Bom. Dist. Mun. Act, 1901 (Bom. III of 1901). Dist. Mun. Election Rules, Rule 13.

Rules. The plaintiff thereupon sued the municipality for (a) a declaration that he was entitled to stand as a candidate and to be elected a Councillor and (b) an injunction restraining the municipality from holding the elections without accepting him as a candidate and without receiving the votes of his voters.

The subordinate judge rejected the plaint holding that it disclosed no cause of action against the defendant municipality. On appeal the District Judge reversed the order and remanded the proceedings in order that the plaint might be admitted and the suit proceeded with according to law.

Against the order the defendant municipality appealed.

Rule 13 of the Bombay District Municipal Election Rules is as follows:—

- "13. (1) Every person who desires or is willing to become a candidate for a municipal councillorship must be nominated in writing for this purpose by two persons entitled to vote at the election for such municipal councillorship and the nomination paper must bear an endorsement signed by the nominee specifying his willingness to serve, if he should be elected and be delivered to the officer appointed by the Collector for this purpose, at least seven days before the date fixed for the election.
- (2) The said officer shall, if any nomination paper is prepared and delivered to him in accordance with sub-section (1), and if the nominators establish to his satisfaction that they are entitled to vote at the election and that the nominee is qualified as a candidate, include the nominee's name in a list of candidates which shall be prepared under his signature and posted up at the municipal office.....before the date fixed for the election.
- (3) * * *

It was contended on behalf of the municipality that upto the time of the presentation of the plaint the municipality had not done any act for which a suit could lie at the instance of the plaintiff. Whatever was done was done by the officer appointed by the Collector to receive the nomination papers under Rule 12 of the Surat Municipal Election Rules. If the officer commits an error and omits to include in the list the name of a candidate, a suit may lie against him but not against the municipality, because the municipality has no discretion or power in the matter. The suit was premature. The municipality has merely to arrange for conducting the election work.

The plaintiff urged that the duty of holding the elections is cast by the District Municipal Act upon the municipality. The process of election from beginning to end is one whole transaction. The municipality may not have denied directly the plaintiff's right by proceeding with the election it does an act the effect of which is to deny the plaintiff's right. The Bombay District Municipal Act makes no provision when the right of any person to stand as a candidate is denied therefore the ordinary remedy by a suit under section 11 of the Civil Procedure Code is to be deemed to be open to the plaintiff, against all those concerned in carrying out the election. *The plaintiff is entitled to a legal character and he can institute a suit to establish his status under section 42 of the Specific Relief Act.*

HELD that the suit for a declaration against the municipality could not lie because the municipality neither denied nor intended to deny the

character or right which the plaintiff sought to establish. That it was the officer mentioned in Rule 13 that was concerned with that question and over him the municipality had no control.

Held also that the claim for an injunction could not be sustained against the municipality when it had done no wrong and had proposed to proceed in accordance with the District Municipal Act and the Rules so far as they relate to it.

I.L.R. 30 Bom. 409
25th Jany. 1906.

The Municipal Commissioner for the City of Bombay

vs.

Mathurabai

A road like the 16 ft. wide road, having rows of buildings on either side and a portion of which stood in front of the plot of a purchaser, who had covenanted with the owner to keep open and prepare so much of the road as stood in front of his building over which the public have or had no right of passage or access, is a street within the meaning of that term in section 3 of the City of Bombay Municipal Act, 1888.

The owner of a large plot of land opening or abutting on its southside on the Girgaon Back Road. He divided this large plot of land into 19 small plots in three rows and sold them to different purchasers. He expressly covenanted with each of the purchasers that in front of each plot an open space should be left unbuilt upon or unblocked in any way in order to enable the owners of the other plots and their tenants to have access to their property. Most of these plots including the defendant's plot, have been built upon. Thus there is a road 16 feet wide having rows of buildings on either side and which are occupied by the owners of these buildings and their tenants who make use of this road. There is a road nearly parallel to this road of the same nature and similarly made and there are cross-roads between these two roads that are made and are meant only for the use of the owners of the buildings on either side of them and their tenants. The public at large had no right of access to them. When the owner of one of the plots, the accused, wanted to build a house on her plot she submitted plans and specifications to the Municipal Commissioner who took among others the following objection, namely, "the building will be more than one and a half times the width of the streets it abuts on." The plot holder ignored the objection and a requisition was served upon in accordance with by-law 40 to amend the work done by her. The requisition being ignored the accused was prosecuted. A reference was made to the High Court under section 432 of the Criminal Procedure Code and the following question was formulated :—

Whether the vacant space in front of Mathurabai's (accused's) house when and if laid out as a means of passage with houses on both or either side of it and if used as such by the occupiers of such houses and not by the

public generally will constitute a street within the meaning of the City of Bombay Municipal Act, 1888 ?

Section 3, clauses (w), (x) and (y) of the Act run as follows :—

- "(w) 'Street' includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterrupted for a period of twenty years; and when, there is a footway as well as a carriage way in any street, the said term includes both;
- (x) 'Public Street' means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the Corporation and any street which becomes a public street under any of the provisions of the Act;
- (y) 'Private Street' means a street which is not a public street."

HELD that the proposed road would constitute a street within the meaning of the City of Bombay Municipal Act, 1888 (Bom. III of 1888).

It was contended on behalf of the accused that the word "street" means a made road. Here the "proposed road" will not be a street unless it is made into a road. The "road" in this case does not come within the definition of the word "street" as given in Section 3 (w). Everything which is included in the definition of "street" is a place over which the public have a right of passage or access or have passed and has access uninterruptedly for a period of twenty years. One of the things which the street connotes is the place to which the public have access and this ingredient is absent in the present case.

On behalf of the municipality it was contended that the definition of the term "street" in the City of Bombay Municipal Act is not exhaustive. The fact that the term "includes" some things does not at all touch the ordinary meaning which the term bears. It is made to "include" in Acts of Legislature only for convenience of expression. The ordinary meaning that is assigned to the word "street" is that it is a road public or private having houses continuous or discontinuous on one or both sides. In the common use "street" means a little bit of ground in front of one's house. It does not necessarily imply publicity and it is immaterial whether it is public or private. Ordinarily it means a roadway within town limits having houses at least on one side and it is immaterial whether it is public or private.

Russell, J.—(Extract). "Includes" is a phrase of extension and not of restrictive definition. It is used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of statutes and when it is so used these words or phrases must be construed as comprehending not only such things as they signify according to their natural import but also those things which the interpretation clauses say that they shall include. It is, however, susceptible of other construction. It may become imperative if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to "mean and include" and in that case it may afford an exhaustive explanation of the meaning which for the purposes of the Act, must invariably be attached to these words or expressions (*Dilworth vs. Commissioner of Stamps, (1899) A.C. 99*). The word "include" in clause (w) is used to enlarge the meaning of the word "street," which has not been defined but has only the common sense interpretation.

In the natural and popular sense of the word "street" one has to understand it as a roadway with buildings on each side (*Robinson vs. Local Board of Barton-Eccles*, (1883) 8 App. Cas. 798). "Street" is defined as a properly paved way or road but in usage as any way or road in a city, having houses on one or both sides (Imperial Dictionary). Tried by this test the proposed road is a street having houses on both sides of it.

The case of *Kalidas vs. The Municipality of Dhandhuka*, I.L.R. 6 Bom. 686 is not applicable because the word there in question was not used as a thoroughfare but only as a means of access to the houses which surrounded it by persons who had business with the householders and no reference was made to the definition of street in the Bombay District Municipal Act, 1873. *Taylor vs. Corporation of Oldham*, (1876) 4 Ch. D. 395, followed.

I.L.R. 30 Bom. 658
21st April 1906.

Chunilal Manecklal (orig. plff.)

vs.

Kirpa Shankar Bhagvanji (orig. deft.)

A municipal councillor, who had disabled himself from continuing to be a councillor under section 15 (2) (b) (ii) of the Bombay District Municipal Act 1901, and whose nomination paper was returned by the officer appointed to receive the nomination paper on the ground that he having been disabled could not stand as a candidate at the by-election to fill up a vacancy created by himself, cannot sue the officer in the absence of malice even if that officer made a mistake.

The plaintiff was a duly elected councillor of the Surat Municipality.

Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Section 15 (2).

There was an election suit in which the plaintiff was pleader for the applicant. The plaintiff in connection with that suit asked as a municipal councillor and gave his opinion as councillor in that suit. He was, therefore, under section 15 (3) of the Bombay District Municipal Act, 1901, declared by Government as disabled from continuing to be a councillor by virtue of clause (b) (ii) of Section 15 (2) of the Act for having acted as a councillor in a matter in which he was professionally interested on behalf of his client. A vacancy having thus occurred, a by-election was ordered to be held. The defendant was the officer appointed by the Collector to receive nomination papers for the by-election. The plaintiff was nominated as a candidate by duly qualified electors but his nomination paper was returned by that officer on the ground that he, having been disabled, could not stand as a candidate at the by-election to fill up the vacancy created by himself. The plaintiff thereupon brought a suit against the officer for an injunction and for a declaration that he was duly qualified to appear as a candidate. Subsequently he claimed damages in lieu of the injunction. The first Court found that the plaintiff was not entitled to an injunction but it awarded him damages owing to defendant's wrongful act. On appeal by the defendant the judge reversed the decree and dismissed the suit on the ground that although plaintiff was qualified to stand as a candidate,

defendant's action was *bona fide* and malice on the part of the defendant was necessary to such a suit and that no such malice was proved.

A second appeal was preferred by the plaintiff.

HELD, confirming the decree of the Appellate Court, that in the absence of malice no such suit can lie against the defendant.

The material portion of section 15 (2) of the Act is as follows :—

"(2) If any councillor during the term for which he has been elected or appointed—

- (a) * * *
- (b) acts as a councillor in any matter,
 - (i) * * *
 - (ii) in which he is professionally interested on behalf of a client, principal or other person, or
- (c) * * *
- (d) * * *
- (e) * * *

he shall be disabled from continuing to be a councillor, and his office shall become vacant."

Jenkins, C. J.—(Extract). The Returning Officer is to a certain degree a ministerial one, but he is not so to all intents and purposes; neither is he wholly a judicial officer; his duties are neither entirely ministerial nor wholly judicial, they are of a mixed nature. It cannot be contended that he is to exercise no judgment, no discretion whatsoever and great confusion would arise if such discretion were not to be exercised. On the other hand, the officer could not discharge his duties in that great peril and apprehension, if in consequence of a mistake, he became liable to an action (*Cullen vs. Morris*, (1819) 2 Stark 577). It would be unreasonable to hold that the officer who had to perform the functions allotted to him was liable to a suit because he had made a mistake in good faith in determining questions that arose for his decision. The question whether he made a mistake does not arise. But assuming that he made a mistake, in the absence of malice no suit can lie against him.

I.L.R. 31 Bom. 37
18th Sept. 1906

1907

Emperor

vs.

Anandrao Khanderao Raste

To support a conviction under section 131 of the Bombay District Municipal Act, 1901, the municipality must establish affirmatively the objectionable character of the vegetation. Also to support a conviction for non-compliance with a notice issued under section 135 of the Act it must be shown by the municipality that there is some pool, ditch, etc. of the kind mentioned in the section, the filling, cleansing, draining or removal of which

the municipality has directed by the notice, or with regard to which the municipality has directed such measures to be taken as it considers necessary, to abate or remove the nuisance.

The Municipality of Poona issued a notice to the accused calling upon him to remove an *alloo* plantation within his compound. He failed to comply with this notice. He was, therefore, prosecuted under section 155 of the District Municipal Act, 1901. He contended that the plantation in question was not injurious to health and that the prosecution had failed to prove that it was so injurious. He was, however, found guilty of the offence charged and sentenced to pay a fine. He applied to the High Court under its criminal jurisdiction contending among other things that no evidence was adduced on behalf of the prosecution to show that the plantation in question was in any way injurious to health or was a nuisance or was likely to be so.

HELD that section 131 of the Bombay District Municipal Act renders the owner liable for non-compliance with the notice issued under it not when the municipality considers the vegetation to be rank or noisome but only when the vegetation is actually so.

The material portions of sections 131, 135 and 155 run as follows :—

- " 131. (1) Whoever being the owner or occupier of any building, or land, whether tenanted or otherwise suffers the same to be in a filthy and unwholesome state or in the opinion of the municipality a nuisance to persons residing in the neighbourhood, or overgrown with prickly pear or rank and noisome vegetation and who shall not within a reasonable time after notice in writing by the municipality to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be punished with fine.....after the date of first conviction."
- " 135. When any pool, ditch, tank, pond, well, hole or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter whether the same be within any private enclosure, or otherwise shall appear to the municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood the municipality may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance."
- " 155. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by a municipality under any power conferred by this chapter or fails to comply with the conditions subject to which any permission was given to him by the municipality under any power so conferred shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine.....after the date of the first conviction. Provided that when the notice fixes a time within which a certain act is to be done and no time is specified in this Act it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act."

Batty, J.—(Extract). It does not appear whether the notice issued in this case was under section 131 or section 135. If it was issued under the

former section which provides a penalty, section 155 would not apply. That section might apply if the notice were under section 135. The notice does not mention the section under which it was intended to be issued. If the notice was issued under section 135, the opinion of the municipality that the vegetation was rank and noisome would be an insufficient ground for conviction, since section 131 renders the owners liable for non-compliance, not when the municipality considers vegetation to be rank and noisome but only when the vegetation is actually so. Thus before a conviction could be had for non-compliance with a notice under section 131 the prosecution would have to establish affirmatively the objectionable character of the vegetation. In the present case no such evidence appears to be on record. The Magistrate's judgment deals with the case only as if the offence consisted in non-compliance with a notice to remove the *alloo* vegetation. But the notice has reference to the filling up of the *Alloo Kanch* or pit. The Magistrate has not given his attention to this aspect of the case and on a careful study of section 135, it would be seen that before non-compliance with a notice under that section can form the subject of a conviction, it must be shown that there is some pool, ditch, tank, hole, etc., of the kind mentioned in the section, the filling, cleansing, draining or removal of which the municipality has directed by notice or with regard to which the municipality has directed such measures to be taken as it considers necessary to abate or remove the nuisance.

9 Bom. L.R. 247
31st Jan. 1907.

Cf. High Court's ruling in Emperor v. Raja Bahadur Shival Motilal (I.L.R. 34 Bom. 346) a case under section 377 of the City of Bombay Municipal Act, 1888, where the words used are "if it appears to the Commissioner."

Emperor

vs.

Rustomji J. Ghorkhodu

A building which abuts on two streets must at all events fulfil the conditions prescribed in clauses 1, 2 and 3 of section 349-B as regards its height, although it did not fall within clause 4 of that section.

The accused was the owner of a building which lay between two streets.

The accused submitted to the municipality the usual notice of his intention to build with plans. They were disapproved by the municipality one of the reasons for disapproval being that the height of the building would be more than one-half the times the width of the street it abuts on. This objection was overcome by setting back the front of his building and he was permitted to erect the building to a height of 54 ft. and 1 inch, in accordance with the provisions of the Act before its amendment. He subsequently sent the municipality notice of his intention to add a fourth floor to the building in question. The proposed work was objected to on certain grounds, one of which was that the height of the building would be more than that

prescribed by section 349-B. The accused however proceeded with the erection of the building. This led to the present proceedings. The Magistrate held that the south end of the building abutted on one of the streets and that the accused contravened the provisions of section 349-B by raising the building to a greater height than that allowed by clause 1. He was, therefore, sentenced to pay a fine of Rs. 25/-. The accused applied to the High Court under its criminal jurisdiction.

HELD that the building of the kind in question must at all events fulfil the conditions prescribed in clauses 1, 2 and 3 of section 349-B with reference to both the streets on which it abuts, even if it did not fall within clause 4 of the section.

Held also that the provisions of section 349-B of the Act were intended in the interests of public health and the Court ought to construe them as to advance that object.

Held further that it is not permissible to create a *casus omissus* by interpretation save in some case of strong necessity.

Section 349-B of the Act runs as follows :—

“Subject to the maximum prescribed by section 349-A, the height to which a building may be erected or raised shall be regulated by the width of the street on which it abuts, in accordance with the following rules, namely :—

- (1) If the width of the street does not exceed twenty-six feet the building shall not be erected or raised to a height greater than one and one-half times the width of the street ;
- (2) If the width of the street exceeds twenty-six feet but does not exceed forty feet, the building shall not be erected or raised to a height greater than forty feet ; and
- (3) If the width of the street exceeds forty feet, the building shall not be erected or raised to a height greater than the width of such street ;
- (4) Where the building abuts upon more than one street its height shall be regulated by the wider of such streets so far as it abuts upon such wider street and also, to a distance of eighty feet upon the narrower of such streets ; provided that if the face of the building is set back from the street at any height not exceeding the height specified in sub-section (1), sub-section (2) or sub-section (3), as the case may be, such building may be erected or raised to a height greater than that so specified, but not so that any portion of the building shall intersect any of a series of imaginary straight lines drawn from the line of set-back, in the direction of the portion of a set-back, at an angle of forty-five degrees with the horizontal.

Chandavarkar, J.—(Extract). The wording of clause (4) of section 349-B is not free from ambiguity. But the act complained of as a breach of the law on the part of the petitioner must fall within the other clauses of section 349-B. It is contended that the house in question is situate between two streets running parallel and as such this is a case not provided for in the Act. In other words it is *casus omissus*. But it is not permissible to create a *casus omissus* by interpretation save in some case of a strong necessity (*Mersey Docks and Harbour Board vs. Henderson Brothers, (1888) 13 App. Cas. 595*). Taking a reasonable view of it a building of this kind must

at all events fulfil the conditions prescribed in clauses (1), (2) and (3) with reference to both the streets on which it abuts, even if it does not fall within clause (4) of section 349-B. These provisions of the Act are intended in the interests of public health and the Court ought to construe them so as to advance that object.

9 Bom. L.R. 363
13th March 1907.

In re Ali Mahomed Gulam Hoosein

Where the owner of a house destroyed by fire pulls down its remaining walls to six feet above the plinth, and the house abuts on a street, the height to which he can raise his new building is governed by the provisions of section 349-B of the City of Bombay Municipal Act, 1888.

Ali Mahomed was charged before the Chief Presidency Magistrate of Bombay, for raising a building to a greater height than was permissible under section 349-B of the Act. He was convicted but warned and discharged. Thereupon the accused applied to the High Court under its criminal revisional jurisdiction. The house of the accused comprising several stories was burnt down by fire so that nothing remained but the front walls on the ground floor. In rebuilding the house the front wall was pulled down to the plinth and the other three to some six feet or so above the plinth. He built the house to a height greater than is allowed by section 349-B.

HELD that the height to which the owner can raise his new building is governed by the provisions of section 349-B of the Act.

Held also that although in reconstructing a house the owner set it back by five inches from the street on which it originally abutted the house should be taken as abutting on the street notwithstanding the set-back.

Section 349-B has been reproduced in the report of the case of *Emperor vs. Rustomji J. Ghorkhodu, (9 Bom. L.R. 363)* to which reference is invited.

Heaton, J.—(Extract). The phrase to “erect a building” is defined in clause (2) of section 337 of the Act as follows :—“To erect a building means to newly erect a building or to re-erect any building pulled down to the plinth.” In this case there has been no newly erected building and there was no re-erected building because the old one was not ‘pulled’ down to the plinth. The difficult question in this case is as to the applicability of the word ‘raised.’ Broadly ‘raised’ means carried to a greater height than before. The building is still unfinished and further construction has been stopped. But admittedly it has not yet reached the height of the former building. The case has reference to legislation of a technical kind enacted for a specific purpose and consequently must be read with that purpose in view. The purpose is unmistakably the health and well-being of the city. To secure a sanitary sufficiency of light and air there must be some relation between the width of a street and the height of the buildings on both sides. This relation is determined for the City of Bombay as described in section

349-B. The law does not require that existing buildings safe in themselves should be partially pulled down when they do not conform to the standard. As soon as a property owner pulls down a building wholly or partially he may come under the operation of the law. If he pulls down the building down to the plinth he brings the case under the restrictions imposed by section 349-B. If he pulls down to a smaller extent he is apparently only prohibited from making the new building higher than the old if to do so would be to offend against that section. To that extent the legislature protects the rights of property owners who pull down but not to the plinth, not because sanitary welfare is disregarded but because in the opinion of the legislature it must not override the rights of property owners who deliberately deal with their buildings short of pulling down to the plinth or discourage them from structurally improving their property. The present case is not a case of pulling down but of accidental destruction by fire. The original building had ceased to exist. The word building includes a variety of things as appears from clause (s) of section 3 of the Act. In its ordinary meaning it means a ruin such as was left by fire and its meaning in the Act includes a building in a ruinous condition as appears from section 354. It follows that within the meaning of the Act as well as according to actual facts there was a building when structural alterations were begun and this building was the ruin. Section 346-B contemplates two classes of cases—(1) building newly erected; (2) buildings already in existence which are to be the subject of structural change. This brings out clearly the difference between a building partially pulled down and a building partially destroyed by fire. In the former case the building to which structural change is to be applied is the original building and pulling down is part of the structural change; in the latter case it is the ruin to which structural change is to be applied. Section 349-B therefore covers the present case. The only building which was the subject of structural operations was the ruin and that building has beyond question been raised. The original building as well as the ruin left by the fire also abutted on the street. Although there is a space of five inches left between the present building and the street, the building abuts on the street and the provisions of section 349-B apply to the ruin and the application should be rejected.

9 Bom. L.R. 737
13th June 1907.

Emperor
vs.

Nanabhoy Bezanji Choksey

A building with a ground floor to which after some years, the owner wants to add one or more storeys falls within the term "re-erection" provided it is not of the description mentioned in the definition of "erection".

Nanabhoy Bezanji was charged with having contravened the provisions of section 349-C of the City of Bombay Municipal Act, 1888, in that he erected posts for a third storey of the building of timber-framed construction which he was erecting or re-erecting at certain premises without special permission from the Municipal

Commissioner for the erection of such a building of more than two storeys. On the site occupied by the present building there was formerly a building of five storeys. The former owner had removed some portions of the upper storeys in consequence of a notice from the municipality under section 354 and some portions were removed of his own accord, with the result that the five-storied building remained a ground floor structure. The accused gave notice to the municipality under section 342 of the Act of his intention to reconstruct the building. The accused was informed that he would have to set back the portion within the regular line of the street and a requisition was subsequently sent under section 340 calling for certain particulars which he supplied. The municipality disapproved and sent a notice to that effect to the accused under section 346 which contained one of the reasons that it is proposed to erect a frame-building so as to consist of more than two storeys without the special written permission of the Municipal Commissioner. The total length of the walls of the house was 229 ft. A piece of wall 28 ft. long and 9 ft. high had been left standing on the ground floor. With the exception of this wall 28 ft. by 9 ft. the eastern walls 229 ft. in length were new. The accused contended that as the old building was not pulled down to the plinth he did not erect nor re-erect a building.

The Chief Presidency Magistrate referred the following question to the High Court under section 432 of the Criminal Procedure Code.

Did the act of the accused in putting up the building under the circumstances described, amount to an erection or re-erection within the meaning of section 349-C of the Act or to a reconstruction within the meaning of section 342?

HELD that the term 're-erection' applies to all buildings which are not included in section 337 (2) of the City of Bombay Municipal Act.

The sections in question run as follows:—

"337. (2) In this chapter "to erect a building" means to newly erect a building, or to re-erect any building pulled down to the plinth, or any frame-building of which only the frame-work is left down to the plinth, or to convert into a dwelling-house any building not originally constructed for human habitation or to convert into more than one dwelling-house a building originally constructed as one dwelling-house only; and a building so erected, re-erected or converted is called in this chapter 'a new building'."

"342. Every person who shall intend—

- (a) to make any addition to a building, or
- (b) to make any alteration or repairs to a building, not being a frame-building involving the removal or re-erection of any external or party wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the ground level, such half to be measured in superficial feet, or
- (c) to make any alteration or repairs to a frame-building involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid such half to be measured in superficial feet, or

(d) to remove or re-construct any portion of a building abutting on a street which stands within the regular line of such street, shall give to the Commissioner in a form obtained for this purpose under section 344, notice of his said intention, specifying the position of the building in which such work is to be executed, the nature and extent of the intended work and name of the person whom he intends to employ to supervise its execution."

"349-C. After the commencement of this Act no building the external walls of which are of timber-framed construction shall be erected or re-erected so as to consist of more than one ground floor and one upper storey ;

provided that the Commissioner may by special order grant permission for the erection of such a building of more than two storeys or for the construction of one or more additional storeys if satisfied that such building will be or is of thoroughly sound material and construction and can safely support the same."

Chandavarkar, J.—(Extract). In section 349 the words are "shall be erected or re-erected" which mean that to erect a building is different from re-erecting it. The word 'erect' is defined in section 337 (2). There is no definition of 're-erection.' Re-erection must mean something which is excluded from the definition of 'erecting a building' in para 2 of section 337. Therefore 're-erection' would apply to all buildings which are not included in that para. A building with a ground floor to which after it has been in existence for some years the owner wants to add one or more storeys would fall within re-erection provided it is not of the description mentioned in the definition of 'erection.' The provision to section 349-C makes that quite clear. It speaks not only of a building to come into existence in future but of a building which is already in existence at the time of the proposed re-erection. A building with a ground floor already in existence is re-erected if one or more storeys are added to it. In construing the section the object of the legislature and the mischief which was intended to be struck at must be borne in mind.

Heaton, J.—(Extract). The word 're-erect' used in section 349-C is something different from the word 'erect' defined in section 337. The use of the word 're-erect' as well as 'erect' in section 349-C brings within that section a class of cases excluded from section 337, clause (2). There are two ways in which the accused may have conceivably committed an offence.

- (1) He may have pulled the old building down to the plinth so as to bring himself within the meaning of section 337. This is a question of fact.
- (2) Although he may not have pulled the building down to the plinth, yet he may have re-erected it within the meaning of section 349-C. That again is a question of fact to be determined by the Magistrate.

9 Bom. L.R. 932
17th July 1907.

Dattatraya Balwant Chitnis

vs.

The Municipal Commissioner of Bombay

The expression "any other device for carrying off sewage, etc." includes a manhole and the term 'drain' includes, therefore, a manhole as defined in section 3 (a) of the City of Bombay Municipal Act, 1888.

The Municipality of Bombay in carrying out some important drainage operations at Malabar Hill had erected septic tanks on the foreshore close by City of Bom. Mun. Act, 1888 (Bom. III of 1888), Section 3 (a), Section 222 and Section 504. the Bank of Bombay Bungalow on the Lands End Road, the object being to drain the southern portion of

Malabar Hill down to these septic tanks and the suit arises out of a certain drain which had been made by the Municipality North and South, the object being to allow the sewage which goes from the southern portion of Malabar Hill and Walkeshwar to run into these septic tanks. The object of these septic tanks is to have one tank above another and the sewage by force of gravitation goes into the first tank and from there by a process of percolation and gravitation the sewage goes into the second tank and then again into the third and finally goes out from this process in the form of colourless liquid having no smell or taste. The defendant contends that it would be impossible to construct this drain so as to flow into these septic tanks if the drain had been laid on the ordinary level of the foreshore. The plaintiff prayed that the defendant may be ordered to remove the said drain and to construct another drain if it is at all necessary to do so underneath the ground and that the defendant may be ordered to remove the whole of the said wall and to put the plaintiff's property in the same condition in which it was before the construction of the said drain and wall.

HELD that a manhole is included in the expression 'any other device for carrying off sewage, etc.,' and falls within the term 'drain' as defined in section 3 (a) of the Act.

Held also that the expression 'the Commissioner may carry any municipal drain.....into, through or under any land whatsoever within the city' covers a drain which is above the surface of the ground. The words 'into, through or under' are meant to include drains passing over the land.

Held further that reading sections 222 and 504 of the Act, together, it is plain that the object of the Act is that if any damage is done or any portion of a man's property is taken away by the Commissioner's action under section 222 the amount of compensation should be assessed by the Chief Judge of Small Causes Court, Bombay.

Material portions of section 3 (a), section 222 and section 504 of the Act run as follows :—

"3. (a) "Drain" includes a sewer, pipe, ditch, channel and any other device for carrying off sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter to the sewage outfall."

"222. (1) The Commissioner may carry any municipal drain through across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier into, through or under any land whatsoever within the city, or for the purpose of outfall or distribution of sewage, without the city.

(3) In the exercise of any power under this section as little damage as can be shall be done, and compensation shall be paid by the Commissioner to any person who sustains damage by the exercise of such power."

"504. If, in any case not falling under section 491, any person is required by this Act, or by any regulation or by-law framed under this Act, to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same shall, in case of dispute, be determined, except as is otherwise provided in sections 502 and 575, by the Chief Judge of the Small Causes Court, on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first becomes claimable."

Russell, J.—(Extract). The first point to consider in this case is the meaning of the word 'drain' and this is defined in section 3 (a) of the City of Bombay Municipal Act. Looking at that definition it is not necessary to cite any authority as to whether these manholes could be included in 'any other device for carrying off sewage' and in *Swanston vs. Twickenham Local Board*, (1879) 11 Ch. D. 838, it has been held that manholes are parts of sewer. A manhole must, therefore, be 'any other device for carrying off sewage.' The whole operations of the municipality about which the plaintiff complains come within the meaning of the word 'drain.'

The words 'into, through or under' in section 222 (1) of the Act cover a drain such as the present although it is above the surface of the ground. The powers of the municipality according to the definition of the City of Bombay given in *Emperor vs. Budhoobai* (I.L.R. 30 Bom. 136) are exercisable in the locality in question in suit.

A drain is said to be taken 'into, through or under' any land when it passes over the land. When one goes through a person's house or garden when one passes over it. The expression *per mare per terram* carries with it the same implication. The column of air above a man's land is considered his property upto the sky. Accordingly when we go through a man's land we go through the air above his land, which is his property. That being so, that in so far as the plaintiffs claim any trespass against the defendant for the carriage of this drain and masonry support across this land the action fails.

The next question is whether the plaintiff is entitled to maintain this suit which involves the consideration of sections 222 and 504 together, it is plain that the object of the Act was that if any damage was done or any portion of a man's property was taken away the amount should be assessed by the Chief Judge of the Small Causes Court. The plaintiffs are entitled to ask compensation for what has been done and that question may be referred to the Chief Judge of the Court of Small Causes.

9 Bom. L.R. 1321
15th October 1907.

Bhaishankar Nanabhai

vs.

The Municipal Corporation of Bombay and others

The word 'for any other cause' in section 33 of the City of Bombay Municipal Act, 1888, are wide enough to enable a person enrolled in the municipal election roll to question the election of every candidate on the ground that the election as a whole was invalid and the Chief Judge of the Small Causes Court has jurisdiction to determine the validity of a contested election and the High Court has no jurisdiction to entertain such a suit.

The defendant No. 2, the Municipal Commissioner, fixed the Justices' election to take place on the 13th February 1907 and subsequently changed it to the 14th. The number of valid nominations being more than that of the vacancies an election had to be made but the poll was not taken till the 21st February 1907. The plaintiff thereupon filed this suit under section 33 of the Act contending that the change of date was beyond the Commissioner's powers and that the poll not having been taken on the 20th February no councillor was elected and that therefore the election held on 21st February should be declared invalid and should be set aside. The defendants 1 and 2 contended that the election was valid and the councillors elected at the general election, that the suit will not lie because the Court has no jurisdiction to try it and the plaintiff has no cause of action.

The suit was heard before a special Bench constituted under rule 63 of the High Court Rules. The following among other issues was raised :— Whether the Court has jurisdiction to try this suit ?

HELD that under section 33 of the City of Bombay Municipal Act, 1888, an application can question the election of every candidate on the ground that the election as a whole was invalid, for the section, after specifying two permissible grounds of objection, provided that the validity of any election may be questioned for any other cause and these words are wide enough to cover the ground of objection urged in this case.

Held also that the word 'election' in the section is designed to express something wider than a legally valid election and the words used are consistent with the view that an election which in fact took place under conditions that made it possible that there should be a valid election can be questioned.

Held further that under section 33 the Chief Judge of the Small Cause Court has jurisdiction to determine the validity of a contested election and the High Court has no jurisdiction to entertain such a suit, the reason being that where a special tribunal, out of the ordinary course, is appointed by an Act to determine questions as to rights which are the creation of the Act, then except so far as otherwise expressly provided or necessarily implied, that tribunal's jurisdiction to determine those questions is exclusive.

Held also that it is an essential condition of those rights that they should be determined in the manner prescribed by the Act to which they owe their existence. In such a case there is no ouster of the jurisdiction

of the ordinary courts for they never had any. The jurisdiction of the courts can be excluded not only by express words but also by implication and there is enough in section 33 of the Municipal Act for this purpose.

The material portion of section 33 of the Act is as follows :—

"33. (1) If the qualification of any person declared to be elected for being a Councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the Commissioner of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may at any time, within eight days after the result of the election has been declared, apply to the Chief Judge of the Small Causes Court.

- (2) * *
- (3) The said Chief Judge's order shall be conclusive.
- (4) * *
- (5) * *

Jenkins, C. J.—(Extract). Under section 33 of the Act the Chief Judge has jurisdiction to determine the validity of a contested election and so he is the tribunal appointed by the Act for that purpose. Here not only is the Chief Judge appointed the tribunal but it also is expressly provided that his order shall be conclusive and that every election not called in question in accordance with the provisions of section 33 shall be deemed to have been to all intents and purposes a good and valid election. The suits of which their cognizance is barred by an enactment do not come under section 11 of the Civil Procedure Code. The jurisdiction of the courts can be excluded, not only by express words, but also by implication and there certainly is enough in section 33 for this purpose; for there is no right which the plaintiff can at this stage assert as the subject of this suit, which is not subject to the condition that its essential basis must depend on the decision of the tribunal created for that purpose. The High Court has, therefore, no jurisdiction to entertain this suit. If the High Court can be said to have jurisdiction as suggested by the plaintiff there might be a conflict between the view of this Court and the order of the Chief Judge, in which the order of the Chief Judge must by the express terms of the Act prevail.

The language of the Act is ambiguous and as it is of paramount importance that in matters relating to elections there should be as little obscurity as possible, it is a matter of consideration whether the Act should not be amended in order to remove the ambiguities.

I.L.R. 31 Bom. 604
18th April 1907.

1908

The Poona City Municipality
vs.
Ramchandra G. Karve

A municipality, which had agreed to acquire land but compensation for which was not agreed to by the Panchas on a reference for arbitration under section 160 of the Bombay District Municipal Act, 1907, and was subsequently

awarded by the District Judge under section 160 (3) of the said Act, cannot resile from the contract on the ground that there never was a completed contract.

The City Municipality of Poona had resolved to acquire a portion of the petitioner's house for the purpose of widening a road. A notice was served to that effect on the petitioner who expressed his willingness to allow the

municipality to acquire the portion of the house required. There was a difference of opinion as regards the amount to be paid and it was agreed to refer the question to arbitration under section 160 of the Bombay District Municipal Act. The arbitrators held certain proceedings and the Sar Panch agreeing with the two other members of the Panchayat fixed the price. The petitioner thereupon applied to the subordinate judge to file the award but he dismissed the application. The petitioner thereupon applied to the High Court setting aside the proceedings of the arbitrators on the ground that there was no collective deliberation between the five members of the Panchas and that the subordinate judge was right in refusing to proceed under section 525.

The petitioner thereupon applied to the District Judge, Poona, under section 160 (3) of the Act praying for the settlement of the compensation for the land and forwarding the same. The District Judge awarded a certain sum as compensation. The municipality appealed from this order contending that the municipality no longer required the land and that there was no valid and binding contract by them to purchase the land.

HELD that there was a contract of sale at a fair valuation where the Court not only can provide, but under a special statute is compelled to provide, the means of ascertaining the price and of such a contract specific performance would be awardable.

Held also that there was a contract between the parties from which the municipality could not resile.

Section 160 (1) and (3) is as follows :—

"(1) If a dispute arises with respect to any compensation or damages, which are by this Act directed to be paid the amount, and if necessary, the apportionment of the same shall be ascertained and determined by a Panchayat of five persons, of whom two shall be appointed by the Municipality, two by the party to or from whom such compensation or damages may be payable or recoverable and one, who shall be Sar Panch, shall be selected by the members already appointed as above."

"(2) * * *

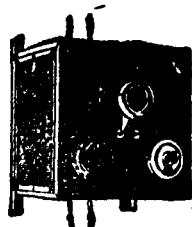
"(3) In the event of the Panchayat not giving a decision within one month from the date of the selection of Sar Panch, or of the appointment by the District Court of such members as may be necessary to constitute the Panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court. * * *

Batchelor, J.—(Extract). If there was no contract as contended by the municipality, the municipality may be rid of its bargain, but if there was a contract, it cannot be repudiated. There was a contract. The only point in which the agreement is alleged to fall short of a contract is the matter of consideration which was left to be estimated by the arbitrators. As a general rule where the agreement is that the price of the estate shall be fixed by arbitrators as they do not fix it, there is no contract as the price is the essence of the contract of sale and a court cannot make a contract where there is none (*Gourlay vs. The Duke of Somerset (1815) 19 Vis. Jun. 429*). In the present case however the fixing of the price was not of the essence. There was a definite and completed contract to give and take these premises upon terms to be settled thereafter. That being so, the rule ordinarily to be applied would be that if the valuation could not be made *modo et forma* the court would substitute itself for the arbitrators as in *Dinham vs. Bradford (1869) 5 Cl. App. 519*. This rule applies in the present instance inasmuch as the Municipal Act distinctly provides that in the event of the arbitrators failing to fix the compensation payable, the District Court shall fix that compensation. This was therefore a contract of sale at a fair valuation where the court not only can provide but under a special statute is compelled to provide, the means of ascertaining the price and of such a contract specific performance would be awardable. There is thus a contract from which the municipality cannot now resile.

(Note.—Jenkins, C. J., has remarked in connection with the position of the Panchayat under section 160 of the Act that there is no such thing as an umpire contemplated by section 160. The determination and ascertainment is to be made by the Panchayat consisting of five members, and each one of these persons is simply a member of the Panchayat and in no sense an umpire whose duties came in to play apart from the other four members and whose determination is binding when the others disagree. There must be collective deliberation between the five members of the Panchayat. The Sar Panch apart from the collection of materials did not act jointly with his colleagues but independently of them.)

10 Bom. L.R. 617
15th April 1908.

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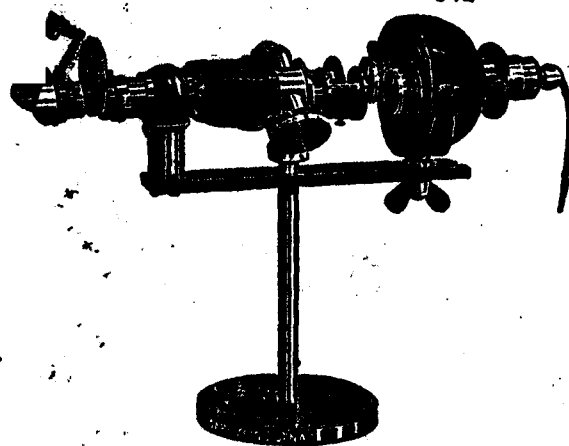
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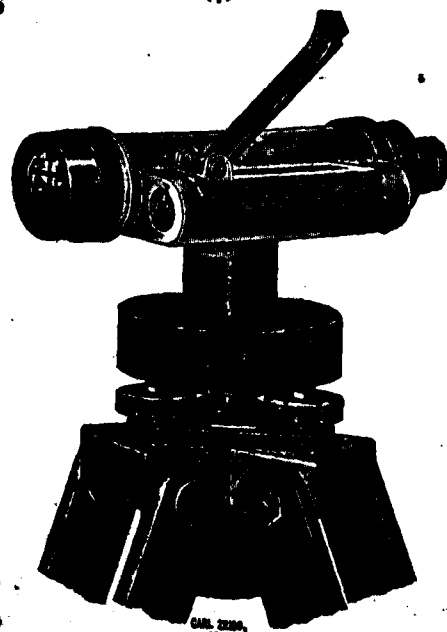
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AN ALL-INDIA MUNICIPAL SERVICE

By KHUSHAL T. SHAH, B.Sc. (Lon.), Bar-at-Law

There is hardly any subject of municipal activity all over India in which Councillors take so keen an interest as in regard to the appointment to the various branches and grades of Municipal Service. And yet hardly ever does one find any appointment being altogether free from suggestions of jobbery, political partisanship, or such other undesirable factors as having contributed to bringing about the particular appointment. If Municipal Service is to be secure for the servant, efficient for the municipality, and beneficial for the citizens, it is of the utmost importance that occasions for such complaints, by no means unfounded, should be removed.

Power of Appointments

The power to make appointments varies in different municipalities. But as a rule, while appointments in the higher grades are reserved to the Municipal Corporation proper, those of lower grades are left to the Chief Executive Officer, or the Executive Committee of the Municipal Corporation, according to the importance of each grade. The institution of particular posts as well as the appointment thereto are similarly distributed among these several authorities. The discipline and supervision of Municipal Service in all its branches is, however, usually left in the hands of the Chief Executive Officer of the Municipality, subject to the varying rights of control over that Officer in the hands of the Executive Committee, as by law may be determined. The rules regarding initial recruitment to Municipal Service in all Departments, includ-

ing academic qualifications, age-limit for admission, previous experience and length of service, conditions of tenure, provisions for leave, retirement, etc., also differ in different municipalities. These variations have a tendency to adversely affect the standing and attraction of Municipal Service ; and if we desire to obtain for that service the best available talents in the country, we should try and minimise, if not eliminate, these cumbrous rules.

In the interests, however, of the most efficient Municipal Service, and in view, further, of the very probable extension of municipal enterprise, at least in regard to the so-called Public Utility Service, it seems to be of the utmost importance that we should have an organised All-India Municipal Service. Initial appointment to this service should be made in a manner free from any complaints of the kind mentioned above ; and its control, supervision and discipline must be so provided that no feeling of uncertainty or insecurity could enter into the minds of the Municipal Servants. This alone will leave them wholly free to do their duty, to the best of their capacity, and without any fear of molestation, degradation, or any other prejudiced or preferential treatment in the service of the municipality.

Political Partnership

A Municipal Service organized for all India on a common basis, will not only be able to secure qualified talents according to the requirements of the various branches or departments of such Service, but it will also provide adequate inducements, in the shape of better-paid posts in the same general grades, as provided for by most populous or wealthy municipalities. Unfortunately, these at the present time are either prizes for political partisanship, or more or less close preserves for selection from Services such as the Indian Civil Service. This practice cannot but most prejudicially affect the interests of Municipal Service as well as of Municipal administration and activities. The Indian Civil Service, for example, is not organized primarily with a view to Municipal requirements. The selections, therefore, of the Executive Officers for leading Municipalities from that Service does not minister to the best interests of Municipal business. Moreover, as regards the Chief Executive Officers of the Indian Civil Service, the fact cannot be overlooked that these are officers usually on loan, and that the final control over their appointment or removal (and therefore over their disciplined conduct) does not remain in the hands of the body which pays for their services. The scale of pay, moreover, very often happens to be such as to cast a disproportionate burden on municipal finances. The same must

also be said in regard to such other services as the Engineering, Medical, or the Educational Services, which are among the important functions of municipalities. For, here also officers may have to be borrowed from the larger all-India services for municipal work.

A Consolidated Service

To secure, therefore, efficient and appropriate qualifications in Municipal Service, by eliminating such undesirable factors as political partisanship being regarded as the cause of the initial appointment or of subsequent promotions and transfers in Municipal Services and also to afford these Services an all-India basis so as to offer best possible inducements to really competent officers experienced in Municipal Service, I think it highly desirable that an All-India Municipal Service should be instituted. A consolidated all-India legislation may be passed to set up, organise and regulate a common All-India Municipal Service. If, however, that course is not found advisable, a voluntary agreement may be made between the Provincial Governments, each enacting its own legislation, to secure this highly desirable and necessary objective.

Competitive Examination

If an All-India Municipal Service is organized on the lines suggested above, initial appointments to it will best be made by an open competitive examination, practically on the same lines as the Indian Civil Service. I would deprecate any room being left in this matter to Municipal patronage as it is likely to degenerate into nepotism, or jobbery. Considerations, however, like securing an adequate proportion of appointments in Municipal Service to certain communities, may be borne in mind even in the basic legislation and in framing subsequent rules regarding these examinations. That is to say while on the one hand every possible regard will be paid to the selection of only men and women properly qualified, on the other hand there should be no danger of injustice to any community. Under the accepted rules of public policy in this behalf, definite proportions have been or should be assured of such posts to specified minorities or particular communities ; and these may well be observed in the appointments made on the results of the examination. If the requisite proportion of and appointments from particular communities is not possible to be allocated at any time according to the results of such an examination, the balance may be made good out of those of the community standing next in the schedule, given in order of merit to the examinees.

Open to Both Sexes

The examination should be open to men and women of a stated standard of education, e.g., Matriculates and those that have passed the School Final Examination and with a prescribed minimum age. The examination should be held in some common subjects and a larger number of Optional Subjects. The successful candidates would then, in the aggregate, provide for all branches and departments of Municipal Service. The examination, being a competitive test, appointments will be made in the several branches of the Municipal Service, Province by Province, according to the domicile or preference qualifications of the candidates, and also according to the optional subjects selected. For each grade, and for each department, an appropriately qualified individual will be secured by this means. The examination may be held not in one solid block, but in several grades, like the Civil Service Examinations of the three different grades of Clerks, Ministerial and Executive Officers in the United Kingdom, e.g., the Postal Services. It must also be held simultaneously in a number of centres, not less than one in every Province. But it would be best to set up an all-India authority like the Indian Public Services Commission to organize and control it from a single centre. Individual requirements of each particular Province should also be duly considered in the optional subjects included in the curriculum of the examination. Thus, every consideration of efficiency and propriety, and every requirement of Municipal administration, may be duly fulfilled.

Posting of the Selected

Having organized and held this examination,—preferably once a year,—the next problem would be that of postings of each selected candidate to the various Provinces, and to the relative branches of Municipal Service in a given Province. So far as the Provinces are concerned, there would hardly be any difficulty in this respect. At least in the initial choice, people will prefer to be in the Province to which they ordinarily belong. But it must be made a rule for such appointments that besides following the merit indication of the results of such an examination and also conforming to the basic idea of an All-India Service, members of the Service would be made available for such service with the stipulated condition of transfer outside their Province, if the exigencies of the Indian Municipal Service anywhere so required. Also where special attractions outside one's own Province may, later on in the career, induce a Municipal Servant, voluntarily to seek for transfer,—he or she must likewise be free to do so. The various

grades of Municipal Service should be organized on a uniform basis. This means that the lowest of the menial grade should throughout India be organized on a uniform basis, varying in regard to pay, if at all, according to the cost of living in the different centres with a given margin. I would guarantee a basic minimum of living to every Municipal servant irrespective of the grade ; though, at the same time, I would insist upon considerable pruning down of the highest salaries everywhere. The maximum should not exceed Rs. 500 per month ; and all allowances should be abolished, or at least drastically cut down.

Uniform Basis

The next highest grade—the Clerical—may be similarly organized ; and so on throughout the entire range of Municipal Services, including Accountants, Engineers, Physicians, Surgeons, Teachers and Executive Officers of all classes. As between the several municipalities within the same grade, however, there may be variations in the scale of salary, subject to the maximum as suggested above. This will provide for adequate inducement for promotion, even within the same grade, from municipality to municipality and even from Province to Province. A regular interchange of Municipal Officers as between Provinces would be, in my judgment, one of the best means of promoting economy and efficiency in Municipal Service, and perfect solidarity in the Indian people collectively.

The rules of control, supervision and discipline should similarly be organized on a uniform all-India basis, subject to minor variations for special local reasons, if any. If these conditions are observed, I have no doubt we would be creating an instrument of public benefit, whose real utility we shall only realize when we have organised and employed it for a few years.



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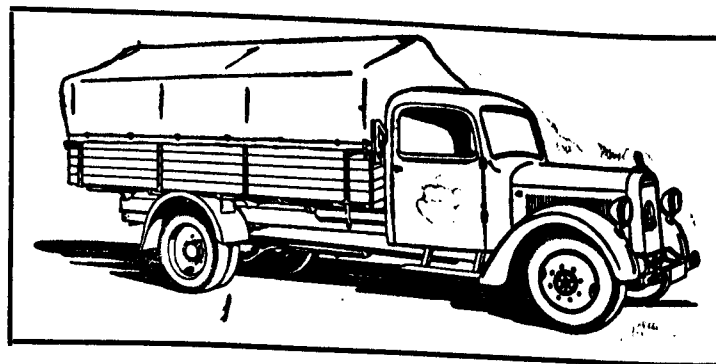
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WATER SUPPLY

By **S. S. NAIK**, B.A., B.Sc. (Edin.), L.C.E. (Bom.)

PART III

FINANCIAL AND ADMINISTRATIVE ASPECTS OF WATER SUPPLY SCHEME

CHAPTER I

We see from the foregoing considerations that water supply schemes are very costly schemes and much forethought has got to be spent on such schemes. The scheme must in the first instance be a feasible and a safe scheme so that once you spend money on it, you must be sure of getting a minimum quantity of water required for the town all throughout the year. I have seen schemes on which municipalities have spent lacs of rupees, not supplying a drop of water to the town during the hot season. These water schemes can supply water to the public when the wells also are able to supply water, upto about end of February or March. Then the wells fail and the schemes also fail, making the people most miserable. Besides when wells are out of use for months at a stretch the water stagnates and becomes so bad that it cannot be used, when needed in the dry season.

Secondly, the cost of the scheme must be only so much as is within the means of the town to finance. If you are prepared to spend enough, water is certainly available. Take the town of Dharwar for instance. If the Municipality is prepared to spend 50 or 60 lacs of rupees good water supply will be available from a distant source. But this is beyond the means of a place like Dharwar.

In order, therefore, to be assured of a reliable scheme with a moderate cost many alternative projects will have to be investigated, scrutinised and dealt with to get a correct solution of the problem. This is a patient work to be carried on for years and not to be rushed through. The Bombay Municipality investigated for years the question of improving its water supply which it put into execution in 1923. The Karachi Municipality has been considering for years and have taken the most expert engineering advice about their water supply scheme, which they are starting next year.

Thus we see that these water supply schemes are costly, and hence we must carefully determine as to how they should be financed and what

is the best method of meeting the cost. There must be some general principles governing the apportionment of the cost.

As water is a marketable commodity, naturally it is possible to sell water and also to apportion the cost at according to the use of water.

(a) In the first place, the first cost of a water supply scheme which is the heaviest part of the total cost, need not be and should not be borne by any town in a lump sum by direct payment from the municipal funds. Because the advantage of a water supply scheme is handed down from generation to generation and the cost must be borne *pro rata* by the people using it. If the whole amount is paid from the municipal funds direct, the present generation loses so much amount which it could utilise on many useful works or amenities, and confers an advantage on future generation for which they have to pay nothing but the maintenance and recurring charges.

The best way is, therefore, to float a loan extending over a period of years, so that each generation will bear the cost of the interest and repayment share besides paying for the recurring charges. This is necessarily the most equitable arrangement.

(b) The second principle, as I have said above, is that each man has to pay *pro rata* for the advantage he receives except in a few cases referred to below. For this purpose the advantages have got to be estimated and the payment fixed accordingly. This is no easy matter. It may not be possible to put a money value on every gallon of water used. The water used for domestic purposes may be measured direct and charged accordingly. But the water used for fire extinction, street watering, drain flushing, etc., cannot be estimated and the payment made for these items is only on some arbitrary basis. Neither can the advantage derived by each individual be estimated. Thus we might lay down the rule that each property holder pays according to the value of the property he holds or according to the rateable value of the property he holds. This may not be very equitable but this is the only feasible method.

(c) The third principle is that financially the water works must be self-supporting, so that supposing the town has to spend a total amount of Rs. 1,00,000/- per year on water, it must raise this much amount as taxes for the supply of water. If it raises less, for giving a certain definite amenity to the public, it gives this amenity at the cost of other works for which the taxes were levied. If it raises more it is unfair to the public who pay the money, that municipality should make a profit on this item.

It is thus necessary that financially the water supply must not be a burden both on the public and on the municipality and hence the financial equation "Expenditure = Income" must be satisfied.

CHAPTER II EXPENDITURE ON WATER WORKS

The expenditure on a water works can be classed under five main heads :—

(1) Liability caused by capital cost which is generally raised by loans floated in the market. This liability puts a burden on the taxpayer under two items :—

- (a) The payment of interest charges on the capital cost.
- (b) The instalment of loan to be repaid, in a specified time, say 30 or 40 years.

Both these items can be very accurately calculated and we know exactly what the annual burden would be.

While considering the capital cost, the ways in which the money required for the work can be raised are many.

(a) Government Loan

In former days (before about 1925) the Government was always prepared to help the Municipalities with money for the water supply projects. All possible sites were investigated by the Government for reservoirs. River gauges and rain gauges were maintained in many places and a full record of these was always kept. Government then investigated the possibility of having a water supply project for a town which needed it and the Sanitary Engineers to Government always had these projects ready. Whenever any municipality wanted a water supply the estimate was prepared. Of this estimate Government used to give 50% as a grant and used to construct the work for the Municipality. The remaining 50% was given as a loan to the Municipality at an easy rate of interest and extended term for repayment. The annual amount was then fixed and the Municipality was bound to pay this much amount only, and if everything went well, the water supply was the property of the Municipality after the full repayment was made. But unfortunately before much of the amount was repaid some of the works wanted repairs or renewals, the pipe lines had to be relaid with new pipes, or the town grew in such a way as to require extension of the water supply. This new expenditure went to swell the original loans with the results that many of the water supply schemes are not yet the property of the Municipalities. The management of the water works was in the hands of the Government (P.W.D.) and it was run as a branch of the P.W.D. The Municipality was only responsible for the water management, after

the water was delivered by the P.W.D. at a certain point in the distributing system. This was found advantageous to both the sides as the Municipality had no establishment to manage the water supply and the P.W.D. was almost like the mortgagee in possession could look after the property which was Government property till it was fully paid for.

When the financial position of the Government was strained during the last ten years, the free advice of the Government Officers available to the Municipalities is now no longer free, but they have to pay two and a half per cent of the project estimated cost for plans, estimates and supervision. No free gift is available, and loans are given on more stringent conditions of interest and repayment. The bodies are advised to float a private loan, the conditions of which are scrutinised by Government, as their sanction is necessary both for the project and for the loan. The whole thing is most complicated and difficult for achievement.

(b) Loans Raised by Municipalities Themselves

In few of the Municipalities, the water works are carried out by loan floated by themselves. Herein they had to calculate the repayment, interest, sinking fund, depreciation and all other considerations. Most of the loans are still very heavy burden on the Municipal administration.

Such loans require as said above the sanction of the Government. There are some technical difficulties which make the floating of such loans somewhat difficult.

(c) Gift or Donation Given by Charitable Persons

These gifts are very rare and in giving and accepting these gifts, if any conditions are laid down they have to be followed.

(d) Water Supplied by Private Enterprise

The question of water supply to a town by a private agency, which seeks to establish a monopoly, is a question which deserves consideration of all the aspects of the case.

Theoretically, it is possible to have an outside agency to take up the work of water supply in the municipal limits and to relieve the municipality of its responsible burden. The people who use water would be able to know just as in the case of milk and fuel, what it would cost them for the water they have to use. This is the best arrangement possible. Besides, theoretically also, the management of a concern like water supply when it is in the hands of a private management, may be more economical than the management done by a corporate body like a Municipality and the Municipality is saved the bother of loans, interest, repayment, etc., which a private enterprise can easily obtain.

But, apart from this theoretical consideration, a public utility concern like a town water supply should never be in the hands of a private corporation. Water is the most essential thing in the daily life of man and many of the municipal activities for the well-being of the town, such as watering and cleaning of streets, flushing of drains, supply of water to the poor who are not in a position to buy it (such people might be generally 25% of the whole population) and, what is more important in a place which is thickly populated with houses crowded together, the putting out of fire when a house catches fire, all depend upon a *dependable, copious and controllable supply of water*. If the Municipality has to buy water for all these purposes it is the psychology of human mind that it will try to stint and none of the above services would in any way be efficient. In order to have efficiency, the control of the water supply must be in the hands of the Municipality, whereas in this case the control is in the hands of an outside agency and that too a business corporation which is out to make business and naturally which would think of rupees, annas and pies much more than of the well-being of the public.

But the greatest trouble would be the trouble of insanitation. Water supply and sanitation always go hand in hand. If water is supplied by pipes to certain premises, those premises require definite arrangement to dispose off the waste water and unless and until there is a thorough co-operation between the two arrangements, the health of the town suffers. In this case when water is supplied to the premises, the feeling is that the company supplying water makes a business out of it and makes a certain profit out of every connection so given, whereas the Municipality is called upon to arrange for the removal or disposal of the waste water, and thus has to keep a stricter control over the premises and has to incur good deal of expenditure. So that in this case the profit goes to the company and the expenditure to the Municipality and hence there can be no co-ordination. Besides the Municipality is not in a position to know how much water is used by every premises and therefore unable to arrange for the sanitary arrangements adequately. They are either too inadequate or too elaborate, causing inconvenience in the first case and waste of money in the second.

I am therefore afraid that the sanitation of the town would be in danger and health of the public would suffer very much.

But there is a still more important aspect of such a step which deserves serious consideration. It has been admitted by all experts as well as non-experts that a provision of water supply by pipe water necessarily forces a provision of drainage scheme in an ordinary town, and the health of the town suffers very badly till such a provision is made. I can quote hundreds of examples of this. In an ordinary town, the waste water is

led by house gutters, which lead it to a cess pool which is emptied from time to time by the Municipality by carts or lorries at intervals convenient to the Municipality, according to its finances. Naturally much of the water soaks in the ground making it a big cess pool, and the interspaces between the particles of soil become full of drainage water and a very good breeding ground for germs of diseases. Malaria, typhoid and other fevers are very common in these towns. The mosquito nuisance is more than a nuisance—a curse. The Government have to force the Municipality to have a drainage scheme and the Municipality is put to a very great expense both initial and recurring.

In some towns the conditions are very peculiar. All water is allowed to soak in the soil, and even in the case of the increased supply of water by pipe, it is *to be allowed wholly to soak in the soil*. The arrangement is, that a Dattan Kothi, a large porous earthenware vessel 5' to 6' in depth and 2' to 3' in diameter is to be sunk in the compound of the premises taking water. The vessel is open at the top and bottom and all waste water is led to this vessel to soak in the ground possibly at a lower level than that of the level of the compound. In some cases masonry tanks of a larger size having no flooring or masonry at the bottom but open to the soil are provided if the volume of water to be dealt with is large. The compounds are very small and therefore the soaking capacity is not sufficient to absorb even the water used before the pipe water was obtained. It is impossible for these compounds to soak the pipe water and the water leaks or finds its way to the roads and the road side soil is seen to be green and slimy, causing very great nuisance and insanitation. The Director of Public Health has, I am told, strongly commented on this in some towns. The whole sub-soil of the town will eventually be filthy, drainage laden and germ producing. The town will be a home of all diseases. The rich can shift for themselves but the poor will suffer the most.

It is therefore essential that a drainage scheme must be contemplated and put in operation as early as possible. A drainage scheme requires a plentiful water supply at the command and under the control of the Municipality and I, at least, cannot visualise a drainage scheme financed and managed by the Municipality whereas the water scheme is in the hands of an outside corporation. The thing is not possible even in imagination.

The Bombay Government while investigating the problems of public utility concerns such as electricity have come to the conclusion, I think, that such concerns should not be in the hands of private corporations. It is therefore much more essential that a vital amenity of corporate life such as water must not be at the mercy of a private enterpriser who

seeks to get the monopoly for a town which has got all the chances and certainties of being filthy and insanitary.

Now supposing that it has been decided in spite of the above arguments and drawbacks that the monopoly for the supply of water to any town is to be given to a private corporation, I would like to lay down one or two general conditions governing such a monopoly so as to give general terms of the agreement which would protect the interests of the town and the public.

The sale of water to the public is not on par with sale of a commodity like milk or vegetable or even for the matter of that with the sale of electric energy for lighting purposes. Man can be without milk, or vegetable or even without a light at night. But every man must have water. He must be able to buy it by a pipe connection in his own home if he is rich enough to pay the charges so demanded, or he must be able to get it at a public stand post at a moderately small payment or lastly if he is very poor he must be able to get it free of charge from the Municipality or from some philanthropic institution or person. But water he must have. Apart from inconvenience to himself, a town dweller without water is a danger to his neighbour owing to the filthy surrounding he generates in his own home and is a drag on the town as he causes the municipal authorities large expenditure on medical relief. Once some people start taking water the whole sub-soil about gets contaminated by the soaking of water in the sub-soil and all the water in wells, etc., is contaminated and hence useless for domestic use. Therefore once the rich people start taking water, arrangement must be made to supply water to all the people from pipes. It will not do for the corporation supplying water to sell water only to those who take pipe connection and pay for them, but to have a comprehensive scheme, well laid out as fool-proof as it can be made, to deal with the whole population under consideration. The manner of paying them for supplies at moderate cost to the lower middle class or for free supply to the poor is a matter for the municipality to arrange. I suppose it would be admitted without any argument that a water supply corporation having a monopoly of supply for the whole of the municipal limits should not be allowed to do sporadic work of supplying water to a few select rich customers who approach them, and of laying out their works to supply such people only. Such a scheme can only be made by considering each part of the town carefully noting its requirements, laying out a chronological order in which to take in hand the work in each part, and to complete it in a stipulated period and thus finish the whole work in period of time previously agreed to, care being taken to see that period is the shortest possible taking all things into consideration. The amount of water available must supply all the demand even in the worst season and the pumps and pumping

machinery must be able to deal with the quantity required. Not only that but the pumping machinery being an unreliable factor must be in duplicate to prevent the disaster of stoppage of water for days and weeks. This is important in all water works. The sizes of reservoirs must be sufficient to deal with the quantity to be supplied in this supply. The mains must be of the proper size to deal with the quantity of water to be supplied. The scheme therefore must be comprehensive and complete, the period during which each portion of the town will be taken up must be definite so that both the Municipality and the public will know where they are. It will never do to play with the work without considering the implications of the monopoly and the seriousness of the situation. It also presupposes sufficient funds to do such a work.

Another essential fact about these agreements must be, that all standards required for the various clauses must be laid down definitely in the clauses. Thus we want a standard of minimum purity of water, below which you cannot go without endangering the health of the people. We want a standard of the adequacy of supply which the public can and must be able to secure under all ordinary circumstances in a monopoly agreement to supply water in municipal limits except under what is called *Vis Major*.

It is necessary to have a complete agreement between the Municipality and the company so that each party knows its own liabilities and duties. Water for municipal purposes must be given at a very cheap rate and water for the poor must be purchased by the Municipality at much cheaper rates and given to poor free of charge. Some arrangement for giving public standpost in the middle class areas on a charge of so much per month per house, must be made by the Municipality out of the water so received.

This deals with many of the aspects of water supply schemes by private enterprise which as described above must be very carefully considered and scrutinised.

CHAPTER III

EXPENDITURE ON WATER SUPPLY SCHEMES—*Contd.*

The second item on such schemes is :—

(2) Charges for repairs and maintenance of the capital works such as reservoirs, pipe-lines, purification works, and pumping plant including minor replacement of worn out parts or works.

This cannot be calculated to a nicety as some repairs and replacement are periodical and some are due to small or minor accidents. The amount required for these would be small in the beginning but when works or

plant begin getting older they require greater amounts to be spent oftener. Therefore this can only be a rough estimate.

Any very heavy replacements would come under capital cost, and will have to be dealt with under sub-head (1) above.

(3) The third item would be the cost of those materials which are required for the day to day working of the various items of the water supply plant or which are required periodically for the supply of water, such as oil or fuel for pumps, chemicals for purification, sand for filters and so on.

These also can be fairly calculated as the day to day or periodical requirements are known.

(4) Labour charges which are directly charged to work. These include all men, fitters, mechanics for the actual work and watchmen, overseers, supervisors, bill-collectors, for the supervision of the work. This item includes those people whose work can be directly charged to the water works.

This item also can be fairly estimated because these men are more or less permanently required for the work. Some more labour may be necessary in case of emergency, but this will come under unforeseen charges under this heading.

(5) The overhead charges for the work. This item includes the portion of the salaries of the Chief Officer, Engineer, Accountant, office establishment, etc., who work for all the municipal activities taken together. This estimate as to what portion of this general charges should be apportioned for the water works requires calculation on some basis say either of the time given by each to the water supply work or to the proportion of the total cost per year to the total expenditure during the year.

Now adding up the figures under all these five heads, we know what the annual expenditure on the water supply work would be and thus we know the one side (expenditure side) of the financial equation.

In some towns water is purchased in bulk for the neighbouring owners of water supply and then re-sold to the inhabitants by some distribution system. The chief objections to the system are two.

(1) The Municipality buys water, uses some for its own purposes, gives some free to the poor, loses some in leakages of pipes, joints, etc., and resells the rest to the inhabitants. The two figures about which they think are the cost of the water purchased in bulk and the amount realised by sale of water, so that all the cost of the intermediate losses and uses falls on those who purchase the water.

(2) The overhead charges of both the producing agency and the distributing agency fall on the consumer. Probably the money paid for

one of these agencies alone would have been sufficient for the whole of the overhead charges. The poor public have unnecessarily to pay the middleman's charges.

The case of the Bombay Suburbs is a case which best illustrates the hardship and loss to the public. Water is produced by the Bombay Municipality at Tansa, Tulsi and Vihar and led by pipes through the Suburban District. The Bombay Municipality sells water in bulk to the Government at annas six per 1,000 gallons. The same water is delivered to the Bandra and Kurla Municipalities at Rs. 0/7/0 per 1,000 gallons and the Municipality retail it to consumers at Rs. 0/12/6 per 1,000 gallons. So the Bandra public pay more than 100 per cent for the two middlemen and the cost of distribution. At Santa Cruz, Parla, Andheri, Chembur and other places Government is the distributing agency and charge Re. 1/- per 1,000 gallons of water, and the public pay Government 167 per cent more than the cost of water for the work of distribution. Neither the Government nor the Bandra and Kurla Municipalities spend anything on the purification of water and the toll of typhoid is very heavy.

In Poona the Municipality buys water in bulk from the Government from their dams and canals, purifies it and retails it to the public.

Bhusawal Municipality is thinking of purchasing water in bulk from the G.I.P. Railway and retailing it to the public on house connection system. I think they will be committing the greatest mistake as the method of distribution is the most wasteful and the budget will always be a deficit budget as regards this item of water. The only way to retail such water is by meters.

CHAPTER IV INCOME FROM WATER SUPPLIES

We now come to the other side of the equation, the income side. The total income of the Municipality during the year must be enough to compensate the Municipality for the amount it has got to spend for the water supply on all the five heads as described in the last chapters.

In thinking of the income you have got to consider all the items on which water is used. For instance if water is used for municipal purposes the quantity so used must be determined and the cost determined from the cost price of water. Thus the exact amount to be charged to every item should be determined and charged.

Cost of Water

The process of determining the cost price of water theoretically is very simple. We know the total expenditure as determined in the last

chapter during the year. Knowing the daily consumption of water and also the annual consumption, we can find the total water used during the year. Therefore the cost can be determined by dividing the annual expenditure by the annual consumption of water.

The cost of water is calculated on a unit of 1,000 gallons and varies naturally in different places. The differences are also very great. We give below the cost determined in some places in Bombay and Bengal Provinces.

Statement showing population, quantity of water per head per day and cost of water supply.

Bombay Province.

Town	Population served	Water per head per day, Gallons	Cost per 1,000 gal. as.	Source of supply.
Ahmedabad	3,70,000	44.00	1.17	
Kapadwanj	15,931	11.56	4.16	
Surat	1,61,413	22.20	0.58	
Bhiwandi	10,000	15.00		
Kurla	32,000	18.70	0.52	
Ahmednagar	43,514	14.64		
Jalgaon	34,464	28.21	0.92	
Dhulia	38,276	10.00	8.50	
Nandurbar	16,741	11.36	7.16	
Nasik	45,744	18.00	3.00	
Poona City	1,60,000	54.80		
Karad	14,479	13.10	3.08	
Satara City	26,379	32.80	1.08	
Sholapur	1,35,574	28.97	1.88	
Pandharpur	29,508		2.54	
Bijapur	19,753	17.07	1.32	
Barsi	27,610		1.32	
Hubli	83,494	10.00	3.07	
Matheran	2,734	15.96	20.52	

Bengal Province.

(Exclusive of loan spares)				
Burdwan	39,201	11.41	2.28	River
Howrah	2,24,873	17.35	1.60	River
South Sukurhan	22,250	3.35	0.24	Supplied from Cal-
Dacca	1,38,518	15.93	1.53	River [cutta
Munshigunge	4,000	2.61	9.66	River
Darjeeling	23,000	27.90	1.04	Springs
Jessore	9,000	4.63	8.27	Reserved tank and tube wells
Rajbari	3,500	3.00	11.36	do.
Asansol	25,312	12.20	1.96	In Filtration gallery in river bed and tube wells
Patuakhali	5,000	2.48	13.91	Reserved tank
Jalpaiguri	16,600	5.12	3.90	Tube wells.

Having determined the cost per 1,000 gallons of water, we have now to determine the quantity of water used for every municipal or public purpose. As we have said in Part I of this book, the municipal uses are many :—

- (1) Street watering ;
- (2) Drains flushing and sanitary uses ;
- (3) Fire fighting ;
- (4) Watering of gardens ;
- (5) Ornamental fountains, etc.

It is no doubt very difficult to determine accurately the water used under each of these heads but an approximation can be arrived at. The total of all these approximations will give us the water used for these purposes during the year. The rate of water being known, and the quantity also being known, we can now obtain the total cost of water used for each of these purposes and can charge them to the respective heads such as roads, sanitation, public safety, parks and gardens and so on and give a credit to the item of water supply.

Many municipalities are in the habit of taking all this water free of cost and while considering the income from water supply only take the money actually received from the public as income. This is not a correct system of accounts and in places where water is given by house connections and meters it is unfair to people who pay for the water because the incidence of the water-tax is not necessarily proportional to the use of water. Thus all the five purposes noted above being general amenities enjoyed by the whole population of the town, if these are not accounted for those who take the house connections, have to pay for all these as represented by the enhanced water rate. To take an imaginary case, supposing the cost of water production is -6/- per 1,000 gallons and supposing 1/3rd of the total water supply is utilised for the general purposes, and not accounted for, then those who do not take any connections escape taxation for the amenities they enjoy, whereas those who take them will have to pay -9/- per 1,000 gallons of water, unless there is a general water rate depending on house-tax. That is why the above method I have suggested is more accurate.

CHAPTER V WATER RATES

The methods of realising money from the water rates are the following :—

- (1) Flat water rate ;
- (2) Water rate as per connections taken ;
- (3) Water rate on water supplied by measurement by meters ;
- (4) Water rate by metering on decentralised storage system.

These are utilised either singly or by combination according to circumstances.

(1) Flat Water Rate

This flat water rate is levied either (a) wholly to cover the whole cost of water supplied to the town or (b) to cover part of the cost, the remaining being recovered by some other method.

(a) The water rate meant to cover the whole cost of water supplied :—

In this case the water rate is charged as so much percentage of the total rateable value and covers the total cost of water used for all purposes. Theoretically speaking this is the best arrangement, because every householder has to pay according to the value of his house. The tax is levied and collected just like house-tax.

Knowing the rateable value of the house property, the municipality knows exactly how much income it is going to get out of this tax and therefore the budget amount for income under this head can be easily and more accurately determined.

The tax again falls on every man using a house and therefore it is not possible to evade it.

But as the tax depends on the house accommodation available to each family, it may not necessarily be an equitable tax unless we presuppose that each man enjoys public benefits only in proportion to the rateable value of the house accommodation he enjoys, and secondly, which is more important, uses a quota of water proportional to the same rateable value. The first premises may be correct to some extent, because there is no other general method of assessing the amenities. But the second is not correct at all because the use of water depends on the quantity required per head and the number of persons in the house. Both these things vary in different localities of the same town and depend upon the social grades of people occupying the houses.

The municipality is under this system bound to give water to all the houses according to some definite rules and scheme, so as to give equal benefit to all. All the houses and all the tenements in the houses must have a pipe connection.

But the greatest defect of this system is the VERY GREAT WASTAGE OF WATER. The people feel that they are paying a fixed amount for the water, whatever the quantity they use, and do not care to stop the waste of water. A pipe once opened is not closed. I have seen in chawls and other places pipes running water to waste because the owners have nothing to loose and because civic sense is not developed.

This waste is not only a strain on the water supply but also on the drainage as the volume of drainage water is also necessarily greater and greater cost is necessary in the arrangement and disposal of drainage.

The city of Bombay has its water supply on this system and water is calculated at 80 gallons per head per day, which is really a very high allowance. Many methods are tried to prevent this wastage but the result is not very satisfactory. Later on while dealing with metered water supply, I will give figures to show how some towns attempted successfully to stop this waste by introducing a metered supply.

One necessary consequence of this waste is the curtailment of the hours of supply of water so that the quantity used may be reduced. This leads us to what is called the intermittent supply of water. The water is allowed in the service pipes only at fixed hours, 2 or 3 hours in the morning and 2 or 3 hours in the evening. This system is very bad, and during the time the water is on almost all the pipes are kept open and the waste is not prevented. The disadvantages are ably summed up by a Mysore Engineer :—

“The intermittent system is wasteful, conducive to pollution of water, imposes higher expenditure on the householder for storage vessels and tanks. These tanks and vessels are liable to pollution as described before. The pipes and joints are subject to very severe strains owing to vacuum formation when empty and to sudden jars when water is let in.” The results of leaking pipes and joints under this system is dealt with in one of the foregoing chapters.

A great drawback of this system is that water is not available in the pipes when there is fire and it is sometimes seen that the fire destroys the building before the whole of the machinery of the municipality is moved to allow water in the pipes in such contingencies.

(b) A general water rate to cover the cost of that part of water which is used for the municipal amenities enjoyed by the public :—

I have dealt with this subject generally above when dealing with the municipal amenities supplied by use of water and there is nothing more to add. In this case the water required for private purposes is supplied to the individual consumers under one of the other systems.

(2) System of Charging on House Connection

This system is the one which is generally followed by most of the large and small municipal bodies here. The usual system of charging is by the year according to the size of the pipe leading to the house. Thus we find some municipalities charging Rs. 6/- per half inch connec-

tion for the year and Rs. 12/- per three-fourth inch connection per year and so on. If more than one taps are taken from the same connection there is some additional charge.

In this system and in all the other systems which are to follow, the provision of water for the rich alone is contemplated. It is hardly possible for a poor family to take a pipe connection and for the poor labouring classes and also for the poor Harijan and other classes it is not possible to take any pipe connections. These people have necessarily to be supplied with water. The two methods usually followed are :—

(a) A public tap or public fountain system for those middle class people who cannot pay for the separate connections but can pay a moderate sum per year for the privilege of getting a certain amount of water at the public tap. The tap is designed to give water upto a certain quantity during the period it is kept open. The quantity of water available is not certainly at the same rate per head per day as in a private connection but much less. If at the private connection it is estimated at 20 gallons per head per day, in these public taps it is about 8 to 10 gallons per head per day.

Such stand posts are common property of a certain number of families round about. In one town, it was designed to give water to 50 families at Rs. 2/- per year per family and the quota of water was $6\frac{1}{2}$ gallons per head. The main pipe was to be $1\frac{1}{4}$ " diameter. There were to be 4 branches at right angles each connected with $\frac{3}{4}$ " taps giving 1,350 gallons of water per day (7 hours water allowed in pipes). The municipality had to provide good masonry pavement about 6 to 8 feet in diameter to arrange for an efficient gutter to lead away all the waste water. If this is not done the whole surrounding area near the pipe is extremely filthy and as people have to stand there and keep their pots also, the water in the pots is liable to be contaminated.

(b) For the poor labouring classes and for the Harijan workers, free public taps are provided, because they cannot afford to pay for the water. The quantity of water available at these fountains is necessarily less than that in the case of (a) above. The whole cost of such water is borne by the Municipality.

In both these systems, there is a constant trouble of friction and quarrel at these public fountains, and unless the pipes, taps and all the construction is very strong the leakages are many. As said above the sanitation of the stand and its surrounding requires constant supervision by the Municipality.

It has been found in many towns that the water from these stand posts is used by people who use it for business purposes. Motor drivers

and cleaners bring their cars for cleaning at the posts so as to be saved the trouble of carrying the water to some distance. People water their cattle from these stands. Dyers of cotton yarn and other people who want large quantities of water use these stands for their work. Thus the people for whom this water is really meant, are put to a great disadvantage. The best remedy is a very strong control over these stand-posts. The prevention and removal of insanitary surroundings created by these uses of water are also to be taken into consideration while exercising the control.

All the arguments about the wastage of water in the flat rate system also apply here because when once the man pays the amount due for the year for every connection, there is no further control over the use. He can keep the tap open, all the day long and the water goes on flowing to waste as long as it is on. The intermittent system is an absolute necessity in these cases from the municipal point of view. We have seen above the disadvantage of the intermittent system.

There is nothing to prevent the owners of these private connections from allowing the use of the water to their friends or neighbours out of kindness or consideration. It is actually found in some instances that one connection serves three or four families with water. There is no remedy against this and the number of connections and revenue from water supply, suffer very much and it is difficult to balance the budget.

CHAPTER VI

WATER RATES—*Contd.*

(3) Water Given by Meters

The method of giving water by meters is probably, as I have said above, the best and the most equitable, though, as in all things on the face of the earth, there are some drawbacks also.

In essence, the method consists of supplying water to the consumers by distribution pipes and just before or immediately on entering the premises of the consumer, the branch pipe taken from the main has got a meter fixed. The meter, generally, is the property of the municipality, maintained at the cost of the consumer and for the use of the meter the consumer has to pay a certain amount as hire per month. The meter is read at the end of every month or quarter by the municipal meter-reader, then a bill is made up for the amount due for the water used. The rate per 1,000 gallons being fixed the bill is made out according to the quantity consumed and submitted to the consumer who is expected to pay it within a certain period.

Thus we see that the whole system is very elaborate and complicated in working and as such has got its own merits and demerits. We will first deal with the demerits :—

- (a) The meters are costly items and therefore the first cost of the meters which is to be borne by the Municipality is rather heavy. Cheaper makes of meters are not accurate, can be tampered with easily and get out of order very easily and hence good makes have got to be used and these are costly. The meters are of a costly foreign make, but now-a-days, I suppose, Dhapuri Workshop can produce good meters. As each house connection requires one meter, the number required is very great.
- (b) The repairs and maintenance of the meters is also costly, as they are delicate, and the men in whose charge they are kept—the meter-readers—are men of ordinary non-technical type who cannot understand the working and machinery of the meters, their supervision over the meters is not of much value. The repair charges of the meters being charged to the householder, the meter-readers are not answerable to any one for their proper maintenance. It is a question of serving a notice on the householder and he must pay for the repairs of the meter. Sometimes 40 per cent of the meters are out of order.
- (c) The reading of the meters, the making up of bills, the serving of the notices of demand of the amount of the bills and the collection of all this amount is a very tedious process and requires a lot of establishment and costs a good deal of money. The collection in the case of the other methods of water charges is not so complicated.
- (d) The amount of receipts depend upon the consumption of water and hence must always be fluctuating and not so definite as in the other cases.
- (e) In many places there is what is called a minimum charge for every meter. Probably the presumption is that every family must use so much water and hence the minimum charges are fixed. The rich who use more water pay at the rate fixed per 1,000 gallons for the quantity they actually use. The poor pay a minimum rate when they use water less than a minimum quantity. Suppose for instance the rate per 1,000 gallons is eight annas and the minimum charge per month is Rs. 2/-, a man who uses only 2,500

gallons has to pay Rs. 2/- or the rate works out to 12½ annas per 1,000 gallons. The meter hire of say annas eight is distributed in the case of the poor man on 2,500 gallons whereas in the case of a rich man using 10,000 gallons on that quantity and therefore the rate is inequitable, more for the poor and less for the rich.

- (f) In the case of those people who are of a very miserly nature, there is a danger of their economising water in those places where it is very necessary such as for flushing. There will be some insanitary surroundings created by such stinting. It will discourage the system of water-borne latrines.

The advantages of the metered system are :—

- (a) There is no waste or misuse of water, because every man using water is conscious that he has to pay for it. Therefore he himself will not allow it to be wasted nor will he allow anyone else to take water from his tap even when the charge is only nominal. I have seen people taking a round of their house before going to bed examining all taps in the house to see that they are tightly closed. Such people will not move to close a running tap when the charge is on tap connections.
- (b) The incidence of water charges are equitable when a man has to pay for the water he uses.
- (c) The water taps can be kept open for 24 hours and the disadvantages of the intermittent system are done away with.

Looking to the advantages which are few in number one might be tempted to think the disadvantages outweigh the advantages. But the disadvantages are only administrative.

The advantages are very important from the point of view of preventing the waste of water. It has been found that the waste of water is a very costly item in municipal administration. The instance of Cologne in Germany can be quoted to illustrate how important this matter is. In about 1904, it was felt that the water works were not sufficient for the increased and increasing population and there was a move to have additional water works costing a very large amount. Then one of the authorities tried the experiment of metering the supply. The consumption per head came down to half proving that 50 per cent of the water was being wasted. The town was saved the necessity of embarking on a very costly project and the water supply was found to be sufficient for a long

time since then even though the population has increased. The figures given below will speak for themselves :—

Metered Compulsorily		Metered Optionally	
Town.	Gallons. per head.	Town.	Gallons per head.
Berlin ..	17.16	Hamburg ..	25.08
Magdeburg ..	19.58	Zurich ..	46.08
Lipzig ..	14.98	Frankfort ..	35.64
Hanover ..	14.08	Hagen ..	28.60
Before Metering		After Metering	
Cologne ..	37.05	Cologne ..	18.06
Dessau ..	33.14	Dessau ..	19.80

These figures from experience in Germany prove conclusively that metering effects great civic economy which saves the public enormous outlay. The new Delhi Municipal Committee had a large number of unmetered connections in the clerks quarters. They were subsequently metered. The result was astounding. The consumption came down from 125,440,000 gallons to 23,595,992 gallons or less than 1/5th. These facts are unbelievable but are based on facts which cannot be disputed. Hence the advantages are very great. The only difficulty is that the public in their shortsighted selfish individualism are not prepared to pay by measure for a commodity they are supposed to get in unlimited quantity on a fixed payment. In this country those who introduce metering system will not be elected councillors in the next election and hence their fear.

In all new water supply schemes metering should be introduced.

In almost all cases water is allowed to schools, hospitals and religious and philanthropic institutions, such as temples, mosques, churches, asylums, at concession rates or free. When required for luxury or business purposes such as gardens, building operations, motor garages, hotels, it is given at higher rates. When required by very large consumers such as mills, factories, railway sidings, slaughter-houses, where special mains are to be laid water is given by special agreements.

Human nature being what it is, water given free or at concession rates is many a times utilised by those for whom it is not meant. Many a times the premises within the limits of religious institutions are rented out at full rents and the water utilised by the tenements at concession rates or free. The water from house taps is used for ordinary building purposes and other business uses and thus the higher rate is avoided. Only a strict supervision and punishment for improper use would remedy such misuse.

It is possible that in some places one or two or even three methods of taxing people for water may be combined. Thus we find a flat rate depending upon house-tax, then a system of giving water connections for private use on connection system, and a metered system for certain other purposes. In such cases, people take full advantage of the connections keeping them fully open, during the time water is turned on and fill good sized tanks for use. The metered supply is very sparingly used.

In all these systems, as I have said above, public fountains are provided for the poor and when dealing with metered supply, the rich who can afford to keep many servants, and men like motor drivers, cleaners and others who require large quantities of water for business purposes, take full advantage of the fountains, generally to the exclusion of the needy poor who are and ought to be the real and rightful recipients of the benefit. The force of riches, knowledge or brute force behind the above classes, keeps off the poor uneducated people, who consider the water as a charity and not a right. The wastage in such cases is tremendous, besides the inconvenience to the needy. It must be made legally impossible for such people to use this supply of water.

The final summing up of the causes of wastage and misuse in Bangalore water works is very instructive and is given below :—

Bangalore Water Supply

Supply given per head per day at public fountains—9 gallons.

Wastage and Misuse

- (1) Large number of unmetered services.
- (2) Callous negligence to repair defective water fittings in unmetered premises.
- (3) Large number of public fountains near each other, though there are house connections near.
- (4) People from metered connections using fountain water for washing, cleaning vessels, cattle, etc.
- (5) Misuse at fountains by keeping pipes open.
- (6) When pressure is great the wastage is great.
- (7) Costly wastenot cocks also misused by pressing stones behind the handle, and broken.
- (8) Cheap wastenot push cocks misused.
- (9) Water used for gardening et cetera and for commercial purposes from house connections.
- (10) Washing of buses, lorries, motors at fountains.
- (11) Misuse of concessions to religious institutions, where they actually make business by letting the premises.

CHAPTER VII

RATE OF WATER—Contd.

(4) Water Rate by Metering on Decentralised Storage System

There is a new system called decentralised system which is being tried in Bengal and there is some controversy over the merits and demerits of the system. It is best described in the Bengal Government pamphlet and we reproduce extracts from the same.

In a good many water supplies, forms of restriction and waste prevention have been in use for some time. The older form of restriction is the metering system. A meter is fixed to each house connection, and the readings are taken once a quarter. In the "house connection rules," a free allowance is fixed which is proportional to the amount of water rate paid. Any water consumed above that free allowance has to be paid for at certain fixed rates per 1,000 gallons. This has the effect of making people careful in the use of water. But the system has been found difficult to work although a few municipalities have operated it conscientiously. There is the expense of maintaining meters, of meter reading, and of submission of bills, and also various methods of evasion of the rules have been practised by certain towns.

A more satisfactory form of restriction has been brought into operation during the last five years. This is known as the "decentralised storage system," and introduces a positive restriction, and limitation of demand on the water supply plant.

The general idea is that every house connection must include a storage tank or cistern, and that the daily supply into that tank will be restricted to a certain agreed amount. If taps are left running or the water is used with unnecessary extravagance, the tank will become empty, and thereafter water will be available only at the very small rate at which it is being fed into the tank. It is found in actual practice that, by thus forcing the consumer to observe reasonable prevention of waste and to turn off taps immediately the required amount of water is drawn, every one has plenty of water for all ordinary purposes.

One advantage of the new system will be seen at once, viz., that with ordinary moderate use, water will be available from the tank day and night, although the supply in the street main may not be continuous. The capacity of the tank is left to the decision of the householder (as well as its quality, method of covering, etc.), but should be sufficient to hold at least one day's supply.

The flow into the tank is regulated by means of a "check pipe." This consists of a piece of copper tube cemented inside a short length of the service pipe. The diameter of the copper tube, and the number of

such tubes in succession, is regulated so that the agreed amount of water flows into the tank during the number of hours the pressure is on the street main.

The amount of water to be let into the tank per day is fixed in the following manner. In the set of house connection rules which governs this system, there is a schedule (rule 10) according to which a householder who pays a certain number of rupees of water rate per quarter is entitled to a certain number of gallons of water per day. As a matter of fact the amount of water rate payable is according to the "annual valuation," so this rule gives the number of gallons of water per day according to valuation. Above a certain point the amount of water is proportional to the valuation but, below that point the amounts given are greater than the proportional amount. This is done in recognition of the fact that water is a necessity, that poorer people should be encouraged to take house connections, but there are certain minimum needs, etc.

If a householder finds that the amount of water he can receive according to the schedule is really insufficient, he may get additional water by paying for it in accordance with rule 11. This rule fixes the payment of one pie per 10 gallons of additional water per day. So that if he wants his daily supply increased from 200 gallons to 260, he must pay $\frac{1}{2}$ anna per day, i.e., Rs. 11-6 per year. This payment is demanded in advance for the whole year, that being necessary because the water works management cannot be called upon to make frequent alterations in the flow regulators.

If again a householder wants a large supply of water for a short time, such as for a marriage festival, that will be given to him by means of a "temporary connection" according to rule 12. Extra charges are made, and these are made proportionally higher so as to ensure that the temporary connection is given up as soon as possible.

In the case of two towns in Bengal, rule 10 has been arranged so that householders who have water flushed latrines may get more water than those who have not. For if sufficient water flushed latrines are provided to make the services of the municipal sweeper unnecessary, the municipality is the gainer thereby, so that it pays them to give a little more water to such householders. This is applicable to towns without sewers as well as to sewered towns, owing to the rapidly increasing use of the household septic tank and disposal gallery.

The rest of the house connection rules are devoted principally to regulations regarding the provision of the storage tank, this being the principal feature of the system just as the meter was the principal feature of the old system.

This new system is of immense utility in the design and operation of a town water supply. Since the flow into the tanks is constant throughout practically all of the supply hours, the street mains can be designed of smaller sizes—sizes sufficient to carry an average flow instead of a fluctuating flow. For the latter, capacities $2\frac{1}{2}$ times that of the average flow have to be provided. Central storage can be very much reduced, and in some cases omitted altogether. In order to maintain an even pressure in a large network of distribution pipes, a system of sub-division into zones is used. The water is pumped at a higher pressure through trunk mains to the zone centres, and at each centre is fed through a special "reducing valve" into the zone pipes. This reducing valve has the effect of keeping a constant pressure in the zone in spite of variations of pressure in the trunk main which feeds it. The valve is housed in a brick chamber above ground level, and this chamber is utilised to support one of the street tanks.

Control of the street supply is also obtained by providing local tanks instead of the old form of standpost. This is made of reinforced concrete 2" thick. The concrete is heat resisting, and is proof against any attempt at pollution of the water. The tap attached to the tank has been specially designed for the purpose. It closes automatically by means of a spring of moderate strength which allows the tap to be held open with ease. The tap has a full $\frac{3}{4}$ " waterway, so that buckets can be filled in a short time and there is no temptation to tie the tap open. If the tap is tied open and water allowed to run to waste, the general town supply is not affected thereby, as the inlet to the tank is regulated to the amount which can be afforded to that particular spot. The tank, with its regulated flow, forcibly brings to the notice of the people the fact that the water supply is not unlimited. They therefore see to it that taps are not left running. Thus the street tap, which in the old system is a matter of public indifference, now becomes a matter of public concern.

The advantages of the decentralised system may be summarised as follows :—

(a) To the Householder

- (1) Water is available at all hours of the day or night, as it is drawn from a storage tank.
- (2) Water is supplied under a higher pressure, so that it is possible to have water taps on the first floor of any building where they are required.
- (3) The initial cost of a meter is saved.
- (4) If the householder desires to have a greater quantity of water than he receives for the water tax paid, he can have it by

paying extra, usually at the rate of one pie per 10 gallons of extra water requisitioned.

(b) To the General Public

- (1) Water is available at any hour, since it is supplied through street tanks instead of the usual street hydrants.
- (2) Individuals can draw at any hour convenient to them, instead of scrambling for position when large numbers are trying to draw, as is the case under present street hydrant conditions.

(c) To the Municipality

- (1) Large reduction in wastage.
- (2) Absence of metering, meter repairs, excess water charges.
- (3) An even demand on the water works plant throughout the day.

There are however many objections to this system :—

- (1) The water which has been purified does not improve but positively deteriorates by storage in reservoirs, and it must be delivered to the consumer as fresh and as soon as possible from the pipe itself.
- (2) Purified water loses the natural elements that ordinary water possesses for the destruction of germs and therefore when stored, germs multiply very fast. Some germs escape through all the processes of purification and therefore breed fast when such water is stored.
- (3) Supply by reservoirs being made to individual houses only, any contamination and the disastrous results thereof are not noticed and remedied.
- (4) It is one thing to prevent waste and another thing to induce a habit of miserliness in the use of water. Such a system makes men misers in the storage and use of water and hence sanitation suffers as sufficient water is not used for flushing, cleaning *nahanis*.
- (5) The size of the pipe and the pressure are taken as the basis of the supply to each cistern. The slightest change in any of these two will upset the calculations. The pipe if slightly choked will deliver much less water.

At Asansol in Bengal which is supposed to be the best example of this system, it is calculated that house connections get about three times the calculated quantity of water.

- (6) The reduction of the pressure pre-supposes an excess of pressure or a reserve of pressure which is hardly available at most places. All the places suffer from a want of pressure.

This second side of the financial equation being considered, when it is equal to the first, the water supply is self-supporting.

THE REORGANISATION OF LOCAL SELF-GOVERNMENT

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(I) The Historical Background

LOCAL SELF-GOVERNMENT in modern India has a history of seventy-five years behind it. During the course of this period its evolution was marked by five principles. It started on a recognition of a distinction between services, needs and interests of a local character and those of a provincial and national character ; and among those that have been included in the former are education, sanitation, public health and roads. The second principle is the organization of a separate administrative agency for managing the local services. The Municipal Councils, the District and Sub-district or Taluka Boards, and the Village Panchayats are the most important of these agencies. The consequence of this is that in every administrative area for purposes of Local Self-Government there is a dual administrative agency—one to look after the local services and the other to manage the provincial affairs in the locality. In any scheme of reorganization this question as to whether the dual agency should be continued requires an answer. The third principle is that bodies established to look after local interests should be elected on a fairly wide franchise and they should not contain any official or nominated element. It was only recently that this principle received wide acceptance and it was round this that some of the most important political battles were fought, till at last those in authority in India as well as in England became convinced that this democratisation of local bodies was not only good in itself but was also the most effective means for training the people in the art of self-government. The fourth principle in the evolution of Local Self-Government is the entrusting of elected bodies and their chairmen not only with deliberative but also with executive functions. In early days the Collectors of Districts, the Deputy Commissioners and some other members of the permanent Civil Services were ex-officio Presidents of Local Bodies and as Presidents they not only presided over meetings but also served as executive officers responsible for the due execution of the policies and resolutions of the local authorities. But as time advanced the opinion gained ground that local bodies could not become really

self-governing until this official element was removed from them and until their Presidents were elected. Provision was therefore made for elected Chairmen and Presidents and these continued to exercise the executive authority formerly vested in the Collectors and other members of the Civil Service. The investing of elected bodies and persons with executive authority in the running of the day-to-day administration of local bodies has come in for a good deal of criticism and today a large amount of controversy has gathered round this subject. It may even be asserted that the central problem today is one concerned with the creation of an efficient and non-partisan executive, and the separation of the functions of the Chairman from those of the executive officer. The fifth principle is the relaxation of State Control over local bodies which at one time was extremely rigid and comprehensive. Under the stimulus given by the Montague-Chelmsford Report on Constitutional Reforms this Control was modified in several directions. This has also created a problem as several competent observers have come to the conclusion that it was the relaxation of State Control subsequent to 1920 that is responsible for the present inefficiency of local bodies.

(2) The Validity of the Principles of the Past

The validity of the above principles for our present-day purposes has been questioned in several quarters and it is as a result of this questioning that the need for reorganising the system of Local Self-Government is being felt today. (1) There are practical administrators and students of political science who are of opinion that the distinction between local and non-local services is artificial and that it has lost much of the significance which it might have possessed in former days, and that the structure of local government based on this distinction has become antiquated and worn out. From their standpoint the services hitherto regarded as local are no longer local in character and it is best that they are brought directly under the management of the Provincial Government and administered by the members of the Provincial Civil Services. In the U. P. report on the working of the system of Government submitted to the Indian Statutory (Simon) Commission it is stated as follows: "As explained in the memorandum on the working of the Municipal Boards, the important functions discharged by the District Boards are largely non-local. Education, communications, medical relief and public health work are the most important items of expenditure and they are provincial rather than local." A similar view is expressed especially in regard to education in Bombay where a great deal of controversy went on in respect of the management of schools by local bodies.¹

¹ Page 485, para 349.

² Pp. 22-23 ; 55, Bombay Government Memorandum.

There are again writers on political science who point out that improvements in means of communication, the growing facilities for travel, the ease with which epidemics can now spread and above all the growth of ideas of a national minimum in education, health and social welfare—all these tend to make most services of government national in character and that local authorities with limited jurisdictions and limited finances are not fitted to deal with these subjects.¹

In spite of these weighty opinions it is not wise to ignore the reality of the distinction even today between local and general interests. The distinction is real from more than one point of view. (a) The inhabitants of a locality may be interested in achieving some thing beyond and in excess of the national minimum laid down by the Provincial Government especially in view of the fact that the tastes and the financial resources of the people are bound to vary from one area to another. The necessities of national life may have a uniformity about them; but the comforts and luxuries tend to be diverse. (b) The measures that have to be taken to attain the national minimum need not be the same in every locality. They may vary from locality to locality according to the state of public opinion. For example literary or any other minimum standard of education may be attained through co-educational schools in some places and not perhaps in others. Medical relief may be provided for through Ayurvedic, the Unani or the allopathic institutions. Here is room for variety and such variety deserves encouragement. (c) There are also many services even at the present day which are of a local character in the sense that their supply will benefit the inhabitants of only a particular locality. Street lighting, parks, provision of amusements, theatres, libraries, and museums fall into this category. (d) If agriculture, cottage industries, and similar other projects are to be promoted local circumstances and conditions have to be taken into consideration. From all this the conclusion follows that while some of the services that have hitherto been regarded as local have become quasi-provincial, the distinction between services to be uniformly administered and those in whose administration variety and diversity are essential factors is a real distinction and any re-organisation of Local Self-Government should be based on this. There is therefore no case for provincialising all the services that are now regarded as local.

(2) Assuming that the distinction between local and non-local services is valid it may be asked if the agency for administering local services should be different from the agency administering the non-local services in the same area. The dual agency as it exists at present

¹ Finer : *English Local Government*, pp. 10-16.

is the outcome of several circumstances. (a) A non-local service has to be administered on a strictly uniform basis throughout the whole province in accordance with the rules and regulations laid down by the provincial government. There is no room for discretion in such a service. But diversity is the basis of a local service and those who administer it have to be given a good deal of discretionary power. Questions of policy, of alternative methods of doing a thing, and of the distribution of resources over a variety of items—all these arise in administering local services. They can't be reduced to routine. The administration therefore of a non-local service is bound to be of a routine character while that of local services is coupled with the exercise of discretionary power. The same kind of agency will not be appropriate for both these purposes. (b) From this arises another characteristic. Where discretion is to be exercised it is better on the whole that administration is left not in the hands of one individual but in those of a Council. The choice between alternatives which discretion always involves will be wiser when made after discussion among a number of people than when it is left to the responsibility of a single individual. Such a Council is not essentially in the administration of a non-local service. (c) Apart from these theoretical considerations, the dual agency in our country originated in consequence of the desire that in administering a few services at least, the inhabitants of the land should be allowed to participate. It is the forerunner of the system of dyarchy which was subsequently transported from the sphere of local government into that of provincial government.

In the light of these considerations it may be asserted that it is best that the dual agency is continued. Both theory and practice justify its continuance. Administration of local services involves two tasks—the task of policy-making and the task of policy execution. The administration of a provincial service in a given locality involves only the execution of a policy made at the provincial headquarters by the Cabinet and the Legislature. The Collector, the Executive Engineer, the District Medical Officer, the District Educational Officer, etc. are executive officials pure and simple with very little discretionary authority in them. It does not follow from this argument that the policy arrived at by a local authority or Council should be executed by an agency different from that administering the non-local services in the area. The executive agency may be the same or it may be different. This point will be referred to below. Here it is sufficient to recognise that as the administration of a local service involves the laying down of policy, the agency for this purpose should be different. It is therefore a mistake to entrust the entire administration of such a service to members of the civil services.

(3) The next point to be considered is whether the Council for administering local services is to be a body elected by the inhabitants of the locality. (a) For, there are countries in the world where the distinction between local and national services is recognised and where a separate agency is organised to administer local affairs—to levy taxes, to distribute expenditure among different subjects, to borrow money on the security of local revenues and therefore to lay down policies—but where the agency is a Council consisting of the nominees of the Central Government—though these nominees are selected from among the residents of the locality. And there are writers who are convinced that even under this system there is nothing wrong in speaking of the nominated bodies as autonomous or self-governing so long as they enjoy considerable discretion in all that they do.¹ (b) It may also be argued that nominated Councils are objectionable if the Provincial Government nominating the members on them is a bureaucratic one, not responsive or responsible to public opinion. This was one of the grounds on which objection was taken to the presence of nominated members on the local bodies in our country till 1920. But today the situation is different. The Provincial Governments have become democratic and responsible and nominations by them have not the same serious objection as before. The writer in the *National Municipal Review* referred to in the footnote states that “a similar question came up when Germany was a democratic state. At that time it was said that in a democratic state a Municipality was only another democratic unit and there was no need for it. It had been recommended to dispense with the Municipalities as individual administrative bodies and to embody them in the state administration.” There are politicians in our country today who think on these lines but a reorganisation which creates nominated instead of elected councils will prove to be most injurious. (c) That local bodies should be constituted on an elective basis has been the opinion held so far by officials and non-officials. To revert now to a nominated system will be a reactionary step. It will throw an unnecessarily heavy responsibility on the provincial cabinets and introduce irrelevant local issues into the provincial legislature. (d) Moreover there is nothing to indicate that so far as policy-making is concerned elected local bodies have been failures. In the opinion of the Indian Statutory Commission,² “there has been a very general and very marked growth in the interest taken in the extension of education and of medical facilities.” The voters have in recent years been showing greater interest

¹ Gotthilf Bronisch: *New Local Government in Germany*, pp. 518-19. *National Municipal Review*, September 1936.

² Report para 353.

in elections. They have learnt that they should look to representatives on local bodies and not to the district Collector for getting many of their grievances redressed.¹ The defects noticed relate to the existence of communal differences, the unwillingness of the representatives to resort to additional taxation, the tendency to jobbery, and delay and inefficiency in the discharge of executive duties. Of these defects, the first is not peculiar to local bodies. It is vitiating the whole political atmosphere in the country and its disappearance depends upon several factors which have no bearing on the reorganisation of local bodies. The unwillingness to resort to additional taxation is again not a special defect with Indian local bodies. Even in England, "people are not passionately anxious to contribute to the rates. At all times, indeed, a great force has been needed to overcome their repugnance to being taxed.

.... The result is that local authorities have always had to be urged forward forcibly, either from outside or by some of the more convinced or interested of local citizens." As regards jobbery the Indian Statutory Commission has stated that it is not a feature peculiar to India, and such a practice is very difficult to eradicate.² Even in England, "the vacancies are often, but not always, advertised; and simple patronage, appointment on political grounds and appointment of relatives, simply because they are relatives, are occasionally encountered." As regards the inefficiency in the discharge of executive duties the remedy lies in depriving the elected councils and chairmen of such duties and transferring them to a separate executive. Reference will be made to this point a little later. (c) There is above all the fundamental consideration that all parties are distinctly in favour of democracy as the future form of government for India in spite of the loss of prestige from which it is suffering today in most parts of the world. With democracy as the foundation for the political system of the country it goes without saying that local bodies should also be democratic. The following words in Montague-Chelmsford Report forcibly bring out this idea: "The unskilled elector ...

(4) It is against the fourth principle referred to above that the largest amount of criticism has been directed. The mistake really lay in the failure from the very beginning to separate the functions of the President from those of an Executive Officer. In early days the Collector was the ex-officio President and the Executive Officer of District Boards and also of Municipal Councils in some provinces. If he had merely been the

¹ U. P. Report p. 510.

² Finer : *English Local Government*, p. 370.

³ Para 355.

⁴ Finer : *English Local Government*, p. 254, also Hasluck : *Local Government in England*, pp. 71-2.

Executive Officer without any substantial share in the policy-making by the local bodies the objection to his association with local government would not have been very formidable. But as President he was able to dominate the local bodies and interfere with the freedom of discussion and the formation of a sound policy based on the opinion of the representatives. The Collector is no ordinary official. He is the Magistrate of the District and is responsible for its peace and order. The combination of judicial and executive authority in him has made him a sort of a petty despot. And no one could afford to oppose him or incur his displeasure. So long as he was the President the local body had no individuality; and self-government was unreal. "He dominated the meetings as much as the administration; his views and decisions were almost invariably accepted without question and often without discussion. Cases are known where the resolutions used to be drafted in the district office and only the formality of a signature after a brief exposition of the agenda and the proposed action was gone through in the Boards' Meeting. Rural local self-government was almost a name." So the progress of genuine self-government required that neither he nor any other member of the Civil Service should be ex-officio president of any local body. This was what was achieved by legislation from 1920.

The mistake however lay in depriving him of executive authority and in entrusting that authority to elected chairmen and presidents. It was a mistake from several points of view. Elected persons are not whole-time salaried officers of the local body. It was only their spare time they could devote to discharging these executive duties. They are raw and inexperienced and work falls into arrears. Inefficiency has come to rule everywhere. The office is practically run by the head clerk or the manager. Moreover the elected President belongs to some party or other. He is in power only for three years and in some provinces he could be removed even within this period by a vote of no-confidence passed by the local body. Even otherwise he has to justify his conduct at the next general election. This makes his position as an administrator quite dubious. He has to make appointments to satisfy his party; to enter into contracts with the same purpose. Efficiency and economy suffers. What an officer with a permanent tenure of office can accomplish is not possible for the elected president. The memoranda submitted by the Provincial Governments to the Indian Statutory Commission supply convincing proof of the evils arising from executive authority being vested in elected bodies and persons.

¹ U. P. Report, p.

² U. P. Report p. 408 ; p. 431 ; p. 506.

Bombay Report, p. 158.

Indian Statutory Commission Report, p. 309.

No reorganisation of Local Self-Government will be satisfactory unless a right solution is given to the problem of the executive in a local body. Elected Councils and their Chairmen are naturally unwilling to part with their executive authority. But the situation requires that a strong, efficient and non-partisan executive should be created if democracy and efficiency are to go together. Politicians whose main business is talk should not be put in positions which require special administrative ability for success. It is only by a proper adjustment of the relations between the amateur and the expert that democracy can succeed.¹

(5) The principle of the relaxation of State Control over local bodies has also created a certain amount of confusion. Here the question is not whether there should be State Control at all. The local bodies are Corporations created by an act of the Provincial Legislature for certain purposes. As such they possess a limited autonomy. This point need not be elaborated. What has to be emphasized is that local bodies and Provincial Governments should not look towards each other as if they are rivals. The relations between them are of a co-operative and complementary character. Every extension of Provincial Control should not be regarded as amounting to a diminution of local freedom. Both are engaged in the same task of promoting general welfare. Historically however the fact that the State that exercised control over local bodies in India was until very recently a bureaucratic State has been responsible for the feeling that all State Control is bad; and it is this attitude that has to undergo a change.

The Montague-Chelmsford Report² laid down the wholesome formula that "there should be as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control." Legislature was undertaken in all provinces to give effect to this formula and State Control was relaxed to a great extent. The Indian Statutory Commission has however observed that there was too much of relaxation and that it has consequently contributed to the inefficiency of local bodies. This observation is not correct. Even after the Legislation of 1920 Provincial Governments have retained a considerable amount of control in their hands.³ Moreover a comparison between the position in England and in India shows that control in India is as comprehensive as it is in England and extends to rule-making on all sorts of subjects, to prescribing the qualification and tenure of officials, to action in default, to the sanctioning of loans, to the making of enquiries and

¹ Prof. T. V. Smith in *Public Management*, 1937, p. 365.

² Para 188.

³ For details see Madras Memoranda pp. 404-5; Bombay Memoranda p. 160; U. P. Report pp. 452-3, 447.

obtaining of reports, to the audit of accounts and surcharging of the persons concerned, to carrying on inspection and the withholding of grants. And these are the several kinds of control that the Central Government in England exercises over the local authorities.¹ It is not therefore correct to say that control is not provided for in India at present. The Statutory Commission is also wrong in stating that under the old system when the district Collector was the official chairman the control was effective. For the truth is that in those days the Collector as the agent of the Provincial Government controlled his own work as the chairman of the local authority. Both before 1920 and after it, the defect in respect of control lay essentially in the absence of a suitable machinery for exercising it. There was no regular inspectorate for instance competent to look into the work of local bodies and making the Provincial Control effective in character. In one sense it may be said that the situation has improved after 1920. The district Collector has ceased to have any direct connection with local bodies and as the agent of the Provincial Government in the district he has the right and the power to inspect, to take action in default and to control the local bodies in several other ways. There was also another serious defect in this regard throughout the whole period of the history of Local Self-Government. The potential value of controlling local bodies through friendly advice and guidance was not realised due in the main to the fact that at the Provincial Headquarters there were not officers specially trained for this purpose and capable of giving the necessary guidance. The mechanical nature of the annual administration reports is proof of this lack of intelligent understanding of the problems of local Government on the part of the officers of the Provincial Government. Apart from this, in the period subsequent to 1920 the Ministers in charge of Local Self-Government were not anxious to exercise any control—unless it be for purposes of strengthening their party and political connections—even though there was ample legislative provision for it. As is stated in the U. P. Report, "Government's policy was not only to avoid interference but even helpful action if it was liable to be mis-construed as interference or encroachment." Owing to the financial difficulties of the period the Government was unable to make use of organised grants-in-aid for extending its control and making it effective.

(3) Suggestions for Re-organisation

In the light of the above analysis it is clear in what directions re-organisation is immediately called for. (1) All idea of abandoning the distinction between local and provincial services, and of managing the

¹ Finer: *English Local Government*, p. 289.

present local services through departmental officers on the score that local boards have been found inefficient should be abandoned. The distinction between control and management should not be lost sight of. Management of local services should be left in the hands of local bodies while control should be kept by the Provincial Government. (2) The system of control should be organised through the strengthening of the staff required for the purpose. District Collectors must pay more attention to this branch of work. Their supervision and control will be of a general character. The control over technical departments like education, health, medical relief, roads and buildings etc. should be exercised through officers of the Provincial Headquarters and their assistants. The Director of Public Instruction and the Deputy Directors, the Director and the Assistant Directors of Health, the Sanitary Engineer and his assistants, the superintending engineers working in the different parts of the provinces constitute the nucleus of the machinery of control. Wherever necessary this staff should be strengthened. To carry out inspection of a general character every province should have a number of inspectors of Local Boards and Municipalities as is already the case in Madras. In addition to this the Secretariat attached to the Minister of Local Self-Government should constitute the central directing agency and it should consist of those members of the superior civil services who have a special aptitude for work in the department of Local Self-Government. It will be necessary to depute some of them to foreign countries for studying the working of local institutions there. With these changes in the machinery of control many of the defects in local administration can be removed.

(3) Every scheme of re-organisation should provide for local bodies being elected on a wide franchise. Want of space precludes a discussion of whether the franchise for local bodies should be wider than that for Provincial Legislatures. But this is a question that requires more consideration than is usually given to it.

(4) In all elected bodies provision should be made for the transaction of business through Statutory Standing Committees into which experts and outsiders may be co-opted. The Committee system is all the more necessary in the case of District Boards. Members of these boards are scattered over a wide area and meetings of the Board as a whole cannot be held frequently. Business has therefore to be transacted through Committees to a much greater extent and the District Departmental Officers must find a place on them preferably as secretaries.

(5) More important and urgent than these reforms is the creation of a strong executive. Here three alternatives may be thought of. The

¹ Compare R. C. K. Ensor : *Politica* : August 1935.

Collector may again be made the Chief Executive Officer of all the local bodies in the district. But this alternative is open to many objections. He will re-establish his position of dominance over local bodies; he cannot be the Executive Officer of all local bodies in the district at the same time; the more appropriate position for him is that of the local agent of the Provincial Government exercising supervisory powers; and above all public opinion will not tolerate the resumption of Executive Authority by him. A second alternative is to create a Local Government Civil Service and provide Executive Officers to Municipal Councils and District Boards through it. Members of this service will have to be recruited through a competitive examination. But taking into consideration the small number of Executive Officers that will be required and the very few vacancies that will arise from year to year it does not appear desirable to have a separate local civil service. The third alternative is to have a unified civil service for the whole province the members of which will be serving as executive officers of local bodies or in the other departments of Provincial Government. This appears to be the ideal system. One system of competitive examination, one method of recruitment, a single public service commission, a single set of rules regulating emoluments, promotions and discipline and tenure—this will work out most satisfactorily. The lower grades of civil service as well as the clerical services may be recruited on a uniform basis for both the Provincial and Local Administration. In the case of Health Officers, District Board Engineers and District Panchayat Officers and Municipal Commissioners in the province of Madras provincialisation has given satisfactory results. The extension of this principle is what is required. With the introduction of this system every local body will have a non-partisan executive officer and the chairman will preside over meetings and play a dignified part on ceremonial occasions. It is on lines like these that the executive has to be reformed and it is this phase of re-organisation that is most urgent.

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MUNICIPAL ENTERPRISE IN BANKING IN INDIA

By **KHUSHAL T. SHAH,**

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1. Provision of Banking facilities by the Municipal authority in the leading towns of India,—organisation of Banking business under Municipal control and management,—seems to be becoming increasingly more necessary by the nature and variety of the functions our principal Municipalities are required to perform. The suggestion, however, for the establishment of such an institution, if made even by such a large Municipality as that of Calcutta or Bombay, is likely to be opposed, not only by the might of the vested interests affected, but also by mere momentum of *vis inertia*. These objections, however, will not be taken crudely in the name of the interests affected; but may take the shape of legal and constitutional obstacles based upon the lack of proper authority for the establishment of such a Bank. Let us, therefore, consider, in the first place, how far such objections could validly be advanced against the proposal.

2. The obligatory duties imposed, for instance, upon the Municipal Corporation of Bombay by Section 61 of the City of Bombay Municipal Act, read in conjunction with the discretionary powers or duties conferred on the same body by Section 63 of its Constitution, make the raising and investment of large sums for capital construction inevitable. Even apart from the duties cast upon the Corporation by the transfer to it of the Assets and Liabilities of the City Improvement Trust, the Bombay Municipality is obliged to construct and maintain sewage works, water works, roads and schools; burial places or others for the disposal of the dead; markets and slaughter-houses; hospitals and dispensaries; and carry out reclamation of unhealthy areas. These are fairly wide powers and duties; and several of them, if performed on a more extensive scale than the Corporation do at present, could be easily made to be self supporting, and even earning assets for the Municipality.

3. Under Section III, constituting the Municipal Fund, the Corporation seem entitled to receive in that fund:

'all moneys received by or on behalf of the Corporation from Government or private individuals by way of grant or gift or deposit'.

Section 122 permits the depositing of any surplus moneys from the Municipal fund in a Bank, or to be invested in Public Securities. Sections 106 *et seq.* give wide borrowing powers, including issue of mortgage debentures, borrowing on cash account from Banks or against securities, and for the investment of Sinking Funds and other balances. Though there are certain restrictions regarding the amounts to be borrowed at a time, and the maximum indebtedness outstanding at any time, as also in regard to the provision to be made for repayment of the loans, these restrictions are not such as to interfere materially with ordinary banking business, if the Corporation were decided to start such a venture on their own.

4. The need for an ordinary Municipal Bank in such big centres is emphasised by the volume of purely banking business that these cities have to carry out every year on their own account; and for which they have today to pay no inconsiderable sums to the Banks which conduct such business for them. The Bombay Municipal Corporation, for instance, pays some 18,000 rupees per annum to the Imperial Bank of India, in Bombay as well as in Calcutta, simply on account of the management of its public debt. Every time, again, that the Corporation has to raise a loan, it has to pay advertising and commission charges that absorb as much as 1% of the loan raised. These are sums large enough to pay for the expenses of management of a Municipal Bank, directly owned and conducted by the Corporation, even if there were not additional profit likely to result from the conduct of such an enterprise.

5. Though the borrowing programme of the City of Bombay Municipal Corporation has had to be considerably curtailed in recent years because of the prevailing depression, its normal requirements for productive borrowing used to average about Rs. 25 lakhs in predepression times. With the obligations resulting from the transfer to the Corporation of the Improvement Trust and the wide programme of civic improvements still awaiting execution, the need for borrowing on Municipal Security for productive purposes is constant and considerable; and in the absence of a Municipal Bank of the Corporation's own, they would have to spend every year sums ranging from Rs. 20,000 to Rs. 50,000, simply on account of banker's commissions for the management

of the city's borrowings. The cost, on the other hand, of operating a City Municipal Bank—working, it may be added, for the sake of an economy, in co-operation with other similar institutions in the other Capital Cities,—would, as would appear more clearly below, be within even this amount of expenditure.

6. Apart from the ordinary borrowing by the Corporation, there are very considerable sums, which require constant banking, investment, and realisation. In these a Municipal Bank could render substantial service to the City. The Bombay Municipal Corporation had, for example, on the 31st March, 1936, a total Municipal Debt (including Improvements indebtedness) of Rs. 33.86 crores, with an aggregate interest charge coming well over Rs. 1½ crore per annum. On the other hand, there were investments and Balances to the credit of the Corporation, aggregating Rs. 4.32 crores, which were invested, in deposit with banks or otherwise, on an average for 89.87 days in the year. This means that, throughout the year, the average investment by the Corporation amounts to Rs. 1,064 crores. Such a sum, properly invested by a Bank in close and daily contact with ordinary money-market, would yield an interest of about three to four lakhs, as against a very much smaller amount actually realised.

7. Had there been a Municipal Bank in existence, it would have easily prevented the accumulation of heavy surplus balances lying idle or with very poor earning capacity. Likewise, it would have made a much better use of the sum in the service of the City, its industry or the development of such resources, which are, for all practical purposes, unavailable to the Corporation themselves for internal economy or civic development, under present conditions. If the Corporation were minded to institute their own gas or electricity plant for purposes of civic lighting and power supply; or to institute its own local transport service; or acquire when the present agreement expires, the City Tramways Company, it may not be lacking in the funds required to set up such enterprise. But without a Municipal Bank, the carrying out of the financial part of such ventures would, by itself be a very costly business, if the Corporation have not a banking department or agency of their own.

8. In addition to the sums in Current Accounts with other banks in the City, or in fixed deposits, there are in Bombay considerable sums in special funds, which amounted, on 31st March, 1936, as follows:—

Municipal Fire and Accident Insurance Fund	Rs.
Net Premia Fund	7,98,510
Provident Fund	58,58,837
Fines Fund	97,61,130
Plant and Machinery Depreciation Fund	4,93,838
Renewal of Road Surface Fund	16,64,849
Gardens Fund	14,59,512
	29,278
Total Rs.	2,00,65,954

These amounts must be invested. Though the investment of some of these funds may be closely regulated by the Municipal Act, there can be no doubt that, in the hands of a properly conducted Municipal Bank, their investment, even within the terms of the law, could be made easily to yield a much larger return to the Corporation than is the case today.

9. The Sinking Fund established under the Act in respect of the various Municipal Loans, outstanding amounts to over Rs. 3 crores. The market value of the securities in that fund is perhaps slightly more. Here again, is an amount, which could, properly managed by a Municipal Bank, be made to be much more productive than it seems to have been so far.

10. For all this Banking business in Bombay at the present time, and in the absence of a Municipal Bank, the Executive Officer comes before the Standing Committee of the Municipal Corporation, from time to time, and as occasion arises, with proposals for investment in current accounts, or fixed deposits, or more permanent securities with better yield than either of the preceding two. There is, in such a procedure, no possibility of a well thought out and consistent policy of investment, carried out steadily with expert knowledge and close contact with the regular money market calculated to serve the best interests of the City, and yet yield the best possible return. The Municipal executive invite quotations from the city banks for any moneys they want to be deposited. Each Bank is subject to a certain maximum limit of deposit from Municipal resources; these quotations are generally accepted as put forward by the Municipal Commissioner, without any helpful criticism or suggestion from the Standing Committee. There is no evidence to say that the banks making such quotations may be combining to offer the lowest rate they could possibly do for such

deposits. The competition, however, for obtaining Municipal Deposits, even of very considerable sums, and for fairly long periods is not so severe, as one might expect. Hence there is reason to believe that, given a Municipal Bank of the Corporation's own, this source could also be made to yield much more than the Corporation receives today.

11. Even the normal routine work and finance of the Corporation occasions considerable need for banking facilities. The Corporation is a very considerable employer of skilled and unskilled labour, and disburses something like a crore of rupees every year in salaries, wages, pensions and provident fund accounts. If these payments were made through a Municipal Bank, considerable sums might remain with that institution on current account of Municipal Officers and Servants. This would help to forward habits of saving and economy, to the advantage as much of the individual officer or servant concerned, as to that of the Corporation and the City collectively. If the example were once afforded of practically all Municipal Servants banking with the City Bank, the public at large would be easily attracted to follow suit; and the volume of moneys on deposits with the civic institution might soon become considerable.

12. The experience of over twenty years of the Birmingham Municipal Bank would serve as an illustration for the main thesis here advanced, that, once a Municipal institution of this type is started, the natural pride of the citizens in their own local creation would lead them more and more to patronise that institution. In its turn, that institution by a number of branches and appropriate business hours suited to the varying conditions of the different localities of the City, could easily serve the banking needs of the general population, and even promote banking habits, saving and economy, which are today among the major desiderata of our national economy. Much would, of course, depend, in this regard, upon the scope of business allowed to the Municipal Bank. But once a start is made, the mere momentum of such a start would go a long way to suggest improvements and facilities, which would automatically make the institution progressively successful and prosperous. The amount of deposits in the Birmingham Bank had risen from less $\frac{1}{4}$ of a million sterling in 1920 to over £17 million in 1934; the number of accounts from 40,130 to 3,74,799.

13. The volume of business and its variety, transacted by this Bank in 1934, is indicated by the following:—

Deposits	£
Withdrawals	7,178,079
Mortgage Advances	5,911,082
Repayment	200,706
Water Accounts	350,016
Dust Bin Hire	120,887
Electricity Accounts	410
Gas Accounts	137,075
Rate	154,309
	350,614

This is the tale of a very conservative institution, worked in a conservative town, on conservative lines. No wide stretch of Municipal enterprise in transport or building or other utility services is noticeable. Hence the above brief review of its progress promises even more than these figures show, for a more progressive, enterprising Municipality, where Municipalisation of Public Utility Services and general civic needs is undertaken on a considerable scale.

14. Before we pass on from this story of the Birmingham Municipal Bank, let it be added that the Bank paid £460,672 by way of interest on deposits in 1934, and earned £610,378 in interest, rent and commission. After paying operating expenses of £75,247 (including £51,916 by way of salaries and wages), providing £22,858 for depreciation; paying income-tax of £19,680; and defraying non-recurring expenditure of £16,061, there was a net profit of £15,857 in 1934. The working expenses amount to 12% of the net income and about £1 for every £200 of deposits. This does not seem a very costly business to work.

15. This is, no one will dispute, a very encouraging example of a City Bank, in a town of about $\frac{1}{4}$ million population. Calcutta and Bombay have both much larger population to serve. And although the wealth of the people in Birmingham may be greater than that either in Bombay or Calcutta, the task before the civic authority of either of these Capital Cities of this country is no whit less important. The services of a Bank would be, accordingly, as necessary as they would result in handsome savings to such Municipalities in India, if only they would make up their mind to institute such a department of their Municipal organisation.

The main objections to the institution of a Municipal Bank (savings, to start with; but for all the ordinary Municipal financial and banking business in course of time), are grounded on: (1) the relative lack of familiarity with such constructive chapters in Municipal activities;

(2) the suspicion that the necessary talent and probity are not available in the ordinary staff; (3) the fear of corruption or dishonesty in the available talent in Municipal services and above all, (4) the force and might of vested interests, the existing banks doing business in our leading cities. The last is intelligible, but ought not to be encouraged, even indirectly, by endorsing the objections and obstacles the spokesmen of such institutions endeavour to throw in the path of any the most desirable expansion in Municipal activities. The first is equally understandable; but it makes a difficulty by no means insurmountable. It is, therefore, the second group of objections, lack of the necessary experience in the Municipal staff to conduct a bank, and the dread of corruption undermining the working of such an institution, that at all deserve consideration. Municipal Banking is, however, not so utterly peculiar than those who staff our existing banks in the great cities cannot provide the nucleus of a personnel to start successfully a Municipal institution of the same kind. And even assuming that native talent is lacking in knowledge and experience, that one could always get experts' help, native or foreign, to start the institution. The apprehensions on the ground of possible corruption or favouritism are such to counteract by proper regulations for the selection of the staff and general working of the Bank.

16. If these objections are overcome, as they very easily might be, and if there are no legal or constitutional difficulties in the way of starting such an institution, in our leading cities to begin with, the business to be entrusted in the first instance to the Municipal Bank in India may be classified as follows:—

(a) Management of the Municipal Debt, floatation of Municipal loans, and facilitation of other borrowings by the Municipal Corporation, including lending from the Bank's own deposits to the Municipal Corporation for stated objectives. In so far as under the existing Act the management of the Municipal debt is to be entrusted to the Imperial Bank of India the law would have to be amended or Corporation Resolution governing the procedure will have to be modified. Rules will have to be made also for the guidance of the Bank to conduct this part of the business entrusted to it.

(b) Investment of Municipal Balances and surplus cash, as also of the Sinking Fund amounts required under the Municipal constitution for the indebtedness outstanding. Here also the provisions of the law governing the Sinking Fund and its investment will have to be modified and the present practice changed under the rules made by the Corporation for the carrying out this function of the Bank.

(c) Collecting Municipal revenues and making the Municipal disbursement on revenue and non-recurring accounts, as and when required by the appropriate Municipal authority. This is an ordinary business of the Corporation which is at present carried out departmentally but it would promote economy if conducted by a special department of the Municipal Bank.

(d) Receiving and investing Savings from Deposits from (i) the Municipal Employees; (ii) the general public; (iii) Municipal school children, subject to such regulations or by-laws as may be enacted by the appropriate authority for this purpose. Rules will have to be made for the guidance of the Bank regarding the maximum amount, if any, to be fixed and receivable by way of deposit as also the custody and employment of such deposits and the management of Cash Balance necessary to meet liability on account of such deposits. It would, of course, be not compulsory on Municipal employees to bank only with the Municipal Bank, but it may be hoped that the mere momentum of local patriotism or *esprit de corps* will bring the largest proportion of the available surplus fund from such quarters by way of deposits into the Bank. Though nothing is added here with regard to loans or advances to be made to such customers of the Bank that ought to be an important item also of the Bank and definite rules will have to be made for the regulation of that department of the Bank.

(e) Receiving and investing other deposits from (i) the Municipal Corporation and other institutions of a local character; (ii) from the city public; (iii) from Municipal employees. Same remark applied as in the case of (d).

(f) Investing the Bank's resources in (i) Municipal securities, or (ii) such other purposes, e.g., enabling citizens to buy their own houses, or facilitate the acquisition by the Municipal Corporation of profit-making Public Utility Services as may be authorised under the Municipal Bank Act (if one be necessary for the purpose) or the regulations governing the working of the Bank. This would be the earning of the Bank and greatest care would have to be paid to make regulations for the satisfactory conduct of the department. Model rules for the operations in this department defining the authority of the General Manager of the Bank as also of the Management Committee of the Bank could be obtained from any of the existing Banks and rules may be framed for the Municipal Bank on their analogy with such modifications as Municipal administration requires.

(g) Doing such financial business on behalf of the Corporation (e.g., investment of Provident or Insurance Funds of the Corpora-

tion) as may from time to time be assigned to the Bank by the appropriate authority in the Municipality. The Municipal Act as well as the Resolutions of the Corporation will have to be considered and the regulations modified for the carrying out of this part of the Bank's business.

(h) Doing similar banking business for the public at large, being customers of the Bank, as may, under the Act or the Regulations governing the Bank, be open to the Bank to do. In particular, and without prejudice to the generality of the foregoing, to provide easy borrowing facilities to the citizens on adequate security, and with all proper safeguards for the regular payment of interest to the Bank and the safety of the principal sum so advanced. Competition and fresh objections will have to be feared most, from the existing Banks and vested interest for this department and it will perhaps be wiser not to commence it at once. If the Bank has gained sufficient experience and has obtained a solid footing it may perhaps be easier to commence operations for this department.

(i) Promoting habits of thrift and economy of the actual coin or currency, by a system of Municipal Bank transfers on behalf of the customers, on the lines of the Giro system of Bank transfers in Germany.

17. These several classes of Banking business, proposed to be assigned to a Municipal Bank in India, may not be all undertaken immediately on the institution of the Bank, nor all at once. Experience will easily, and steadily, indicate the directions in which progress could be made without risk; and service rendered with more than of proportionate benefit to the City or its population. The Bank, if established, would, of course, be governed by a special Committee of the Corporation with a carefully selected permanent staff, which would combine knowledge of the routine banking business with sympathy for the ideals which inspires suggestions of the Act authorising the creation under the Municipal aegis, of such an institution and duties; or appropriate regulations describing and conditioning the nature of business the Bank should perform for the Corporation, its employees, and the general civic public. The Bank may have branches in the City; and be authorised to work as agent in a given city for the Municipal Corporation of a sister community. It may be even permitted to open a branch for and in another Municipal centre, as the Birmingham Bank is allowed to do. If these branches are working in accordance with the peculiar requirements of the particular areas of population they serve, e.g., working class areas to be open in evenings, or on Sunday mornings; provide transfer coupons for the remittance of funds free of charge, easy means of savings deposit, systematise and popularise the use of

thumb marks in lieu of signature in the case of illiterate clientele, there is every reason to believe that the enterprise would prove a great success, even commercially speaking, because it would meet a great need of modern civic communities, like those of Bombay and Calcutta.

Skeleton Scheme for Municipal Bank for Bombay City

I. Setting up the Bank

In order to make a little more precise and definite the general lines sketched above, I attach a skeleton scheme of a Municipal Bank for a city like Bombay or Calcutta.

(A) For setting up of the Bank, if no special Act is needed for that purpose, a Corporation Resolution would be necessary. Something corresponding to a Memorandum and Articles of Association in a Joint Stock Company will have to be drawn up under the Municipal Act, or under a Corporation Resolution, to define the nature and scope of the Bank, to lay down its functions, and to provide for its direction, control and management. The Bank should, of course, be owned by the Municipal Corporation, and conducted as part of Municipal enterprise.

II. Capital

(B) Capital for the Bank. For a Municipal Bank capital is not needed by way of security or assurance to those who do business with the Bank. The credit of the entire civic community would be behind that institution; and so no owned capital of the Bank itself is necessary. Still, if orthodox convention has to be satisfied, in form at least, it seems to be well established practice in the Banking world that the paid-up Capital of a sound Bank should be from one-twelfth to one-tenth of the *aggregate call deposits*.

The minimum Deposits, which a Municipal Bank in Bombay may well expect, may be estimated as follows:—

(i) Amounts deposited by the Municipal Contractors. Besides their ordinary Deposits every time a Tender is asked for, this class of people would find it very convenient, even for their ordinary business, to maintain reasonable Deposits with the Municipal Bank especially if the Bank has a number of branches within the City. This source may yield as much as Rs. 25 lakhs in Bombay.

(ii) Deposits from Municipal servants or officers. As far as the higher officers are concerned,—i.e., those drawing Rs. 250 or more,—it would not be an over-estimate, I think, to expect them to deposit from one-half to one-third of their salaries. Taking only a third of the total salary bill of the Municipal employees as likely to remain always on call

deposit from month to month, the amount from that source would be Rs. 5 lakhs in round terms.

(iii) Deposits from Municipal Funds and balances, including the Revenue Receipts from day to day. Against these, of course, there would be the disbursements; but, given the existence of a minimum cash balance obligatorily, maintainable by the Bank, I should say, there would normally be a surplus of receipts over disbursements. However, not any very large amount could be expected from this source.

(iv) Deposits from rate-payers, and citizens generally. This is an incalculable quantity; but large enough, under any basis of estimating, to make of this a very substantial source of deposit in the Bank. Given a number of branches in the City and convenient hours for working in the several branches, a far larger proportion of the City public may be attracted to deposit in the Municipal Bank,—and the banking habit may spread among the people in proportion,—than has been attempted by any banking institution so far. The City of Bombay has Bank deposits in privately owned joint stock banks aggregating some 30 crores from the public at large. Half of this may be needed for the ordinary business of those depositors, which perhaps, a Municipal Bank would be debarred from. But even if the Municipal Bank attracts its share from the remaining half, and gets, to start with, no more than a third or a fourth of that amount, we may reasonably expect a deposit of about three crores from that source alone.

(v) There are other Municipal Funds,—Provident Funds, Insurance Funds, Sinking Funds, Renewals and Replacement Funds,—the un-invested balances of which may remain on deposit with the Bank.

Altogether, if we expect an aggregate Deposit of Rs. 5 crores, the Capital needed would be 50 lakhs paid up. If only half of the total nominal Capital is called up in the form of Municipal Bonds, the authorised capital,—to use the inept language of the Companies Act,—would have to be 1 crore.

(a) Mode of obtaining Capital

The next question is: How is this Capital to be obtained. There are two ways of financing a bank, such as is here contemplated.

(a) By issuing shares—confining subscription only to Municipal rate-payers, Municipal Contractors, and Municipal officers. If a very substantial proportion of the City population is found to be outside the category of Municipal rate-payers, the privileges of subscribing for the shares may be extended to all the citizens, with a prescribed minimum of residence within the City to qualify them for subscribing.

A Shareholders' Bank would, however, be contradictory of the fundamental idea of such a Municipal institution. Even if we limit the rights of participation in the profits of the Bank to a prescribed maximum of dividend, the fact that the Municipal Institution is, under the theory of the law, owned by private individuals, would not be desirable in itself; and may be productive of future complications in the working of the institution.

(b) The other alternative for finding Capital for the Bank is to provide it from Municipal Funds, whether from the balance of some existing Fund or Funds, or from specially borrowed Capital. In the Bombay Municipal Corporation, the alternative does not seem to be impracticable. But, assuming that the latter has to be resorted to, a loan of 50 lakhs of rupees at most to form the capital of the Bank either by special Bonds, or by *Guaranteed* debentures,—such as Government have done in connection with the Bombay Provincial Co-operative Bank, or in the case of the recently started Land Mortgage Bank, would not at all be difficult to raise, under the present conditions of the Money Market in the City, and for such a purpose. The guarantee may be both (a) in respect of regular payment of interest on the Bonds until maturity, and (b) of Capital as well in a stated number of years. A guaranteed Debenture Stock of 3½% for 30 years ought easily to provide all the Capital that a Bank of the kind herein suggested would require. I would definitely prefer the latter alternative, if any owned capital of such a Bank is at all deemed necessary.

(b) Restrictions on Rights of Capital

However the Capital is raised,—Shares, Bonds or Debentures,—there would have to be restrictions on the class of persons allowed to subscribe as regards (a) the negotiability in open market of these scrips; and (b) the amount to be subscribed by each individual. This last relates to voting power, if any is to be given to bond-holders, debenture-holders, or share-holders, in regard to questions of administration. They can have, of course, no say in determining the general policy of the Bank. (c) There will also have to be a definite restriction as to the amount of return that can, under any circumstances, be made to the proprietors of the Bank. This Bank would be a public utility concern, whose primary object would be, not to earn an ever-increasing profit for its proprietors, but to render a service to the community. In proportion as the Bank is a success, the benefit should be given away more and more in the form of lower charges for the service it affords, and better provision of such other facilities or amenities as the civic public need and desire to obtain.

III. Functions and Business of the Bank

Having found the Capital, the next question would be the Functions of the Bank. These would have to be very carefully defined.

Its very name makes it, first of all—

(1) A Bank for the Municipal Corporation, i.e., it would undertake all financial business on behalf of the Municipal Corporation, collecting and receiving its revenues, making payments of all current expenditure on its behalf; raising loans for it; and investing such of its balances and Special Funds, as need to be invested from time to time,—subject always, of course, to the requirements of the law in each instance. Definite conditions would have, of course, to be laid down in case the Bank makes loans to the Corporation from its own deposits. Not only the object for which loans could be made have to be carefully prescribed; the amount of such loans, the interest payable, the security to be given by the Corporation, the relation of any such loans, outstanding at any time, to the total volume of deposits at call in the Bank will also need to be carefully regulated,—though power may be given to the Corporation to vary these limits from time to time.

The Bank may, secondly, act as an ordinary Bank for:

- (i) Municipal Officers, and
- (ii) Municipal Contractors.

That is, the Bank may hold deposits from both these classes of people, make payments on cheque against such deposits on account of such customers, and even make advances to them on approved securities, and subject to prescribed maximum in each case, as well as in the aggregate. Detailed rules will have to be laid down to regulate scientifically this class of business, which I think ought not to be prohibited to the Municipal Bank; but which I agree, should be allowed only on very carefully prescribed conditions.

Thirdly, the Bank should also be a Citizens' Bank, if not for all ordinary dealings, at least by way of a Savings Bank and for Safe Custody. It is while acting as an ordinary Bank for the Citizens that the Bank would need a large number of branches, if its services are to be available to the largest number in the City. And it is in this connection that I expect a Municipal Bank to render the greatest service, though one which would admit of concrete valuation the least. It would promote habits of thrift and of Investment; make people familiar with Banking as such; and draw out resources that today lie utterly idle. It is from this source that I would expect the safest as well as the soundest

finance to come, eventually, for the provision of those innumerable civic amenities and services which are today still lacking even in the first City in the country.

The Investment of all the Bank's liquid resources will be a most delicate and difficult task. The Instrument of institution or constitution for the Bank will have to provide a guide and a standard very minutely in this connection. But even with the aid of that guide the actual managing authorities of the Bank will necessarily be given a considerable margin of discretion, whereby they might promote the interests of the Bank, the Corporation, and the civic public at large. The investment will be only in specified classes of securities—mostly of a municipal character. But even so there may be a fair margin for good profit. The investment of the Savings Deposits from the citizens at large will have to be even more carefully regulated. Only in projects approved in the city Corporation could such amounts, or any portion of them, be invested. The security created out of such investment should be productive, valuable and easily realisable. Civic development, provision of houses for citizens who could afford to pay an economic rent, the financing of productive Public Utility services within the city, may all come within this category. Lighting and power, drainage, transport, public hotels, theatres, etc., may all serve the turn.

This being only a skeleton scheme, it is unnecessary to particularise further the business of the Municipal Bank, if and when instituted, should do. There is the model of the Birmingham Municipal Bank to guide us in the first instance. And there is always possible the light of our own experience as and when it is acquired. Briefly stated, the Bank should be allowed to do normal banking,—other than commercial or industrial financing, within the City, and under the Municipal jurisdiction.

To the classes, however, of business already particularised, which I consider legitimate for the Bank to undertake, I would make one addition, and two exceptions. The Bank may well be authorised to act as Agent for a corresponding Municipal institution for any other City. Once this City gives a lead, and works successfully, even for a year, a Municipal Bank, there would, in my opinion, be no lack of imitators. One of the greatest economies in Municipal Government all over the country would be found in this mutual co-operation between Municipal Bank, doing each other's agency work within their own jurisdiction respectively.

Subject to this exception, no Municipal Bank should be allowed
(1) to engage in any business which would be outside the municipal authority; nor,

- (2) should it be allowed, under any conditions or circumstances, to invest its funds, or any portion of them, in an unproductive Government Loan, or
- (3) in any speculative or other such concern.

So far as possible, the Municipal Bank's Business should be confined to the City, to the Corporation's normal financial dealings, and to the ordinary banking business of those who in the ordinary course have dealings with the Corporation,—in the last case, subject to the limit of these dealings only.

IV. Management

(C) Next after defining, roughly, the functions, as above, of the Municipal Bank, there is the question of its management.

At the top, and corresponding to the Board of Directors in an ordinary Commercial Bank, there would have to be a special Committee of the Corporation to direct and control the day to day operations of the Bank. In selecting these Committee-men, rules will have to be laid down, which would exclude all those councillors, who are in any way concerned with a rival institution within the City, as directors or shareholders. On the other hand, it may be desirable to insist on some knowledge of banking business in a person offering himself for election to the Banking Committee, as it may be called, of the Corporation. Members of the Banking Committee may be elected for the life of the Corporation; but provision may be made, e.g., by co-optation to retain the services of any Member who may, in the lottery of elections, cease to be a member, if he is found particularly qualified and experienced in the conduct of the institution. Of course, those concerned as customers of the Bank, particularly those who are contractors under the Corporation, should be excluded, as they are today even from ordinary councillorship.

The Municipal Commissioner or Chief Executive Officer should be in the same place as the Finance Member of the Government of India in the Reserve Bank. He would naturally be associated with the Committee of Management, preferably as a full member with equal rights of taking part in the discussion and in voting and even with certain limited powers *vetoing* particular proposals pending an appeal to the Corporation if he deems suitable. He would also be the head, as in other departments, of all the executive staff under the Bank; and will have the same powers and authority for employing, dispensing with, censuring or promoting, etc., of any employee in the Bank as he has in other departments of the Municipal Administration. Until we gather further experience, and discover for ourselves in what respects

the powers of the actual manager of the Bank need to be widened, I would not interfere with the present powers of the Municipal Commissioner as the chief city executive.

Under the Commissioner, as thus authorised and empowered, there would have to be a General Manager, Branch Managers, Accountants, and the other clerical staff needed for the day to day conduct of the Bank. I have no doubt that suitable men of the requisite knowledge, probity and experience can be found for such work on reasonable terms in the City. I think it is not unlikely that a Manager at Rs. 1,000 per month, Branch Managers at Rs. 200-20-500, and Accountants from Rs. 150 to Rs. 350 (Chief Accountant and Cashier upto Rs. 500), be found to work very creditably and efficiently for such an institution. Service in this institution will give its own prestige and status, not to mention security, to the employees working in it.

This staff would work, with every satisfaction to the Corporation, under the original Act or Resolution instituting the Bank, or under instructions passed from time to time, under the general supervision and direction of the Banking Committee of the Corporation, and under the powers and authorities given in this behalf to the chief Municipal Executive.

V. Income and Expenditure

(D) EXPENSES AND PROFIT OF THE BANK

The normal expense of the Head Office and 6 branches, in the first few years, ought not to exceed Rs. 60,000 per annum. It is unnecessary in this skeleton, to detail the main heads of such expenditure; I exclude, however, from the expenditure side, rent, rates and taxes, except perhaps the income-tax; but include salaries and wages, lighting, stationery and printing; conveyance allowance in some cases; and normal contingencies. Interest on borrowed Capital would, of course, be extra; as also interest allowed on Savings or Call Deposits.

We are, however, today paying Bank Commission alone of some Rs. 30,000. Add to this the amounts spent on Loans each time that the Corporation borrows in the open market; the saving in interest obtained due to the better investment of our funds and balances; and the profitable use made of the deposits obtained, and I should estimate the gross receipts of the Bank to be not less than 4 lakhs or more per annum, i.e., roughly at the rate of 1% on about Rs. 4 crores of surplus or investable Capital at the disposal of the Bank—a very modest calculation.

I must add, however, that these are only very rough estimates. It may likewise be added that Profit for a Municipal institution would not be rightly estimated in money terms exclusively. The service it would render to the civic public, would be invaluable. But even in money values, the profit will not be utterly negligible; and I certainly do not anticipate a money loss to the Corporation in the working of the Bank.

VI. Disposal of the Profit or Surplus

The profit would be used to build up a Reserve sufficient to equal the Capital liability, if any, in the first instance; to improve the services of the Bank, by extending its branches and multiplying the facilities it offers; and lastly, by improving the conditions of employment under the Bank.

(Paper read at the Second Triennial Session of the All-India Local Self-Government Conference held at Calcutta on the 29th, 30th and 31st December 1938).

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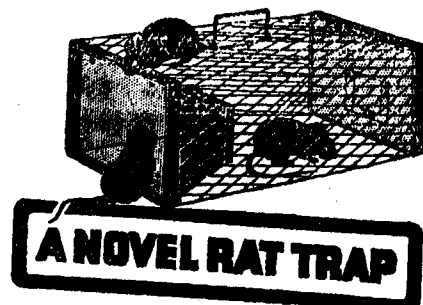
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PUBLIC HEALTH ENGINEERING

By Mr. N. V. MODAK, B.E., M.Inst.C.E., M.I.E., M.R.San.I.

Public health engineering is not a branch of preventive medicine although it is closely allied to it. Preventive medicine aims at the prevention of diseases by all available methods. The logical method of eradicating disease would be to attack it at its source and to create conditions under which it could not flourish. It is in this branch of public health work that an engineer has to assist his brother in medical profession in the war against preventable illness and death.

Public health work has two sides, external and internal. The external side deals with matters essentially pertaining to clean and wholesome environments. It includes water supply, sewage and refuse collection and disposal, good streets, housing, town-planning, and slum clearance. The internal side includes several forms of aids, such as the industrial welfare of the worker and the supervision of his working place, the care and supervision of maternity, the health of infants and children, school medical service, direct treatment of common infectious diseases and so forth. Both sides are of equal importance and have to be tackled simultaneously. Unfortunately, in India, the external side has not been given as much prominence as it deserves. The campaign against improvements of environments has been very slow indeed. How many towns in India are fortunate in having a wholesome and safe drinking water supply, efficient and satisfactory methods for the disposal of the wastes of human habitation, dustless streets, well ventilated and non-crowded houses!! We are very much behind the civilized world in the promotion of sanitary measures for improvement of environments under which the urban population live. England, a hundred years ago, was passing through the same phase in which we find ourselves today. There was no system of public health in that country up to 1837. There were no laws concerning health. The local bodies in those days looked after the safety of the property but not of health. Reports of the unsanitary conditions under which the population was living were obtained. They revealed that the unsanitary environments under which the masses were living made them shortlived, impudent, reckless and intemperate. The Great Public Health Act was introduced in that country in 1875. It laid the foundation of public health measures in that country. Though at the beginning, officials found it rather difficult to enforce it, it made a headway very shortly

after its introduction and led to clean water supplies, efficient methods for the collection and disposal of human wastes, good streets, etc. It succeeded in creating sanitary and hygienic environments for the people to live in. The "internal" side followed afterwards. A beginning was made with the external side and what is the result? Today cholera is unknown in that country. The expectation of life at birth has been increased from 44 in 1875 to 57 years in the case of males and from 44 to 61 years in the case of females. Thus, the longevity has been increased by 13 years in males and 17 years in females. The benefits derived by the improvements of environments are quite apparent. We have not been able to make great strides in this direction mainly for want of funds. The undertaking of public health measures such as introduction or improvement of water supply or drainage or sewerage has been left to the option of the local authorities. They cannot be enforced.

Local bodies cannot afford to finance such schemes from ordinary revenue. They have to borrow to meet the capital cost of the improvement projects and have to provide for repayment of the loan with interest at the end of thirty years or so and have also to meet the cost of operation which is a recurring expenditure. In order to meet this liability, they have to impose additional taxation which is not liked by the masses. There has not been sufficient awakening in the masses to come forward of their own accord to shoulder the additional burden of taxation with even at a sacrifice as ultimately taxes paid for the promotion and execution of schemes of water supply and drainage are bound to bring them an indirect return by way of savings in doctors' bills, increase in vitality, and therefore increase in the earning power. The Government a few years ago used to contribute the whole or a part of the capital cost of a drainage or sewerage scheme according to the financial capacity of a local body as free grant and the rest as loan payable at the end of thirty years. This practice is followed by many countries in Europe. I am informed that these grants are not now available and the burden of financing improvement scheme has to be borne by the local body. As pointed out before, the local body is not always happy to raise the required loan and projects of water supply and drainage are shelved on the ground of financial stringency. If my information regarding withdrawal of grants by Government is correct, I appeal to you, sir, as the head of the Government to look into this matter. Public health is a national asset and the Government are morally bound to help local bodies in introducing sanitary measures for the promotion of public health. A great impetus for the improvement of environments must be given by Government. There should be a time programme. Every year a certain amount might be set aside for this work. Every local body may be asked to submit proposals within a certain

period and some contribution might be given by Government to enable the local body to undertake the projects. If the local body fails to submit proposals within the prescribed period, it should forfeit the Government grant and should be compelled to complete the projects at its cost within a certain period. Unless such drastic action is taken, there are very few chances of local bodies taking initiative in the promotion of such measures. Local bodies should give the projects of water supply and drainage first preference. Schemes of water supply and drainage can be built in parts or in stages. If funds are not available for the completion of the projects at one stretch, the projects may be divided into suitable stages and the whole project may be completed as funds permit. A comprehensive scheme will have to be drawn up first and it should then be split up in stages. Greatest care will have to be taken in drawing up the comprehensive scheme. It will have to be flexible and accommodating so as to admit of any new developments that may be innovated during and between the inception of the scheme and its completion being introduced with slight modifications. If water supply and drainage cannot be had at once, I would earnestly advocate "drainage" as deserving of first preference followed by improved water supply. A good water supply at once promotes the more general use of water and the already existing insanitary conditions become at once aggravated and a drainage system becomes a matter of immediate necessity. A start may be made in a water supply scheme by sterilizing the city. A sewerage or drainage project may start with an existing supply. A sewerage or drainage project may start with an intercepting sewer and small outfall works. Branch and sub-branch sewers may be constructed afterwards. Outfall works may be extended when additional houses are connected with the system. It should be advisable sometimes on the grounds of economy and convenience to group together a few villages or towns and arrange joint water supply and drainage projects for them. Similarly, in the case of big towns which have suburbs in its vicinity, it is equally desirable to arrange for joint sewerage and water works. There is a certain community interest of a city with its suburbs—its neighbours. It sometimes voids the accomplishments of a city if its neighbour did nothing to promote sanitary measures. In such cases the creation of a metropolis might appear the proper solution of the problem.

Another way of speeding up the introduction of water supply and drainage projects would be to encourage private enterprise. Gas and electric supply companies are already in existence and they get a good return on the money invested. In England and other countries a number of private companies are supplying water to the communities. If people can afford to encourage electric supply undertakings, there appears no reason why similar patronage should not be extended by them

to the water supply and drainage companies when they would get in return a "safe" drinking water supply and efficient removal and disposal of sewage, which could safeguard their health.

It therefore behoves all of us to concentrate our efforts in improving the environments which are at present very objectionable and deplorable as health is the greatest blessing man enjoys, for surpassing material wealth and once it escapes our grasp life is not worth living.

Having narrated in brief the importance of creating wholesome and clean environments for the masses to live in, I intend to take a bird's-eye view of the present trends in the three important branches of public health engineering practice, viz., water supply, sewage disposal, town-planning, housing and slum clearance.

Taking "water works practice" first, there appears no likelihood of any radical changes being brought about in the future tending to make the existing water plants obsolete. The present practice in regard to storage, filtration and sterilization has come to stay. Some changes are bound to take place but they are not likely to be of a revolutionary character. There is a great tendency in U. S. A. in reducing cost of operation where rapid filtration is in use. Several mixing devices for chemicals and flocculators for obtaining the right kind of floc are in use. There is also a search for cheap coagulants especially in water-softening plants. The rapid sand filtration still holds its own. There appears no likelihood of slow sand filters being revived unless for some special reasons of local importance. On the contrary, there has been a tendency to introduce rapid filters without coagulants to give preliminary treatment to water before admission into the existing slow sand filters. The present tendency is towards reducing the load on the filter whether rapid or slow by conditioning the water before its admission to the filter. This increases the life of the filter by increasing the periods between washings and saves in wash water and sand clearing. The use of coarser sand appears to be getting into favour in rapid filters where water is properly conditioned. Aluminium Sulphate still holds its own in water purification. Increased use of iron compounds is noticed in water-softening plants to keep down costs. Ferric Chloride is being manufactured at some water and sewage plants in U. S. A. by passing chlorinated water over scrap iron where chlorine is cheap and iron scrap at low price is available.

Dry feed devices are superseding solution feed. To ensure uniform application of chemicals to water, dry feed machines are suspended on scales. Mixing time may be taken as 20 minutes on an average. In some cases, it is as high as 60 minutes. Baffles are being replaced by

mechanical devices to ensure thorough mixing. Paddles driven by power are also in use to obtain the desired speed and character of mixing. In U. S. A., mechanical devices are being introduced in the coagulation tanks to remove sludge. Mechanical flocculators occupying about $\frac{1}{3}$ to $\frac{1}{4}$ of the coagulating tank are being installed at the inlet ends of the coagulation basins. The detention period in coagulation tanks is about four hours. In filter washing, in addition to air wash from under drains, surface air wash is used in some plants.

The remodelling of the distribution system to meet the peak load demands as well as that of fire is engaging serious attention. The distribution system is the backbone of water works and its extension must be done on reasonable and economical lines. Piecemeal extensions are not favoured. The distribution system represents 40 to 70% of the total capital investment in water works and it must be planned to meet growing demands. There is a trend everywhere in the increased use of water per capita. Air cooling is causing a great strain on the distribution system in U. S. A. The rate of consumption per capita in that country has gone up to 300 to 400 gallons in some cases. A well-designed distribution system must be capable of serving consumers at adequate pressure at all the times of the day and also to meet fire demands that may be made on it at the time of fire. Accurate knowledge of the existing conditions of pressure, flow and demand is obtained by the Pitometer Survey. Economical remodelling of an existing system is very difficult. It is a question of elevated storage at strategic points versus increased sizes of mains or a combination of elevated storage and boosting. Recent trend appears to favour elevated storage within economical limits and boosting.

The "sterilization" of the supply is receiving increased attention. There are two lines of defences—filters and chlorination. In U. S. A. there is a tendency to have a third line of defence by pre-chlorinating the water before its entry into the filters. The standard methods used in the testing of water are being questioned. It is thought that they are not as accurate as they ought to be to declare the "safety" of water. Methods employed in determining hardness, residual chlorine and dissolved oxygen are receiving careful attention. The production of a satisfactory water supply has become so technical that a necessity for a competent and trained analyst is being widely recognised. It is also considered that time has come when the bacteriologist must develop some methods which are much more conclusive and which will yield results of much more value than we are getting at the present time in dealing with outbreaks of water-borne diseases. Chloramene has come to stay. It has been however noticed that the ratio of ammonia to

chlorine is a variable quantity and should be fixed according to the character of the water. The variation in ratio varies from 1 to 1 to 1 to 4. The amount of residual chlorine to be maintained in the distribution system is again a matter which requires further investigation. The standard for residual chlorine should be fixed after taking into consideration the temperature of the water. When the water is warm, bacterial activity is more and consequently a higher amount of residual chlorine might be required. This matter is worthy of further investigation at the hands of the bacteriologist.

It has been found that special precautions of sterilization are necessary before bringing new water mains into use to safeguard against water-borne diseases. Special rules have been laid down in different States in U.S.A. regarding sterilization of new water mains. They are not allowed to be connected with the distribution system until the water conveyed by them is found to be bacteriologically safe. Great attention is being paid to flush out dead ends and sections of the pipe-lines through which water passes at a low velocity. Tests for residual chlorine are made at the consumers' taps at the farthest end of the distribution system. A large number of samples are collected and tested every day as a routine work and the sampling of the points are so arranged that every part of the distribution system is covered by the test in the course of a week.

Machines for automatically recording residual chlorine are being developed. Machines have been put in the market which register the dose of the chlorine. A water works engineer cares more for the record of the residual chlorine than that of the dose.

There had been a great need of equipment for the economical chlorination of small water supplies, especially of the gravity type. Automatic equipment so far was manufactured for large water supplies. There is now available in the market equipment both for liquid chlorine and hypochlorite solutions suitable for very small water supplies. The apparatus is of either automatic or of the manually controlled type. They are capable of meeting the various hydraulic conditions encountered in practice.

Chlorine continues to be the chief sterilizing agent. It is difficult to imagine what other chemicals could be used to accomplish the same results if chlorine were not available in some active form. Ozone appears to be abandoned on the ground of expense and its unreliability. Its use is being revived in England in connection with the sterilization of the waters of swimming pools as chlorine is said to produce injurious effects on the bathers. Ozone still holds its place in municipal water

supplies in some countries. It is used in some cities in Russia and Italy and there are over 75 water supplies in France which are treated with ozone. Silver Catadylane has also found favour in connection with swimming pool waters.

Activated Carbon and Carbon dioxide are being used on a large scale for the correction of taste and odours. In the case of peat waters, lime has to be added for P. H. correction.

I think I have covered most of the ground which is important in water works practice.

Sewage treatment has come into great prominence in Western countries as it has now been clearly recognised that the prevention of river pollution is an indispensable requisite for modern civilisation. Up to 1914, the standard practice for sewage purification in England had almost settled down to plain sedimentation or precipitation tanks percolating filters and humus tanks. This practice was arrived at by methods of trial and error, and at a heavy price. Then arrived on the scene, the activated sludge process which is being extensively used in England and U. S. A. to obtain an efficient and high standard of purity. Notable advances have been made in the last fifteen years in the design and construction of sewage treatment plants.

Improvement in handling the sludge from the sedimentation tanks by mechanical means, the use of flocculators to effect greater removal of settleable solids, the adoption of digestion tanks in single and multiple units are on the increase. The old precipitation tanks, which were discarded at one time are being revived with refinements in countries, especially in U.S.A. where chemicals are available at a low price. Practical methods for rapid dewatering and incineration of sludge are being developed. There has been a general effort to obtain some return from the use of the products of the purification process to meet a part of the cost of operation. A new biochemical process consisting essentially of the simultaneous addition of ferric iron salt, return sludge and air to presettled sewage in determined proportions is coming to the forefront. Attempts are being made to use the purified sewage for toilet and other purposes, such as street watering, boiler feed by passing the effluent through sand filters and chlorination after filtration and these efforts have proved successful. Where conservation of water supply is imperative, a part of the sewage can now be safely used for all purposes, even for drinking. The sewage farm or sewage irrigation will continue to be one of the methods of sewage disposal. It has however its own limitation. It was the most favourite treatment at one time. If we study the history of the development of sewage treatment it will be noticed that

land irrigation and chemical precipitation were the only two methods of sewage disposal up to 1894, when the Septic tank was introduced. It has now been largely abandoned in Europe for large towns. Its use is confined to small communities. Its use is dependent upon climatic and soil conditions. About 130 cities of the South-west parts of the U. S. A. where the climate is arid utilize sewage for irrigation. It is not in use in the northern and eastern parts of U. S. A. as the climatic and soil conditions are different from those of the south-west. There are only three large cities in Western countries where sewage irrigation is practised. They are Edinburgh, Paris and Berlin. In Paris and Berlin no steps are being taken to extend the areas of the sewage farm to meet the increase in the quantity of sewage due to the growth of population but ways and means of purifying the sewage by the activated sludge process are in progress. The effluent after purification will be directly discharged into the rivers. The chief trouble with sewage farm is aerial nuisance and sewage sickness. In U. S. A. crude sewage is not allowed to be applied on land. It is subjected to preliminary settlement prior to application on land. The sewage if directly applied to land must be fresh and not septic. The soil must be porous. The farm is underdrained. Farming is done on the ridge and furrow principle. Broad irrigation which consists of allowing settled sewage to spread over and flow down a gentle sloping field from a ditch at the upper edge is practised in some cases.

Some restriction on the crops grown on sewage farms is found to be necessary to safeguard against the transmission of disease by human beings from the consumption of the produce of the farm. No crops intended for human food are allowed to be grown on the farms in U. S. A. At Paris, no vegetables likely to be eaten raw by human beings are allowed to be grown. In short, where soil is porous and favourable, land cheap and sufficiently away from residential areas, sewage after sedimentation can be successfully disposed of by this method. Special precautions must however be taken to restrict the kind of crop grown on the farm. The idea in sewage farming ought not to be to take out of the soil as much as possible by way of produce but the purification of settled sewage should be the first consideration and the produce of crops should be secondary. The method should be used for the disposal of sewage and for preventing river pollution and not for the use of sewage.

Plain sedimentation tanks are being looked upon with disfavour. The modern trend is to use mechanical apparatus in those tanks for the continuous removal of the settled sludge. The circular form of tank with radial flow is preferred to the rectangular type. The detention

periods in U. S. A. vary from 1 to 2 hours, while in England high detention periods, even up to 12 hours, are still in use. Skum skimmers are also fitted to these tanks. Percentage reduction in suspended solids varies from 50 to 60. The B. O. D. removal amounts to 35 to 40%.

Floculators similar to those mentioned under coagulation in water works practice are in great use in U. S. A. preliminary to sedimentation. They are found to give good results with sewages containing trade wastes. The removal of suspended solids with floculators is as high as 80%.

Preaeration of sewage before admission into sedimentation tanks is in use at some plants for grease removal and also for odour control.

Activated sludge plants are on the increase. In U. S. A. mechanical agitation is found to be economical for small size plant not exceeding 5 to 6 M. G. P. D. In England, mechanical agitation is in use in large size plants also, and gives good results. It has been, however, proved that the aeration period with mechanical agitation has to be greater than that with diffused air. In U. S. A. the various State authorities demand double detention with mechanical agitation. The blowing in or diffused air method is generally designed to supply air at the rates of $1\frac{1}{2}$ to 2 cubic feet per gallon of sewage which amounts to about 5 to 6 hours aeration period. If mechanical agitation is used, the plant in U. S. A. has to be designed for 10 to 12 or sometimes 16 hours aeration.

There is a tendency at some plants to reactivate the return sludge before it is returned for mixing with raw sewage.

The retention period in the final settling tanks, used in conjunction with activated sludge plants varies from 3 to 4 hours. Here again there is a trend to use mechanical equipment for the removal of sludge.

There is a great diversity of practice in the control of the working of the activated sludge plants. The percentage of return sludge varies from plant to plant. English practice lays down that the return sludge should be within 10 to 15%. It does not take into account the quality of the return sludge and the suspended solids it contains. The American practice is different. Determination of sludge index and maintenance of an index consistent with optimum plant operation are the two important factors which govern the operation of these plants. The suspended solids in mixed liquor in the case of diffused air plants vary from 1500 to 2000 parts per million while in the case of plants using mechanical agitation the suspended solids in mixed liquor are kept down to 600 to 800 parts per million. Microscopic examination of sludge finds favour with some plants only.

The trickling filter which was going out of use on account of its disadvantages of a large area, aerial and fly nuisance is again coming to the forefront and may in some cases take the place of activated sludge plants. It has now been found from experience that good results can be obtained from the trickling filter at high rates. The usual rating of this type of filter is 2 million gallons per acre per day. It has been now proved that this rate could be increased to 24 to 30 million gallons per day without impairing the quality of the effluent. The filter may be 10 to 12 feet deep and either covered or open. If the filter is closed, arrangements for blowing in air are necessary. A shallow type of filter only three feet in depth is also found to give satisfactory results if worked in series. The shallow filter may be said to take the place of "contact beds" worked in series. Another advantage claimed for the high rated percolating filter is that it is more suited for the treatment of septic sewage. In a hot climate, where there is natural tendency for quick putrefaction and when sewage usually travels a long length and arrives at the outfall in a septic condition, a high rated trickling filter either covered or open, according to its location, would be more economical than an activated sludge plant when partial purification is necessary. Further purification can be obtained by treating the effluent from the trickling filter in an activated sludge plant as and when found necessary. The aeration period for treating an effluent from a trickling filter will be less than that required for settled sewage which will reduce the capital cost of the activated sludge plant. An effluent of uniform quality would be fed to the activated sludge plant by the trickling filter. This is not likely to upset the working of the activated sludge plant which is sensitive and susceptible to variation of loads and variation in the strength of sewage.

The digestion of sludge from the sedimentation tanks, plain or using mechanical appliances, prior to final disposal in separate digestion tanks has now become a standard practice. The Imhoff tank, in which the processes of sedimentation and digestion are carried out in two separate compartments is losing its ground in regard to large installation on account of the difficulty of sludge control. A septic tank which acts both as a sedimentation and digestion tank has no longer any place in small or large plants. It is only useful for a single house or a small group of houses.

The necessity of treating activated sludge in digestion tanks prior to drying has been established to keep out odours. Investigations are being carried out to ascertain whether the practice of mixing sludge from the sedimentation tanks with activated sludge is good or whether it is desirable to introduce the activated sludge in the digestion tank by

consolidating it in separate consolidation tanks to reduce its water content. Definite data is still lacking regarding the detention period in digestion tanks which varies from 60 days to 10 days. The capacity of the tanks is based on the rates of 5 to 1½ cubic feet per capita. Advantages and disadvantages of single and multiple stage digestion are being investigated. The rate of generation gas varies from 0.5 to 2 cubic feet per head of the population. The average temperature maintained in the digestion tank varies between 87 and 90 degrees Fahrenheit.

Methods of sludge disposal vary according to local conditions. Where sludge is digested, the digested sludge is disposed of by drying on specially prepared beds and is then used as fill or low grade fertiliser. Drying bed area varies from 0.5 to 2 square feet per capita. In U. S. A. glass covered sludge drying beds are used at some plants to reduce the area. Advantages such as acceleration in the rate of drying, decreasing odour and insect nuisances are claimed for them.

Mechanical dewatering by vacuum filtration is becoming popular. Where vacuum filtration is adopted the sludge after filtration is incinerated. Chemicals are required to be added to the sludge to make it workable on the filter. To reduce the cost of chemicals, clutriation of sludge is practised at some plants, i.e., the digested sludge before putting on filter is washed with water in tanks. This treatment helps in reducing the dose of the chemicals and thus to keep down the cost of operation.

Sludge disposal by incineration is making strides. Sludge is first dewatered mechanically by vacuum filters to reduce its water contents to 65 to 70 per cent. The partly dried sludge is then passed to a drier where the moisture is reduced to 20% or less. It is then incinerated. They partly dried sludge is found to contain from 3,000 to 9,000 B. T. U. per cubic foot, and is therefore capable of supporting its own combustion and requires little additional fuel. Waste heat of incineration is used in the drying operation. The results of experimental plant for incineration of digested sludge have been found to be very encouraging at Chicago. A large plant for incineration is now under construction in that city.

The importance of efficient management of sewage disposal works has now been realised. It should be borne in mind that badly designed works can by efficient management produce far better results than the best designed works badly managed.

It has been conclusively proved that the capital cost and recurring expenditure of sewage treatment works can be kept down considerably if special efforts are made to bring the sewage in a fresh condition at the

outfall works. In a hot climate, the longer the time sewage takes to arrive at the outfall works the more septic it becomes. A septic sewage is difficult to treat. It gives out sulphurated hydrogen which is the main cause of odours at treatment plants. The sulphurated hydrogen has a corrosive effect on sewer pipes in such sections where sulphuric acid is formed. Sewers laid with self-cleansing ingredients with ventilators at close intervals are not affected by the formation of sulphuric acid. In cold climates, the sewers being designed for combined system, the sewage is diluted with a large quantity of rainwater and the dissolved oxygen in the rainwater helps to keep the sewage fresh. At the same time the climate itself is helpful in preventing putrefaction.

It was my original intention to speak at some length on the third important section of Public Health Engineering, viz., town-planning, housing and slum clearance. However, I find that I have already taken a lot of your time and tired out your patience though I have touched only a few salient points covering water works and sewage practice, and have omitted several others in which considerable progress has recently been made. I shall, therefore, on this occasion make a passing reference to the subject of housing and town-planning.

It has now been admitted on all sides that the present tendency to permit our towns to grow willy-nilly must be checked. We must settle beforehand a general plan of extension for each town in the future which should aim at correcting many of the errors and misjudgment of the past. The new planning should take into consideration the problem of transportation. It must deal with human elements. It has been realised that large municipal expenditures have become necessary owing to the fortuitous development of urban centres and that it is advisable to make provision whereby the natural growth of cities and towns may be planned in a systematic and orderly way, so that adequate means of communication for an increasing population may be provided and congestion avoided and that economies may be effected in the industrial and business activities of communities so that the serviceableness of business property and the amenity of residential districts may be preserved and adequate areas may be provided for protecting the health and provide recreation of the public. In order to secure the above ends, suitable legislation, regarding town-planning is necessary to include not only undeveloped areas but also the built-up areas of cities and towns. In addition to building codes which enforce structural strength of the buildings, legislation as to "where and what to build" is also necessary. The latter can be enforced by "zoning." Zoning is a very important part of town-planning. Its purpose is to encourage the erection of right buildings in the right place. It protects the owner who develops his property along proper lines against the owner who wishes to develop his

property along improper lines. Zoning really represents economic scientific and efficient development in the interest of the community in place of the wasteful and inefficient methods under the old haphazard method of growth. It promotes health, safety and convenience, prevents overcrowding and preserves the amenity of residential districts. The problem of housing and slum clearance cannot be undertaken by local authorities without a grant-in-aid or subsidy from the Government. Slum clearance and housing schemes in the countries of the West are being carried out by local authorities with contributions from Government. I shall quote here some excerpts from the New York Court of Appeals on the subject of slum clearance and housing which are self-explanatory:

"The menace of the slums in New York City has been long recognised as so serious as to warrant public action. The essential purpose of legislation is to protect and safeguard the entire public from the menace of the slums. They are unquestioned and unquestionable. Slum areas are the breeding places of diseases which take toll not only from denizens but by spread, from the inhabitants of the entire city and State. Juvenile delinquency, crime and immorality are there born, find protection and flourish. Enormous economic loss results directly from the necessary expenditure of public funds to maintain health and hospital services for afflicted slum dwellers and to war against crime and immorality. Indirectly, there is an equally heavy capital loss and diminishing return in taxes because of the areas blighted by the existence of the slums. Concededly, these are matters of State concern. In one place, it is stated, the end to be achieved is the quality of men and women. If the moral fibre of its manhood and its womanhood is not a State concern, the question is—what is?"

These are some of the problems which a public health engineer has to deal with. Air, water, food and sunlight are the essential elements necessary for human existence. The public health engineer has to make an effort to preserve and maintain the purity of the supply of each. It will thus be seen that there is romance, adventure and opportunity in this branch of Civil Engineering.

The expenditure on works of public health measures could be considerably reduced and brought within practical politics in this country if the industry co-operates with the engineering profession. This is the trend in most of the countries in the world. We are not an industrial country and consequently we import most of the materials used in the construction and maintenance of this work. At least some saving in the maintenance of works of water supply and drainage will certainly accrue if chemicals like chlorine, sulphate of alumina, ferric chloride,

ferric or ferrous sulphates were to be manufactured in this country. Raw materials necessary for their manufacture are available. A survey for manufacturing some of the chemicals used in Public Health engineering may be helpful for ascertaining whether some of them could be manufactured economically. A good deal of research work is being done in the methods of sewage disposal. We have done nothing in this direction. Some research work for adapting the methods developed in other countries to meet our climatic conditions and the character of sewage is necessary. It may be possible that the research may discover some method which would not only be cheap but eminently suited to our conditions. The question is, who is to carry out the research work? It would not be reasonable to ask every local body to work a pilot plant to solve its own problem. There should be a concerted action. The Government may undertake the work by giving a small grant-in-aid and distributing the cost among the municipalities on some equitable basis.

It is felt that for co-ordinating the work of public health engineering in this Presidency, some Government machinery is necessary, somewhat similar to the Ministry of Health in England. Such a machinery will be of great help in suggesting legislation for town-planning, slum clearance, prevention of pollution of rivers, building codes, and for undertaking the industrial and regional water supply surveys as well as research work.

It is also suggested for consideration whether it would not be desirable to create a municipal engineering service under Government for lending engineers to the various municipalities to hasten the promotion and execution of schemes of public health measures on sound and economic lines.

Gentlemen, I have done. I hope that we shall, with the help and guidance of Government, see notable improvement in the environments of our towns and cities in the course of the next few years when we shall be in a happy position to say with pride that "sanitation" in this Presidency "marches on."

(Extract from the Presidential Address of Mr. Modak delivered at the Bombay Engineering Congress 1938).

THE PRINCIPLE OF RESPONSIBLE EXECUTIVE IN MUNICIPAL ADMINISTRATION

By Mr. KHUSHAL T. SHAH, B.Sc. (Lond.), BAR-AT-LAW

Municipal Government in India is still organised on the bureaucratic model, which admits of no direct responsibility to the representatives of the civic public. Organised from above, as a sort of a gift or concession from the non-responsible central government, and intended more for introducing civic convenience and amenities, and at most for serving as a training ground for self-government on the larger scale, Municipal Administration in India necessarily reflects the outlook of its authors, and disregards the principle of responsibility to the governed. There is, besides, the further consideration, in extenuation of the prevailing system of non-responsible Municipal Executive, inasmuch as much of the business of government in Municipalities is a matter of specialised skill, which will be affected prejudicially were popular sentiment alone to be the dictating factor.

But while we may appreciate the origin, and understand the explanation of the continuance of this non-responsible Executive in Municipal Administration, it is a matter for serious consideration whether, now that India is supposed to have a democratic form of Government, based on the principle of Responsibility of the executive to the representatives of the people, the time has not come when the same principle of a Responsible Executive be introduced in Municipal Administration just as much as it is in the larger sphere of Provincial Government. The task of government is nowadays a matter of specialised knowledge and experience, not only in the Municipal sphere, but everywhere; and this desideratum is secured by combining a well-organised and fairly secure Departmental Service working under a supreme Executive responsible to the representatives of the governed. This can be as easily achieved on the Municipal scale, as it is claimed to be on the Provincial and the National scale. On the other hand if Self-Government,—Democracy,—is ever to be a reality for the mass of the people; if they are not only to have theoretical freedom to shape their own destiny, but also the actual opportunity to conduct their own affairs on a geographically restricted scale; if they are to have the confidence which springs from actual achievement side by side with the moderation which is enforced by the

need to get things done, it is absolutely necessary, that the principle of Responsible Executive should be introduced in the Municipal Constitution. The sentiment of Party Government is already coming into vogue for purposes of Municipal elections; and if Party feelings are to be kept in healthy and wholesome restraint, the element of Executive Responsibility seems indispensable. Parties, moreover, will, I believe, tend to be more definitely aligned on clearer and clearer cut division or difference of basic principles,—e.g., in regard to the extension of Municipal Enterprise in all matters of production and distribution of Public Utilities and Municipal services,—than has been the case hitherto; and so, if the intense cleavage of Party sentiment is not to be suffered to undermine the fundamentals of a democratic state, the best solution seems to lie in the direction of making the Municipal Executive Responsible. The actual work of detailed administration will, of course, remain with properly qualified Municipal Service in each department of Municipal Administration. But the Municipal Servant will have to work, just as the Civil Servant on the Provincial and National scale has to work, in subordination to the Chief Municipal Executive. The policy will be settled by that Executive in all important questions of Municipal Government; and the detailed carrying out of that policy will also be under the supervision of that Executive.

In this view of the problem, Municipal Executive will have to consist, not of a chief Executive Officer as is the case today, but of a Municipal Cabinet, consisting of the Mayor or Chairman and a few chosen Councillor colleagues each in charge of a given department of Municipal Administration. This body should be collectively responsible to the majority in the Municipal Council, and will hold office only so long as the majority continues to have confidence in that body. The entire Municipal Council will, indeed, work under certain limitations and restrictions laid down in the fundamental constitution of the Corporation, so that the majority cannot embark on a system of tyranny over the Minority, nor disregard the fundamental rights of citizenship to any individual, in however small numerical minority such individuals may be in given Municipal areas. The Communal and Provincial Minorities will thus be guaranteed against any unfair exercise, or operation, of the Principle of popularly Responsible Municipal Executive. The present principle, again, of conducting important departments of Municipal Administration, e.g., Education, Medical Relief, Improvements—by the device of a Committee—may have to be radically modified, if not dispensed with altogether, in favour of the Responsible Departmental chief, who is also member of the Municipal Executive Cabinet. These Committees, as they operate today, are rather means of delaying and bargaining between groups of Councillors, than real aids in efficient

technical administration of the departments of Municipal Administration placed in their charge. The Service officer supposed to assist each such Committee with his expert knowledge, is more often than not the real boss of the Committee; and as he is himself non-responsible and often non-removable except by a most cumbrous process, administration is conducted with very scant regard to the popular sentiment on a given subject.

If the principle of a Responsible Municipal Executive is adopted, the present system will have to be modified in many important particulars. The President of the Municipal Council, who is today an ornamental figure rather than an experienced head of Municipal administration will have to be made the real Prime Minister or Mayor of the Municipality; while the present Chief Executive Officer, will have to be reduced to the level of a Chief Secretary only, his other Departmental colleagues ranking as Secretaries to Municipal Government. The Principle of a divided authority,—as, for instance, between the Municipal Commissioner of Bombay (who is the chief Executive Officer of the Municipal Corporation, without any direct Responsibility to those who employ him, and with very definite, statutory independent powers entrusted to him specifically); the Standing Committee, which is entrusted with a certain amount of financial authority and general supervision over the Municipal Servants and Administration, and the Corporation collectively, which is theoretically the supreme authority in Municipal administration,—will have to be radically altered if not abandoned altogether, if it is at all desired to have any element of Responsibility to popular opinion.

The executive heads of the Municipal Administration will then hold office subject to the continued confidence in them of a majority of their fellow Councillors. The principle of Executive Responsibility works best on a collective basis; and so the entire Municipal Cabinet may have to change places, if they forfeit the confidence of a majority of their fellow Councillors. Individual Responsibility of particular Councillors, as heads of given Departments, may be useful at times; but, on a balance of considerations, it seems unlikely that one only in a team must be dispensed with, if continued confidence of the majority is to be maintained. The Cabinet would, on such occasions when an individual colleague becomes unmanageable or forfeits the confidence of their constituents, themselves find ways and means of dispensing with such a colleague, or make him realise the error of his ways rather than make the City lose the services of an otherwise excellent team which collectively enjoys the confidence of the City Fathers.

If this principle were adopted, Self-Government would be both real and interesting, inasmuch as it will be brought home to every citizen. Fruits of mismanagement would be direct and even personal, while the benefits of endeavour and sacrifice will be equally immediate. Moderation and compromise will begin to be cultivated inevitably; and the city administration would gain both in popularity and efficiency. The dangers of such a change are, in my eyes, rather imaginary than substantial; but even if they be proved to be real, I do not doubt safeguards can be provided, both in the initial Constitution and in the conventions under which the Constitution is worked, whereby these dangers can be effectively minimised. Accordingly, I would suggest that an earnest endeavour be made, by a body like this, to investigate in detail the suggestion I have ventured to put forward, and see if it cannot be given effect to, to the immense advantage of Local Self-Government.

(Paper read at the Second Triennial Session of the All-India Local Self-Government Conference held at Calcutta during the Christmas holidays, 1938).

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ETHICS OF MUNICIPAL ADMINISTRATION

By S. R. BHAGWAT

I am aware that what I am going to say may be considered by some of us as too theoretical but still I prefer to enunciate general principles in order that we may not lose the direction of our objective. It is just possible that this talk may be too lengthy for the short time at our disposal after our lunch but I cannot help it if I have to do some justice to the subject specially when many of us doubt the usefulness of talks and discussions on such subjects. I would try to avoid all details in order to keep myself within time-limit. Municipal Administration means administration of a town or city and it is generally assumed to be for the welfare of the residents of that place. When we call it by the term "Local Self-Government" we obviously mean that Government or administration of affairs of the place is to be looked after by the residents through their representatives for their own benefit subject to certain restrictions to safeguard wider interests of the District or the Province or the Country. This is great a co-operative body working for common benefit.

Happiness of the community is the ultimate objective and the leaders and the residents are to look after measures required to keep the community happy. These leaders form the Council. It is necessary for efficiency of administration to see that all the required measures are carried out satisfactorily with a minimum expenditure of money, materials, time and labour. The Council of leaders may not have the technical knowledge or training or experience to carry out the measures efficiently. Therefore there comes the Executive whose duty it is to carry out the orders of the council efficiently, promptly and in the best interests of the residents of the place. So we have the three constituent parts of any self-governing institution like Municipal or Panchayat administration viz:—

(a) People, (b) Council, (c) Executive.

The duties, functions and responsibilities of each of these three parts of Local administration may briefly be stated as follows:—

(a) People:—

(i) To elect Council and watch the administration.

- (ii) To abide by the rules and regulations framed for the welfare of the people.
- (iii) To express opinion or vote on subjects reserved for their decision or consideration.
- (iv) To exercise power of recall when given by the constitution.

(b) Council:—

- (i) To examine the existing condition of the community and decide in consultation with the experts or executive what measures are necessary to increase the happiness of the people and how those measures should be carried out.
- (ii) To decide what rules or regulations are necessary to control individual actions that adversely affect the wider interests.
- (iii) To decide how the money required for carrying out measures should be raised.
- (iv) To appoint the Executive and to supervise its work and administration and see that it works properly.
- (v) To present periodical reports of the administration to the people and to refer any question to them on which their opinion or decision may be necessary or desirable.

(c) Executive:—

- (i) To assist the Council in the efficient discharge of its functions.
- (ii) To carry out the decisions of the Council expeditiously and efficiently.
- (iii) To administer rules and regulations, to collect taxes, and to look after the property.
- (iv) To keep records of administration and accounts of money and property and submit them to the Council.

To shorten the discourse I am now confining myself to the ethics for the Executive only. It has to deal with the Council as well as with the people subject to certain restrictions. The Council's responsibility is to decide upon measures to be carried out, to find out sources of money and allot funds and to lay down rules for the administration by the executive and for the conduct of the people. The Executive has to carry out these measures, collect and spend money, administer property and render its account as directed by the Council and to see that the people abide by the rules laid down. We must therefore see how the Executive should deal with its employer i. e., the Council and with the people for whose welfare the Council is administering

the affairs. There are several things on which the views of the Executive may differ from those held by the majority of the Council; there are several cases wherein the law, rules and regulations, or orders or policies of the majority of the Council may be unnecessarily harsh and cause hardship to the people of a particular class or section; there may be several matters in which people misunderstand the actions of the Executive and hold it responsible for all the hardships and trouble caused to them; often there are occasions when funds collected from the people are mis-spent before the very eyes of the Executive but who cannot do anything in the matter; then there are wheels within wheels and clashing self-interests which make the task of straight forward administration very difficult. All this establishes the truth of the saying "People get the government they deserve."

Through all this dark shading it is possible with the spirit of service above self on the part of the Executive to send forth bright rays of hope and to ultimately make the picture attractive and useful to serve its object. This is of course a slow and tiresome process requiring great tact and patience especially in the present condition of the people of our country. There is no time to go into detail about intricacies of administration of the affairs of a city and the amusing experiences. I shall finish this talk by giving a few hints, which if adopted by the Executive of a municipality will considerably help in the progress of the city and of the country in the right direction.

As regards the manner of dealing with the people:—

1. Be punctual in keeping up your appointments with the people and remember that their time is as valuable as yours.
2. Never refuse to personally inspect some complaint made by an irate citizen.
3. Carefully consider the difficulties that a citizen has to face and where wider interests are not adversely affected in any way, do not hesitate to decide in favour of the citizen even if it requires condoning certain irregularities.
4. Remember that laws and rules are for self-guarding the welfare of the people and not for harassing them or creating unnecessary obstacles in their work or daily life.
5. Do not forget to give every protection to the poor and honest citizen—especially to him who is unable to bring influences on his behalf.

As regards the Council:—

6. Never try to be final arbiter on questions that can be appealed to the council.
7. Do not go to the mat on small things.
8. Remember that it is not a good policy to attempt to influence strenuously the Council in its legislative functions.
9. Do not forget to give proper credit to the Council and the men in the department.
10. Always keep in mind the other man's view points in all matters of policy and public service when there is a difference of opinion.
11. Do not be arbitrary assuming the roll of a dictator.

As regards personal interest:—

12. Do not advertise yourself instead of the service.
13. Curb the tendency, if any, to blow hard about the accomplishments of your administration.
14. Never use your knowledge of or influence in the city affairs to further your own personal interests.
15. Remember that the success or failure of Municipal administration is the combined result of the actions of the people, Council and Executive and you cannot escape responsibility for the failure or alone claim credit for success.

The following items are also applicable to Municipal Executive.

- A (i) Refusing to do business with suppliers whose business reputation is not of the best.
- (ii) Repudiation of all forms of bribery and corruption as a buyer.
- (iii) Abstention from buying at the lowest price without regard to other circumstances and from unfair pressure to secure cut prices and hidden or other special discounts.
- (iv) Honourable completion of all contracts.
- (v) Prompt settlement of accounts without making unjustifiable deductions.
- (vi) Recommendation of sellers, to other buyers.
- B (i) Maintenance of fair wages, hours and other material conditions of work including holidays and recreational facilities.
- (ii) Training in management and efficiency.

- C (i) Continued education, both cultural and vocational.
- (ii) Association for purposes of rendering better service to the Council and to the people.
- (iii) The establishment and observance of agreed standards and conditions of practice and the disciplinary restraint of those not observing such agreed standard and conditions.
- D (i) Abstention from such arrangements or "ring" as are formed merely from motives of self-interest for artificial price maintenance or the protection of inefficiency.
- (ii) Promotion of schemes of mutual benefit and assistance, such as exchange of ideas regarding business methods, scientific management advertising, adoption of decimal and metric systems, opposition to bribery etc. preferably through trade and professional associations.

ROAD ADMINISTRATION IN ENGLAND

By **SIR LEONARD BROWETT**, K.C.B., C.B.E.,
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There are approximately 180,000 miles of public roads in Great Britain. They display every known characteristic of the highway from the narrow country lane, the village street, or the congested city street to the great modern artery with its dual carriageways, cycle tracks, foot-paths and verges.

Roads cannot be left to look after themselves, they need constant care and attention in rough proportion to the use made of them. Apart from any question of major improvements, there is the continuous need for keeping the road surface in proper repair, for cleansing, draining, hedging and ditching, and for maintaining roads generally in a fit condition to perform their functions as an essential part of the communication system of the country.

The object of this paper is to outline briefly the framework of road administration and to indicate the developments of the past which have led to the present system.

But let me sound a note of warning. I am fully conscious of the disadvantages and dangers of compression, and I ask those who now hear and those, if any, who later read these words, to remember that I do no more than sketch in very broad and general outline, and that, of necessity, I have left out many important reservations, and have not dealt with many matters of importance which might readily form the subject of separate papers.

Before coming to the present day system of administration, let me project as it were on a screen a few quick pictures of road administration in past centuries.

Historical Summary

In Pre-Roman days the problem was simple. There were no roads as we understand them, and therefore no road administration.

The four centuries of the Roman Occupation saw great changes. True to the Roman tradition, the Governors embarked on and carried out a great programme of road construction throughout the Province. The line of the great roads was clearly dictated by strategical consid-

rations, and aimed at linking up the various centres from which the Province was governed. We may assume that the administration was based largely on military needs, so that the construction and maintenance of the roads would fall on the Legions.

The rapid political disintegration of the Province after the fall of the Empire was accompanied by the almost equally rapid deterioration of the splendid road legacy left by the Romans. Such attention as was paid in Saxon days to roads appears to have been confined to that which the inhabitants were disposed to give to local roads.

Following the Norman Conquest and the growth of the manorial system, we find emerging the conception of the King's Highway, and the right of the King's subjects to pass and repass along that highway. The Sovereign, however, was mainly concerned with the King's Peace, that is to say, with security on highways, and did not contribute to their maintenance. A common law liability placed upon the Lord of the Manor the obligation to keep the roads open and in good repair, and for this purpose he was able to require his tenants to do the necessary work. Even religious houses, though for the most part free from feudal obligations, were not relieved from the duty of repairing roads and bridges. Thus, broadly speaking, road administration then lay in the hands of the landowners and the Church. The Statute of Winchester (1285)—the first recorded example of English highway legislation—enacted that landowners held their land from the State on condition that roads and bridges thereon should be properly maintained.

The disintegration of medieval civilisation during the fifteenth century, accompanied as it was by economic and social conflict and the spiritual decay of the Church, was accompanied also by the deterioration of the medieval road system and the disappearance of what administrative machinery may have existed. The result was that the fifteenth and sixteenth centuries saw our roads at their worst. So bad were they that Parliament was forced to take action which resulted in the Highways Act of 1555, an Act which provided the basis of highway administration for the following three centuries.

The Act of 1555 placed the obligation to maintain roads upon the parish in the absence of responsibility resting by custom upon any known person. Householdors of £50 annual value were made responsible for the provision of tools, carts and horses, whilst every occupier, cottager and labourer was required to work on the roads for at least four days a year. The supervision of the work was entrusted to a person elected by the parish and commonly known as the "Surveyor."

The qualifications for this post did not, however, call for any technical knowledge or experience, and more often than not, the "Surveyor" was no more than a small farmer or a shopkeeper.

By an Act of Elizabeth seven years later the days of Statute Labour were increased from four to six, and local justices given the power to indict a parish for neglect. This Act permitted the substitution of a money payment for fixed labour, which may be regarded as the forerunner of a general highway rate.

Notwithstanding these historic landmarks in legislation, and notwithstanding that parishes were frequently indicated for failure to carry out their duties, there seems in fact to have been little real improvement on our roads, on which the strain became greater with the development of wheeled traffic.

Wheeled traffic began to influence the conception of a proper highway system in the seventeenth century, when it may be said that the industrial revolution began, and frequent travel—other than purely local travel—first became a noticeable feature of our social habits. This development led to corresponding developments in the administration of our road system. The need for better roads for "through" travel was met by the creation of new statutory bodies called "Turnpike Trusts," the first of which was formed about the middle of the century. The Trusts were authorised to levy tolls on road users and vehicles conditionally upon accepting responsibility for road maintenance. During the eighteenth century the establishment of Trusts became general, for example, between 1760 and 1774 more than 450 Turnpike Acts were passed, while between 1785 and 1809, the total of new Acts exceeded 1,000. There were ultimately no fewer than 1,100 Turnpike Trusts in 1838 controlling about 22,000 miles of road, but at the same time there were something like 105,000 miles of parochial highways remaining in the charge of some 15,000 parishes and 20,000 surveyors.

The creation of Turnpike Trusts was probably the only possible means by which the through-road system could have been improved in the circumstances of the time; and the system in spite of its many defects served the country's purposes reasonably well until the nineteenth century.

In 1835 a Highways Act was passed, the first of the numerous nineteenth century Acts from which our present system has emerged. This Act, described as "an Act to consolidate and amend the laws relating to highways in that part of Great Britain called England" repealed practically all former enactments, except those relating to Turnpike Trusts, and abolished Statute Labour. The Act provided that in each

parish the ratepayers assembled in vestry should be the governing authority, with power to appoint a surveyor, who in turn was empowered to levy rates. But the Act failed to recognise the need for areas larger than the parish if road administration was to be carried out efficiently.

It was hoped that advantage would be taken of a provision in the Act which permitted areas to be enlarged by voluntary amalgamations of parishes—a hope not then realised to any great extent.

The first substantial amendment to the Act of 1835 came through the passing of the Highways Act, 1862, which empowered justices of the peace compulsorily to combine parishes into highway districts under specially constituted highway boards. All that remained of the parishes as the result of these amalgamations was the right to levy rates and to appoint a Waywarden, who represented the parish on the board and might act as the local unpaid assistant of the board's salaried surveyor.

This new programme was relatively unsuccessful. It had to combat the hostility of the parishes who were loth to part with their duties in relation to roads. There was a failure to recognise that road administration was steadily drifting towards the local public health organisation, then slowly beginning to take shape. The tide of this drift had indeed already breached the authority of the parish, as the Public Health Act, 1848, had set up local boards of health in new urban areas with direct responsibility for the roads in those areas. Even before the Act of 1862 many such boards had been constituted.

Thus, at this time we find the vexed question of road administration further complicated by the antagonism of the parish, with its immemorial traditions, and the new Urban Health Authority. But, although the grouping of parishes was never completed, much grouping was, in fact, achieved and the next question to arise was how it could be completed. Here Parliament intervened, and I will refer very briefly to the material Acts and their effects.

The Public Health Act, 1872, transferred jurisdiction as to highway matters and turnpike roads to the Local Government Board which had been constituted a year before and were now responsible for public health and poor law administration. The Public Health Act of 1875, re-enacting and amending the Public Health Act of 1872, divided England and Wales for the purpose of public health administration into Urban and Rural Sanitary Authorities. As, by this time, urban sanitary authorities were responsible for their own roads, it became abundantly clear that a similar responsibility would pass to the rural sanitary

authority. This is what, in fact, happened. The Local Government Act, 1888, constituted county councils, to whom was given responsibility for "main" roads, thus, to some extent easing the burden of the smaller authorities. It also created the county borough council and transferred to it all county roads within the borough. But something more was needed to reach the end which public opinion sought to achieve. The final stage of this phase was reached by the Local Government Act, 1894, which provided for the abolition of the highway parishes and the remaining highway districts, merging them in the rural sanitary authorities.

So, by the end of the nineteenth century, the parish, for all practical purposes, passed out of existence as a highway authority.

Let me now return to the story of the turnpike roads. These expired not so much as the result of legislative action as of railway competition, which reduced them, already weak financially, to insolvency, if not complete bankruptcy. As each trust failed to function, the parish had to undertake the care of the roads which the particular trust could no longer maintain. As the trusts continued to levy tolls, public resentment was not slow to show itself, and demonstrations, notably the Rebecca Riots in South Wales (1842-43), took place throughout the country. Gradually the trusts disappeared as Parliament refused to grant continuing powers to those who were not able to make out the strongest case for continuance. But it was not until the end of the century (1895) that the last trust, which, incidentally, was responsible for the Anglesey portion of the Shrewsbury-Holyhead Road, passed out of existence.

Summarising the position at the end of the century we find, therefore, that in the borough and urban sanitary districts the roads had become the responsibility of the local council. Outside these districts the county council was charged with the care of "main" roads, and rural district councils with the remainder. Finance was found wholly from local rates. In all there were now in England and Wales something like 1900 highway authorities, varying from the small impecunious rural district council to the wealthy county borough council, but above all there was an almost complete lack of anything in the nature of a national policy.

Up to the point now reached the two developments in means of transport which had most affected roads were the use of the wheeled vehicle and the advent of railways. Now we come to the third development, the motor vehicle.

Road Board: Development and Road Improvement Funds Act, 1909

The new vehicle, owing to its weight and capacity for speed, naturally led to a widespread demand for better and stronger roads, and in consequence for greater expenditure to satisfy this legitimate demand. The existing highway authorities could not unaided secure any appreciable improvement, and with a view to helping the situation the Government, by the Development and Road Improvement Funds Act of 1909, set up the Road Board, a body which was entrusted with the administration of the Road Improvement Fund which had an income amounting to about one million pounds a year. This money was expended in grants to road improvements; and some valuable experimental work was undertaken on selected lengths of road. Ordinary maintenance received no grants from the board, being left to the highway authority. The Road Board did useful work, but it would be idle to speculate on what the board might have done, how it might have developed and what would have been the resulting improvement in our highways. The catastrophic events of 1914 and the subsequent four years forced the nation to devote every effort to one end alone, the successful prosecution of the War, and all else was relegated to the background. Let us pass over these war years and come to post-War developments.

Ministry of Transport

The Ministry of Transport Act, 1919, created a new Department of Central Government, to which was transferred all powers and duties relating *inter alia* to "roads, bridges and ferries and vehicles and traffic thereon," and there was to be "attached to the Ministry a separate department charged with dealing in the ordinary course of departmental business with road construction, improvement, maintenance and development." The Road Board was thus superseded by, or rather merged in, the Roads Department of the Ministry of Transport. The new Minister was empowered by section 17 of the Act to classify roads in such manner as he might think fit for the purpose of giving financial assistance and to defray half the salary and establishment charges of the engineer or surveyor to a local authority responsible for the maintenance of such roads.

The Roads Act, 1920, established the Road Fund as successor to the Road Improvement Fund, and assigned to the new fund the proceeds of the licence duties on mechanically-propelled vehicles, to be devoted to the upkeep and improvement of public highways after meeting certain prior charges. Succeeding Chancellors of the Ex-

chequer appropriated the balances of the Road Fund, the income of which, under the provisions of section 33 of the Finance Act, 1936, is now derived from annual votes of Parliament instead of from hypothecated duties.

For the purpose of the administration of the Road Fund, the roads of the country were classified as from the 1st April, 1921. The most important traffic routes (now 15.1 per cent. of the whole) are placed in Class I, and are subsidised (subject to certain variations) to the extent of 60 per cent. of the approved annual expenditure on maintenance and improvement. Roads of secondary importance (now 9.5 per cent. of the whole) are placed in Class II, and the subsidy in this case is generally 50 per cent. The remainder (75.4 per cent.) are regarded as primarily of local importance, and although occasional grants are made towards definite improvement schemes, their maintenance since the Local Government Acts of 1929 became law has been met entirely by local rates, subject to any appropriation which the highway authority may make out of the Block Grant, to which I shall refer later.

We thus find the Central Government taking a much greater part in financing road works, and from this new interest beginning to attempt to formulate and develop policy more on national lines. But still more was needed, particularly in the direction of enlarging the highway authority areas so as to secure greater continuity of practice and policy and to ease the burden falling so heavily on the smaller authorities.

Local Government Acts, 1929

The next great changes in road administration were brought about by the Local Government Acts of 1929. It will be recalled that in England and Wales, county borough councils, rural and urban district councils were responsible for roads within their areas, while the county councils were responsible for certain roads known as "main" roads. The changes now made were far-reaching and complex, but, broadly speaking and subject to a variety of exceptions, conditions, rights and duties, the effect of the Act of 1929 in England and Wales was to transfer to the county council the management of all roads in rural districts and of all classified roads in urban districts. In Scotland there was a similar transfer of responsibility for classified roads from the small unit of the burgh council to the large unit of the county council.

The transfer took place on 1st April, 1930, and had the effect of reducing the number of highway authorities to some 1,400. The constitution of the county districts in England and Wales has been subject to changes as a result of reviews under the provisions of section 46 of the Act, and the position at the end of 1937 was as follows:—

	Road Mileage.
England and Wales.	
62 County Councils	118,349
29 City of London and Metropolitan Boroughs	2,350
83 County Boroughs	13,751
902 Municipal Boroughs and Urban Districts	19,307
Scotland.	
31 County Councils	23,086
24 Large Burghs	1,916
170 Small Burghs	871
1,301	179,630

Another important change made by these Acts was the abolition of maintenance grants for classified roads in London and the county boroughs and for unclassified roads in counties, and the substitution of an annual payment from the Road Fund to the General Exchequer Contribution to local government expenses. This subvention from the Road Fund ceased on 1st April, 1937, but the Central Government's contribution to local revenues by way of the Block Grant—as each local authority's share of the General Exchequer Contribution is commonly called—was not thereby diminished.

It will have emerged from what has already been said that the history of highway administration is the history of a gradual widening of the areas of administration. The widening of these areas was brought about because the historic and territorial boundaries which were not inappropriate for public health purposes meant nothing to the growing volume of road transport which demanded reasonable uniformity of road conditions without relation to administrative units.

Trunk Roads Act

The culmination of this process was the Trunk Roads Act of 1936, which appointed the Minister of Transport to be, as from 1st April, 1937, the highway authority "for the principal roads in Great Britain which constitute the national system of routes for through traffic." These were designated in the Act as "trunk roads." Even with grants from the Road Fund and the Block Grants many authorities were finding that the financial burden of maintaining highways for use by motorists, many of whom were not ratepayers in the area, was becoming intolerable. The cost of maintaining the roads which were transferred was estimated at about two and a quarter million pounds per annum. After deducting Road Fund grants at the rate of 60 per cent., this left

nearly one million pounds to be found by local highway authorities, in addition to the heavy but unknown burden of bringing the roads up to modern standards. The Act was therefore primarily a "relieving Act," and had the further advantage of enabling long-distance routes to be regarded as single entities for the first time. Plans for their improvement can now be considered as a whole without regard to the particular and possibly conflicting circumstances of the several areas through which they pass.

The Act made the Minister of Transport the highway authority for approximately 4,500 miles of the most important roads in Great Britain. While these roads form only 2½ per cent. of the total road mileage of Great Britain, they represent 16 per cent. of the mileage of classified roads. The biggest gaps in the system are London and the County Boroughs (large Burghs in Scotland); no roads through these places are under the Minister's control. The reason for exclusion in such cases is that these authorities are autonomous units; the trunk road is frequently the main street in the town, and it would not be appropriate for Whitehall to exercise control over the frontages and over the day-to-day administration of these thoroughfares. Moreover, the transfer of the roads would have involved the wholesale revision of the financial arrangements on which the Block Grant instituted by the Act of 1929 was based. It was recognised also that the most satisfactory solution of through traffic difficulties in these areas would be in many instances the construction of a by-pass lying wholly or mainly outside their boundaries.

The Act was drafted in such a way as to give to the Minister precisely similar powers of control over Trunk Roads as those possessed by the county councils in respect of county roads. For obvious reasons it was not considered practicable to give to the Minister exceptional powers not possessed by other highway authorities; indeed, in some respects the Minister is not so well placed—for example, he is unable to avail himself of the quick entry upon land required for road works by means of Orders under the Public Works Facilities Act, which are available to other authorities. His powers of compulsory acquisition are slow and ponderous. The control under the Restriction of Ribbon Development Act, 1935, to which I shall refer later, is shared between the Minister and the former highway authority for the road. The Minister, if he is prepared to face the compensation bill, can impose conditions to protect the road from new buildings and new points of access, but control in the interest of amenities is left with the former highway authority.

The Trunk Roads Act was based on the assumption that in general the actual execution of works would be carried out as heretofore by the local authorities acting as agents for the Minister in pursuance of agreements in standard form drawn up in consultation with the associations of local authorities. The Minister determines what should be done, and it is carried out at his expense (plus percentage for administration) by the agent authorities. The thousand and one day-to-day decisions about the placing or removal of obstructions or questions of drainage or matters affecting frontagers, etc., are taken by the Minister's local officers in consultation with the agent authorities.

Upon the Minister's assumption of responsibility for trunk roads, a survey of their whole length was immediately put in hand and maps prepared to a scale of 6 inches to a mile, showing their existing condition and the action which it is proposed to take, whether by way of improving and widening the existing roads or of constructing by-passes and diversions. The lines of by-passes and diversions are prescribed by Orders under section 1 (3) of the Trunk Roads Act, and this work is being pushed forward as rapidly as possible with a view to safeguarding the proposed alignment of the new roads and so avoiding development which might hamper future action. Up to date over 200 Orders have been published and over 100 of them have been made effective. A governmental organisation has been set up for acquiring property for trunk road purposes, and at the end of last financial year, 31st March, 1938, the number of schemes in hand involving property acquisition was 360, comprising 7,811 separate interests: by 31st October, 1938, these totals had grown to 611 and 12,529 respectively.

The student of public administration will find much of interest in the nature of the arrangements for securing the maintenance and improvement of the trunk roads. Before the operation of the Act, the Ministry of Transport, like most of the other Civil Departments, had functions which were administrative and regulatory rather than directly executive. It is a new role for the Minister of Transport to be responsible from first to last for a direct service in maintaining an efficient road system in the same way as the Postmaster-General is responsible for the postal service. The change in outlook required in officers of the Ministry of Transport, from criticism of the schemes of others to the initiation of their own schemes, has not been altogether simple. Moreover, the organisation required has demanded careful framing. With the possible exception of that department of the Ministry of Health concerned in the administration of the National Health Insurance Acts, all Government departments with executive, as opposed to regulatory, functions have a unified staff spreading from headquarters along the

radiating lines to the circumference where the actual work has to be performed. Outside headquarters, the Ministry has eight Engineering Divisional Offices, but for the detailed administration of the Trunk Roads Act those at the circumference are not part of the staff of the Department; they are local authorities, and the success of the machine naturally depends upon the maintenance of cordial co-operation and not upon the bare power of direction. I am happy to say that the harmonious relations which have for so long existed between the Ministry of Transport and local authorities generally have enabled this new relationship to be set up and to work with an encouraging absence of friction.

In a short time, however, it will no doubt be necessary to review the arrangements for delegation in the light of the experience which has been gained, and to consider in what respects those arrangements may require to be amended so as still further to improve the efficiency and to expedite the working of the administrative machine.

Restriction of Ribbon Development Act, 1935

I now turn to a brief discussion of another recent and important development in the field of road administration—the passing of the Restriction of Ribbon Development Act, 1935.

Within recent years it has become apparent to those who are concerned with the problems of road development and safety, and no less to those who love the countryside, that the practice of utilising public highways, in lieu of providing estate roads, for the purpose of building development must be stopped.

Since the War, great efforts have been made to improve the system of highways by widening and other measures affecting the existing roads, and by building by-passes where this appeared to be a more economical and effective means of securing the requisite additional facilities for traffic.

Unfortunately, this improvement of the highway system has been accompanied by a tremendous increase in the development of the highway frontages, both for residential and commercial purposes, with the result that the additional highway space, often provided at great public expense, has become simply a parking place for the waiting vehicles of tradesmen and others whose business takes them to the roadside buildings. Thus, in many cases, the original purpose of the highway improvement has been largely defeated. But, bad as it is from the economic standpoint, the evil of ribbon development does not stop there. This form of development, often with shops, schools, factories and resi-

dential property on both sides of the road, has created a serious safety problem which has led to demands from many quarters that these expensive highways shall be treated, e.g., by the provision of lighting and the imposition of speed limits, as if they were ordinary estate roads.

I believe, however, that the public conscience has now been aroused to the evils of ribbon development, and I have every hope that with the powers conferred upon them by the Restriction of Ribbon Development Act, 1935, highway authorities will be successful in their efforts to prevent this disease from spreading.

Some ten years ago we did not recognise that the by-pass for which we obtained the land cheaply, by reason of the betterment of adjacent land, was to turn out a bad bargain when that land was developed. When we build a new by-pass to-day we retain under the Act of 1935 complete control of new means of access to it.

By the passing of the Act, restrictions were automatically imposed in relation to all roads that were classified on 17th May, 1935—some 43,000 miles.

Since the passing of the Act, highway authorities, by resolutions approved by the Minister of Transport, have brought an additional 25,000 miles under control, so that restrictions now apply to about 68,000 miles.

Broadly speaking, the restrictions are that without the consent of the highway authority no one may build within 220 feet of the middle of the restricted road or construct a new means of access to the road. Some authorities are, unhappily, chary of refusing consent for fear of potential liability for compensation.

The Act has established the position that a person wishing to develop land fronting a public highway may be required to provide the roads for that development in the same way and to the same extent as would have been necessary if the public highway did not exist.

Further, the control of access encourages and, in the last resort, compels the developer to think in terms of group development, and to prepare plans, often in co-operation with both highway and planning authorities, which are free from the uneconomical and ugly features which characterised ribbon building of the pre-Act type. It thus frequently happens that, while control of access is primarily designed to preserve the traffic value of the highway, it can and does exercise an indirect but positive influence on planning beyond the highway boundary, quite apart from the direct control over the erection of buildings within 220 feet of the middle of the road.

Many thousands of applications for consent to building and the construction of new means of access are dealt with annually by highway authorities and, notwithstanding that in a substantial number of cases consent is withheld or made subject to conditions, only 220 appeals were made to the Minister in 1937-38 against the decisions of highway authorities, and during the year 107 appeals were withdrawn, mostly following the exchange of views between the parties. This, I think, is a testimony both to the wisdom and fairness with which the control is being exercised by the highway authorities and to the goodwill of developers who are accepting the restrictions as a measure required in the public interest. Of the 124 decisions given on appeals during 1937-38, 45 were in favour of the appellants.

Experience of dealing with these appeals has shown that there is developing throughout the country a close co-operation between developers and highway authorities. This the Minister of Transport is taking every opportunity of encouraging, as it is clear that the successful administration of this Act largely depends upon the extent to which this co-operation can be maintained.

Road Research

The large annual expenditure on roads, whether by the Ministry or by highway authorities, demands that full advantage shall be taken of scientific investigation into all that appertains to road design and construction. Road research is undertaken by the Department of Scientific and Industrial Research, under the advice of a Board composed of engineers and scientists, of which the Chief Engineer of the Ministry of Transport is Chairman. There are, in addition, a number of committees which have been established by the Department of Scientific and Industrial Research and the Ministry, in co-operation with associations representing specific sections of the road-making industry. These afford opportunities for the free exchange of information and advice regarding investigations into the use and behaviour of various road materials; certain of these investigations are conducted on a contributory basis.

Research is carried out principally at the Road Research Laboratory, Harmondsworth, and complimentary full-scale experiments on the open road are undertaken by the Ministry of Transport, acting on the advice of a technical committee composed largely of the highway engineers who are members of the Road Research Board. In this way close connection is maintained between scientific work in the laboratory and actual practice on the road. Reports are published annually and bulletins issued from time to time recording the results of special inves-

tigations. The cost of this research work, which in the year 1935-36 was about £50,000, will increase to £90,000 during the current year 1938-39—the increase being largely due to the capital cost of extending the Harmondsworth station, including the provision of a skidding track, etc.

Road Expenditure

Having thus surveyed the development of road administration and discussed the position which has now been reached, it will perhaps be of some interest if we look just for a moment at the expenditure which is involved in maintaining and improving the road system of this country. The average annual expenditure during the three years 1922-24 was fifty million pounds, and rose to fifty-eight million pounds during the following five years. The Labour Government's drive to cure unemployment brought the average of the three years 1930-32 up to sixty-seven million pounds, but the economy campaign of the next four years brought it down to about fifty-two million pounds. For the last two years the average has risen again to about fifty-nine million pounds. The cost of maintenance, repair minor improvement, cleansing and reinstatement now exceeds forty million pounds annually, but it is interesting to note that the cost of the first three items per mile of Class I road has fallen from over £600 in 1924 to under £400 in 1936.

The cost of schemes of major improvement and new construction varies greatly according to the width and layout of the road and the physical conditions encountered. For a new road 120 feet in width, with dual carriageways, cycle tracks and footpaths, the cost might vary from £50,000 to £75,000 per mile. One cannot give an estimate of the cost of widening in built-up areas owing to variations in overall widths and the value of the properties to be acquired. In many cases the latter is the dominating factor in the situation. Expenditure on these capital works is increasing. It amounted to 8.6 million pounds in 1933-34, to 10.7 million pounds in 1935-36, and exceeded 12 million pounds last year. Some authorities, like the Government, meet these costs out of revenue, but the majority borrow in order to spread the charge. The outstanding highway debt amounts to about one hundred million pounds.

No official information since 1929 is available as to the number of men employed on road works, but "Basic Road Statistics, 1938," published by the British Road Federation, estimates the number of persons employed on road construction and maintenance as 100,000.

This figure is based on a total annual expenditure on roads of fifty-eight million pounds, an average weekly wage of 52s. 6d., and the assumption that 25 per cent. of the cost of the roads is for wages.

Conclusion

In endeavouring within the compass of this Paper to give a description of the development of road administration in this country, I have necessarily had to indulge in a great deal of compression. However, I hope that the picture which I have tried to draw will be found sufficiently complete to enable the broad lines of that development to be followed with reasonable ease and to indicate the causes which have led to the present stage in this field of administration. I would only make one further remark. It will be clear that there is nothing static in the sphere of road administration. Largely as a result of the development of the internal combustion engine, the population is becoming ever more mobile and the demand for transport facilities is ever growing. New problems are being created and new methods will have to be devised in order to meet them.

THE METAMORPHOSIS OF NORTHERN BOMBAY

By A. P. SALDANHA, B.A.

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Bombay, "Urbs prima in Indis", like most of the great cities of the world has grown up piece-meal under varying conditions, and the Bombay of today is not what it was some years ago. Although the city in general has undergone a metamorphosis in several of its parts, the transformation during the past quarter of a century in particularly the northern districts thereof has been of a wide and sweeping character, and I, therefore, propose dealing in this article with only one of the seven Wards of this City viz., the Mahim or G Ward as it is known in the Municipal records, and which forms the north-western portion of this island city.

This Mahim Ward has for long years consisted for the most part of vast expanses of cocoanut oarts, rice fields, and lands under cultivation some of which, especially the cocoanut oarts, are still to be seen in that tract of land abutting the western foreshore from a little way off from Worli village to the Mahim Fort. This is the well-known Mahim woods referred to by antiquarian authorities such as Fryer, an eminent English traveller and historian who, in his book "New Account of East India and Persia" published in 1675, refers to these woods as follows: "On the back side of the towns of Bombaim and Mahim are woods of cocoas under which inhabit the Bundaries (those that prune and cultivate them) these hortoes (oarts) being the greater purchase and estates in the island for several miles together." Fryer goes on to say that "this side (i.e., Mahim) is all covered with trees of cocoas, jawks (i.e., jack fruit trees), and mangoes." The late Mr. S. M. Edwardes, I.C.S., a former Police and Municipal Commissioner of this City in his book "Rise of Bombay" says that in 1742 the Kasba (i.e., a Mahomedan citadel) of Mahim contained 70,000 cocoa palms, of which about 23,000 belonged to the East India Company, several gardens and rice fields, and a *bandvastae* or distillery. That was the Mahim of the 17th and 18th centuries, but time has wrought its changes in many directions, and those 70,000 cocoa palms referred to by Edwardes are not all there at the moment. Gone are a good deal of them under various development schemes that were inaugurated at Mahim commencing chiefly

from the year 1920, and at the moment it is computed that not more than a half of the 70,000 trees mentioned by Edwardes now remain. Similarly, the number of jack fruit and mango trees are not what they were when seen by Fryer.

And now to turn to the actual schemes of acquisition and development that have so completely changed the face of Mahim Ward. For the sake of convenience, I propose to take the reader briefly through some of the principal schemes, commencing from the southern boundary of this Ward which is that line commencing from Chinchpokli Bridge to the southern point of Hornby Vellard at Mahalaxmi. In the first place, that good old locality, Jacob's Circle, is completely changed from what it was prior to 1930. In that year the Municipality took in hand the construction of that circular garden which now surrounds the famous ornamental fountain built so long ago as 1886 and which was dedicated to the memory of General Le Grand Jacob, a well-known English officer of those times who died in 1881 after 40 years residence in Western India. Many a Mangalorean has lived in the vicinity of and passed by that fountain, for, until this idea of suburban emigration commenced about 15 years ago, Mahalaxmi and Jacob's Circle were the centres of a large number of Mangaloreans. A little to the west of Jacob's Circle, we see that mammoth construction of the Mahalaxmi over-bridge which spans the whole track of the B.B. & C.I. Rly. and which is built in the form of the letter T, with access from and to three different roads viz., Clerk Road, Haines Road and Mahalaxmi Station Road. The construction of this over-bridge has altered very considerably the face of Mahalaxmi such as old residents knew it. Gone are many of the dilapidated buildings that made a bad slum of the Mahalaxmi of old, and when we think of the Mahalaxmi Railway Station of former years and the one that now exists—what a contrast! The public entrance to the railway station is at the top of the Mahalaxmi Over-bridge itself, along with its booking office, stationmaster's office, etc., and the platforms and railway lines are on the ground level below.

From the crest of this over-bridge and looking north-eastwards, we see the Mahalaxmi Refuse Siding constructed by the Municipality with a view to affording rapid handling and transport of the enormous amount of refuse and garbage which is collected from various parts of the City and which amounts on an average to about 850 tons per day and which is transported from there over the Kurla-Deonar Rly. to be dumped in the refuse pits at Deonar in Trombay Island. This is a siding which has altered very considerably the railway yard at Mahalaxmi from what it was in former years.

Passing on to that other big public institution, the Race Course of the Western India Turf Club popularly known as The Mahalaxmi Race Course—the scene of much enthusiasm during the racing season in Bombay, with its occasional joy for some and its frequent sorrows for the many, we see that this institution is not what it was prior to 1925. In that year the Western India Turf Club completed the remodelling of the Race Course in all its details, and from a former small and petty course with one Grand Stand both for members and the public who paid for admission to the 1st class, and another small and dishevelled enclosure known as the 2nd class enclosure, we now have the present magnificent grand stands for members, the 1st enclosure, the 2nd enclosure, and even (at one time) a 3rd enclosure with numerous subsidiary buildings and structures appurtenant to a race-course, and a large group of stables for race-horses at one extremity of the course. This remodelling of the entire course has made the Mahalaxmi Race Course one of the biggest and best in the world, and again this has been one of the major changes which has altered the aspect of the Ward very considerably and has made of that part of the city “a thing of beauty”—though I cannot well say that it is “a joy for ever,” knowing as I do the evil effects of gambling that appears to be pervading all strata of society. Turning into the Hornby Vellard we see that things are changing—in fact they have commenced to change only from the beginning of this year. I am referring to the widening of the Vellard which was up to now a serpentine bit of highway only about 35 to 40 ft. in width with a 10 or 12 ft. drop straight into the sea at high-tide on one side, and a line of waving cocoanut palms on the other—a veritable death trap for the careless and negligent motorist, and as a matter of fact the scene of many a tragedy both accidental and otherwise, especially during the monsoon period. Today that fringe of palms has disappeared—esthetic beauty having had to make way for material comfort—and a broad and wide 55 feet carriage-way with 20 feet foot-paths on either side, all of cement concrete are being constructed which will be a joy and a boon alike to the motorist and to the jay-walker. Walking up northwards from the Vellard another mighty change strikes the eye—and later on it will also be the nose! That notorious bottle-neck as well as stink-bottle known as the Love Grove Bridge at Worli is undergoing even at this moment a change. From a bare 29 feet passage, we are now widening the bridge to a 60 feet carriage-way with 15 feet foot-paths on either side, and within a short time a scheme will be taken in hand to remove that out-fall further away into the sea, and by means of mechanical contrivances to render the present nuisance of atrocious smells that afflict one's nose less apparent than what they are at the moment. We hope that with all

this, both the bottle-neck and the stink-bottle will disappear and soon be a thing of the past. And travelling further northwards a little way up from this spot, the old resident of 25 years ago will see changes which he never dreamt of at that time. There is first of all that big group of about 125 chawls built of cement concrete at Worli by the Bombay Development Dept. during the years 1920-25, and which now appears to be a miniature town in itself. There was a time when these chawls were sadly neglected, and on account of so many of them being vacant they were even used as a temporary prison to house the many arrested persons during the communal riots, as also those persons arrested during the days when Congress was in opposition to the then Provincial Governments. Practically next to this big chawl centre is another building with two tall aerial posts, and that is the premises of the Worli Broadcasting Station—the place from where the Bombay Station of All India Radio transmits its programmes both by day and by night. What a change has this not made both in the lives and in the outlook of people! The people of 25 years ago had never dreamt that within their homes and rooms they would be able to pick up sounds, music etc. emanating from different and distant parts of the world, and here we have our own Bombay Station doing its part of the job at Worli. And at the Worli sea front itself, what a mighty change do we not see? The old Worli hills that were a conspicuous land mark of Bombay from the beginning of time are not what they were. The activities of the old City Improvement Trust has resulted in much quarrying and levelling work being done at the place, and the hills both in point of height and dimensions are not what they originally were. Incidentally, towards the north-eastern extremity of these hills is a small public garden from which vantage point one gets a beautiful bird's-eye view of a large part of Bombay including the beautiful Mahim Bay with the two points of Worli and Bandra Land's End facing opposite, and the Mahim Fort in the distant north. Landwards, towards the north is the beautiful stretch of the green belt of the Dadar and Mahim palm-groves known as the Mahim Woods, with the tall chimney-stack of the Turkey Red Dye Works at Dadar protruding in the middle thereof. The panorama of sea and land that stretches forth on all sides from this particular vantage point, is one that is alike a delight to the eye and to the soul. Here again, on and near these Worli Hills we see mighty changes that were not there just a few years ago. The City Improvement Trust, as a result of their activities in levelling up the Worli Hills, have laid out exquisitely positioned building plots which, however, for years together remained vacant except for that solitary pile of building constructed by the late Sir Sorabji Pochkhana-walla. However, the recent boom in building activity has resulted in

several of the plots being taken up, and in particular most of the plots immediately facing the Worli Promenade are now built upon with first class dwelling houses. Talking of the Promenade, it is a lovely bit of broad cement-concrete raised foot-path which affords a delightful walk of nearly a mile in length, and on an evening one can see innumerable cars parking by its side with its occupants taking the air. The broad asphalted road laid out parallel with the promenade is a favourite haunt of motorists—both the Malcolm Campbells of the fraternity as well as those who are just beginning to learn how to handle a car.

Moving out from this beauty spot of the Worli Marine Drive and going across to that narrow promontory where lies nestling that good old village of Worli Koliwada, the *habitat* of Koli fishermen, we see changes effected even in that stronghold of Koli conservatism which is probably as surprising to them as it is to us. Not many years ago the old City Improvement Trust had a proposal to acquire the whole Worli village under the provisions of the Land Acquisition Act, and to set about demolishing it *in toto*, and to re-create a modern fishing village out of the slum that existed there for centuries. These hardy sons of the sea, however, would have none of these new-fangled notions of civilization thrust upon them, and they determined upon resolute action to prevent their good old village passing from their hands. Whether they would have even resorted to the *argumentum baculinum* to maintain their rights I do not know, but fortunately for all concerned the City Improvement Trust abandoned the idea of wholesale acquisition on the ground of financial exigency. But anyway, the slum condition of the place could not be allowed to continue when all round schemes of improvement were in the air, and so it was that Worli Koliwada has only recently got the benefits of cement concrete road passages, narrow though they be, where for centuries it had merely dusty, pot-holed lanes which served the purposes of streets. And for all these centuries, not a single sanitary convenience existed for its inhabitants—the rocky foreshore on both sides of the promontory served the purpose of the inhabitants of the village. And now Worli village is both drained and sewered, and although many of the ancient and dishevelled little houses and huts may not have their own latrines, the village is provided with a fair number of public latrines where formerly there were none.

North-eastwards from this place we come into the heart of the Ward, and that is the Lower Parel-Dadar locality where again vast changes have taken place. The main arterial road for traffic from and to Bombay City on the western side is that well-known stretch of over 2 miles of road-way known as De Lisle Road, commencing from the

Byculla Railway Station and ending at its junction with the newly-constructed Gokhale Road near the Elphinstone Road Bridge. De Lisle Road is an old road of Bombay, but it has been considerably widened in several parts of late years, but Gokhale Road which really forms a continuation of De Lisle Road leading to the north of the city is an absolutely new one, laid out in conjunction with the various schemes for the development of the Northern districts of Bombay City, and which largely owe their conception and inauguration to the fertile brain of that eminent engineer, Mr. James W. Mackison who was appointed in 1920 the special engineer by the Bombay Municipal Corporation, mainly with the object of the furtherance of the development of the northern parts of the city. Taking first Gokhale Road, that road has been driven through what were originally thick cocoanut oarts, and running past the Salvacao Church at Dadar it goes on to join the old Lady Jamsetji Road near Courtauld's Silk Mill, formerly the Bombay Woollen Mill, at the outskirts of Matunga. On either side of this Gokhale Road we now see a vast number of buildings erected, teeming with their numerous tenants, and what were a few years ago merely cocoanut oart wastes are now residential localities of a good middle class type. True to tradition, the Catholics have mostly built their houses in the immediate vicinity of their churches, and the case of the Christian colony facing Salvacao Church is an instance in point. Coming up from De Lisle Road, Gokhale Road forms the western arterial road to the north but there also forks out at that notoriously-named *Saitan Chowkey* at Elphinstone Road the eastern artery known as Bhawanishanker Road leading directly to the district round about the B.B. & C.I. Rly. station of Dadar. Bhawanishanker Road has also, like Gokhale Road, been driven through a great many cocoanut oarts, and the point of intersection of the four roads at that Police Chowkey facing the Antonio Da Silva High School at Dadar viz., Bhawanishanker Road, Portuguese Church Road, Lady Jamsetji Road, and Dadar Road is most interesting. The metamorphoses here are something that beat the imagination, and I who was a resident in the immediate vicinity of this point for a period of three years from June 1915 to May 1918 can well testify to the fact that it is a miracle of development. So many and varied are the changes round about that locality, that if I were asked to point out the house where I had formerly resided I should probably do so with difficulty. To touch only briefly on some of the changes wrought in those parts—there was formerly a big Government distillery just opposite the Dadar Rly. station, and opposite the distillery on its southern side was a big textile mill known as the Kastoorchand Mill. The distillery was probably the site of that ancient distillery of the East India Company's times known as a

bandvastae referred to above in Edwardes' description of Bombay in 1742. Anyway, both this distillery and the Kastoorchand Mill have gone, and in their place we see rows of buildings erected, containing innumerable shops and dwelling places. Such was the building activity and influx of population in this locality, that the Municipality was obliged to construct in 1928 a well laid out market which is a boon to the residents of that locality. Trade activity especially in cloth is so marked, that out of interest I enquired the reason therefor, and found that in a large number of cases the cloth shopkeepers formerly had their shops in the heart of Bombay City like Null Bazaar, Dongri etc., but in consequence of the repeated occurrences of communal riots which in those Muslim localities endangered the lives and property of the Hindu shopkeepers, the latter deemed it wiser to remove from there and open up their shops in the Dadar locality which afforded them both safety as well as patronage, as the locality is predominantly Hindu and is inhabited by a good middle class population. That locality opposite the Dadar railway station is so very popular that there are now both boys' and girls' schools, maternity and nursing homes, two cinema houses all built up on what was, not so many years ago, practically waste land of the old Government distillery and a good bit of marshy and swampy land.

And to continue our journey northward via Lady Jamsetji Road. Turning to the left we see another mammoth construction viz., the Tilak Over-bridge with two forks on the Lady Jamsetji Road end, and spanning the entire B.B. & C.I. and G.I.P. Rly. tracks. Built in 1925, it is truly a monument of engineering skill inasmuch as it is roadway carried across a huge width of railway lines. A couple of 100 yards further up, Gokhale Road meets Lady Jamsetji Road, and the former ends there. Before continuing with Lady Jamsetji Road, let us traverse briefly through another well-laid out locality now known as the Shivaji Park Estate of the Bombay Municipality. Here again, cocoanut oarts have given place to well laid out building plots where not only some of our Municipal officers have built their own private residences, but several plots have also been sold out to the general public. That big public recreation ground known as the Shivaji Park is an amenity very much appreciated by the residents of the locality, and is one of the few parks that the district now has, when a few years ago it had none.

The policy of the road authorities has been mainly to afford proper access to and from railway stations, and hence the particular development in localities on the eastern side of Lady Jamsetji Road from Courtauld's Mill right up to Mori Road at St. Michael's Church, Mahim.

Several roads and cross-roads have been constructed in recent years from off Lady Jamsetji Road, and the important access road from and to Matunga Rly. station viz., Lady Hardinge Road is a boon to railway passengers and all users thereof. A still greater boon is the construction of that station road off Lady Jamsetji Road to the Mahim Rly. station now named Mia Mahomed Chotani Road which was driven through quite a number of cocoanut oarts and which was opened to traffic in 1925.

And then finally consider that stretch of road from the intersection of Mia Mahomed Chotani Road with Lady Jamsetji Road to the end of Lady Jamsetji Road where the old Lady ends opposite St. Michael's Church, and which is also another interesting junction where four roads converge viz., Lady Jamsetji Road, Mahim Bazaar Road, Mahim Causeway and Mori Road. The aspect of this locality again has undergone considerable change, and on either side of the road you find numerous new buildings, some with shops on the ground floor, but others purely residential where mostly, Catholics have built their own premises and where the tenants are also predominantly Catholics. For all this re-arrangement and re-modelling, many of the cocoanut oarts and mango gardens had to be acquired by the Municipality and re-sold as building plots, and a considerable slice of the old Catholic colony next to St. Michael's Church had to be absorbed in these acquisition schemes. And now coming to that last tract of land which marks the north-western limit of the Town and Island of Bombay and which is the northern-most point of this Ward—I mean the famous old Mahim Causeway which links on the north-western side the island of Bombay with the mainland of Salsette. Originally built only for the purposes of pedestrian and light traffic such as bullock carts and horse carriages, it was only a 30 feet passage at the time of its construction, but the enormous growth of traffic, particularly of heavy motor vehicles across it, requires its widening very considerably, and already the Bombay Municipality on its side has taken the necessary steps to reclaim additional land to widen the causeway, but the Bandra Municipality and Government on the other side are still dilly-dallying with their part of the job, and the resultant effect is that you still have that dangerous death-trap to motorists and pedestrians alike viz., the narrow, spherical, and antiquated bridge which spans the rushing sea waters below. I understand that it will not be very long now—it is already very much over-due—that a completely new and re-modelled causeway will be constructed which will eliminate all the dangers and inconveniences that exist on the present causeway.

One other factor that is essential for good suburban development is rapid, easy and cheap transport, and there can be no doubt that the two railway systems of the B.B. & C.I. and G.I.P. have contributed a good deal towards that end. The electrification of the two railways has brought the suburbs into closer contact with the City proper, but in so doing what wonderful changes have been effected! Compare the present system with the pre-electrification period. We have now on the B.B. & C.I. Rly. system a quadrupled track as against the double track that existed until 1928, and this affords quite an increased and accelerated service when compared with the steam service prior to that period. Then again, the rolling stock of the electric local service is a distinct improvement over the railway carriages of the steam traction period—broad, spacious, and comfortable, as compared with the dark, dingy and narrow carriages of former days. And to suit this electric traction service, vast changes had to be made in the matter of the railway stations which had to be completely re-modelled and in parts even rebuilt. Take for instance Mahalaxmi Rly. station. The present station is quite a new one, erected on a site different from that where the old railway station existed. And coming to that portion of the G.I.P. Rly. which traverses the Ward, there is the famous Harbour Branch which with the Mahim Chord Section has given importance to Mahim Rly. station and has raised it to the prominence of a railway junction. The advantages of this construction of the Harbour Branch of the G.I.P. Rly. cannot be under-estimated, and the branch line is indeed a boon to suburban residents and travellers. Side by side with these gigantic changes that have been effected in the railway services, we must also note those tremendous constructions known as the over-bridges which carry an enormous amount of pedestrian and vehicular traffic over the railway lines. In the former days of the steam traction service, there were only the ordinary level crossings at which long waits, especially if one were in a vehicle, were the order of the day, and I can quote to you one instance which occurred to me personally in those days, when seated in a car, it took me 22 minutes to cross that bit of level crossings at Dadar which involved 2 gates of the G.I.P. Rly. main line, another 2 gates of its sidings, and a further 2 gates of the B.B. & C.I. Rly. lines—6 gates in all in a width of about 75 yards of railway tracks. Now, not only is there a separate foot-bridge between the G.I.P. & B.B. & C.I. stations at Dadar, but also the Tilak Over-bridge at Dadar completed in September 1925 gives easy facilities to all sorts of traffic over the railway lines, more numerous now than they ever were, and so does the Mahalaxmi Over-bridge opened in November 1929, as also the Fergusson and De Lisle Road Over-bridge at Lower Parel, the latter also completed in December 1925. With all these mammoth constructions,

re-alignment of railway lines, re-modelling of railway stations, signal cabins etc., not a day's inconvenience was caused to the travelling public during the period of transition from steam to electric service. These changes in the railway service have undoubtedly metamorphosed wide tracts of this Ward.

Another activity of our Municipality which has very considerably changed the topography of the Ward, has been the filling up of quite a lot of tanks e.g., the Dighe Tank at Pithamber Wadi, Mahim, the Manmalla Tank at Matunga, the huge tank which was opposite the Salvacao Church at Dadar, and the other big tank known as Hansalli Tank where the western approaches of the Tilak Bridge at Dadar are now built. This filling-up process, besides being necessary both in the matter of road construction and for laying out building plots etc., has tended a great deal to minimize the pest of the mosquito which formerly used to breed in these tanks in very large numbers.

An account of these varied changes in this Ward will not be complete without reference to the changes in road construction. The main roads like Portuguese Church Road and Lady Jamsetji Road were, up to about 1920, nothing better than dignified village streets—narrow, full of pot-holes, and made of ordinary macadam with just a layer of tar or pitch on top. Bad and dusty as these roads were during the dry season, they were infinitely worse during the wet weather when the pot-holes became ditches, and water-logging was more the rule than the exception. Talking of the flooding of the streets at Dadar, one of the local representatives of the Ward on the Bombay Municipal Corporation was once detailing in pathetic tones and style to his fellow-councillors during the period when the locality had the type of roads referred to above, how the streets used to be flooded to such a height that it was necessary for pedestrians "to carry their trousers and their dhoties in their hands when wading through the flooded streets." The loud laughter that greeted this statement failed to make the worthy gentleman realize that he had committed a serious "faux pas", inasmuch as no one in his senses would be "carrying in his hands" those garments meant for the covering of his nether limbs even if he had to wade through water! Of the various blind alleys and side paths and foot-paths through the extensive cocoanut oarts, the less said the better. All that has now changed, and we have smooth and broad thoroughfares constructed on the latest principles of road-construction, with cement-concrete as the foundation, and thick and heavy layers of asphalt on top. These roads are also well drained, so that flooding is now very exceptional, and only when there are particularly heavy and protracted spells of rainfall. Talking of drainage, the north of this island of Bombay was particularly innocent of this important amenity of civic life

until very recently, and sanitation was run on very crude and primitive lines indeed. The bullock cesspool cart of former days was replaced for a time by motor vehicles, but both having served their purpose for a time much longer than the residents of the North cared to have them, we now have, at least in the major portion of the Ward, up-to-date systems of drainage and sewerage—the latter exemplified in that big scheme of the Dadar Purification Works, one of the foremost pioneering works of its kind out in the East.

Another metamorphoses which strikes one is in regard to the night life of Bombay and of this Ward in particular. I am not going to refer here to the seamy side of night life, but only to one thing of common interest to us all—and that is the lighting up of our streets. Until the developments to which I have referred above were taken up, the street lighting in most parts of this Ward was very poor indeed, and except for a few gas lamps on important highways like Lady Jamsetji Road, kerosene lights were in common use. Even these lights were few in number, and all that they did was to accentuate the gloom of the surrounding darkness. All that has now changed. Electricity, which was not to be had in these parts a quarter of a century ago, has taken its proper place, and its use both for public and private consumption is now easily available. The new and widened roads are all efficiently equipped with high-powered gas lamps, and in many parts like the new Hornby Vellard Scheme the Municipality are trying out the most modern electric system of lighting like sodium vapour and mercury vapour lights.

And now, when we come to think of it, what, it might be asked, have been the benefits that have accrued by all these schemes of acquisition, development and improvement? They are many and obvious—suffice it to say that these various schemes have tended to raise the Mahim Ward from what was a quarter of a century ago a sleepy-hollow wood to a real live locality forming an integral part of this big city of Bombay. Roads, sanitation, lighting, water-supply, education, markets—those primary civic amenities have all improved immeasurably when compared with the not so distant past, and two indications that throw light on this matter are first, the vastly increased population of the Ward, and secondly, the considerably diminished death rate in spite of the heavy population increase. It will be of interest to know that the Census of 1931 put the figure of population of G Ward at 1,63,775 persons, and it is anticipated that it will be considerably more when the next decennial census is taken in 1941. When we compare the 1911 figure of 1,20,103 for G Ward, the increase is striking, and represents a percentage of 36. And about the death rate—this stood at 31.69 per 1,000 of population in 1911, and today is only about 30.7 per 1,000 of population.

GRAMA VIDHAN OR VILLAGE PLANNING

By **V. C. MEHTA**, B.A., B.E.

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The word village is now-a-days on the lips of every administrator or leader. What we may call Village Movement bids fare to compete with the almost gearing National Movement. In a country like India, the Village is a broad-based natural promontory on which only can be erected a stable statue of the national advancement, be it represented similar to a 60 feet figure of a Mahavir or a colossus of a Washington or a Lenin. Though this representative symbol is important in its way, it pails into an infinitesimal when studied with the huge promontory representing the villages. It is impossible to do justice to such a vast subject within the compass of a paper like this. The whole village problem is so complex and has so many aspects such as sociological, economical, educational, political, commercial, agricultural, technical and the like that I shall confine myself to the engineering side of it. The aspects however are so inter-related, that in the solution of one, there are bound to be assumptions regarding the others, at least in the background.

The word 'GRAMA' (ग्राम) occurs very frequently in the *Rigveda*; while the word 'PUR' (पुर) occurs only less than a dozen times. The word 'NAGAR' (नगर) does not occur at all. The sociological implications as culled out from the study of the ancient literature is interesting and informative but we shall have to leave the matter at that and proceed to say briefly on a few broad points.

Unlike towns and cities villages grow out of Mother Earth. Barring few exceptions, they go through a process of evolution, which imprints a firm impression on the formation of the village. The man's artifices are always there, but the natural conditions play an important part. Though the mention of a village, conjures up an agricultural image of the rurality on one's mind, the complexity of human activities has created so many sociological currents' eddies and cross currents that we find innumerable varieties.

The types of villages can be classified in three different ways viz.:-
(1) Use, (2) Topography and (3) Population. The sub-classes of Use-classification may be enumerated as below:

(1) Agricultural. (2) Pastoral. (3) Forest. (4) Vocational. (5) Manufacturing. (6) Commercial or distributing. (7) Religious. (8) Educational. (9) Strategic.

The sub-classes naturally do not form water-tight compartments. But, the major functional life of the village decide its class as well as its plan. The agricultural village is one of the most important item of the village uplift activities and we shall deal with it separately.

The pastoral village with its cattle as the villagers' mainstay develops on peculiar lines. Each villager will require plenty of space for impounding his cattle. Such a village will require a hedge or a rampart to protect the living wealth of the village from the attack of carnivorous animals. The houses will also develop features peculiar to their use, such as provision of safe custody of milk and all the necessities of ghee manufacture. Subsidiary industry of wool, goat-hair and the like will also imprint its marks. Rural leather industry which bitterly cries for development shall have to be provided in the lay-out scheme of the whole pastoral village.

Forest village is very similar to pastoral village, but the vocation of the villagers depending on the trade in forest produce will determine the planning of such a village. Whether the inhabitant of such a village is a primary producer or a mere labourer, will go a great way in deciding its location as well as the types of streets and houses in the village.

A village set up on the fringe of a quarry or at the mouth of a mine or the bank of a fishery, will have its own characteristics. Such a vocational village shall have to be designed so as to suit the type of skilled and unskilled labour that will congregate at the place. The problem of transport of the material will also have its impress on the design. The future requirements though usually cared for as a matter of routine in all planning will here be more necessary. It is to be noted that the probability of the establishment of such villages almost totally anew is much more than any other type. If the authorities that are concerned with the control and development of mining take proper precautions and decide their policy in advance, the ugly, insanitary and ill-planned or rather unplanned alum villages will at least not be repeated near the quarries or mines. The control of such villages is very easy along with the mining control, the only pre-requisite being pre-planning and pre-determined forward policy. The District Council and similar local bodies can also take up the initiative and mould the policy of the authorities concerned in such a way that vocational alum villages may no longer crop up.

If ever the dream of the sociological philosopher, who believes in cottage industries as the main supplier of the nation's requirements, becomes a problem of practical politics, a country-wide regional planning for establishing such villages will have to be the basis of any achievement in response to the practical repercussions of such a sociological philosophy. In any case, with emphasis on cottage industry and the village as an invariable unit of political and economical planning, a manufacturing village in the centre of a group of villages—both conceived as inter-dependent—are surely going to crop up. It will be a wise policy on the part of those who are responsible for the concept if such a sociological order to think out a workable scheme from the point of view of regional planning. The design of such a manufacturing village, will depend upon the types of villages that it will serve and on whom it depends. It will also develop as a focal point on which will depend the moral and material progress of the surrounding rural community.

The proto type or rather a perverted version of such a manufacturing village is the commercial or the distributing village of the present times. Its extent and planning depend upon the hinterland over which it distributes. Such villages have developed as distributing centres and their evolution as parasitic community can be seen in their lay-out. An ideal commercial village will go a great way in improving both the economic and social conditions of the surrounding villages it indirectly controls. The planning of such a village is a problem by itself and will depend upon a great variety of factors.

A religious village is one which grows out of necessity of supplying the wants of pilgrim population. Such a village ought to be planned with a great deal of care and foresight. Defect in such a village tells not only upon the health of the inhabitants of the village itself, but also on that of the pilgrims who spread the disease, if imbibed, far and wide. Though the Indian mentality at the present times is such that such villages will continue to exist, yet there dawns on the horizon what we may call politico-religious village. It will be a great blot on the country if the village belonging to this sub-class is not planned according to the best principles of scientific and systematic planning.

With great emphasis on rural education there is every likelihood of educational villages being put up as brain centres of groups of villages. Of course, great university centres are models which will shape such villages, but a thorough-going planning microscope if brought to bear on the design of such villages will go a great way in evolving an educational village which will not only educate by precept but also by example.

In a voracious world, that necessitate the establishment of out-posts, great deal of thought and greater deal of money is generally spent on what we may call strategic villages. Such a village forms a part of military engineering and we shall have to leave them there.

The types of villages can also be classified according to their Situation as again Use. The positional evaluation of a village is sometimes greater than that of its functional evaluation. They may be known by any of the following positions:—

(1) Water side : (a) River on stream, (b) Lake, (c) Sea. (2) Mountain : (a) Top, (b) Side. (3) Plain. (4) Other topographical feature. (5) Road side. (6) Railway side. (7) Suburban.

The impress on village design on account of its function is, though firm, too delicate to be easily picked up, while topographical impress is too marked to be missed. The features of a mountain village can easily be recognised as distinct from those of a village on a plain.

The river side village has its advantages as well as its disadvantages. The river assures plentiful and easy supply enabling more hygienic conditions, while the village may be endangered by scouring or floods. The drainage facility is great in a river-side village but the possibility of water pollution is equally great. A visitor to a river village will find most of the inhabitants occupied in the river in the early morning—a picture that will not be found in any other type of village.

A road side village on the other hand will be bustling with traffic, presenting its own problems according to the importance of the road and the serviceability of the village to the traffic on that road. The principles of the Safety First Association will have an extensive as well as the fundamentals whereof will mould the whole lay-out of the village.

Just as a road-side village has a communicational impress, a railway-side village may take the form of a Sarai village. Such a village formulates itself into a miniature emporium and develops peculiarities of its own.

Both these types have to sustain the impact of civilisation brought along the road or the railway line either for good or for bad and they have to accommodate themselves in their development to the changed and ever-changing conditions. Unfortunately the Railway and Road Builders do not take stock of the rural requirements as they should and one often sees mutilation of the village plan both topographical and economical and sometimes its ruination. On the whole, however, a village benefits by its communicational facility, which will give the maximum of benefit if there be proper pre-planning and control of development.

A suburban village comes into the category of a communicational village, but due to its proximity to a city it becomes more or less parasitic. Sometimes such a village serves as a dormitory to the city to which it is suburban. According to the services it renders to its parent city, the village is put on its tracks of development, which acts and reacts to the demands of the latter. Here too the problems are peculiar and well-worth study.

Over and above the positional effect on the village development, there are many other natural causes, which mould the village design, such as scanty or heavy annual rainfall, extremes of heat or cold, dry or wet air, type of soil and such other climatic, geographical and geological conditions.

The classification by Use and Position may also be supplemented by one of the basis of population. A classification on such a basis though very easy has a greater influence on the lay-out of the village than any other functional or positional effects. Both the type and the number of population determine the village design. What may be a necessity for a village of 3,000 souls may be excrescence for a village with say 100 souls.

The requirements of a village will depend on a variety of factors, the most important of which are created by the functional and positional characteristic of the village together with those engendered by the type of population. We shall have to rest satisfied with the mere enumeration of the amenities that have to be considered while planning a village, particularly an agricultural village.

(1) Main communication. (2) Approach road. (3) Field tracks. (4) Village streets and squares. (5) Culverts and fords. (6) Water : (a) Well, (b) River, (c) Lake. (i) Drinking, (ii) Washing, (iii) Bathing, (iv) Cattle. (7) Well platform and lifting arrangement. (8) River Ghat. (9) Bathing and washing enclosure and platform. (10) Well draining arrangement. (11) Cattle Trough. (12) Sanitary arrangement : (a) Trenches, (b) Bore latrine, (c) Septic Tank, (d) Vada latrine, (e) Domestic drainage, (f) Storm water drainage. (13) Community Hall. (14) Village square. (15) Children's playing ground. (16) Religious place and guardian deity. (17) School. (18) Cattle Pond. (19) Police Chowkie. (20) Sarai. (21) Uttara or rest house. (22) Dispensary. (23) Library. (24) Post Office. (25) Gymnasium. (26) Co-operative institute : (a) Shop, (b) Godown, (c) Office. (27) Commercial and Educational Museum. (28) Radio place. (29) Electric station. (30) Place of amusement. (31) Garden. (32) Lighting arrangement. (33) Bus stand. (34) Shady trees. (35) Village common. (36) Khalavad or winnowing

Ground. (37) Gondra or Cattle stand. (38) Rampart or Hedge. (39) Chabutra or Bird's platform. (40) Manure Place. (41) Shepherd's enclosure. (42) Experimental farm. (43) Flood protection works. (44) Burial place or Burning ghat. (45) Disposal place for corpses. (46) Tanning ground. (47) Weekly Bazar place.

The list is too formidable to be within the reach of every village; yet the village worker can easily find out what is the absolute minimum for his village. He can also decide, what is his optimum and he may well begin working on that line. I should call this list a desideratum. If one takes this as too idealistic I should call it a result of lack of will or the result of peculiar local conditions. It is possible for a student of village movement to find a village equipped with most of these items and perhaps some additions such as a telephone booth. The chief cause of the village remaining unprovided with its legitimate amenities is its brain drain or intellectual leakage. The main calamity of the village is the migration of its intellectuals to the urban areas. Unless and until the village is re-imbursed with its spiritual and intellectual wealth, its moral and material poverty cannot be wiped out thoroughly and speedily. If this diagnosis is held to be correct the desideratum of amenities which may look formidable or idealistic will in course of time dwindle down to an optimum and perhaps a minimum.

The village-planner will have to take account of this future possibility. On the extent of the vision developed by the village-planner and the keenness of foresight devoted by the authorities, guiding, controlling and deciding the course of village movement, will depend the task of the village workers of the future; whose success or failure will almost be determined by the policy adopted by the pioneers. In short, village-planning has not only to follow the technique of its own, but has to translate into concrete forms the social conditions, sociological concepts, economic ideas and national ideals. Of course this may look a grandiose scheme, but sooner or later it will have to be taken up. It will have to follow the natural sequence of national, regional, rural, suburban and urban planning in its sociological, economical and topographical aspects.

Leaving the ideal at that stage the planning of an agricultural village may be taken up on this basis and I shall proceed to give a few details. The optimum plot for a cultivator's house may be something like 40' wide and 60' deep, having at least one village street serving it. There are many villages which are satisfied with smaller plots, but these are generally the result of the costliness of land or want of space for expansion. There is also a factor which we may call traditional that decides the size of the plot. For example if the cultivators are in the

habit of keeping extra buffaloes or cows to get additional income from the sale of milk or ghee, the plot required will be bigger. If he is capable of storing his agricultural produce to wait till the market is favourable, his requirement of the size of the plot will be different. If he is poor and cultivates his field by getting bullocks on hire, he is likely to be satisfied with a smaller plot though he may hope for better prospects and feel a future possibility of owning the minimum cattle and thus provide for such a contingency when demanding a plot in the village lay-out. Similarly the plot requirements of a village shopkeeper may be much less but, if he is owning a herd of cattle his requirements will change. Same is the case with the village labourer. As a matter of fact a village-planner has to consider the following parent and parasitic population of the village :—

(1) Cultivator. (2) Labourer. (3) Carpenter. (4) Blacksmith. (5) Potter. (6) Tailor. (7) Shoe-maker. (8) Oil-miller. (9) Carder (10) Weaver. (11) Brass-smith. (12) Carrier. (13) Modi or grain merchant. (14) Broker. (15) Goldsmith. (16) Shepherd. (17) Village priest. (18) Shopkeeper. (19) Chamar or Leather worker.

Naturally the plot requirements of each one of these craftsmen will more or less differ and real planning will require not only a topographical survey, but various other surveys such as economic, census, sociological and the like.

After deciding the sizes of plots according to the present and future requirements of the village, their arrangement has to be decided. Here the shape of the lay-out of the village will more or less be a determining factor. Generally, the topographical features and the availability of the land will determine the shape. It may be any of the following :—

(i) Square. (ii) Rectangle. (iii) Quadrilateral. (iv) Regular or irregular Polygon including both rectilinear and curvilinear forms. (v) Triangular. (vi) Semi-circular. (vii) Band-like. (viii) Swastik.

There are innumerable major and minor details, which may determine the shape of the village, to describe which is beyond the limits of this paper. It may however be remarked that everything being equal a square or a squarish shape is more economical than others and perhaps more convenient.

The drainage and the street requirements are determining factors in the shape of the village. As far as possible, the streets should be straight and at right angles to each other. Any other alignment must have its basis on some topographical feature like a promontory or the village tank or the river curve or some preservable monument and the

like. The alignment of the streets will also be determined by the approach road from or on a communicational line such as through road or a railway line. The focal centres such as the old village temple or a cluster of important village buildings or a railway station or a well may also decide the alignments. The street arrangement is an important item of village or town planning and is perhaps too technical and surely too elaborate to find a place here.

The width of the street should better be 30'. The optimum is 20' but in no case it should be less than 15'. Of course this is with regard to what we may call neighbourhood lanes. The optimum for the main streets is 40' and minimum 24'. A fully loaded cart requires a good deal of space particularly when it is loaded with bundles of fodder like juwari and the like. The side drains have to be allowed for to facilitate the quick removal of storm water. The present system is to provide for drainage on the sides with camber for the road while in some of the ancient towns and villages we find inverts—a system which avoids scouring of the ground near the house foundations. The practical difficulty in the case of cambered road with side gutters near the house is that the villager protects his foundation by heaping up earth near his plinth with the result that the storm water scours away the road. A sufficient width of the street will take care of all these factors and many more of them. It hardly requires pointing out that the passageways should be made pucca of the width and the strength in proportion to the duties they have to perform.

The arrangement of streets, as said above, will be affected by the focal point of the village. The two important items that deserve to be located at the focal point is the Water place and the Meeting place. In well managed communities either of the places may do; but under the present circumstances it is risky to make the water place the focal point of the village. Its drainage difficulties will be many and the whole village may considerably suffer from insanitary conditions if the water tank or the well be placed in the centre. It therefore follows that a public building like the Community Hall or a Library or the Religious building of a coherent community will best serve as the focal point. Other public and semi-public buildings may be located near this focal point or distributed according to the space available and the nature of the community served by them and the extent and the size of the village. It will depend upon the principle of civic and sub-civic centres, adopted and necessitated.

This brings up the subject of Zoning. The Grama Vidhayaks were experts in this branch. Zoning is of greater urgency in Village

Planning than in that of a town. It is, however, a very intricate affair and as such deserves nothing more than a mention here.

A discourse on the location of every one of the 47 items given above will be very useful. Similarly the constructional and other technical details of these will be in greater demand as the village movement spreads. Though these are very necessary, one must leave the temptation of treating these items in order to prevent the swelling of the size of the paper. We should therefore proceed to the important item of house plan.

Of course, it goes without saying that the plan of the house will depend upon those very factors on which the village plan depends. As a matter of fact there will be many more additional factors. The plan of the house of a craftsman will materially differ from that of a cultivator. The shepherd will have peculiar requirements according to his live-stock. The shopkeeper will give his own specifications to suit his trade. The labour houses will have their own problems. In short, the requirements of each one of the classes inhabiting the village will require a careful study, a keen sympathy and a cautious design. The local traditions as well as the types of local materials will considerably affect the house plan.

The main items affecting the design may be enumerated as follows:—

- (1) Type of village.
- (2) Sociological condition.
- (3) Crops.
- (4) Climatic condition.
- (5) Building tradition.
- (6) Building materials.
- (7) Availability of artisans.
- (8) Topographical feature.
- (9) Rights of holding.

These have their play and inter-play. No one factor can be separated. But the net result of their operation can easily be found out by scrutiny. For example a peasant in Kathiawad will not be satisfied with a house that may be suitable to the conditions of C. P. peasantry. The Daheli type entrance of a cultivator's house in Kathiawad having a sort of combined porch and ante-room is not in vogue in the C. P. villages. Some rural traditions require only one big room and a verandah while at other places one finds more than one room of different and smaller sizes for practically the same requirements.

Similarly a student will find that the villager will always try to find the cheapest material available. He will also be found to select that material which he will himself be able to conveniently handle. Where bamboos and bullies are cheaply available, one will find framed structures cropping up with partitions of bamboo-reinforcement and mud. Where potters are not available and bamboos and bullies costly, the villager will make mud walls which we may call cast *in situ* and perhaps thatched roof. In localities where stone is very handy the villager will prefer stone structures. It will be the duty of the village-planner to study and improve the local traditions. For example the mud-floor with cow-dung-plaster is very common in village houses. The tradition for preparation of such floors varies considerably in parts of India. Gujrat floors are durable and strong and yet artistic. The village housewife there brings her artistic talent into play. Its reaction on life and surroundings can easily be imagined. It will add a feather in the village-worker's cap if the latent art attitude of the villager is brought out and manifestations thereof are introduced where they are not and developed where they exist.

The effect of climatic conditions on a village house can easily be illustrated by comparing the roofing system of Sind and C. P. In the former with its scanty rain, mud terraced-roof is a feasibility and a great convenience in the heat of the country. C. P. with comparative heavy rainfall has to adopt either sloping roofs or pucca 'Gachhi.'

Though the natural causes are patently operative and have to be attended to, the man-made causes are not less operative and have also to be looked into. For example if the villager is merely a tenant-at-will, his interest in the house is practically nil and the effect can easily be seen in the squatter-type houses. When the landlord gives the material, particularly roofing and doors, and the villager supplies the labour, the house reflects the relation between the landlord and the villager. If a free-hold or a semi-free-hold house site is not costly, the villager will build a house with sufficient open space, keep provision of optimum storage ground and provide for desirable live-stock. If it be otherwise, there will be a cramped house-plan.

Subject to the operative effects of the abovementioned village features, the requisites of a house of an ordinary cultivator may be given below:—

- (1) One or two rooms. (2) Verandah or verandahs. (3) Kitchen. (4) Store. (5) Grain bins. (6) Fodder store. (7) Cattle shed. (8) Implements place. (9) Fuel shed. (10) Bathing platform or enclosure. (11) Latrine arrangements. (12) Manure pit. (13) Courtyard. (14) Main enclosure.

Fixtures and Fitments:—

(1) Shelves. (2) Pegs. (3) Roof pendants. (4) Cupboard. (5) Fire place. (6) Kit platform. (7) Water place. (8) Loft. (9) Treasure Trough. (10) Niches. (11) Drying bars. (12) Grinding place. (13) Pounding block. (14) Churning fitment. (15) Cattle-tying fixtures. (16) Fodder Trough. (17) Family deity's corner. (18) Swing rings. (19) Tulsi Pedestal.

This list does not exhaust the whole set of requirements nor can it possibly be made into an absolute minimum. It however gives an optimum and it will be a good thing for a village worker to understand the principles of design underlying the abovementioned requirements. To describe these principles will lengthen the paper to a very great extent. The detailing of the same, therefore, becomes out of question here.

A well planned Village Improvement and Extension Scheme does not necessarily mean a heavy expenditure. In any case, a half-hearted measure should rather be avoided. Such a measure may in many cases be equally bad as, if not worse than, no measure. It should always be borne in mind that to tackle such a scheme, one should proceed from the whole to the part. The policy and the plan of the whole village should be chalked out in advance, taking into account both the present and the future requirements.

From the foregoing sketchy discourse it could have been easily seen that GRAMA VIDHAN—VILLAGE PLANNING—is such an extensive subject that a full treatment thereof is a huge affair. Its very preliminaries involve great deal of labour. More topographical survey will not do. Statistical and sociological survey is one of the chief requisites of success. A simple or rather an apology of sample is given in the appendix. This is so important that it has to be said even at the risk of repetition.

A village-planner of Today's India ought to be the proto-type of the Sthapati of old whose qualifications have been prescribed in the following shloka:—

स्थपतिः स्थापनाईः स्यात् सर्वशास्त्रविशारदः ।
नहीनांगोऽतिरिक्तांगो धार्मिकस्तु दयापरः ॥
अमात्सर्योऽनसूयश्चातंद्रितस्त्वलिजातवान् ।
गणितज्ञः पुराणज्ञः सत्यवादी जितेंद्रियः ॥
चित्रज्ञो देशकाशश्चाज्ञदश्चात्यलुब्धकः ।
अरोगीचाप्रमादी च सप्तव्यसनवर्जितः ॥

It is, however, to be regretfully recorded that the tale is different to-day. Though Village Uplift is on everybody's lips, not one per lakh of the population devotes to the study, the solution and the remedy of the problem. A highly forward National becomes a reactionary City Father or an idle District Councillor or an obstructionist or a luke-warm citizen when he comes to the problems of his city or the village. A bar of Gold transforms itself into a lump of Clay by the mere impact of its surroundings. It is high time that some spiritual fire is brought to bear on these conditions. National life without Civic life—both rural and urban—is not worth living. After all it is the latter that 'the man in the street' really lives or suffers. The village in particular is the greatest sufferer. Its drain of monetary power pails before that of its brain power. The best brains of the village flock to the urban areas adding to the problems of the latter, thus hitting both the communities as well as themselves. The body rural suffers on account of defect in its two glands—Pineal and Pancreas—brain and stomach. Reliabilitate these, particularly the former and there will be visible rejuvenation.

Whatever may be the difference of opinion regarding the Vidya Mandir scheme of the Central Provinces, its concept is unassailable. It has diagnosed the disease rightly and aims to apply the remedies accordingly. It supplies a focal point for the brain power which the village needs so badly. It encourages and enforces settlement in the village, of those that are responsible for keeping the rural torch of learning live. It may be that many of the present incumbents of the custody of the torch may have a mercenary motive and not the real missionary impulse. But with continued emphasis on high ideals, there is no reason why the Indian Nation should remain sterile and not produce men who will cultivate that Buddhist or Christian spirit of real mission work that has rightly earned the high esteem of so many generations.

Given proper planning and some such nucleus as the Vidya Mandir to work it out, there is every hope that Village Movement will render efficient and effective service. Let us pray and wish that the country may develop on right lines and may lay the foundation of its progress on the Bed Rock of Mother Earth.

To close in the words of Sir Patrick Geddes: "India is indeed at the outset of a reconstruction movement, say rather, of a Reconstructive period. It is no doubt a good beginning to revive domestic industries, but it is a yet better advance to be renewing the villages themselves; and these from agriculture homewards and towards the associated life; a life co-operative alike towards material efficiency and well-being and

towards renewed and advancing culture. So while the Indian people are rightly cheered to have their foremost political leader insisting on the revival of home industries, they will soon be yet more rejoiced to know how their foremost poet—a world-poet as well, a creative educationalist too, making the first Applied Faculty of his University—and a new one for all Universities—that of Village Reconstruction.”

INFORMATION FROM REVENUE INSPECTOR

Item No. 1. Cultivators to be provided for are 36.

- Q.—How many cultivators have more than one pair of bullocks?
 A.—One or two have three pairs, four numbers have two pairs, others have one each.
- Q.—Do the cultivators take bullocks on loan from anybody?
 A.—Yes, when required. There are 9 labourers amongst them and they have neither cattle nor land of their own.
- Q.—Are any other animals besides bullocks kept by the cultivators?
 A.—About half a dozen men have milch cows, buffaloes and some goats.
- Q.—Are there any artisans in the village?
 A.—Yes. There is a blacksmith and a carpenter. Shoe-maker is not there as there is less work for a man to enable him to earn his living solely on the work provided by the village. Similarly, there is no potter also. Whenever required, such help can usually be obtained from the neighbouring village, which is bigger.
- Q.—Is there any school in the neighbourhood?
 A.—There is a school in that bigger village. There are seven villages round about having 50 houses each. If a school is provided, it would be well attended by the boys of the neighbouring villages.
- Q.—Will it not be advisable to get a plan prepared showing the situations of the schools to be provided in the Tahsil so that each one would serve an area within say two miles radius.
 A.—Yes.
- Q.—Is there any tailor in that village?
 A.—There is no tailor.
- Q.—Are there any shops in the village?
 A.—There is no good shop in the village. It is suggested that the shops may be provided for supplying grain and other daily needs.
- Q.—What is the agricultural produce in the village?
 A.—The *Kharif* and *Rabi* crops that are usually raised in this province, i.e., jwari, kapas, wheat, and jawas.
- Q.—Are there big orchards in the village?
 A.—There is one orchard belonging to Wani. Gardening becomes impossible because of the heavy initial expenses to be incurred for constructing

a well. The soil is soft and treacherous and the water-level is 50 feet below ground. The cost of a well is about Rs. 1,000 to 1,200.

- Q.—Are any sheep or goats kept by the villagers?
 A.—There are 14 Mahars out of which 9 are cultivators, and 5 labourers, who keep sheep and goats.
- Q.—During what months the cultivators usually reside in houses?
 A.—They reside in houses during the period from June to October and from November and December upto May, they are mostly in the fields engaged in harvesting the crops.
- Q.—How many bundles or penda are required for 1 bullock for six months?
 A.—1,000 bundles. Animals do not get green fodder, for three months.
- Q.—What is the arrangement for keeping the bullocks in the fields?
 A.—Bullocks are made to work from 4 a.m. to 8 a.m. and during the rest of the day-time they are grazing in the open fields. Ordinary shades are usually provided for protection from heat.
- Q.—What sort of implements are used by the cultivators?
 A.—Only country-made implements are used.
 1 cart for each cultivator to be provided. No pigs are kept. Wild pigs spoil jwari crops.
- Q.—Is there any temple in the village?
 A.—There is a small Maruti's temple. Provision for a small temple may be considered.
- Q.—Are there any Mohamedans in the village?
 A.—No.
- Q.—How many wells are necessary?
 A.—Two separate wells are necessary. Out of which one should be kept open for everybody.
- Q.—What is the present source of water-supply?
 A.—River-water is used for bathing, washing and drinking.
- Q.—What is the method adopted for disposal of night-soil?
 A.—People go to answer the call of nature to a distant place from the habitation.
 Land may be provided for latrine purposes. Villagers should pay 2 years rent for this purpose. Malguzar may part with one acre of land over and above the 4 acres for latrine purposes. Land on two sides of the habitations but not by the river-side may be used for latrine purposes.
- No separate grounds are reserved for castes and Mahars. Separate area is reserved for ladies. It is suggested to provide bore-hole latrines to be used by children day and night and by ladies at night. Kathiawar method of night-soil disposal, i.e., covering human excreta by means of stable refuse was also proposed. But it is not likely to be approved by the villagers. It is to be decided whether the manure should be daily carried and collected at a place outside the village or allowed to be dumped in the cultivator's own compound or carried occasionally. It was pointed out that persons should not be allowed to sit for latrine

purposes in the open or allow the excreta to remain uncovered, as this practice is most insanitary.

The sum and substance of the villager's demand is that at least one sweeper must be maintained in a village?

Q.—Where are the bullocks taken for watering?

A.—They are usually taken on the river.

Q.—What about the disposal of the dead?

A.—The site of the ground will remain unchanged.

Q.—Do the villagers use hot water?

A.—Yes. People are in the habit of using hot water for bath. It is suggested to provide a bathing and a washing platform at a distance of 30 feet from the wells.

Additional Information Given by a Mukadam and a Cultivator

Q.—What accommodation is usually required by an average cultivator?

A.—Two living rooms, kitchen, verandahs, store-room, shed for fodder and animals.

It is tentatively proposed to provide all the rooms, etc., in a plot admeasuring 40' x 60'. A bore-hole latrine covering 4' x 4' space should also be provided in a suitable corner.

Accommodation will have to be given for a carpenter, a blacksmith, a potter, etc.

A school may be provided through the recommendation of the District Council or the Educational Department. Among the needs of the cultivators a special mention of a separate well for Mahars must be made. Of course, it is an unfortunate necessity at the present time. The villagers would still like to take their animals to the river for watering purposes.

However, it is proposed to provide a cattle trough near the well at a suitable distance.

Q.—Is there any temple in the village?

A.—Yes; there is an idol of Maruti under a *neem* tree. All the villagers would like to have a small shrine for the Guardian Deity near one of the wells, so that it will be very convenient for the devotees to take their bath and offer prayers.

Q.—Besides Kunbis and Mahars are there any other communities in the village?

A.—No other communities such as Christians or Mahomedans are residing in the village.

A DEFECATION PROBLEM.—As discussed in the previous meeting it was proposed to provide latrine space on three sides of the village and at a distance of 100' from the houses. In case of a road along the boundary the space to be left between the road and the latrine space should be 40'. Care should be taken to avoid the direction of the wind, if possible.

Q.—What is the present method of building walls?

A.—Mud walls about 2' in width are built in layers of 1' or thereabout. Round posts are also provided at a distance of 6' for supporting the roof as well as to act as reinforcement to the walls.

It is proposed to use sundried bricks and omit round posts (which usually deteriorate in the mud and also are eaten away by white ants) to reduce the cost. The cost of the sundried brick walling might be 25% more expensive than mud-walling, but as the wood-work is reduced the aggregate cost might be comparatively cheaper. Another advantage is that the walls would be in plumb and neat in appearance.

The villagers might use the earth from the old habitation. The earth in the immediate neighbourhood of the proposed site is not very favourable for house-building and as such the earth will have to be obtained from elsewhere. However, any attempt to excavate and form burrow pits near the Basti must be checked.

Regarding sanitary arrangements it is proposed that 4' x 4' space may be left in a corner of the plot in order to provide a bore-hole latrine. Under any case the sanitary means to be adopted must be least troublesome and inexpensive.

Q.—What would be the best situation for the well?

A.—It may be decided according to the zoning. The idea of the central well should be entirely discarded. The wells may be provided at sides.

Q.—What is the exact requirement in a house of a cultivator?

A.—One or two rooms, verandahs, sheds for hay, fodder, cart and animals.

REMARKS.—In urban life, there is more need of privacy and hence small rooms of 9' x 9' become necessary; but in villages the rooms may be larger. The room should be sufficiently large to accommodate 3 cots and the kit etc., windows which are usually not provided in the village houses must be made compulsory.

One of the doors must be 6' x 3' to allow anything to be taken in or out of the room. The other doors may be 2'-3" x 6'. Sundried bricks, instead of mud should be used. It will also be possible to avoid the use of round posts which are usually eaten away by the white ants.

The villagers may also prepare the bricks themselves. It may be ascertained, by preparing alternative estimates, whether the brick walling or mud walling is cheaper. Allahabad type or other suitable type of tiling may be encouraged for use in roofing.

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PRINCIPLES OF COMPULSORY LAND ACQUISITION*

(AN ANALYSIS OF THE LAW AND PROCEDURE)

By **CHUNILAL D. BARFIVALA, M.A., LL.B.**

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(Continued from January 1939 issue).

CHAPTER VI MARKET VALUE

I. Preliminary Remarks

(1) **The nature of compensation paid under the English & Indian Laws.** (See introductory remarks).

"Under the English Acts, the compensation is based on the loss suffered by the seller. Under the Indian Law the market value of the whole of the property is ascertained independent of ownership or user and the interests in the total market value is apportioned between the several interests. The financial results are quite different for the sum of the values of the individual interests may be different to the value of the whole as a complete entity.¹ Compensation is to the extent of the owner's loss. Compensation is not to be taken as the value to the owner and is to cover all loss to the owner apart from the question of the value of his property taken. Although Reinstatement is not recognised under the Indian Act as is done in the English Acts, in order that the owner should not suffer any financial loss he is paid 15% solatium."

Principles underlying the Acquisition of Land (Assessment of Compensation) Act of 1919 (England) are as under** :—

- (1) No allowance shall be made on account of the acquisition being compulsory, i.e., no extra solatium is allowed.
- (2) The value of land shall be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise; provided always that the Arbitrator shall be entitled to consider all returns and assessments of capital value for taxation made or acquiesced in by the claimant.
- (3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for

* This article is a reproduction of a portion of the Author's forthcoming book on the subject—*Editor*.

¹ Mirams.

** From a letter to the author from Mr. G. B. Soparkar, B.A., L.O.E., F.S.I., A.M.P.T. Inst. (London), Consulting Surveyor to the Government of Bombay, who was kind enough to read some of the proofs and make weighty suggestions. He is directing his efforts to bring the Indian Law in line with the English Law for the benefit of local bodies—a really needed reform.

which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority.

- (4) Where the value of land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any Court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account.
- (5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbitrator is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.
- (6) The provisions of Rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of the land.

It would be seen from the above that the provisions of compensation as obtaining in the English Law at present are far more severe to the private individual than in the Indian Act. But this is not all. There are some special provisions of acquisition under the Housing Acts which are still stricter and when the house to be acquired, for instance, is for slum clearance or when it is an obstructive building, the compensation awarded is far lower than that awarded under the Indian Act and in addition the amount of compensation is recovered from the surrounding properties, which are bettered by such acquisition.

Distinction between 'Value to the Owner' and 'Market Value'.

The 'Value to the Owner' forms the basis of Compensation under the English Law (Land Clauses Act).

The 'Market Value' forms the basis of Compensation under the Indian Law (Section 23.)

The measure of Compensation under the English Law is not what the person who takes the land will **gain** by taking it but what the person from whom he is taking will lose by having it taken from him, i.e., in other words the market value is estimated not on the value to the Purchaser but on the value to the Owner. In short, English Courts look backwards to the late owner's loss, while the Indian Law looks forward to the purchaser's gain.

The term 'Market Value' is the converse of what the Law in England contemplates but it has been interpreted according to principles similar to those laid down in English Law. According to the Indian Statute the 'Value to the Owner' is what he can realise from a Purchaser, while the 'Market Value' is

what a Purchaser will give the Owner so that there is no substantial difference between the two terms.¹

II. Market Value must be distinguished from monopoly prices, e.g.,

- (a) where the **vendor possesses a unique property**, e.g., a corner plot of land with frontage on two or more important streets;
- (b) where the **need of the purchaser is unique**, e.g., where he gets no access to a street unless he buys the other plot.

Monopoly price may be market value in certain cases, e.g.,

- (a) where the owner possesses unique property, i.e., where the owner possesses a natural or universal monopoly as against all other vendors. Whether he sells the property privately or at public auction, he is sure to get a unique price (which is not necessarily a monopoly price) but still it will be price obtainable in the market for the particular plot of land with its peculiar advantages. This may be then commercial value or market value;
- (b) where the need of the purchaser is unique, e.g., where he gets no access to a street unless he buys the other plot.

III. 'Market Value' is not defined in the Land Acquisition Act.

It may, however, be roughly described as under—

It is the price which :—

- (a) a **prudent and willing owner** (who is not obliged to sell)
- (b) might **reasonably** expect to obtain from
- (c) a **prudent and willing purchaser** (who is under no necessity of having it)
- (d) in the **open market** (free bargain at arms' length).

NOTE.—(1) Market Value may be taken to mean the price which the owner might be expected to obtain for his property with full opportunities of time and occasion such as might be held reasonable under all the circumstances of the case.²

(2) Market Value is not the same thing as **cost price**. The one may be more or less than the other.

(3) Market Value is not the same thing as **Reinstatement Value** (see further).

(4) Anything which produces no income, profit or advantage capable of expression in terms of money can have no market value.

(5) The term '**Compensation**' is wider than 'Market Value' of the land payable and includes damages, expenses, etc., payable to the owner.

¹ Bombay Government Resolution No. 6188 of 25-7-34.
² 10 Bom. L. R. 907; also L. R. 55 Cal. 994.

But the view taken by the Indian Courts is not in conformity with the Indian Law on the subject. The Indian Courts have followed the decision enunciated by the Privy Council in *Narsingh Das v. The S. of S. for I. in C.* (P. C. Appeal No. 40 of 1924). The decision was based on the dictum of an English Court [*Fraser v. City Fraserville*, (1917) A. C. 194] in respect of property not subject to the Indian Land Acquisition Act, 1894, Section 23, which lays down that the Market Value of the land at the date of the publication of the notification under Section 4 (1) should be taken into consideration by the Court.¹

IV. Recognised Methods of Determining Market value²

The methods of valuation may be classified under the following heads:—

(I) Sales

- (A) Comparison with **sales of particular land acquired** or part thereof.
- (i) Sales must be **recent**.
 - (ii) Sales must be **bona fide**.
 - (iii) Evidence of '**offers**' for purchase must not be given much importance, although evidence of such offers is admissible. **Bona fide** offers only should be considered.

NOTE.—Evidence of offer—given by the offerer himself—may be relevant but it gives only an index of the opinion of such offerer. Oral offers unsupported by documentary evidence do not carry any weight or afford any assistance.

- (B) Comparison with Sales of **adjacent** land.
- (i) Sales must be **recent**.
 - (ii) Adjacent land must be **similarly situated** with **similar advantages**.
 - (iii) **Average prices** of similar land-sales should be struck after **eliminating abnormally high or low prices**.
 - (iv) **Quantity** as well as **quality** of land sold should be taken into consideration.

NOTE.—(1) (A) & (B) are direct bases of valuation.

- (2) In both the cases prices recorded should not be accepted unreservedly unless the relation of parties and antecedent facts are known, e.g. (1) Sale by a Hindu widow—implying possible future litigation

¹ Mirams.

² Nanniah's "Law of Acquisition."

will hardly command a fair price, (2) Sale to a creditor by a debtor may not be at correct market price.

(II) Capitalisation of profits

- (A) **On Rental Basis**—i.e., present rental (or net annual income) may be capitalised at so many **Years' Purchase**. The number of years' purchase can be fixed by ascertaining the rate of return which the investors expect from the particular class of property.

NOTE.—For a full explanation of 'Years' Purchase' see Appendix No. I.

- (1) Rent recoverable should be **normal**, i.e., near the average of rent in the neighbourhood.
- (2) A fair allowance should be made for **prospective rise** in the rental.
- (3) The number of years' purchase that applies to one case may not apply to another. Each case depends on its merits.

(B) Potential Value and probable user

(1) General

Potential Value—

- (a) Takes account of the beneficial purpose for which in the course of events **within a reasonable period** the land may be utilised (probable future user), e.g. adaptability of agricultural land for building purposes.
- (b) Future utility must be estimated by prudent **business calculation** and not by mere **speculation** or impracticable imagination.
- (c) Price should be determined not according to present disposition but laid out in the most lucrative and advantageous way in which it could be disposed off.
- (d) **Purpose for which** the land is acquired **should not be taken** into account.
- (e) "**Special adaptability**" of the land for the purpose for which it is acquired may be taken into consideration (**Doctrine of special adaptability**) if the special adaptability can have **special value** for **other possible purchasers** besides the acquiring authorities.

(2) Hypothetical Building Scheme

- (a) The scheme consists in an attempt to value a parcel of land by means of figures based upon the calculated financial results of an **hypothetical erection of buildings** on the land and its **hypothetical development** in the most **profitable** manner.

PROCESS :—

- (1) Land to be acquired is imagined to be covered with structures.
- (2) Structures to be of as profitable a character as can be reconciled with existing and future circumstances of the demand.
- (3) Net annual returns of such structures to be estimated.
- (4) Capitalised value on the basis of these returns to be found.
- (5) From the capitalised value should be deducted the calculated cost of construction—This gives the prospective value.
- (6) From the prospective value—present value of the plot can be inferred by making various deductions on account of loss of interest in capital and advantage to the owner of getting cash payment and so being saved the trouble and risk of development.

(b) Difference between Ordinary Method and Hypothetical Method.

- (1) The former ascertains the demand direct from the market.
The latter pushes the inquiry further back into the causes which create a demand in a reasonable market.
- (2) The Hypothetical method does not supersede the Direct method if proofs of sales, etc., are available.
- (3) If calculations based on both methods approach figures very nearly same the result is entitled to great weight.

Miscellaneous

- (a) Reinstatement:** According to this principle the owner cannot be placed in as favourable a position as he was in before the exercise of compulsory powers, unless such a sum is assessed as will enable him to replace the premises which could be of the same value. For example, when the land that is a church proposed to be acquired is of such a nature that it is very difficult to assess the loss, the method of reinstatement is applied and the amount of compensation is to be calculated according to the cost of acquiring or equally convenient site and erecting equally convenient premises. This method is taken into consideration of churches, schools, houses of exceptional character and business premises in which business can only be carried on under special conditions or by means of special licences. But the principle is not recognised in the Land Acquisition Act.¹

¹ Anderson.

(b) Frontage and Back Site—Valuation by Belts

- (1) Price of frontage land is no guide to price of rear land.
- (2) Valuation of frontage land bears proportion to its depth. What is suitable depth depends upon the character of buildings in the locality.
- (3) No hard and fast rule can be laid down as to the proportion between the value of the front land and the back land. Usually back land is supposed to be worth half the frontage land but this is not necessarily so.
- (4) The depth of frontage is a matter of importance. What is suitable depth must depend on the character of the buildings in the locality.
- (5) The value of a building frontage depends on the higher rents that can be obtained for shops or rooms facing the street and as the proportion of the rents to the lowest rents of the back rooms decreases so the value of the whole frontage land decreases.

N.B.—Front land prices do not affect the value of inferior back land.

- (6) It can best be settled by assuming that the owner of the property will make the best possible use of it and that the actual 'lay-out' of the property at the time of acquisition was in all circumstances of the case the most advantageous and lucrative, it being open to the owner to show that owing to special circumstances such as minority, litigation, poverty or unbusinesslike methods, full advantage had not been taken of the property.

NOTE.—The mode of valuation by division into belts is artificial. It does not give a reliable guide to estimate the market value inasmuch as it depends upon the depths of the belts assumed more or less artificially.

(c) Valuation of Land with separate interests

- (1) First ascertain the market value of the land on the footing that all separate interests combine to sell.
 - (2) Apportion the sum among the various persons according to the value of their interests.
- (d) A Yearly Tenant** if required to give up possession before the expiry of the year is entitled to compensation.

(e) Market Value of Land covered by buildings

Land and buildings when 'married' (technically so called) cannot be valued by taking separately the value of the land and the super-structure and taking the total as the value of the whole—because the market price is not the cost of the two. The rent of the land and the building cannot normally be separated. The proper method of valuation is by **capitalising the net annual rent for the probable life of the building and then adding the present value of the land which will be available when the building dies.**¹

The method involves

- (1) **Ascertainment of net rent.**
- (2) **Capitalisation of the net rent—depending upon**
 - (a) life of the structure, and
 - (b) rate of interest expected.
- (3) **Present value of land which will fall vacant when building dies.**

We consider these steps hereinbelow :—

(1) How the net rent is to be ascertained

- (1) From evidence of previous renting of the premises.
- (2) Rental in the neighbourhood of similar property—by reducing each building into common denominator of say 100 sq. ft. dimension of habitable area or of so many khans, etc., making due allowance for different types of buildings.
- (3) After coming to gross rent following deductions should be made :—
 - (i) Taxes which the owner pays (taxes paid by tenants to be omitted).
 - (ii) Annual cost of ordinary repairs (provided tenant is not liable to make such repairs); this is generally taken at 10% of the annual rent.
 - (iii) Insurance premium; the rate of the premium varies with the different classes of risks of buildings.
 - (iv) Deductions for (a) vacancies, (b) bad debts, and (c) cost of collection (e.g., low class chawls and respectable tenancies). This is normally taken at 5% of the annual rent.

¹ Anderson.

- (v) Sometimes deductions may have to be made by remodelling premises which are so insanitary that municipal requirements may have to be met (for buildings marked U.H.H. only breaking up value can be allowed).

(2) After net rent is ascertained—we have to **capitalise the same.** This will depend on (a) the probable life of the structure and (b) expectation of rate of interest.

Future Life. A properly constructed building annually repaired with due care ought to last long enough for the net annual rent to be capitalised in perpetuity. Engineers in their valuation usually state the probable future life of a building. If this estimate is 50 years or more, the future life is estimated as if it were in perpetuity.

The life of a building is, therefore, the period during which it may be safely said that an economic return in excess of that sum which would be recoverable as ground rent from the bare site would be receivable from the combined entity of land and building.

The expectation of a future life is done only through experience.

Points to be noted :—

- (i) Major defects, e.g., settlements, cracks, floors, beams, repairs;
- (ii) Information as to age;
- (iii) Brief history of structural life;
- (iv) Capital repairs made.

There is no rule regarding rate of interest. Generally minimum rate for the best building is calculated at about 5%; for low class chawls, etc., it may be 7% or even more.

- (3) Having ascertained net rent and number of years of its life apply the Tables for Selected rate per cent and ascertain the present value of that income; to which add the present value of the land which will become vacant when the building dies. This is technically termed the annuity basis of valuation.**

(For examples of valuation see Appendix No. II.)

CHAPTER VII

COMPENSATION PAYABLE IN RESPECT OF LAND NOT ACQUIRED

Besides the market value and other items of compensation payable in respect of land acquired, there yet remains payment to be made in respect of lands not acquired but left in possession of its owner.

Such payments are to be made whenever there is damage caused to the land not acquired in other words for injurious affection to it. The subject is considered under the following three heads.

- (1) Severance,
- (2) Injurious affection technically so called, and
- (3) Loss of easements dominant over the acquired property.

(1) Severance

According to Section 23 (1) (iii)

Damages, (if any), caused by the severance of the acquired land from the owner's other land—should be taken into consideration in awarding compensation.

(a) **Meaning of "Severance".**—When by reason of the acquisition of a portion of a plot the portion acquired is severed from the other land of the person interested and his remaining land suffers damage in consequence of the severance the damage is said to result from severance and the owner is entitled to damage under section 23 (1) (iii).

(1) It is not necessary that two pieces be in actual contiguity. They must be so near one another or so situated that the possession and control of each gives an enhanced value to all.

(2) There may be lateral severance as well as vertical severance, e.g., when subsoil is taken for a tunnel.

(b) **Some forms of "Severance"**

(1) Where the remaining land of the owner consists of two or more pieces, e.g., where a railway line passes over the acquired portion severing owner's lands on either side. The damage caused for the loss or inconvenience due to want of passage from one to another is payable. It may be mitigated by providing a bridge or level-crossing.

(2) Where the remaining land is reduced in value or rendered valueless, e.g., where out of one acre 39 gunthas are acquired and only when one guntha is left which is neither useful for cultivation or building.

If portion left quite useless—full value can be claimed.

(3) Where acquisition cuts off water from the lands not acquired rendering agriculture impossible—compensation is payable.

(4) Where the lands affected by severance is stated to have been rendered valueless or nearly so—the whole may be taken over by Government.

(2) Injurious Affection

Injurious affected means depreciated in market value. It is defined as an (physical) interference with some valuable right.

(1) Damages to the landed property

e.g., loosening of foundations, obstructing light, drainage, access road frontage, etc. These instances are akin to losses of easements.

NOTE.—The distinction between the injurious affection to lands of (1) persons whose lands are not acquired and of (2) persons whose lands are acquired. The latter alone is entitled to compensation under the Act. An owner or tenant can claim compensation under this head.

(2) Damage to the earnings

e.g., where a dentist's premises are acquired—he would take time to build up a similar practice at other premises—compensation for the risk to his business should be calculated.

Injury to goodwill should be compensated if goodwill is attached to the land and not solely to the personal reputation of the party. Retail trade involving neighbouring customers, difficulty of similar place being available are factors to be considered.

(3) Damage due to loss of easements

If a piece of land (A) has a right of way over another piece (B) the former is said to be the dominant hereditament. If therefore 'B' is acquired, right of 'A' to pass over 'B' being extinguished, damage is payable to the owner of the dominant hereditament 'A' for this loss of easement.

It would appear that if the other land of the dominant owner is not acquired—he would come in as person 'interested' in the compensation

money. If his or her other land is acquired, he would come in as a person injuriously affected under this Section 24 (4).

Difference between Severance and Injurious Affection

Really speaking both are injurious affections but in the case of **severance** the damage is directly due to cutting of the one portion from the other, e.g., where the portion left is too small for any use, whereas in **injurious affection** technically so called the damage is due to causes other than severance, e.g., by user of the acquired property in a manner which will diminish the value of the property unacquired as where Railways are constructed on acquired lands near the remaining property over which exists a cotton mill. The latter is exposed to risk involving higher insurance premium and loss in value of the premises.

CHAPTER VIII

COMPENSATION (II)

(Negatively)

(Section 24)

What matters are *not* to be taken into consideration in estimating Compensation to be given ?

- (1) **The degree of urgency** which led to the acquisition.

Urgency of demand, though it plays a great part in purchases by private individuals in influencing prices, should not be taken into consideration when acquiring land for purposes under the Act.

- (2) Any **disinclination** of the person interested to part with land acquired.

Sentimental or personal objections cannot be considered.

- (3) Any damage sustained by him which if caused by a private person would not render such (private) person liable to suit. (**Damage without legal injury**).

There are many things which a man may do on his own land with impunity though they seriously affect the comfort, convenience and even pecuniary value which attach to the lands of his neighbour. In law these things are called '*damna abseque injuria*' damage without (legal) injury.

For doing these things, no action lies against the offender. If therefore such things are done on the lands acquired—no damage can be obtained by the owner who has retained a portion of his land. For example, an owner who receives a flow of water from adjoining lands, but who has not acquired any prescriptive right to receive such flow, cannot claim any damage if by acquisition such a flow is stopped because if a private party had stopped it he would not have been able to sue him for damages. In law it would not be an 'injury'.

- (4) Any (**prospective**) *damage* (or depreciation) which is likely to be caused **to the land acquired** after the date of the declaration under section 6 by or in consequence of the use to which the land acquired will be put when acquired.

For example, if garden lands are acquired and are appropriated for a latrine, the owner will get compensation as for garden lands, without reference to the lower value they will consequently have.

(5) Any (prospective) increase to the value of the land acquired likely to accrue from the use to which it will be put to when acquired—should not be considered.

NOTE.—(1) The market value of the land in view of the use, which the land might, at the best, be ordinarily put to, at the time of the publication of the declaration should be taken into consideration. But probable increase in the value of the land in future, which might accrue from the use to which the land might be put after its acquisition, must not be taken into consideration.

(2) Although any enhancement of the value of the land due to the purpose for which it is acquired must be disregarded—natural adaptability of the land for particular purpose—whether that be the purpose of acquisition or not—should be taken into consideration.

(3) Any damage which the owner sustains by severance or otherwise should not be set off against any benefits which he may get by the acquisition.

(4) It is a recognised principle to exclude from the assessment of compensation any enhancement or diminution in value consequent on the construction of works authorised by the special Act under which the assessment is made.

(6) Any increase to the value of the other land of the person interested (his remaining land) likely to accrue from the use to which the land acquired will be put. (See *Betterment* in Chapter XIX).

(7) 1. Any outlay
or
2. Improvement } on } the land acquired commenced, made,
or
3. Disposal of } } or affected
without the consent of the Collector after the date of the publication of the Notification under section 4 (1).

CHAPTER IX

RULES REGARDING THE 'AMOUNT' OF COMPENSATION TO BE AWARDED BY COURT

(Section 25)

Scope of the Section: The section is concerned with the maximum and minimum amounts which the Court may award in each of the four cases, viz., (1) when the applicant has made a claim before the Collector, (2) where without sufficient reason he has refused to make a claim, (3) where without sufficient reason, the applicant has omitted to make a claim and (4) where with sufficient reason he has failed to make a claim.¹

I. If the applicant in response to Collector's notice under section 9 has made a claim:

The amount awarded by the Court shall be—

- (a) not more than the amount claimed;
- (b) not less than the amount awarded by the Collector.

NOTE.—(a) It may be more than the amount claimed for a particular land but it should not exceed the total amount claimed.

(b) It may be less than the amount offered by the Collector under a particular head—though it can be less than the total amount awarded.

NOTE.—This Rule does not apply in England—where a jury may award an amount higher than the claimed.

(c) The word 'applicant' is intended to describe the person who puts in a written application under section 18. He must be a person interested and who has not accepted the award.

II. If the applicant has refused to make a claim without sufficient cause: The Court cannot allow more than the amount awarded by the Collector.

NOTE.—(1) Neither can the amount be less than the Collector's offer because the Collector's offer is binding on the Government.

(2) Refusal is equivalent to omission without reasonable ground.

III. Where the applicant has omitted without sufficient reason to make a claim:—

¹ See Velinkar's "Law of Land Acquisition."

The amount awarded by the Court **cannot exceed** the Collector's offer.

NOTE.—(1) Nor can it be less than the Collector's offer.

- (2) It is for Court to decide what is a sufficient cause, e.g., omission to receive notice under section 9 is a sufficient cause; condonation by the Collector of the claimant's failure to specify the amount of his claim in the belief that he was not required to do, is a sufficient reason.

IV. When the applicant **has omitted for a sufficient reason** to make a claim:—

The amount awarded by Court may be

- (1) not less than
and
(2) may exceed } the amount offered by the Collector.

NOTE.—(1) Statutory allowance of 15% over the market value specified in section 23 is to be awarded whether claimed or not.

- (2) A failure to specify the amount claimed in respect of any particular sub-head of section 23 is no bar to the Court to review the award of the Acquisition Officer in respect of such sub-head.

CHAPTER X COURT'S AWARD

(Section 26)

- (i) It shall be in Judge's handwriting and signed by him.
- (ii) It shall specify—
- (1) the amount awarded for market value under section 23;
 - (2) the amount (if any) awarded for damages, etc. under each head of section 23;
 - (3) the grounds of awarding each of these amounts;
 - (4) the amount incurred for cost of Court Proceedings;
 - (5) by what persons
and
in what proportion } cost of proceedings are to be paid.

NOTE.—Award is a decree :
Grounds of Award } Therefore awards are appealable
is a judgment } as provided in section 54.

NOTE.—When Collector's award is not upheld—costs shall be paid by the Collector unless the Court is of opinion that

- | | | |
|---|-------------|---|
| (1) applicant's claim was
so extravagant
or | } that some | (1) deduction shall be
made from his costs |
| (2) applicant was so negligent
in putting his case before
the Collector | | (2) that he should pay part
of Collector's cost. |

(6) It may direct—

in case Court's award is higher than the Collector's—

that interest at 6%¹ shall be paid to the applicant on the excess amount from the date the Collector took possession to the date of payment in Court.²

¹ The rate of interest is now reduced to 4% by Bom. Act No. XVIII of 1938.
² Sections 26-28.

CHAPTER XI 'APPORTIONMENT' OF COMPENSATION

(Section 29)

Reference to Court under Section 30

The Act provides for two classes of references to the Judge, one to assess compensation described as being an award and appealable under section 54 and the other to apportion the compensation. It provides for two separate and distinct forms of procedure.

Where there are several persons interested in the compensation

- (1) If they **agree** in the apportionment of the compensation—

The Collector shall specify the particulars of such apportionment.

NOTE.—Such an agreement may be expressed or implied if the parties receive payment without protest. The Collector's award thus accepted is conclusively binding on the parties.

- (2) If **dispute** arises as regards

(a) the apportionment of the compensation or part thereof
or

(b) as to the person to whom the same or part thereof is payable
the Collector may refer the dispute to the decision of the Court.¹

NOTE.—Distinction between references under Section 18 and Section 30.

- (1) Under section 18 reference is made by the Collector on the application of a person interested.

Under section 30 the Collector refers to the Court *suo motu* on the question of title.

- (2) Under section 18 the Collector can be requested to refer the matter to Court and it seems that if he does not so refer, Court can be moved in the matter.

Under section 30 it is at the discretion of the Collector to refer to Court. If he simply determines the amount and does not apportion—parties can go to Court by a suit.

¹ Sections 29-30.

- (3) Section 18 refers to apportionment as one of the several items on which reference can be made.

Section 30 refers only to apportionment.

- (4) Under section 18 the enquiry is restricted to the interests of the parties before Court.

Under section 30 Court may add parties for final adjudication of the rights of all persons interested.

- (5) If the Collector or Acquisition Officer refuses or omits to make reference under section 30, the party is not precluded from going to the Court directly.

If a party does not demand an apportionment—reference, he can still sue the recipient of the compensation within 6 years under section 31 (2).

Here the jurisdiction is not exclusive as it is in respect of the amount to be awarded (Section 18).

- (6) When the Court considers 'total amount' of compensation, the Collector or Acquisition Officer are necessary parties. In apportionment proceedings Government have no interest and usually the Collector or Acquisition Officer does not appear.

- (7) Under section 18 there is a definite period of limitation for application for reference.

Under section 30 there is no limitation. The Collector may make it at any time.

NOTE.—The principle of apportionment of compensation is not the same as the principles adopted in assessing compensation. The market value of land acquired may be based upon hypothetical considerations. The question of apportionment, however, must be based on the accurate determination of the value of the claimant's respective interests in the land.

CHAPTER XII
PAYMENT OF COMPENSATION
 OR
DEPOSIT OF SAME IN COURT
(Sections 31-34)

On making the award the Collector shall tender the amount payable to the person entitled thereunder except under the following contingencies when he shall **deposit** the amount in Court.

- (1) If the person entitled **refuses** to receive it.
- (2) If there is **no person competent** to alienate the land, e.g., where such persons are lunatics, idiots or minors.¹
- (3) But the deposit of the amount is not a condition precedent to the entertainability of the reference.²

NOTE.—In such cases, Court shall order

- (a) investment in the purchase of other lands; or
- (b) if that cannot be done forthwith, investment in Government or other approved securities until—
 - (1) they are invested in purchase of other land
or
 - (2) they are paid to the persons becoming absolutely entitled to it, e.g., minor on attaining majority.³
- (4) If there is any **dispute** regarding—(1) title to receive it or (2) apportionment of it.

NOTE.—In this case as in case No. (1) aforesaid, Court may order investment in Government or approved securities and direct accumulation of interest and payment according to individual rights.⁴

NOTE.—(1) A person who receives money without protest will be construed to have accepted the award and will not be entitled to claim reference to Court under section 18.

¹ Sec. 31 (1) & (2).
² L.L.R. 42 Bom. 54.
³ Sec. 32 (1).
⁴ Sec. 32 (1) and Sec. 33.

-) If a person receives the amount to which someone else is entitled he may be made to pay the amount to the latter (1) in a suit by the latter or (2) by a reference by the Collector under section 30.¹
- (3) In case of persons with limited interest in land, the Collector may, instead of cash payment, make arrangements either—
 - (i) by grant of other lands in exchange. As there is no money award in this case there need not be 15% solatium or interest.
 - (ii) by remission of land revenue on other lands of the person.
 - (iii) by other method that may be equitable.²
- (4) In case of deposits—cost of proceedings, of investments, of payment of interests, etc., shall be paid by the Collector (except cost of litigation between adverse claimants).³
- (5) In case deposit is not made by Collector—he shall pay interest at 6%⁴ from the date of taking possession until the amount is so paid or deposited.⁵

¹ Sec. 31 (2), proviso Third.
² Sec. 31 (3).
³ Sec. 32 (2).
⁴ The rate of interest is now reduced to 4% by Bom. Act No. XVIII of 1938.
⁵ Sec. 34.

CHAPTER XIII
TEMPORARY OCCUPATION OF LAND
(Sections 35-37)

Temporary — Not more than three years from the date of occupation.

PROCEDURE.

- I. When it appears to the Provincial Government that
- (1) any **waste or arable land**
 - (2) is required for **public purpose or company**
 - (3) for such term not exceeding 3 years from date of occupation
- they may direct the Collector to procure the occupation (and ask for such term as it shall think fit).
- II. The Collector shall serve notice upon persons interested and pay them such compensation for the (1) occupation [and use and (2) for the materials to be taken out therefrom as may be agreed to by them.

If there is no agreement reached either as regards compensation or apportionment thereof the Collector shall refer the matter to the Court for decision.¹

III. **Possession Taken.**

When the amount is paid or Agreement entered into or Matter referred to Court	}	the Collector may enter and take possession for the purpose mentioned in the notice. ²
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IV. **Restoration of Land.**

On the expiry of the term, the Collector shall pay compensation for the damage, if any, done to the land, and not provided for in the agreement, and restore the land.³

V. **Land Rendered Unfit.**

If by such temporary use land is rendered permanently unfit for the purpose for which it was used previously, the Provincial Government shall proceed to acquire it permanently, if persons interested so require.⁴

NOTE.—If the Collector and persons interested differ regarding the condition of the land or any matter connected with the agreement the matter shall be referred by the Collector to the decision of the Court.⁵

¹ Sec. 35.
² Sec. 36 (1).
³ Sec. 36 (2).
⁴ Sec. 36 proviso.
⁵ Sec. 37.

CHAPTER XIV
ACQUISITION FOR COMPANIES

(Sections 38-42)

NOTE.—The word 'companies' also includes (1) Registered Societies, (2) Co-operative Societies and (3) for the erection of dwelling-houses for workmen and provision of amenities directly connected therewith the term includes—**Industrial Concerns** employing not less than 100 workmen.¹

NOTE.—The provisions do not apply to Railway or other companies for which Government is under an agreement bound to provide land. (See definition page 11).²

When the provisions of the Act can be applied for the benefit of the Companies.

- (1) They cannot be applied
- (a) unless with the previous consent of the Provincial Government and
 - (b) unless the company have executed an agreement with the Secretary of State for India in Council.³
- (a) Conditions for obtaining the consent of the Provincial Government.

In order that such consent may be forthcoming **must be satisfied** either (a) on report from the Collector under section 5 (A) or (b) by an inquiry held by any such officer and at such time and place as it shall appoint **that** the purpose of acquisition is

- (1) to erect dwelling-houses for workmen employed by the company or
- (2) for construction of some work likely to **prove useful to the public.**⁴

N.B.—Land may be acquired for a company in which the public have a **direct** interest. So also the works carried out by the Company must be directly useful to the public, e.g., land cannot be acquired

¹ Sections 3 and 38-A.
² Sections 38, 43 and 44.
³ Section 39.
⁴ Section 40.

for a spinning and weaving company or an iron foundry for it is not possible to predicate of them the terms on which the public shall be entitled to use them.

(b) **Agreement with the Company—for what matters it shall provide ?**

It shall provide for the following matters :—

- (1) **Payment to Government of Cost of Acquisition.**
- (2) **Transfer of land to Company on such payments.**
- (3) **Terms on which the land shall be held by the Company.**
- (4) (a) the time within }
 (b) the conditions on } which the
 (c) the manner in }

(a) dwelling-houses or
 (b) amenities

 shall be erected or provided.
- (5) (a) the time within } which the work shall be executed
 (b) the conditions on } and maintained; and
 (c) the terms on which the public shall be entitled to
 to use the work.¹
- (6) Every such Agreement shall be published in the *Official Gazette*.²

¹ Section 41.

² Section 42.

CHAPTER XV

HOW NOTICES UNDER THE LAND ACQUISITION ACT ARE TO BE SERVED

- (1) They must be **signed by**
 - (1) An officer authorised in cases of notice under section 4 (regarding entry for preliminary survey).
 - (2) By the order of the

(a) Collector }
 or } in any other case.
 (b) Judge }
 - (2) They must be **served**
 - (i) on the person named therein wherever it may be practicable,
 - (ii) if (i) cannot be found—on any adult male member residing with him,
 - (iii) if (ii) cannot be found—
 - (A) by affixing a copy on the
 - (1) outer-door of the house in which the person

(1) ordinarily dwells or
 (2) carries on business or
 - (2) in some conspicuous place in the office of the
 - (1) officer named under section 4 or
 - (2) the Collector or
 - (3) in the Court house, and
 - (B) also in some conspicuous part of the land to be acquired.
- Provided that if the Collector or Judge so directs, a notice may be sent
- (1) by post
 - (2) in a letter addressed to the person named therein
 - (3) at his last known place of residence or
 - (4) address or place of business and
 - (5) registered under the Post Office Act.¹

NOTE.—Service in this case may be proved by production of addressee's receipt. But a notice by registered letter refused by the addressee and returned as such by the Post Office is held to be sufficient service in the absence of a regular receipt by the addressee.²

¹ Section 45.

² 23 C.W.N. 319.

CHAPTER XVI

WITHDRAWAL FROM ACQUISITION

(Section 48)

Scope of the Section :—The Section provides that the Government may withdraw from the acquisition at any time before taking possession, except in a case covered by section 36 (temporary acquisition). It does not apply when once the land is vested in the Government under section 16.

Government shall be at liberty to withdraw from the acquisition of any land—

- (1) of which possession has not been taken or the award has not been made,
- (2) except in the case of temporary acquisition under section 36.

Provided that

When Government withdraws from any such acquisition, the Collector determines and pays the amount of compensation—

- (1) due for the damage suffered by the owner on account of such notice or proceedings thereunder;
- (2) with all costs reasonably incurred by the owner in the prosecution of the proceedings.

NOTE.—(1) Compensation shall be determined on the principles mentioned in sections 23 and 24.

- (2) A local body has no power to withdraw.

If for any reason the necessity for the acquisition should disappear after Notification, discretion of withdrawal is vested absolutely in Government. Government may not agree to drop the acquisition at the convenience of the local body at whose instance and cost the land is to be acquired. Though in ordinary cases Government would assent to withdrawal, where, for example, the cost is beyond the means of the applicant¹.

¹ Anderson.

- (3) If there were a withdrawal after payment (but before taking possession), compensation money may be recovered back by suit, if not otherwise recovered.¹
- (4) Withdrawal after notification under section 4 but before notification under section 6 has been held not to carry a title to damages under this section 48 (2).²
- (5) The acquiring authority may acquire any portion of the land in respect of which notice under section 9 of the Act has been issued withdrawing the acquisition as to the rest.

¹ Anderson, page 107.

² Anderson, page 106.

CHAPTER XVII
ACQUISITION OF 'A PART'
of

(1) a house, (2) a manufactory or (3) other buildings
(Section 49)

Scope of the Section:—The Section consists of two propositions. The first provides that if the owner is willing to sell the whole of a house, manufactory or the building, he shall not be compelled to part with a part only of it. The second provides that when a claim for damages on account of severance is unreasonable or excessive the Government may direct the acquisition of the whole land.

(a) Instead of acquiring the whole a part can be acquired under the Act if —

- (1) The 'Owner' has not expressed his desire that the whole should be acquired. If the Owner has expressed his desire that the whole should be acquired, the Collector must acquire or drop the whole. Desire of the Owner is therefore material.
- (2) The Owner who has expressed his desire that the whole should be acquired has subsequently withdrawn or modified his desire by notice in writing to the Collector before the latter has made his award.
- (3) The Court on a reference by the Collector decides that portion sought to be acquired is not 'a part' of the house, manufactory or other building, that is (1) he does not object to it or (2) waives his objections or (3) it is not really a 'part' of the whole.

(b) What is 'a part'?

If the portion sought to be acquired is "reasonably required for the full and unimpaired use of the house, manufactory or other building," it cannot be acquired separately against the wishes of the 'owner'. If the whole can be considered as 'one unit' fractions cannot be compulsorily severed. For example:—

Godowns necessary for residence of servants are parts of the houses.

A well in a mill-compound supplying the engine with water by means of a pipe is a part of manufactory.

A garden let with the house is a part of the house.

Whether or not the land is reasonably acquired is a question of fact depending upon the particular circumstances of each case. The burden of proving that the land is **not** a part rests on the acquiring body. If the burden is not discharged the objection of the owner will prevail and the whole will have to be considered as one unit and acquired.

If the Collector and the owner differ as to whether the land is a part, the Collector is bound to refer the matter to Court for decision—if he does not proceed to acquire the whole.

(c) Procedure

(1) If the owner whose land is 'severed' makes unreasonable or excessive claim for damages under section 23—Provincial Government may order acquisition of the whole.

(2) In such a case no fresh declaration or notices, etc., would be necessary but the Collector serves on the owner a copy of Government order and proceeds to make the award.

But where Government acquires a portion of a certain land and the owner desires that the whole of the land may be acquired under section 49 (1) a fresh declaration of the whole land under section 6 is necessary and non-compliance vitiates the whole proceedings and makes the Collector's award void and illegal.¹

(3) If the claim of the owner that the 'land' forms part of the house or manufactory or building is rejected by the Court—he has still a right to claim damages under section 23 (1) (3) for severance.

(4) It is doubtful whether the order of the Court deciding whether the land is or is not a part is appealable or not. It was held in a number of cases that such an order was not a 'decree' and therefore not appealable. A recent Madras case however seems to suggest that such an order is a decree and is appealable.²

¹ 17 Bom. L. R. 192.

² 55 Mad. 391.

CHAPTER XVIII

RULES

(Section 55)

The Provincial Government has power to make rules for the guidance of officers in all matters connected with the enforcement of land acquisition. Rules may be amended from time to time after previous publication and have to be published in the *Official Gazette* and have then the force of law.¹

(For Rules framed by the Government of Bombay for the guidance of officers dealing with objections lodged under section 5-A, see Appendix No. III.)

¹ Section 55.

CHAPTER XIX

ACQUISITION OF LANDS BY LOCAL BODIES, IN THE BOMBAY PRESIDENCY

I. Acquisition of Land under the Land Acquisition Act by Local Bodies Skeleton Proceedings

- I. (a) Officers or President or a Committee of Local Bodies consider that a particular piece of land is required for the purpose of the Act governing the Local Body.

NOTE.—A District Local Board cannot acquire land for the purpose of relieving overcrowding in villages.

- (b) They get prepared a **plan of the land** with a schedule of particulars regarding area etc., and an **estimate of the total cost** of Acquisition.

NOTE.—(1) In estimating the cost of compulsory acquisition they should include (1) the compensation on the basis of sections 23 and 24 of the Act, (2) the cost of preparations of plans and preliminary inquiry by the Collector or Land Acquisition Officer. Government may engage a special staff, if necessary, and recover whole charge from Local Body or levy percentage charges, e.g., on the following scale.

If compensation is under Rs. 1000 5% minimum Rs. 10			
do.	do.	Rs. 5000 2%	Rs. 50
do.	above	Rs. 5000 1%	Rs. 100

(Anderson, para 79, page 23).

NOTE.—(2) When sending application to Government for acquisition, the local authorities should bear in mind the following points to which Mr. Mirams has drawn attention.

- (a) Whether the property consists of land and buildings, or merely vacant land.
- (b) If land only, the land must be suitable for the purpose in view, and in the public interest as inexpensive as possible.
- (c) In making the boundaries of the site no odd bits of lands should be left with the owner, which by themselves are of no use to him, in view of the smallness of the area left, or access to it being cut off.

- (d) Avoidance of temple, Masjid, Samadhi or any religious building or grave-yard, if possible.
 - (e) When the proposal is to acquire a building, it should be borne in mind that a portion of the structure only cannot be acquired if the owner desires that whole of the property be taken. Whether any land proposed to be acquired, does, or does not form part of a building within the meaning of this section, has to be decided by the District Court in the first instance, on an objection being raised by the owner.
 - (f) If the proposal interferes with any public rights of way or water courses, etc., it is important to make requisite provision for meeting the case.
 - (c) The suggestion with the above particulars is submitted to the General Board.
- II. If the General Board approves the suggestion, it resolves that
- (i) the particular land (identified by detailed particulars) is required for a particular public purpose for which it can incur expenditure under the Act.
 - (ii) the acquisition proceedings should be undertaken under the Land Acquisition Act.
 - (iii) provision be made in the budget for the cost of acquisition from its funds.
- III. The Local Body then submits an application to the Collector with a copy of its resolution and request Government to acquire the land for the Local Body.
- (For particulars required to be put in the application see Chapter II *ante*).
- IV. The Collector then sends copies to the Special Land Acquisition Officer for enquiry and report whether everything is in order, i.e., plan, area, estimate and whether there is any objection to the acquisition. The Special Land Acquisition Officer enquires, inspects, collects data available, values roughly and reports. If the Collector is satisfied, he submits a draft notification to Government through the Commissioner. (If no Special Land Acquisition Officer is appointed, the Collector himself performs these functions).
- V. If Local Government is satisfied that Land is required for a public purpose and that proceedings should be taken—

Local Body may be asked to enter into an agreement with the Secretary of State for payment of cost of acquisition etc., and also the value of the interest if any of Government in the said land.

(Such an agreement does not require stamp—see section 51).

- VI. The Local Body may be required to **to pay** Government in advance the amount of estimated cost in advance as a deposit on such date and in such instalment as Government may direct and further payments when deposits are exhausted.
- If Government is satisfied that **due provision** has been made in **budget**, Government may not ask for advance but may require the Local Body to pay directly to the parties concerned the amount due under the award when it is made.
- VII. Government then proceed to make a **preliminary notification** that the land is likely to be required for a public purpose and issue notices to the persons concerned (section 4). After hearing their objections, Government (if they hold the objections invalid) issue final notification that the land is needed for a public purpose (section 6) and ask the Collector to proceed with the Acquisition.
- VIII. The Collector or the Acquisition Officer proceeds to **investigate claims**. The Local Body is asked to send a lawyer or a departmental officer to represent the Local Body, who states the rate the Local Body is willing to pay and supports the same by evidence. The landlord names his figure and produces his evidence.
- The Acquisition Officer weighs the evidence and makes his **award**, of compensation, on the principles laid down in sections 23 and 24. He embodies the award figures in an Award Statement which is sent to the President of the Local Body.
- IX. If the award is not satisfactory to the Local Body—it has **no remedy** because the award is binding on it.
- If the award is unsatisfactory to any person interested in the compensation and he moves the Collector to refer the matter to the Court, the Collector will give notice of such application and will ask the Local Body to assist him in defending the award under section 50. He has to take all steps necessary to defend the award with the help of the Local Body. The Local Body may appear through an officer or pleader and adduce evidence for the purpose of determining the amount of compensation.

- X. After the Collector's award (or after the Court's award, if there is a reference to Court) the Collector proceeds to take **possession**. But **before possession is taken** the Local Body if it finds that the amount payable is prohibitive or beyond its means, it may move Government to withdraw from the acquisition. Government **may** agree to do so on the Local Body paying damage to parties suffering loss on account of such withdrawal.

NOTE.—Such **withdrawal** may be made at any stage before possession is taken if Government sanction it. Government would sanction it only under exceptional circumstances.

- XI. If there is no withdrawal proceedings—the Collector takes possession of the same and hands over the same to the Local Body concerned. The Local Body however should take care that clear possession is given, i.e., all tenants etc. are evicted. Such **clear possession taken from the Collector** vest the land in the body free from all encumbrances. The Local Body should also see that the Collector takes steps to get the **transfer recorded in the books of the Sub-Registrar, in the Record of Rights, etc.**

II. Acquisition by Municipalities under the Bombay District Municipal Act of 1901 and the Bombay City Municipalities Act, 1925

Under the Municipal Acts, broadly speaking, there are three methods of purchasing land :—

- (1) By private negotiations resulting in an agreement with the vendor.
- (2) By appointment of Panchas or arbitrators to settle the amount of compensation payable.
- (3) By resorting to proceedings under the Land Acquisition Act.

Advantages of following the procedure under the Land Acquisition Act are sufficiently stated in the Introduction to this Handbook. One disadvantage or rather a drawback has been pointed out there, viz., that the principle of **recoupment** (i.e., recovery of the cost of acquisition by acquiring land in excess of requirement and selling the excess at a profit) is not recognised by the Land Acquisition Act. This statement should be understood to mean that speaking strictly legally this Act, considered by itself without reference to other Acts, does not recognise the principle of recoupment. For practical purposes however the statement need not deter local bodies because the municipal Acts which permit recourse to the Land Acquisition Act do fully recognise this salutary principle of recoupment.

(1) Every Municipality may acquire and hold immovable property whether within or without the limits of the municipal district.¹

(2) When expenditure is proposed to be incurred in the acquisition of land beyond the limits of the municipality—say for building a reservoir for its water supply, sanction of Government or any officer duly authorised by it is necessary.²

(3) Such property shall be held and applied by them as trustees subject to the provisions and for the purposes of the Act.³

(4) Where there is an hindrance to the permanent or temporary acquisition of land or building required for the purposes of the Act—the Government may after obtaining possession under the Land Acquisition Act or other existing Law vest such land or building in the municipality on their

- (a) paying the compensation awarded, and
- (b) repaying to Government costs incurred for acquisition.⁴

NOTE.—Government may require the municipality to pay **in advance** estimated cost of compensation.

(5) In laying out, widening or otherwise improving a street a municipality may acquire land in addition to that actually required for new carriage ways, footways and drains, for buildings forming the street and then lease or sell the surplus land to private persons.⁵ This is called "**recoupment**" and is explained further.

(6) **Special methods of acquiring** land and of settling compensation have been provided in both the Acts for the following two cases :—

- (1) Setting back of buildings projecting beyond a regular line of a public street and paying compensation for the portion of the land so added to the street.

¹ Section 50 (1) of Bom. Dist. Mun. Act, 1901 and Section 63 (1) Bom. Mun. Boroughs Act, 1925.

² Section 52 of Bombay Act III of 1901 and Section 66 of Bombay Act XVIII of 1925.

³ Section 50 (2) of Bombay Act III of 1901 and Section 63 (2) of Bombay Act XVIII of 1925.

⁴ Section 41 of Bom. Act III of 1901 and Section 52 of Bombay Act XVIII of 1925.

⁵ Section 90 (2) of the Bombay District Municipal Act, 1901 and also under Section 114 (2) of the Bombay Act XVIII of 1925. [Under the City of Bombay Municipal Act, 1888, recoupment is recognised in Section 296, where land is required for opening or widening a public street or for making a new public street. (*Khanderao Vithoba Kore v. The Corporation of Bombay*, L.R. 51, I.A. 14)].

- (2) Acquisition of land which is within the regular line of a street and open or occupied only by platforms, verandahs, etc., and payment of compensation therefor.¹

Method of awarding compensation in these cases has been provided.²

The amount of compensation is to be determined by a Panchayat of five persons, two to be appointed by the Municipality and two by the party to whom compensation is payable. Sar Panch shall be elected by the four persons so elected. If either fails to appoint members within one month from the receipt of written notice from the other, District Judge shall appoint them if moved.³

If Panchayat fails to give decision within one month of the selection of the Sar Panch or if appointment of member by the District Court, the matter shall on the application of either party be determined by the District Court.⁴

The District Court shall, in cases of Compensation for land, follow the procedure provided by the Land Acquisition Act.

- (1) It is not necessary that application should be made to the Collector.
- (2) The Court will also have full powers to give and apportion cost of proceedings.⁵

The following principles (in addition to those already mentioned before) govern local bodies when they acquire land for a public purpose, namely:—

Betterment:—It means an enhancement in the value of private property owing to an action or undertaking carried out by a public or statutory body. It is called "an unearned increment" as it does not include any improvement in the value of property from the personal action of the owner. Full betterment charges are levied from the owner either in lump or by instalment as a periodical tax.

The Land Acquisition Act entirely ignores 'Betterment.'

Set off:—The amount of betterment accruing towards remaining property as a result of the undertaking or scheme is 'set off' against the amount of compensation payable to him for acquisition of his land.

¹ Section 92 (1) & (2) of Bombay Act III of 1901 read with Sec. 160, and Section 119 (1) & (2) of Bom. Act XVIII of 1925.

² Sections 160 of Bombay Act III of 1901 and 108 of Bom. Act XVIII of 1925.

³ Section 160 (1) & (2) of Bom. Act III of 1901.

⁴ Section 160 (3) of Bom. Act III of 1901 and Section 198 of Bom. Act XVIII of 1925.

⁵ Sec. 160 (3) proviso (a) and (b) of Bom. Act III of 1901 and sec. 198 of Bom. Act XVIII of 1925.

Recoupment:—It is the power to a municipal or other public body to take land beyond what is necessary for the actual execution of the work, so that some part at least of the improved value may be secured by the improving body to ease the burden of the tax-payers.¹

This method pays more than the cost of acquisition and the cost of construction under the scheme.

III. Acquisition of Lands by Local Boards

Every Local Board has power to hold and acquire property both movable and immovable, whether within or without its limits.²

When a Local Board requires any land for the purposes of the Bom. Local Boards Act the Local Board has to move Government. The latter will then proceed to acquire it under the provisions of the Land Acquisition Act and on payment by the Local Board of the compensation awarded the land shall vest in the Local Board.³

IV. Acquisition of Lands by Village Panchayats

A Village Panchayat is competent to acquire and hold both movable and immovable property within or without its limits.⁴

As the Panchayats are under the authority of the Local Boards acquisition of land, if any, is made by the Local Board in the manner described in its own case above.

V. Acquisition of Property in the City of Bombay

(The City of Bombay Municipal Act, 1888,
Sections 87, 90, 91, 296 and 354-S)

Under section 87 the Municipal Corporation has power to acquire and hold movable and immovable property whether within or without the limits of the city.

The Commissioner can acquire on behalf of the Corporation any immovable property for any purpose under the Act by agreement on such terms and at such rates not exceeding the maxima as shall be approved by the Standing Committee. But in case the price to be paid for such property exceeds one thousand rupees the agreement must be approved by the Corporation.⁵

¹ *Manilal Singh v. The Cal. Imp. Trust*, I. L. R. 45 Cal. 343.

² Section 40 of Bom. Local Boards Act, 1923.

³ Section 137 of the Bom. Local Boards Act, 1923.

⁴ Sec. 29 of the Bom. Village Panchayats Act, 1933.

⁵ Sec. 90.

Where the Commissioner is unable to acquire any immovable property as laid down in the above section the Commissioner may with the approval of the Standing Committee apply to Government who in their discretion order proceedings to be taken under the Land Acquisition Act.¹

Subject to the provisions of sections 90, 91 and 92 the Commissioner may

- (a) acquire land for the purpose of opening, widening, extending or improving any public street and also buildings if standing on such land,
- (b) acquire if necessary in addition to the land and buildings, any land with buildings thereon outside the regular line or of the intended regular line, of any street, and may lease, sell or otherwise dispose of any such land or buildings on such conditions as he thinks fit as to their removal or creation of new buildings and the period within which the new buildings are to be completed and other such matters.² In *Khanderao Vithoba vs. The Municipal Corporation of Bombay*, it was held by the Privy Council that **Bombay Municipality has power, while acquiring lands for streets, to acquire contiguous extra land with a view to resell and recoup expenditure incurred.**³
- (c) In the case of land acquired otherwise than by agreement for the purposes mentioned in section 90 and Chapter XII-A of the Act the provisions of the Land Acquisition Act to the extent set forth in Schedule CC to the City of Bombay Municipal Act, 1888, will apply.⁴

Section 354-T of the Act provides that in determining the amount of compensation to be awarded for any land or building acquired under this Act the following further provisions besides those under the Land Acquisition Act shall apply :—

- (1) The Court shall take into consideration any increase to the value of any other land or building belonging to the person interested likely to accrue from the acquisition of the land or from the acquisition, alteration or demolition of the building ;

Note that section 24 (*sixthly*) does not allow this and that it reduces the amount of compensation in use of frontage lands for road widening schemes as illustrated further by an example.

¹ Sec. 91.

² Sec. 298.

³ I. L. R. 48 Bom. 185.

⁴ Sec. 354-S.

- (2) when any addition to or improvement of, the land or building has been made after the date of the publication under sub-section (1) of section 354-G or section 354-P of a notification relating to the land or building, such addition or improvement shall not (unless it was necessary for the maintenance of the building in a proper state of repair) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made, so as to increase the amount of compensation to be paid for the land or building ;

This is similar to section 24 (*Seventhly*).

- (3) in estimating the market value of the land or building at the date of the publication of a notification relating thereto under sub-section (1) or section 354-G or section 354-P the Court shall have due regard to the nature and the condition of the property and the probable duration of the building if any in its existing state and to the state of repair thereof and to the provisions of clauses (4), (5) and (6) of this section ;

This is equitable and is recognised by the Land Acquisition Act.

- (4) if in the opinion of the Court the rental of the land or building has been enhanced by reason of its being used for an illegal purpose, or being so overcrowded as to be dangerous or injurious to the health of the inmates, the rental shall not be deemed to be greater than the rental which would be obtainable if the land or building were used for legal purposes only, or were occupied by such a number of persons only as it was suitable to accommodate without risk of such overcrowding ;

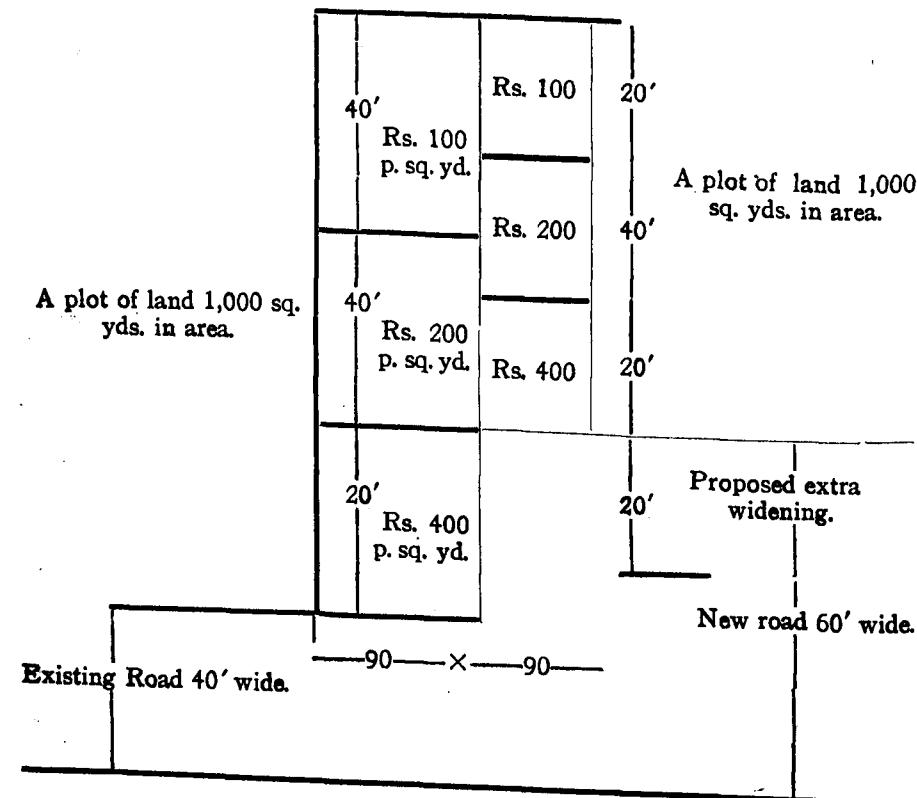
Explanation.—For the purposes of this sub-section overcrowding shall be interpreted as in sub-sections (4) and (5) of section 379-A.

- (5) if in the opinion of the Court the building is in a state of defective sanitation, or is not in reasonably good repair the amount of compensation shall not exceed the estimated value of the property after the building has been put into a sanitary condition, or into reasonably good repair, less the estimated expense of putting it into such condition, or repair ;
- (6) if in the opinion of the Court the building being used or intended or likely to be used for human habitation, the amount is not reasonably capable of being made fit for human habitation, the amount

of compensation for the building shall not exceed the value of the materials, less the cost of demolition.

Example of Acquisition of Land for Road Widening under Land Acquisition Act.¹

Condition Before and After Acquisition



Assume a hypothetical plot of land 100' in depth and 90' wide situated on a 40' main road which it is proposed to be widened to 60' the existing road is flanked on either sides with shops on an average 20' in depth from road frontage. Behind the shops are residences of the shopkeepers and behind the residences, open court-yards used for stocking packing cases etc.

Calculating on the basis of rental value the land value for the front 20' strip used for shopping purposes works out to say Rs. 400 per sq. yd. The rear residential area 40' deep is worth Rs. 200 per sq. yd. and the court-yard in the rear Rs. 100 per sq. yd.

¹ Adapted from Mr. G. B. Soparkar's "Lectures on Law of Land Acquisition".

Now according to the provisions of the Land Acquisition Act, the owner would claim for the loss of his front 200 sq. yds. at the rate of Rs. 400 per sq. yd., i.e., Rs. 80,000. However the right hand side plot shows the position of the plot after the acquisition. Inasmuch as the acquisition is for road widening purposes the front land useful for shopping is only moved back by 20' making a consequential movement of the residential area and reducing the court-yard by 20'. Thus what the owner actually loses is 20' depth of rear court-yard by 20'. This is worth only Rs. 100 per sq. yd. and not front land. This is worth only Rs. 20,000 and it is this correct compensation which is payable under section 49 of the Bombay Improvement Act¹ as the advantage accruing to the remaining land is to be considered. This is also the amount of compensation payable under English Acts as calculated by what is called "Before and After" method of Valuation. But this is forbidden under the Land Acquisition Act. It will thus be clear that it is inequitable to pay Rs. 80,000 under the Land Acquisition Act for road widening acquisition though it may be strictly legal. It is necessary therefore to find out a via media and the best method is to compensate the owner according to the average all over value of his whole plot, i.e., at an average rate of Rs. 200 per sq. yd., i.e., at Rs. 40,000.

¹ Now repealed and embodied in section 354-T of the City of Bombay Municipal Act, 1888.

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SELECTED CASES ON LOCAL SELF-GOVERNMENT ACTS (Bombay Series)

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[These cases have been selected from the forthcoming volume of *Cases on Acts relating to Local Bodies* (Bombay Series). This work contains an exhaustive analysis of all the cases decided by the High Court of Bombay and reported in the Indian Law Reports and the Bombay Law Reporter for the last 40 years. The work is being published with the kind permission of the Government of Bombay and the proprietors of the Bombay Law Reporter. —Editor.]

1910

Emperor

vs.

Ramchandra Bhaskar Mantri

The property contemplated by section 305 of the City of Bombay Municipal Act, 1888, necessarily embraces buildings, whether erected or to be erected. The owner of the land who lets it out under a building scheme is not the owner of the property as he has no right to receive rent in respect of such property.

One Zaoba parcelled out certain land belonging to him in plots for building purposes and gave each plot on a lease for a fixed period of thirty years. The accused was one of those lessees. There is a private street adjoining the plots and it was with reference to that street that the Municipal Commissioner called upon the lessees to level, metal, drain and light the said street on the ground that they were 'owners of the several premises fronting or adjoining' it within the meaning of section 305 of the Act. They having refused to comply with the requisition, the Commissioner filed a complaint against them in the Presidency Magistrate's Court under section 471 of the Act.

The lessees contended that they were not the owners of the several premises and it was their lessor, the owner of the land who was legally liable to perform the work under section 305. Their contention was overruled and they were convicted. The applicant applied to the High Court under its criminal revisional jurisdiction.

HELD that the mere owner of the land who had let it out under a building scheme for building purposes was not the owner of the property, because the property contemplated by section 305 necessarily embraced

buildings, whether erected or to be erected; and the legislature regarded him as the owner of the premises who had the right to receive rent in respect of that property.

Held also that the word 'premises' occurring in section 305 of the Act must be presumed to have been used by the legislature in its legal sense as referring to the particular kind of property which forms the subject-matter of the group of the immediately preceding sections of the Act, namely, sections 302-307 which have reference to streets made for the use of buildings or building sites. The dominant idea ruling these sections (sections 302-304) is that of buildings either erected or projected. This is the kind of property dealt with in what has gone before section 305.

Held further that it is a primary rule of construction that a word having popular meaning ought to be construed in that sense, unless there is something to the contrary in the context. Words of legal import are to be considered as having been used in their technical sense, where the law has attached that sense to them.

Section 305 runs as follows:—

"If any private street be not levelled, metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the Commissioner, he may with the sanction of the Standing Committee by a written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon, to level, metal or pave, drain and light the same in such manner as he shall direct."

Chandavarkar, J.—(Extract). The word 'premises' includes 'land' (*Sweet's Law Dictionary & Wharton's Law Lexicon*). The word 'premises' has, however, a technical meaning in law. Its strict legal meaning is 'that which comes before,' 'the praemissa of the document or deed which includes that word.' The word 'premises' in section 305 must be presumed to have been used by the legislature in its legal sense as referring to the particular kind of property which forms the subject-matter of the group of the immediately preceding sections of the Act—sections 302-307—which refer to streets made for the use of buildings or building sites, the dominant idea being that of buildings either erected or projected.

The lessor receives rent only for the land leased. He is not entitled to rent in respect of the buildings. Once he has started his building scheme and let out his land in plots, he drops out of sight and his lessees step in as the owners of the buildings, either erected or projected.

Heaton, J.—(Extract). As the lessee takes the rent of the premises, he is the owner within the meaning of that word in section 305 as will appear from the definition of the word 'owner' given in clause (m) of section 3 of the Act. As the lessee is the owner in this sense, the notice mentioned in section 305 was correctly addressed to him and the Magistrate's order is right.

I.L.R. 34 Bom. 593
20th July 1910.

Emperor

vs.

Kalekhan Sardarkhan

The rebuilding of a whole wall which had fallen down was a material reconstruction or creation of a building as defined in the explanation to section 96 of the Bombay District Municipal Act, 1901, and the accused is liable to be prosecuted for having reconstructed it without the permission of the Municipality.

The accused was the owner of a house within the municipal limits of the town of Rander in the Surat District. A *kuchcha* wall of the house had fallen down, to reconstruct which he applied to the municipality for permission under section 96 of the Bombay District Municipal Act. The municipality had one month within which to make known their decision and before the expiry of that period the municipality issued an order prohibiting the accused from making the reconstruction but in the meantime the accused reconstructed the wall. He was, therefore, prosecuted under section 96 of the Act for having reconstructed the wall without the permission of the municipality but was acquitted. The Government appealed against the order of acquittal to the High Court.

HELD, reversing the order of acquittal, that the accused had erected a building within the meaning of section 96 of the Act, since the rebuilding of the whole wall which had fallen down was a material reconstruction or an erection of a building as defined in the explanation to the section.

The material portion of section 96 runs as follows:—

- "96. (1) Before beginning to erect any building, or to alter externally or add to any existing building, or to reconstruct any projecting portion of a building in respect of which the municipality is empowered by section 92 to enforce a removal or set-back, the person intending so to build, alter or add shall give to the municipality notice thereof in writing.....
- (5) Whoever begins or makes any building or alteration or addition without giving the notice required by sub-section (1).....or except as provided in sub-section (4), without awaiting, or in any manner contrary to such legal orders of the municipality as may be issued under this section or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees....."

"Explanation.—The expression 'to erect a building' throughout this chapter includes

- (a) any material alteration, enlargement or reconstruction of any building."

Batchelor, J.—(Extract). By sub-section (7) of section 3 of the Act 'building' is defined to include walls, and by clause (a) appended to section 96 the expression 'to erect a building' includes any material reconstruction of a building. Here the whole wall had fallen down and was rebuilt. That, therefore, was a material reconstruction or an erection of a building. That

being so, it was obligatory upon the accused under section 96 of the Act not to erect this building before receiving the municipality's orders, or without waiting for those orders as prescribed in the section.

The ruling in *Queen-Empress vs. Tippana*, (1888) *Ratanlal's Unreported Cri. Ca. p. 402*, on which the trying Magistrate depended cannot govern the present case inasmuch as that decision was passed under section 33 of the Bombay District Municipal Act of 1873, which section differs materially from section 96 of the present Act.

I.L.R. 35 Bom. 236
17th November 1910.

1911

Emperor
vs.

B. H. DeSouza

The accused who rebuilds a side wall of his house on its old foundation without having previously obtained the permission of the municipality cannot be deemed to have committed an offence under section 96 of the Bombay District Municipal Act, 1901, for it cannot be said as a matter of law that the material reconstruction of a small wall must constitute the 'erection of a building'.

The accused owned a house within the municipal limits of Bandra. One of the side walls of his house had fallen down. He reconstructed the wall on its old foundation, without having previously obtained the permission of the municipality. He was charged thereupon with the offence made punishable under section 96 of the Act. The accused was acquitted by the magistrate who held that the accused was not erecting a building so as to come within the section. The Government of Bombay appealed against the order of acquittal. The appeal was heard by Chandavarkar and Heaton JJ., but their Lordships having differed in opinion, delivered the following judgments.

Chandavarkar, J.—(Extract). The case is analogous with *Emperor vs. Kalekhan Sardarkhan* (*I.L.R. 35 Bom. 236*). A wall such as this expressly falls under the Act within the definition of a building and its reconstruction amounts to erecting a building of which notice must be given as required by the Act.

Heaton, J.—(Extract). By the explanation to section 96 'to erect a building' includes 'any material alteration, enlargement or reconstruction of any building.' There has not been a material alteration or enlargement but there has been reconstruction of the southern wall of the house. If we were dealing with a wall standing by itself we should be dealing with a building. But where we have a complex building such as a house, the building meant by section 96 is the whole house and not a selected portion of that whole such as the southern wall, because sections 92 to 98 of the Act deal with 'powers to regulate buildings, etc.' These sections deal with buildings, parts of buildings, external walls of buildings, projecting portions of a building and in section 98 the plinth is referred to, clearly, as a part of

a building. The explanation to section 96 from (b) to (d) and (f) contemplates complex buildings as entities. The scheme of these sections contemplates a 'building' ordinarily as a complex structure made up of walls, etc. It does not contemplate simple structures such as an isolated wall. The building as contemplated by section 96 is the whole house and a single wall of the house is not by itself a building but only a part of a building.

The reconstruction of a wall is, however, a reconstruction within the meaning of section 96 of that building of which it forms a part.

Owing to this difference of opinion the case was heard by Scott, C.J.

The material portion of section 96 is reproduced in the previous case of *Emperor vs. Kalekhan Sardarkhan* (*I.L.R. 35 Bom. 236*) to which reference may be made.

HELD that the accused had committed no offence under section 96 for it could not be said as a matter of law that the material reconstruction of a small wall must constitute the 'erection of a building.'

Held also that it is recognized in England to be a rule with regard to the effect of interpretation clauses of a comprehensive nature that they are not to be taken as strictly defining what the meaning of a word must be under all circumstances but merely as declaring what things may be comprehended within the term where the circumstances require that they should.

Scott, C. J.—(Extract). The Court is not precluded from giving to the word 'building' in that section its ordinary meaning, a meaning which the neighbouring sections indicate as the sense in which the Legislature was using that expression in the group of sections of which section 96 forms part. It is possible that the re-erection of a wall may, under certain circumstances, amount to the material reconstruction of a building under section 96 but it does not necessarily so amount. In *Emperor vs. Kalekhan Sardarkhan* (*I.L.R. 35 Bom. 236*) the applicant had treated the re-erection of his wall as falling within the section and had applied for leave to re-erect it but did not wait to see if the permission would be granted or refused and there was no appearance on behalf of the accused. In the present case the wall is a small wall and has all along been regarded by the applicant as not a building within section 96.

I.L.R. 35 Bom. 412
12th April 1911.

The Municipal Commissioner for the City of Bombay
vs.

Mathuradas Gokuldas Pasta

It is to the owner who lets his premises to separate tenants that a notice to abate overcrowding under section 379-A of the City of Bombay Municipal Act, 1888, must be given and not to the tenants who do the overcrowding.

Mathuradas was the owner of a building situated on the Matarpakady Road in the City of Bombay. The building consisted of two storeys, on each of which there were twelve rooms. These rooms were let by the owner singly to different tenants. The rooms on the ground floor had an

air space of 832 cubic feet while those on the upper floor had 798 cubic feet. The total number of persons living in the whole building was 123. The Municipal Commissioner applied to the Second Presidency Magistrate of Bombay under section 379-A (1) of the City of Bombay Municipal Act, 1888, for an order to fix the maximum number of persons to be accommodated in each room and a written notice requiring the owner of the building to abate the overcrowding. The Magistrate held the inquiry and decided that the maximum number in each room should be three adults and one child. A question was then raised as to who should be served with the notice of abatement. The municipality urged that the notice should be issued to the owner, while Mathuradas urged that notice should be served on the tenants personally who were responsible for the overcrowding. The Magistrate was of the opinion that notices should go to the tenants on the ground that under clause (2) of section 379-A when the owner has sub-let the building, the tenants should be given the notice. The Municipal Commissioner thereupon requested the magistrate to refer the point to the High Court for opinion. The Magistrate thereupon referred the following question to the High Court :—

“When the owner of a building has let his rooms separately to individual tenants and these cause the overcrowding, is the notice, to abate the same, to be given, under section 329-A (1) of the Bombay Municipal Act, to the owner or to the tenants?”

HELD that the notice contemplated by section 379-A of the City of Bombay Municipal Act, should be given to the owner of a building in cases where the owner has let rooms in the building to separate tenants who cause overcrowding.

The material portion of sections 379 and 379-A is as follows :—

- “379. (1) The owner of a building shall, within a period of seven days, after receipt of a written notice from the Commissioner sign and give a certificate of the following particulars with respect to such building or any part thereof :
- (a) the total number of rooms in the building ;
 - (b) the length, breadth and height of each room ; and
 - (c) the name of the person to whom he has let the building or each part of the building occupied as a separate tenement.
- (2) The occupier of a building or any part of a building occupied as a separate tenement shall, on like notice and within the like period, sign and give certificate of the following particulars with respect to such buildings as aforesaid which is in his occupation :—
- (a) the total number of persons dwelling in the building or any part of it ;
 - (b) the manner of use of each room by day and night ; and
 - (c) the number, sex and age of the occupants of each room used for sleeping.”

“379-A. (1) Where it appears to the Commissioner, whether from any certificate furnished under section 379 or otherwise, that any building or any room or rooms therein used for human habitation is overcrowded, he may apply to a Presidency Magistrate to prevent such overcrowding ; and the said Magistrate after such inquiries as he thinks fit to make, may prescribe the maximum number of persons to be accommodated in each room and may, by written order, require the owner of the building within a reasonable time not exceeding ten days to be prescribed in said

order, to abate the overcrowding thereof by reducing the number of lodgers, tenants or other inmates of the said building or room or rooms, in accordance with the maximum so prescribed and to the satisfaction of the Commissioner or may pass such order as he may deem just and proper.

- (2) Where the owner of the said building has sub-let the same, the landlord of the lodgers, tenants and other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the said building.
- (3) Every tenant, lodger or other inmate of the same building shall vacate on being required by the owner so to do in pursuance of any order under sub-section (1).
- (4) *
- (5) *

Chandavarkar, J.—(Extract). The question of law referred arises upon the construction of clauses 1 and 2 of section 379-A of the City of Bombay Municipal Act, 1888. To construe properly clause (2) of section 379-A one has to bear in mind what has gone before in clause (1) of the section. It is obvious from the language of the latter clause that whether the overcrowding is in the whole building or in any one room or rooms of it, the written order must be to the owner of the building. It is the whole building as one undivided entity and its owner as a single person that are brought within the operation of the clause. Then comes clause (2). Here the words are “the said building.” The words “any room or rooms therein” are studiously excluded. What is contemplated is the whole building taken as a single undivided entity, not one split into parts and sub-let in portions. The word “owner” as defined in clause (m) of section 3 of the Act means when read in reference to any premises, “the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof, if the premises were let.” This definition is wide enough to include the case of a building, which, having been let to a tenant with power to sub-let, is sub-let by the tenant, as well as the case of a building simply let. In the former case the tenant who has sub-let becomes “the owner” and the “landlord of the lodgers, tenants or other actual inmates” of the building. He represents them for the purposes of the section, because, according to the law of landlord and tenant, there is no priority of contract or estate between a lessor and a sub-lessee, unless there is an agreement creating such priority. The clause recognises no such agreement for its purposes but keeps to the general law. It follows, therefore, that when a building is sub-let, the lessee who sub-lets is “the owner of a building” within the meaning of the section. If, however, the proprietor of a building consisting of several rooms lets it in parts to several tenants with power to sub-let and each or some of these sub-let, the tenants who have sub-let are not the owners of the building within the meaning of section 379-A. The section contemplates a person who is “the owner of the building,” that is to say, of the whole building, while tenants of portions who have sub-let are not. Because each of them is a tenant receiving rent from his sub-tenant in respect of the room or rooms he has sub-let, his right does not cover the whole building, whereas it is the ownership of the building as one whole that is meant by the Legislature for the purposes of the section. In that case the only person “who receives the rent of” the building is its proprietor, who has let it to

the tenants with power to sub-let. He is, therefore, the only person falling within the definition of "owner" and becomes liable under clause (1) of section 379-A.

I.L.R. 36 Bom. 81
10th July 1911.

Chunilal Virchand (orig. petitioner)
vs.

The Ahmedabad Municipality (orig. opponent)

The order passed by the District Court under sub-section (3) of section 160 of the Bombay District Municipal Act, 1901, determining the amount of compensation payable in respect of land acquired is not appealable.

The Municipality of Ahmedabad acquired compulsorily some lands belonging to the applicant, Chunilal Virchand. He applied to the District Court under section 160 of the Act to fix compensation for the land. The

Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Section 160.

District Judge held an inquiry and fixed the compensation under sub-section (3) of the said section. The applicant appealed to the High Court against the decision.

HELD that no appeal lies from the decision of a District Court under clause (3) of section 160 of the Bombay District Municipal Act, 1901.

Held further that where a statute creates a right not existing at common law and prescribes a particular remedy for its enforcement, then that remedy alone must be followed.

Sub-section (3) of section 160 of the Act runs as follows :—

"(3) In the event of the panchayat not giving a decision within one month from the date of the election of the sar-panch, or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow, as far as may be, the procedure provided by the Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court;

Provided that—

(a) no application to the Collector for a reference shall be necessary, and

(b) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit."

Chandavarkar, J.—(Extract). Section 160 provides a remedy for the determination of the amount of compensation, to which a person becomes entitled under clause (3) of section 92, by reason of his land forming part of a public street becoming vested in the municipality. Both the right to compensation and the remedy for the determination and apportionment of its amount are given by the Act itself; so the right must be asserted and the remedy pursued only in the manner and upon the conditions prescribed by the Act.

Section 160 of the Act constitutes the District Court the tribunal for the determination of the amount of compensation, and gives a remedy by way of appeal from that Court's order made under clause (3) of that section. If that section does not give the right, there is no other section in the Act which gives it. A right of appeal cannot be assumed in every matter which comes under the consideration of a judge; such right must be given by statute or by some authority equivalent to a statute. In terms section 160 does not provide an appeal. Nor can it be said that it is provided by necessary implication. Only those provisions of the Land Acquisition Act apply to the proceedings before the District Court, which regulate its procedure in Land Acquisition cases. The said provisions do not include, but stand apart from the provisions relating to an appeal against an award made by a District Court under the Land Acquisition Act. The right to appeal from the award is specifically given by section 54 of that Act. That section is, therefore, excluded from the purview of section 160 of the Bombay District Municipal Act. The legislature has been careful to limit the application of the provisions of the Land Acquisition Act to the proceedings in the District Court under clause (3) of section 160 of the Bombay District Municipal Act and the implication is distinctly against a right of appeal from any decision of that Court made under that clause. An order made under section 160 (3) is not a decree, because it is made not under the ordinary civil jurisdiction, but under a special jurisdiction created by a special Act, and that Act does not provide that such an order is a decree. A proceeding under section 160 (3) is initiated, not by a suit but by application, and a decision passed in it is at best an award on the analogy of the Land Acquisition Act so far as the provisions of the Land Acquisition Act apply to the Bombay District Municipal Act.

I.L.R. 36 Bom. 47
31st July 1911.

The Ahmedabad Municipality (orig. deft.)

vs.

Ramji Kuber (orig. plff.)

Under the Bombay District Municipal Act, 1901, an applicant for permission to rebuild the house cannot be restrained from proceeding with his work merely because a provisional order which is expressly limited to one month, may have been issued months or even years earlier.

On 3rd July 1903 the plaintiff applied to the municipality for permission to reconstruct his house, building balconies on its two sides. On the 25th July 1903 the municipality issued permission note giving the plaintiff

Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Section 96.

permission to rebuilt his house and informing him that as regards the building of the balconies his application was placed before the Managing Committee and that until the permission was granted he was not to do any work in that respect. The plaintiff, not having heard from the municipality, built the balconies. On 4th August 1904 the municipality called upon the plaintiff to remove the balconies and his application to reconsider their decision having failed he brought a suit against the municipality for an injunction restraining them from removing the balconies. His suit was dismissed by the subordinate judge but on appeal the Appellate Court

reversed the decree and allowed the claim. The defendant municipality then preferred a second appeal.

HELD that the plaintiff was entitled to succeed. There being no subsisting order referred to in section 96, sub-section (4) (a) (ii) of the District Municipal Act the plaintiff was entitled to the liberty of proceeding allowed by sub-section (4). After the expiry of one month the order as to balconies was spent and the plaintiff became entitled to proceed with the proposed work.

Held also that an order directing indefinite delay is inconsistent with the District Municipal Act.

Sub-section (4) (a) (ii) of section 96 of the Act runs as follows :—

“(4) A building proposed in a notice given under sub-section (1) may be proceeded with in such manner, as may have been specified in such notice, as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, that is to say :—

(a) in case the municipality, within one month from the receipt of the notice given under sub-section (1), have neither

(i)

(ii) issued under sub-section (3) any provisional order or any demand for further particulars.”

Batchelor, J.—(Extract). Sub-sections (3) and (5) of section 96 of the Act in allowing the issue of a provisional order, strictly limit its duration to one month and penalise only a person who begins to build without awaiting the legal orders of the municipality issued under section 96. Reading the section as a whole one of the objects of the legislature was to discountenance just the kind of unreasonable dilatoriness which this case illustrates.

Sub-section (4) enacts that an applicant shall be entitled to proceed with his intended work in case the municipality within one month from the receipt of the notice or application have neither passed orders under sub-section (2) nor issued under sub-section (3) any provisional order. No orders under sub-section (2) were passed as to these balconies and though no doubt a provisional order was issued a year previously that order cannot have any power under the section to restrain the plaintiff from building. For by the very nature of it as defined in sub-section (3) (a) its operation was limited to the period of one month, and sub-section (5), which deals with cases where an applicant is bound to await further orders, is careful to provide that such orders must be legal orders. In order to avoid a plain contradiction and to give effect to the section as a whole, the words ‘any provisional order’ in sub-section (4) (a) (ii) must be read as referring only to a subsisting existing order. There was no such order in the present case and, therefore, the plaintiff was entitled to the liberty of proceeding allowed by sub-section (4).

*I.L.R. 36 Bom. 61
3rd Aug. 1911.*

The Municipal Commissioner for the City of Bombay and another
(appellants and defts.)

vs.

Muncherji Pestonji Choksey (respondent and plff.)

Subject to the provisions of section 297 of the City of Bombay Municipal Act, 1888, the Municipal Commissioner is entitled to prescribe a line of a

street, whether in substitution for a previous line or not and his action would be valid, notwithstanding its object was the widening of the street.

The plaintiff is the owner of a house and a compound abutting on Elphinstone Road near the point where it is intersected by two lines of railway. In 1902 it was decided that an overbridge should be built carrying the Elphinstone Road over the railways. In 1903 the Municipal Commissioner in order to provide for the changed conditions which would result from the building of the overbridge, prescribed on the northern side of the Elphinstone Road a line as the regular line of the street under the power conferred upon him by section 297 of the Act. The line so prescribed was not, however, recorded on the usual plan in the municipal office and was not generally known. In 1909 the Railway Companies proposed alterations in the position of the overbridge which even had not been commenced. This made the Municipal Commissioner to prescribe a line on each side of the road. The northern line so prescribed lay to the south of that previously prescribed. When it was discovered that there was already an old regular line prescribed, steps were taken in conformity with section 297 as amended by Bombay Act V of 1905 to legalise the substitution of the new line by following the procedure prescribed by section 297 (1) (b). When this was done, possession of such part of the plaintiff's compound as lay within the new line was taken under section 299. The plaintiff thereupon sued the Commissioner and the Corporation of Bombay for recovery of the said land and other relief. The plaintiff contended that as the object of the Commissioner in prescribing the said lines of the street was to widen the said street to facilitate the construction of an overbridge, the prescribing of the said line was *ultra vires* and that the said lines did not become the regular lines of the street.

The lower Court held that the object of section 297 was not to enable the Commissioner to widen a public street and accordingly gave judgment for the plaintiff.

The defendants appealed.

HELD that subject to the provisions of section 297 of the Act, the Commissioner might prescribe a line of a street, whether in substitution for a previous line or not and that his action would not be invalid merely because it had for its object the widening of the street.

Held also that the headings of clauses are not to be relied on.

Held further that *Essa Jacob vs. Municipal Commissioner of Bombay* *I.L.R. 25 Bom. 107* is no longer an authority since the amendment of the Act in 1905.

The provisions of the old section 297 ran as follows :—

“The Commissioner shall prescribe a line on each side of any public street within which except under the provisions of section 310 no portion of any building abutting on the said street shall after such line has been prescribed be constructed.”

The new section 297 as amended by Bombay Act V of 1905 runs as follows :—

"297. (1) The Commissioner may—

- (a) prescribe a line on each side of any public street;
- (b) from time to time, but subject in each case to his receiving the authority of the Corporation in that behalf, prescribe a fresh line in substitution for any line so prescribed, or for any part thereof, provided that such authority shall not be accorded—

(f) * * *

- (4) * * *
- (2) The line for the time being prescribed shall be called 'the regular line of the street'."

Scott, C. J.—(Extract). The power of the Commissioner to prescribe a line enables him to prescribe a line on each side of any public street, and from time to time, with the special authority of the Corporation, to prescribe a fresh line in substitution for any time so prescribed or for any part thereof. The action of the Commissioner, therefore, in taking possession of the plaintiff's land falls within the words of section 299. The plaintiff, however, contends that the plain words of section 297 are controlled by the heading prefixed to section 297-301, namely—"preservation of regular line in public streets." It is contended that although a regular line may be substituted from time to time for the old line, it will be vitiated by illegality of the motive for the substitution if that motive is not simply preservation of a regular line but the securing of a wider street. This argument was based on a passage in the judgment of Sir Lawrence Jenkins in *Essa Jacob vs. The Municipal Commissioner of Bombay* (I.L.R. 25 Bom. 107), a case decided in 1900. The sole point in that case was whether after a regular line had once been prescribed by the Commissioner it could consequently be altered by the Commissioner by the prescription of a fresh line. Sir Lawrence Jenkins referred to sections 289 and 296 which expressly conferred upon the Commissioner power to widen streets subject to certain restrictions and he drew the conclusion from those sections and the heading of the group of sections that the prescription of a regular line was the object of section 297 and not the widening of the street. The Chief Justice then dealt with the argument that the action of the Commissioner should not be interfered with merely because it might indirectly have a result for the attainment of which other provision was made; the answer of the Chief Justice was that the argument overlooked the admissions, from which it logically followed that the conditions requiring and justifying the exercise of the power contained in section 297 had no existence and that the power was simply exercised in order to attain the indirect result.

The *ratio decidendi* of the judgment, therefore, is that if a line has already been prescribed the condition requiring and justifying the exercise of the power in section 297 does not exist. It is no authority for the proposition that if the motive of the prescription of the line is the desire to widen the street, the power conferred by the section cannot be exercised. Under the amended section the power of the Commissioner to prescribe a line no longer depends on the same condition as before, namely, the absence of a line already prescribed. The substitution of a fresh regular line for a street or part of a street under the present section 297 (1) (b) will have in a progressive city for its object the widening of the street. A reference to Bombay Act V of 1905 which amended section 297 shows that the existing

heading of the clauses 297-301 was not specifically brought before the legislature. "The heading of these clauses are not to be relied upon—showing, just in the same way that an Act of Parliament often goes beyond the preamble, that provisions have been introduced in the progress of the clauses going somewhat beyond the short summary definition in the heading of the clauses." Per Lord Cairns in *Hammer Smith, etc., Railway Co., vs. Brand*, (1809) L.R. 4 H.L. 171 at p. 217).

Batchelor, J.—(Extract). The judgment in *Essa Jacob's* case decides that the action of the Commissioner to prescribe a new line to widen the street was unauthorised, not because its motive was to widen the street, but because, the object aimed at by the section having already been secured by the first line, no second line could be prescribed whatever might be the motive for the attempt to prescribe it. Then comes the amendment of the section which goes to the root of the earlier decision. The amendment now authorises precisely what has here been done with the authority of the Corporation, namely, the substitution of a fresh line for a line already prescribed.

As to the phraseology of the heading of the sections, it is plain that that cannot control the wording of section 297. The heading stands on the same footing as a preamble and may be referred to for guidance if the meaning of the section is obscure. There is no obscurity in the section itself and the appeal to the headings is beside the point. If fresh lines may from time to time be prescribed, the effect of a new line will be to increase the width of the street, in certain cases, in comparison with the earlier line and a result so directly flowing from the amended section may be taken to have been contemplated and approved by the Legislature. I.L.R. 36 Bom. 405
31st Aug. 1911.

1912

Emperor
vs.

Edalji K. Patel

A street does not become public if it is not sewered by a pipe having no direct connection with the surface of that street, although it may carry sullage water from adjoining houses.

The applicant owned a house abutting on a street which contained a drain-pipe laid by the municipality. The drain-pipe carried only sullage water from houses on either side of the street and did not carry any

City of Bom. Mun. Act, 1888 (Bom. III of 1888), Section 305.

drain-water or other water or sullage or anything else from the street itself. The municipality issued a notice on the applicant under section 305 of the City of Bombay Municipal Act, 1888, calling upon him to level, metal or pave, drain and light the street running by his premises. He was convicted for disobedience of the notice under section 471 of the Act. It was contended on his behalf that the provisions of section 305 did not apply because the street in question was not private but public owing to its having been sewered by the drain-pipe laid by the municipality. But his contention was not upheld by the magistrate. The applicant thereupon applied to the High Court.

HELD that the street in question was not public, for it could not be said to be sewered merely because there ran under it a pipe, which though carrying off sullage water from certain houses, had no direct connection with the surface of the street.

Section 305 of the Act is as follows :—

"If any private street be not levelled, metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the Commissioner, he may, with the sanction of the standing committee, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct."

Batchelor, J.—(Extract). Under section 3 of the Act 'private street' is defined as a street which is not a public street, and 'public street' is defined to mean any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the Corporation. The only question is whether the street in question is a private street or public street within the meaning of the Act. That in turn depends upon the answer to the question whether the street is sewered by this six-inch drain-pipe. The facts are that the pipe, though it runs under the street carries nothing but sullage water from the houses on either side of the street and does not carry any water or other water or sullage or anything else from the street itself. Upon these facts it cannot be said that the street is sewered by this pipe. It is urged on behalf of the applicant that the word 'sewer' must be restricted to that narrower meaning which it bears in ordinary parlance, that is to say, to the meaning of liquid filth or excrementitious matter. There is nothing to guide in the Act to accept the applicant's contention. The word 'sewer' is derived from the word 'to sew' which according to Webster is explained as meaning 'to drain as a pond for taking the fish.' So 'sewer' signifies a drain or passage to convey off water and filth underground. In *Sutton vs. The Mayor and Aldermen of Norwich* (1858) 27 L.T. Ch. 739, 742 it is said that "the word 'sewer' comes from the word to 'sew,' i.e., to drain and has a much more extended signification, embracing works on the longest scale, such as draining the fens of Lincolnshire by means of canals, etc." In Wharton's Law Lexicon the word is similarly defined as being a trench or channel through which water flows. On these grounds it is impossible to limit the meaning of the word 'sewer' in section 3 of the Act as desired by the applicant. The word bears the wider signification and must refer to the carrying off other water besides liquid filth. Seeing that the street is hardly a place on which sewage in the narrower sense would ordinarily be expected, it is probable that the Legislature in using the word 'sewer' intended to convey the wider meaning. That being so, it follows that this street cannot be said to be sewered merely because there runs under it a pipe which though carrying off sullage water from certain houses, has no direct connection with the surface of the street. The Corporation cannot be said to have undertaken the responsibility of keeping the street under their charge and liability when their action has been limited to the mere provision of a pipe disconnected from the street and designed only to remove excrementitious and other filthy matter from the

houses which adjoin the line of the street. The street in question cannot, therefore, be said to be sewered by the existing pipe.

14 Bom. L.R. 1169
23rd Oct. 1912.

1913

Dakore Town Municipality (orig. deft.)
vs.

Trivedi Anupram Haribhai (orig. plff.)

Under section 122 of the Bombay District Municipal Act, 1901, a municipality is empowered to remove an encroachment put up in a place after it had become a municipal district, apart from the question whether the encroachment was in existence for 12 years or more.

An action was instituted by the plaintiff for a perpetual injunction restraining the defendant municipality from obstructing him from putting the stone in its original position in the *otla* of his house and for damages for unlawful removal of the stone. The plaintiff alleged that the stone was included in plaintiff's *otla* and had been there since time immemorial and that nevertheless it was removed by the municipality. The subordinate judge found that the stone was not there for 12 years and that it was no part of plaintiff's *otla*. He, therefore, dismissed the suit. On appeal the District Judge reversed the decree on the ground that the stone has been *in situ* for over 12 years and that the land under it was not public land. The defendant municipality preferred a second appeal.

HELD that the municipality was the creature of the statute with duties *inter alia* to preserve the passage along public streets. It mattered not for the municipality, whether the encroachment had been in existence for 12 years or more. Under section 113 of the Act the municipality might, on proof that the encroachment objected to was an obstruction to the safe and convenient passage along a street, by written notice, require the owner to remove it and under section 122 the municipality is empowered to remove the encroachment which might have been put up after the place had become a municipal district.

Section 113 (3) (a) of the Bombay District Municipal Act is as follows:—
"The municipality may, by written notice, require the owner or occupier of any building to remove or alter any projection encroachment or obstruction which, whether erected before or after the site of such building became part of a municipal district, shall have been erected or placed, against or in front of such building, and which
(a) overhangs or juts into or in any way projects or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street....."

The material portion of section 122 (2) of the Act runs as follows:—
"The municipality shall have power to remove any such obstruction or encroachment and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property whether such space is vested in the municipality or not.....recoverable under Chapter VIII."

Scott, C. J.—(Extract). The municipality is the creature of the statute with duties *inter alia* to preserve the passage along public streets. The municipality have not shown either that the stone which they have removed was an obstruction to the safe and convenient passage along the street or that the stone was set up by the plaintiff after the place became a municipal district. They have, therefore, not justified their action by reference to their statutory powers.

I.L.R. 38 Bom. 15
11th July 1913.

The Dholka Town Municipality (orig. deft.)

vs.

Patel Desaibhai Kalidas and anr. (orig. plff.)

A local body will be exempted from its liability on the ground of non-feasance, if the drainage works carried out by that body for its convenience, are not maintained in a proper state of repairs with the result that they become a nuisance to the neighbouring owners inasmuch as non-feasance is limited to neglect of highways.

The plaintiffs sued to recover damages from the defendant municipality,

Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Section 56.

had constructed a certain drainage channel as a sanitary measure for the improvement of the town of Dholka, but that the municipality did not keep the said channel in proper order, thereby preventing proper discharge of rain-water, causing damage to their crops every year; that in spite of notice to the municipality to keep the channel in good order they failed to do so. The municipality contended that the channel was a sanitary measure and it did not do damage to the plaintiffs' fields and that there was no neglect on the part of the municipality. The subordinate judge dismissed the suit. On appeal the District Judge found on evidence that the discharge of rain-water on to the plaintiffs' land was caused through the neglect of the defendant municipality and it did cause damage to the plaintiffs and that they were entitled to damages and remanded the case to the lower Court to find out the amount of damages. The damages were ascertained but against the finding both the parties appealed and the District Judge reversed the finding. The municipality thereupon preferred a second appeal.

HELD that the municipality was liable to the plaintiffs in damages and that the exemption from liability of local bodies on the ground of non-feasance is confined to neglect of highways and does not apply to drainage works carried out by local bodies for their conveniences, which they are bound to maintain in a proper state of repairs so that they shall not be a nuisance to the neighbouring owners.

Scott, C. J.—(Extract). The damage is found to be due, not to the authorized drainage work, but to the neglect of the drainage channel, which the municipality is bound to repair. The channel was built for the convenience of the municipality who took it from Government and who are authorized under section 56 of the District Municipal Act, to expend money on works outside the municipal district.

The case of *Borough of Bathurst vs. Macpherson* (1879) 4 App. Cas. 256, followed.

I.L.R. 38 Bom. 116
3rd Sept. 1913.

The Great Indian Peninsula Railway Company (defts.)

vs.

The Municipal Corporation of the City of Bombay (plffs.)

Under section 189 of the City of Bombay Municipal Act, 1888, all public streets, pavements, stones, and other materials which vest in the Corporation and are under the control of the Commissioner only vest for the control, protection and maintenance of the street as a highway for public use.

The G. I. P. Railway in constructing a line of railway known as the Harbour Branch Railway in the City of Bom. Mun. Act, 1888 (Bom. III of 1888), Sections 289 and 293. of rails in a level-crossing across a public street known as Sewri-Koliwada Road, vested in the Municipal Corporation of Bombay under section 289 of the City of Bombay Municipal Act, without the permission granted by the Municipal Corporation. The Municipal Corporation sued to obtain a declaration that the Railway Company could not lawfully maintain their lines of railway across the street in question without either obtaining permission granted by the Corporation and confirmed by the Government under section 293 of the Act or acquiring the land required for the level-crossing under the Land Acquisition Act, 1894. The defendants contended that they had the power under the Indian Railways Act to construct lines of railway across the Sewri-Koliwada Road without obtaining the permission of the municipality or resorting to the Land Acquisition Act. Beamon, J., who tried the case granted the declarations prayed for by the plaintiffs on the ground that the defendant company could make its private terms with the municipality or it could acquire the portion of the street it needed under the Land Acquisition Act. But as it has not done one or the other it is clearly a trespasser upon the plaintiffs' land. The defendant company appealed.

HELD that the statutory authority under section 7 of the Indian Railways Act was established and that the application of section 293 of the City of Bombay Municipal Act was excluded by the words "notwithstanding anything in any other enactment for the time being in force" in section 7 of the former Act.

Held, further, that where a railway company wished to lay a line of railway upon or across a street it was neither necessary nor appropriate to proceed under the Land Acquisition Act for the acquisition of the land, because if the Government under section 7 of the Act were to direct the Collector to take order for the acquisition of the land he would make his award and take possession and the land would then vest absolutely in Government for the railway company free from incumbrances and would then cease to be a portion of the street and the railway company would be unable to exercise the power given to it of constructing the railways upon and across the 'street.'

Held, further, that the effect of section 289 of the City of Bombay Municipal Act vesting all public streets, pavements, stones and other materials in the Corporation and under the control of the Commissioner was only to vest in that body such property as was necessary for the control, protection and maintenance of the street as a highway for public use.

Section 289 (1) and section 293 of the Act run as follows:—

"289. (1) All streets within the city, being or which at any time become public streets, and the pavements, stones and other materials thereof, shall vest in the Corporation and be under the control of the Commissioner."

"293. (1) Permission shall not be granted to any person to lay or work upon any public street, any tramway or railway or the like, by any municipal authority other than the Corporation, and no such permission shall have validity unless and until it is confirmed by Government."

(2) Nothing in this section shall be deemed to affect the provisions of the Bombay Tramways Act, 1874."

Scott, C. J.—(Extract). The differences in the English and the Indian Statute law upon the subject of railway construction are differences of procedure which do not render English decisions inapplicable in this case. In England, the special undertaking is sanctioned by a special Act of Parliament; in India by the sanction of the Governor-General through the Home Department. The provisions of the Land Clauses Act with regard to compulsory acquisition as interpreted by the House of Lords in *Great Western Railway Co. vs. Swindon and Cheltenham Railway Co.* (1884) 9 App. Cas. 787, are substantially of the same extent as those under the Land Acquisition Act, 1894. The company takes the land itself upon which the railway is to be constructed and not a mere right to use it in perpetuity.

Section 287 of the City of Bombay Municipal Act vests all public streets, pavements, stones and other materials in the Corporation. Such property vests in the Corporation only as is necessary for the control, protection and maintenance of the street as a highway for public use and a municipality in whom public ways were vested was not entitled to compensation in respect of portions of such ways taken by a tramway company under statutory powers.

The statutory authority under section 7 of the Railways Act to lay the railway across the street without resort to the Land Acquisition Act is thus established and the application of section 293 of the City of Bombay Municipal Act is excluded by the words "notwithstanding anything in any other enactment for the time being in force." The Railways Act, section 16, overrides the Municipal Act and the sole control over the railway administration is vested in the Governor-General and the evidence shows that the railway across the Sewri-Koliwada Road has been approved by the controlling authority.

I.L.R. 38 Bom. 565
5th Sept. 1913.

Against this decision the municipality appealed to the Privy Council.

HELD (affirming the decision of the High Court on appeal dismissing the suit) that the taking the railway on the level across the street was not acquisition of immovable property within the meaning of section 7 of the Indian Railways Act, 1890, as amended. The provisions of the Land Acquisition Act were not so expressed as to cut down the power conferred by that section on the respondents to carry a line of railway across a street subject to the control of their powers by the Governor-General and that Act was inapplicable to such a case.

Viscount Haldane.—(Extract). The Indian Railways Act places the exercise of the powers conferred by it under the control of the executive in the person of the Governor-General-in-Council. Section 7 enacts that subject to the provisions of the Act and in the case of immovable property not belonging to the railway administration to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies and subject also in the case of a railway company and the Government railway administration may, for the purpose of constructing a railway, or the accommodation or other works connected therewith, among other things "make or construct in, upon,.....as the railway administration thinks proper." The railway administration is by section 10 to do as little damage as possible in the exercise of these powers, and compensation is to be paid for any damage caused by the exercise thereof. By section 11 the railway administration is to make and maintain for the accommodation of the owners and occupiers of land adjoining the railway, among other things convenient crossings and passages over the railway. By section 13 the Governor-General may require fences to be provided and also suitable gates, etc., at places where the railway crosses a public road on the level and may require the railway administration to employ persons to open and shut gates. By section 14 where the railway has been made across a public road on the level, the Governor-General may, if it appears to him necessary for the public safety require the construction of a bridge or arch or other works for diminishing danger. By section 104 railway servants commit a punishable offence if they keep a level crossing closed against the public.

The road is vested in the municipality and the effect of such vesting is that they have the surface and a portion of the sub-soil vested in them in such a fashion as to enable them to bring an action for trespass.

The real point is whether under section 7 of the Indian Railways Act it was necessary for the railway company before the crossing to comply with the provisions of the Land Acquisition Act, 1894. The Land Acquisition Act, by section 3, defines land as including benefits to arise out of land and a person interested as including a person interested in an easement affecting the land. The early parts of the Act enable the Local Government to acquire land compulsorily for public purposes. When possession is taken the land is to vest absolutely in the Government free from all encumbrances. An encumbrance includes a right of passage. The taking possession by the Collector would, therefore, if the Act applies to the present case, extinguish the rights of the public to cross the railway by the road in controversy. None of the provisions relating to compensation cover the case of members of the public, who naturally do not come within the provision for compensation contained in section 11.

The provisions of the Act are not so expressed as to cut down the power conferred by section 7 of the Indian Railways Act on a railway company in India to carry a line of railway across a street, subject to the control of their powers by the Governor-General. The latter Act in such a case contemplates the right of the public being kept alive. The Land Acquisition Act does not repeal sections 13, 14 and 104 of the Indian Railways Act and that the taking of the railway on the level across a public highway is accordingly not an acquisition of immovable property within the meaning of the Land Acquisition Act. To hold otherwise would be to hold that the right of the public

I.L.R. 41 Bom. 291
26th Octr. 1916.

The City Municipality of Surat introduced house-tax in the year 1894-1895. The house-tax of the respondent's house was assessed at Rs. 10|8|-, payable half-yearly. The house originally belonged to one Devchand and the respondent was the auction purchaser of half of the said house in September 1900. The house-tax in dispute was not paid for the second half of the year 1894-95 and for the years 1895-99 and the first half of 1900-01. The amount due was Rs. 47|4|-. The municipality called upon Devchand's heir to pay the amount. They paid Rs. 23|12|- and for the remainder they stated that the respondent had become responsible for its payment. In 1905 the municipality served a bill upon the respondent as arrears of house-tax. The bill, however, did not specify the requirements specified in section 82 (2) of the Bombay District Municipal Act, 1901. The amount not having been paid the municipality issued a notice of demand and followed it up by the issue of a distress-warrant and eventually executed it and a bar of gold was attached. The payment was, however, made by the respondent under protest. The respondent subsequently filed the suit for recovery of the

Scott, C. J.—(Extract). The power of the municipality to levy distress upon the movable property of a person from whom a tax is claimable depends upon the provisions of Chapter VIII of the Bombay District Municipal Act. The two main sections have been reproduced above. It will appear from the provisions of these sections that the notice of demand upon which the right of distress is based depends upon the previous presentation of a bill complying with the statutory provisions set out in section 82, clause (2). In this case the bill did not fulfil all the statutory requirements in that it did not state the time within which an appeal might be preferred under section 86 of the Act. The procedure followed was not, therefore, legal. The whole right of distress depends upon the observance of the statutory formalities,

it being a right conferred by the statute only upon these conditions. The distress was therefore illegal for the reasons stated above. The decree of the lower Appellate Court was therefore confirmed.

16 Bom. L.R. 749
26th Aug. 1914.

The Ahmedabad Municipality (orig. deft.)

vs.

Sakarchand Mohakamchand (orig. plff.)

Goods subject to octroi duty even if they are received by post within the municipal limits are liable to payment of octroi duty as other goods brought into such limits. Section 76 of the Bombay District Municipal Act, 1901, does not permit a municipal officer to claim inspection of private accounts of merchants, although it permits inspection of bills, invoices or documents of a like nature.

The plaintiffs who were merchants trading at Ahmedabad used to receive through postal parcels articles which were liable to octroi duty imposed under one of the rules framed under the old Municipal Act of 1884. No duty was ever demanded on articles so introduced. The municipality gave a notice to the plaintiffs observing that goods received by post were liable to octroi duty. The plaintiffs took no notice. They were next called upon to produce their account books. The plaintiffs disputed the municipality's right to do anything they claimed. The defendants took charge of a parcel subsequently received by post with the aid of the policeman. The plaintiffs thereupon sued to have an injunction restraining the Committee of Management of the municipality appointed by Government, from taking possession of the parcels received by them through post and from having inspection of their accounts. The defendants contended that they were entitled to levy the duty on articles brought in through post. Hence the suit which was dismissed by the trial Court. On appeal the District Judge modified the decree. The defendant municipality thereon appealed to the High Court.

HELD, dismissing the appeal, that section 76 of the Act gave powers for assessing octroi duty upon goods coming into the city and as rule 84 permitted the levy of octroi duty on goods coming into the walled city no further by-laws were necessary for the purpose of assessing duty on articles brought in by post.

Held further that the provisions of section 76 (1) (b) permit a municipal officer to claim inspection only of bills, invoices and documents of a like nature but he cannot claim inspection of private accounts of merchants.

The material portion of section 76 (1) and (2) is as follows:—

"76. (1) Every person bringing into or receiving from beyond the octroi limits of a municipal district, any article on which octroi is payable shall, when required by an officer authorized in this behalf by the municipality, and so far as may be necessary, for ascertaining the amount of tax chargeable,

- (a) permit that officer to inspect, examine and weigh and otherwise deal with the article; and
 - (b) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article.
- (2) If any person bringing into or receiving from beyond the octroi limits of a municipal district in which octroi is leviable, any conveyance or package shall refuse on the demand of an officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a magistrate or such officer of the municipality as the Governor-in-Council appoints in this behalf by name or office, who shall cause the inspection to be made in his presence."

Scott, C. J.—(Extract). Goods brought in by a postman are goods coming into the walled city and are therefore subject to octroi duty according to the terms of the rule. Section 76 of the Act gives municipal officers powers for assessing the octroi duty upon goods so brought in and to the extent of these powers it does not appear that any further by-laws are necessary for the purpose of assessing duty on articles brought in by post.

What section 76 (1) permits is the calling upon the importer to exhibit to the officer the document accompanying the goods or the document sent by the sender of the goods. The bill is a document usually sent by a vendor, and the invoice is a document giving particulars of the goods which is so called because *envoyé* to the vendee. A document of a like nature is that which accompanies the goods sent by the vendor. The terms of the section do not permit a municipal officer to claim inspection of the private account books of merchants.

17 Bom. L.R. 182
13th November 1914.

Bai Fatma (orig. plff.)

vs.

The Rander Municipality (orig. deft.)

A condition requiring the owner of a house, who had asked permission to rebuild it, to keep a specified space vacant and unbuilt for the improvement of the street by widening it is not valid under section 96 of the Bombay District Municipal Act, 1901, inasmuch as the said section empowers the municipality to prescribe the location of the building in relation to any street existing or projected as they think proper.

The plaintiff being the owner of a house in Rander applied to the municipality for permission to rebuild it on 25th April 1911. In reply the municipality on 5th June 1911, prescribed conditions presumably under section 96 (2) of the Bombay District Municipal Act to the effect that he should pull down the building and build a new building on the land by keeping a space so as to leave a width of road certain feet on the south side of the building in pursuance of the order passed by the managing committee. The first condition of the permit is that 'for the improvement of

the said road you must leave on that side a space in length.....and in width 14 feet and build the house' and the seventh condition states, 'as your building stands on the public road you should take precaution to see that the water from your roof does not fall upon persons passing by that way.' The plaintiff disregarded the condition and built upon the specified space. Thereupon the municipality having threatened demolition of the house, the plaintiff brought the present suit for an injunction restraining the municipality from doing so. The subordinate judge finding that the defendant's reply was served within a month of the plaintiff's application, that the defendant had power to pass the order as it had done and declined to grant the injunction prayed for and dismissed the suit. On appeal by the plaintiff the District Judge confirmed the decree and remarked that under section 96 (2), the respondent had authority to issue orders regarding the location of the building in relation to any street existing and where the order made is not obeyed the respondent has authority to order demolition under clause 5 of the same section. The plaintiff thereupon preferred a second appeal.

HELD that under section 96 of the Act, the municipality was empowered to prescribe the location of the building in relation to any street existing or projected as they think proper, whereas in the present case they had prescribed the location of the building in relation not to the existing street, but to a street which might come into existence in future. The object of the municipality in imposing the condition was not for the purpose of sanitation or ventilation but to get a set-back which could not be obtained under section 92 of the Act.

The material portions of section 92 and section 96 are as follows :—

"92. (1) If any part of a building projects beyond the regular line of a public street either as existing or as determined upon for the future, or beyond the front of the building on either side thereof, the municipality may—

- (a) * * *
- (b) * * *

require, by written notice, either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed, or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. And the portion of the land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipality.

- (2) * * *

- (3) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 160, shall be paid by the municipality to the owner of any land added to a street under sub-section (1) or acquired under sub-section (2), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the municipality under either of the said sub-sections....."

"96. (1) Before beginning to erect any building, or to alter externally or add to any existing building, or to reconstruct any projecting portion of a building in respect of which the municipality is empowered by section 92 to enforce a removal or set-back, the person intending so to build, alter, or add shall give to the municipality notice thereof in writing, and shall furnish to them, at

the same time, if required by a by-law or by a special order to do so—

- (a) * * *
- (b) * * *
- (2) The municipality may issue such orders not inconsistent with this Act as they think proper with reference to the work proposed in such notice and may either give permission to erect, alter or add to the building according to the plan and information furnished or may impose in writing such conditions as to level, drainage, sanitation, materials or to the dimensions and contract contents of rooms, doors, windows and apertures for ventilation, or with reference to the location of the building in relation to any street existing or projected as they think proper,.....
- (3) * * *
- (4) * * *
- (5) Whoever begins or makes any building, alteration or addition without giving the notice required by sub-section (1)....., without awaiting, or in any manner contrary to, such legal orders of the municipality as may be issued under this section, or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees : and the municipality may—
- (a) * * *
- (b) by written notice, require such building, alteration or addition to be altered or demolished, as they may deem necessary.

Scott, C. J.—(Extract). The municipality have prescribed the location of the building in relation, not to the existing street, but to a street which may come into existence in the future, while the power of the municipality under section 96 to prescribe the location of the building is given in relation "to any street existing or projected as they think proper." The permit clearly shows that the first condition is not for the purpose of sanitation or for the purpose of ventilation, but simply for the improvement of the street by widening it and the object is to get a set-back which cannot be obtained under section 92, because the conditions contemplated in that section do not yet exist. The result is that if the condition of the permit were complied with, the plaintiff would have to give up or keep vacant and unproductive a considerable portion of the land and the municipality would have the opportunity of paying compensation for it at any time they feel disposed to do so, which would be contrary to the provisions of section 92 which contemplate that when a set-back is determined upon compensation shall be paid to the owner. The case is very similar to *Queen-Empress vs. Veerammal* (I.L.R. 16 Mad. 230).

I.L.R. 38 Bom. 597
4th March 1914.

1915

Emperor
vs.

Adurji Brothers

Conversion into a dwelling house of a room built originally as a shop with the permission of the municipality, under section 96 is not disobedience

to such permission and as such punishable under section 155 of the Bombay District Municipal Act, 1901.

The accused owned a piece of land at Mahabaleshwar and built up a bungalow thereon. He then applied to the Superintendent of Mahabaleshwar expressing his wish to mark out a portion of his land for a shop and asked permission to build it. Permission was granted and the building was accordingly erected. Ever since its erection it was used as a dwelling house and the chief room designed as a shop was used as a shop. The accused subsequently began to use the shop room as a dwelling house. He was thereupon prosecuted under section 155 of the Act for disobedience of the orders of the municipality in that he converted the shop into a dwelling house. The trying magistrate convicted and sentenced the accused. On appeal the First Class Magistrate acquitted the accused of the offence punishable under section 155 but confirmed the conviction under section 96 (5) and maintained the sentence. The accused then applied to the High Court.

HELD, setting aside the conviction and sentence, that the words "conversion of any building" in section 94, Explanation, imply some change in the building itself and do not cover a case when the building remains absolutely unchanged the only thing changed being the use or occupation to which the building was put.

The material portion of section 96 (5) and Explanation is as follows:—

"96. (5) Whoever begins or makes any building or alteration or addition without giving the notice required by sub-section (1), or without furnishing the documents or affording the information above prescribed, or except as provided in sub-section (4), without awaiting, or in any manner contrary to such legal orders of the municipality as may be issued under this section, or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to 1,000 rupees and the municipality may

"**Explanation.**—The expression "to erect a building" throughout this chapter includes—

- (a) any material alteration, enlargement or reconstruction of any building,
- (b) the conversion into a place for human habitation of any building not originally constructed for human habitation,
- (c) the conversion into more than one place for human habitation of a building originally constructed as one such place,
- (d) the conversion of two or more places of human habitation into a greater number of such places,

- (e) * * *
- (f) * * *

Heaton, J.—(Extract). There is no doubt that in general the section deals with alterations, actual structural alterations, to buildings. But by Explanation at the end of the section to erect a building includes, amongst

many other things, the conversion into a place for human habitation of any building not originally constructed for human habitation. The building in this case was not originally constructed for human habitation. Here, therefore, is a building of the kind contemplated by this particular portion of the Explanation. Nevertheless the "conversion of any building" necessarily imply some change in the building itself and, therefore, they do not cover a case where the building remains absolutely unchanged and the only thing that is changed is the use or occupation to which the building is put. This view is strengthened by an analysis of section 96. An offence is not made out under section 155 of the Act by reason of a disobedience such as is contemplated by clause 2 of section 96. The particular part of that clause deals with conditions in writing imposed with reference to a building. In this case certain conditions in writing were imposed but not one of these was broken. At any rate that writing implied any condition which has been broken, so that neither directly nor by implication an offence under section 155 is made out.

17 Bom. L.R. 212
10th Feb. 1915.

The Municipality of Ratnagiri (orig. deft.)
vs.

Vasudeo Balkrishna Lotlikar (orig. plff.)

A suit for damages for wrongful dismissal by a municipal officer against the municipality is governed by section 167 of the Bombay District Municipal Act, 1901, read with Art. 2 of Sch. I of the Limitation Act, 1908, as such dismissal is an act done or purporting to have been done in pursuance of the Act within the meaning of that section and will be barred if filed after six months from the date of the dismissal.

Plaintiff who was the municipal secretary of the Ratnagiri Municipality sued for damages for wrongful dismissal from service. The defendant municipality denied the charge of wrongful dismissal and pleaded in defence that the suit was barred by section 167 of the Bombay District Municipal Act and article 2 of schedule I to the Limitation Act. The Assistant Judge held that the act complained of was done in pursuance of the Municipal Act when the municipality gave orders of dismissal to the plaintiff on 11-11-1910 and that therefore the suit which was filed on 8-4-1913 was barred under section 167. The District Judge, however, held that the suit was in time and remanded it for hearing on merits. Against this order of the District Judge the municipality appealed to the High Court.

HELD that when a district municipality exercising the power given to it by the District Municipal Act or the statutory rules made thereunder, dismisses an officer of the municipality, that is an act done or purporting to have been done in pursuance of the Act within the meaning of section 167.

misapplication by whomsoever made—by Secretary and Account clerks of the municipality.

This was a suit filed by the Secretary of State for India in Council against twelve defendants, the first two of whom were the secretary and the account clerk of the municipality of Kaira and the rest being the

- councillors thereof. The sum claimed was the municipal money embezzled by defendants Nos. 1 and 2. The liability of the remaining defendants was based under section 42 of the Bombay District Municipal Act. The latter contended that section 42 was not applicable inasmuch as the embezzlements by the paid servants of the municipality would not amount to misapplication of the municipal funds within the meaning of the section. The lower courts overruled the contention and decreed the suit. The defendants Nos. 3 to 12 thereupon appealed to the High Court.

HELD, confirming the decree, that the operation of section 42 of the District Municipal Act, 1901, was not restricted to misapplications made by any councillor or councillors; but it applies to any misapplication by whomsoever made.

Section 42 of the Act runs as follows :—

Section 42 of the Act runs as follows:—

“Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by, gross neglect of his duty as a councillor, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of Government.

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred, by or on behalf of the municipality, the funds at the disposal of each municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses."

Batchelor, J.—(Extract). There is no condition as to the person or persons by whom the misapplication contemplated must have been made. It cannot, therefore, be said that the operation of the section is restricted to misapplications made by any councillor or councillors. So long as any misapplication is made, by whomsoever, the section comes into play. To ascertain the precise scope of the word "misapplication" it is necessary to refer to the provisions of section 50, sub-section (2) and section 51 of the Act, which makes it clear that the position of the councillors in regard to the municipal funds is in law that of trustees; and their liabilities must, therefore, be determined upon this footing. As trustees they would be bound to exercise over the trust property the same degree of caution and care as a man of ordinary prudence would exercise in the case of his own property. As trustees, therefore, they would be liable for any loss of the trust fund which was facilitated by the gross neglect of their duties as trustees and upon this footing their liability would be the same whether the loss was caused by an act free from moral turpitude or by a crime. That being so, the first words of section 42 down to the word 'as a councillor' should be read as enacting merely by the ordinary provisions of law. The secretary and account clerks had control over the municipal funds in order that they should hold them in a particular way in order that they should

Scott, C.J.—(Extract). The suit was instituted more than six months after the dismissal of the plaintiff by the municipality. Under section 2 of the Act the rules which were in force at the time of the dismissal which were rules made under the previous Act of 1884, must be deemed to have been made in pursuance of the duty cast upon the municipality under section 46 of the Act. Under these rules the municipality had power to appoint, reduce or dismiss the municipal secretary. The municipality had, therefore, the power and the duty in a proper case to dismiss the municipal secretary. That duty is imposed upon them and that power is given to them by the Act or the statutory rules deemed to be made under the Act. That being so, when they exercised such power by purporting to dismiss the secretary, that is an act done or purporting to have been done in pursuance of the Act within the meaning of section 167.

I.L.R. 39 Bom. 600
9th June 1915.

Manilal Gangadas Desai and others (orig. defts.)

vs.

The Secretary of State for India-in-Council (orig. plff.)

Section 42 of the Bombay District Municipal Act, 1901, applies not only to misapplication made by any councillor or councillors but to any

apply them in a particular way. By embezzling the money they misapplied it because they used it for purposes other than those for which it was entrusted to them. There was a diversion of the municipal funds to an unlawful purpose, and that was enough to constitute a misapplication of the fund within the meaning of the section. The context in which the word 'misapplication' occurs indicates that the word is employed rather in the broad and popular sense than in the narrow or etymological sense. There is no requirement that the misapplication must be by councillors themselves or by any specified persons whatsoever and the use of the passive word 'happened' seems to suggest also that the scope of the section extends to a misappropriation of the municipal funds by a municipal employee, provided only that the misappropriation was facilitated by the councillors' gross neglect of their duties. And the same conclusion is suggested by the addition of the words extending the liability of the councillors to cases where they have not been parties to the misapplication but have merely facilitated it by gross neglect of their duties.

Hayward, J.—(Extract). If a man entrusted with moneys for a particular purpose applies or converts those moneys to his own use by spending them on himself, he could correctly be said, in ordinary language, either to have misappropriated or misapplied those moneys. The result of his misappropriation was the misapplication of those funds. Any diversion of funds, however, caused from their proper purposes could be covered by the wide term 'misapplication' and it is in that wide sense that the term has been introduced into section 42. It has not purposely been restricted to a misapplication to which a councillor shall have been a party but has been applied expressly to a misapplication which shall have happened through or been facilitated by gross neglect of duty by a councillor, i.e., to say which has happened by any other agency through the gross neglect of a councillor. It has been introduced in its ordinary wide sense upon a consideration alone of the construction of the section. The municipal councillors are trustees for the application of the property of the municipality for the purposes of the Act by sections 50 to 52. Those purposes would appear to be public purposes obligatory or discretionary and have been specified in sections 54 to 56. The councillors have thus been placed in the position of public trustees and would, therefore, be liable under the ordinary law for any misapplication, whether by their own acts or by any other agency through their neglect, of the property of the municipality.

I.L.R. 40 Bom. 166
31st Aug. 1915.

1916

Emperor
vs.

Kareem Ranjan Khoji

Permission to build once granted by the managing committee of the municipality under section 96 of the Bombay District Municipal

Act, 1901, cannot be subsequently rescinded by the general body of that municipality.

One Ratansi, who was the owner of a house-site had obtained permission from the Thana Municipality to build a house on the old foundations. Ratansi sold the site to the accused who applied to the municipality for permission to add a gallery to the proposed building. The Managing Committee granted the required permission. While the accused was constructing the building, the municipality in virtue of a resolution passed by the general body served a notice on the accused asking him to set his building one foot back and ten inches, thus compelling him to omit the gallery. The accused, however, built the galleries. He was thereupon tried for an offence under section 96 (5) of the Bombay District Municipal Act and convicted and sentenced. The accused thereupon applied to the High Court.

HELD, setting aside the conviction and sentence, that the accused was not guilty of an offence under section 96 (5) of the Act.

Section 96, clause (5) runs as follows:—

"Whoever begins, or makes any building or alteration or addition without giving the notice required by sub-section (1) or without furnishing the documents or affording the information above prescribed, or except as provided in sub-section (4), without awaiting, or in any manner contrary to, such legal orders of the municipality as may be issued under this section or in any other respect contrary to the provisions of this Act or of any by-law thereunder, shall be punished with fine which may extend to one thousand rupees....."

Batchelor, J.—(Extract). On the facts of the case the accused was not guilty of any offence under the section. The permission granted to him by the Managing Committee was entirely within the powers of the Managing Committee and was lawful and valid. It would be extremely inconvenient in practice if a lawful permission accorded by the Managing Committee was subject at any future date to be cancelled by the general body. For it is plain that no citizen would then have notice as to when he might safely begin his building. If, however, words clearly importing such a power of subsequently overriding the permission was discoverable in the statute there would be no alternative but to give effect to them. No such words are however discoverable. On the contrary the whole tenor of section 96 of the Act with its various sub-sections and clauses and sub-clauses seem to show that what is contemplated is an application by the citizen, a period of time during which the municipality should consider the merits of that application and then the issue of orders once and for all. Sub-section (5) speaks 'of such legal orders of the municipality as may be issued under this section.' It does not say such legal orders as may from time to time be issued under the section and any such latitude of construction would render these sections unworkable in practice. Both the terms of the statute and the reason of the thing are in favour of the accused, the applicant.

19 Bom L.R. 65
23rd Novr. 1916.

**The Municipality of Belgaum (orig. plff.)
vs.
Rudrappa Subrao and ors. (orig. defts.)**

A revisional application under section 115 of the Civil Procedure Code will not lie to the High Court from the decision of a District Court under section 160 (3) of the Bombay District Municipal Act, 1901, as to the amount of compensation for land acquired by a municipality.

The Municipality of Belgaum having had to acquire land in the city of Belgaum, disputes arose between the municipality and the owner (defendant) as to compensation for land which were referred by parties to a Panch under the provisions of section 160 (1) of the Bombay District Municipal Act. On the failure of the Panch to deliver their award within one month the municipality applied to the District Court under section 160 (3) to determine the amount of compensation. During the inquiry it was found that the house upon the land belonged to defendant No. 1 while the land itself belonged to defendants Nos. 2 and 3. The Assistant Judge held on the preliminary issue that he had no jurisdiction to proceed without the claims of defendants having been first submitted to arbitration. He therefore dismissed the suit. The municipality applied to the High Court.

HELD that no application can be made under the revisional jurisdiction of the High Court from the decision of a District Court under clause 3 of section 160 of the Bombay District Municipal Act.

Section 160 (3) of the Act is as follows :—

“(3) In the event of the Panchayat not giving a decision within one month from the date of the selection of the Sir Panch, or of the appointment by the District Court of such members as may be necessary to constitute the Panchayat, the matter shall on application by either party, be determined by the District Court, which, shall, in cases in which the compensation is claimed in respect of land, follow, as far as may be, the procedure provided by Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court.

Provided that

- (a) no application to the Collector for a reference shall be necessary, and
- (b) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.”

Batchelor, J.—(Extract). In the case of *Chunilal Virchand vs. Ahmedabad Municipality* (I.L.R. 63 Bom. 47) it has been decided that no appeal lies from the decision of a District Court under clause (3) of section 160 of the Bombay District Municipal Act. The object of this application is to obtain from the Court a decision that although no appeal would lie, yet an application in revision does lie. Such a decision would be seriously anomalous and the words of the section do not warrant this view. No application for revision is therefore competent.

*I.L.R. 40 Bom. 509
29th Feb. 1916.*

* This case has been distinguished from the *Sholapur Municipality vs. Tuljaram Krishnasa and another* (I.L.R. 55 Bom. 544), where an application

was made to the District Court for an order which it was not empowered to make under section 198 (3) of Bombay Act XVIII of 1925, and where the Court determined a dispute which had not been submitted to arbitration and was not within the jurisdiction of the Court. It was held, therefore, that the High Court has power to revise the order of the District Court as that Court exercising judicial functions was a Court subordinate to the High Court. In this case the application was properly made to the District Court under section 163 (3) of Bombay Act III of 1901 for the Panch had failed to make the award and the District Court was empowered to determine the dispute as to the amount of compensation and the order was intended to be final and not liable to revision.

1917

**Emperor
vs.**

Ranchodlal Amratlal

An ordinary wire-fence is outside the definition of the term 'building' in section 3, clause (7), of the Bombay District Municipal Act.

The accused was tried for an offence punishable under section 96, clause (5) of the Bombay District Municipal Act, 1901, in that he had put up an ordinary wire-fence on his own land without permission of the municipality. He was found guilty of the offence charged and sentenced to pay a fine. The accused applied to the Sessions Judge of Ahmedabad who was of opinion that the wire-fence was not a building as defined in section 3, clause (7) of the Act and referred the case to the High Court.

HELD that the term 'building' as defined in section 3, clause (7) of the Bombay District Municipal Act, 1901, does not include an ordinary wire-fence.

Clause 7 of section 3 of the Act runs as follows :—

“(7) 'Building' shall include any hut, shed or other enclosure whether used as a human dwelling or otherwise, and shall include also walls, verandahs, fixed platforms, plinths, door-steps and the like.”

Batchelor, J.—(Extract). A 'karvi' or reed-fence is not a building (*Queen-Empress vs. Janardhan*, 1880 (*Ratanlal's Cri. Cas.* 145)). So also a wattle-fence is also outside the definition of building (*In re Salomibai*, 1888, *Ratanlal's Cri. Cas.* 428). The wire-fence should, therefore, be regarded as outside the provisions of clause 7 of section 3. According to Webster building in the popular acceptance of the word would not include a mere wall or fence. "Wall" is included within the word 'building' by reason of the special words importing its inclusion. There are no such special words to sweep in a fence which is therefore outside the definition. The word 'enclosure' must be interpreted as *ejusdem generis* with the preceding words 'hut' and 'shed' that is to say, must be taken to refer to some fabric or structure or thing built in the more popular acceptance of the word.

*I.L.R. 41 Bom. 563
26th March 1917.*

Emperor

vs.

Kallanji Govindji

The addition of small bath-rooms to the second and third floors of his old residential house by the accused does not fall within the purview of section 349-B of the Act because he had neither erected nor raised his building within the meaning of that section.

The applicant owned an old residential house in Bombay. Between the applicant's house and the next house on the left there was a sweeper's passage. The applicant's building extended at the back, further to the left behind the house of his neighbour. The extreme width of the street was 16'-2". The addition complained of consisted in addition of small bath-rooms to the second and third floors in that portion of the house which was behind the neighbour's house and overlooked the sweeper's passage. The height of the house was from 40 to 48 ft. The applicant was convicted three or four times for making the additions. He did not contest any of these cases and he did not remove the additions. He was again prosecuted for failing to remove the additions and thereby contravening the provisions of section 349-B. The trying Magistrate convicted the accused. The applicant then applied to the High Court.

HELD reversing the conviction, that the act of the accused fell outside the purview of section 349-B of the Act, because he had neither erected nor raised his building within the meaning of that section.

The material portion of section 349-B runs as follows :—

"Subject to the maximum prescribed by section 349-A, the height to which a building might be erected or raised shall be regulated by the width of the street on which it abuts, in accordance with the following rules, namely :—

- (1) if the width of the street does not exceed twenty-six feet the building shall not be erected or raised to a height greater than one and one-half times the width of the street ;
- (2)
- (3)
- (4)

Provided that if the face of the building is set back from the street at any height not exceeding the height specified in sub-section (1) :—
.....as the case may be, such building may be erected or raised to a height greater than that so specified but not so that any portion of the building shall intersect any of a series of imaginary straight lines drawn from the line of set-back, in the direction of the portion set-back, at an angle of forty-five degrees with the horizontal."

Batchelor, J.—(Extract). Section 349-B has no application in the present case. That section regulates the height to which a building may be erected or raised. Here the house as a whole must be regarded as the building referred to in section 349-B and it is not possible without unduly straining the wording of the section to construe the word 'building' there, as denoting some small portion of the whole house such as an outlying

bath-room. If that is the true meaning of the word 'building' occurring in the section then admittedly the applicant has not erected this building at the only material time ; for it was long erected before the passing of the Act. It is common ground that the building as it stands could not legitimately be built in the present form. But if the applicant has not erected this house or building within the meaning of the section, neither has he raised it. For the bath-rooms now added fall below the original height of the house or building. That is the height referred to in the section and that is unaffected by the addition of the bath-rooms. Not only do these bath-rooms fall short of the pre-existing height of the house, but in the horizontal plane they also fail to extend so far sideways as to intersect the imaginary 45 deg. line referred to in the proviso. It follows that the accused has neither erected nor raised a building within the meaning of the section : he is consequently outside its purview.

*I.L.R. 41 Bom. 741
20th June 1917.*

1918

The Godhra Municipality

vs.

Harilal Lallubhai Soni

A district municipality has power to say that a work to which it gave permission under section 96 of the Bombay District Municipal Act, 1901, should be begun within a certain time but it has no power to say that a work must be finished within a given time.

The accused owned a house at Godhra. He applied to the Godhra Municipality to re-build his house under section 96 of the Bombay District Municipal Act, 1901, which was granted on 22nd October 1915. The permission contained a condition that the permit "will have effect for six months from this day."

On 3rd January 1918 that is long after the permit had expired or ceased to have effect, the accused was found re-building his house. He was prosecuted for the offence of building a house without permission. The Bench of Honorary Magistrates who tried the case acquitted the accused on the ground that the municipality has no authority to fix any period in the permission within which to build a house and that the municipality has no authority to modify or cancel the permission once granted.

HELD that the power to impose the period of limitation such as that imposed by the municipality was not contemplated by section 96 of the Act, the main object of which was apparently to secure that there should be a speedy decision as to the conditions under which re-building should be allowed in order to interfere as little as possible with the vested rights of owners.

HELD also that no variation can subsequently be made in the conditions granted.

*21 Bom. L.R. 255
25th Sept. 1918.*

Emperor
vs.

Nagindas Chhabildas

Projecting a shop-board into a public street without permission or without paying fees is an offence under sections 113 and 122 of the Bombay District Municipal Act, 1901.

The accused rented a shop on a public road in the City of Surat. He projected a shop-board, 16 feet long and 2 feet wide, and it overhang the road at a height of 3 feet. He had obtained no permission of the municipality for this and paid no fees as provided in by-law 10 framed by the Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Sections 70, 113 and 122. He was prosecuted for an offence under section 122 of the Act and at the trial an alternative charge under section 113 was added. The Magistrate convicted the accused and sentenced him to pay a fine. The Sessions Judge, on an application made to him declined to interfere. The accused applied to the High Court on the ground that the projection was duly authorized under section 113 (1) and exempt from punishment and the by-law even if it is held to be applicable is *ultra vires*.

HELD that the by-law in question was not *ultra vires* and that the accused had contravened the by-law.

The material portion of sections 70, 113 and 122 and by-law 10 is as follows:—

- "70. (1) When any licence is granted by the municipality under this Act or when permission is given by them for making any temporary erection or for putting up any projection.....of any public street or other land vested in the municipality, the municipality may charge a fee for such licence or permission.
- (2) The municipality may also charge such fees as may be fixed by by-laws under clause (a) of sub-section (1) of section 48 for the use of any such places mentioned in that sub-section, as belonging to the municipality.
113. (1) The municipality may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey thereof.....and may prescribe the extent to which and the conditions under which roofs, eaves, weather-boards (shop-boards) and the like may be allowed to project over such streets.
- (2) Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend.....in which such failure or neglect continues.
122. (1) Whoever in any place after it has become a municipal district, shall have built or set up or shall build or set up, any wall.....or any projecting structure or thing or.....in any public street....rupees.
- (2) The municipality shall have power to remove any such obstruction or encroachment and shall have like power to remove.....in any open space not being private property....and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment.....under Chapter VIII.

By-law 10.—Projections may be permitted only on the following conditions:—

(i) That the owner of a projection in respect of which the fees have not been compounded (*vide* Rule 239) shall, at 48 hours' notice from the Municipal Commissioner, remove the whole or part of such projection on refund of a portion of the annual fee of licence.....without such refund.

(ii) * * *

(iii) That the owner shall pay in advance the fees prescribed by rules under section 46 (i)."

Shah, J.—(Extract). The by-law provides that projections may be permitted only on the conditions which are laid down in the three sub-clauses and under section 113 the municipality can prescribe the extent to which and the conditions under which shop-boards may be allowed to project over public streets. The municipality has under section 46 (i) power to prescribe the extent to which and the conditions under which projections may be allowed. This power to prescribe the conditions includes the power to levy fees if the projections are permitted. There is nothing in the section to justify the applicant's contention that the word 'permission' there means 'written permission' as contemplated by the first part of section 113 (1) or that it means permission given in each specific case and not a general permission subject to certain conditions. The fee which is prescribed by by-law 10 is within the powers conferred on the municipality by the Act, which provides that when permission is given the municipality may charge a fee for permission to put up the projections. The by-law is not *ultra vires*.

Marten, J.—(Extract). By-law 10 refers to projections generally. By erecting his shop-board without first paying fees the accused has broken the condition which the municipality purported to impose on such erection. Under section 113 the municipality has power to prescribe the extent to which and the conditions under which shop-boards may be allowed to project. The condition which the municipality has imposed is that certain fees should be paid in advance. They are entitled to impose a monetary condition in view of section 70 of the Act.

I.L.R. 42 Bom. 454
25th January 1918.

Vithal Dhonddeo Railkar (orig. plff.)
vs.

The Alibag Municipality (orig. deft.)

Permission to build a privy granted under section 96 (2) of the Bombay District Municipal Act, 1901, by the municipality cannot be revoked by a subsequent order by the municipality.

The plaintiff, a house-owner in Alibag applied to the Alibag Municipality for permission to build a privy in his compound. The permission was granted by the Managing Committee by a resolution and was formally communicated to the plaintiff. Complaints having been received about the grant of the permission from neighbouring owners the committee resolved

to stop the erection of the privy provisionally and the plaintiff was informed of the resolution. The municipality did not take any further steps in the matter for about six months and the plaintiff gave a notice complaining of the conduct of the managing committee. The municipality asked the plaintiff to apply afresh after obtaining first the permission of the revenue authorities. The plaintiff thereupon filed a suit against the municipality for cancellation of the municipality's order, for a declaration that he had the right to build the privy and for an injunction, and for damages for loss occasioned to him by his having procured materials for construction. The municipality contended that the Civil Court could not interfere with the proceedings of the municipality and that he had not undertaken the work. The Subordinate Judge upheld the plaintiff's claim. On appeal by the municipality, the Assistant Judge reversed the decree holding that the order of the managing committee revoking the original permission was not *ultra vires* and that the plaintiff had lost the right he had obtained to commence the work under section 96 (4). The plaintiff thereupon appealed to the High Court.

HELD that the second order was not legal in the absence of any power to cancel the permission once granted under section 96 (2) of the Act.

Shah, J.—(Extract). The order made by the municipality granting permission was a final order under sub-section (2) of section 96. The subsequent order which purports to be provisional in its character is not referable to sub-section (3) of that section. In the absence of any power to cancel the permission once granted under section 96 (2), the order subsequently made by the municipality was not legal. (*Emperor vs. Kareem Ranjan*, 19 Bom. L.R. 65, followed).

Sub-section (4) of section 96 has no application to the facts of the case.

I.L.R. 42 Bom. 629
19th February 1918.

N.B.—This case was discussed and distinguished from *Mulji Tribhovan Sevali vs. The Dakor Municipality*, I.L.R. 46 Bom. 663 in which it was held that the permission to build granted by the Public Works Committee of the municipality can be cancelled or revoked by the general body of the municipality either of its own motion or on the application of the person injuriously affected thereby.

Abdul Rahim Mahomed Narma and ors.

vs.

The Municipal Commissioner for the City of Bombay

Municipal authorities acting in conformity with the terms of the City of Bombay Municipal Act, 1888, have power to acquire land for widening, extending and improving a public street and pay compensation to the owner notwithstanding that the purpose for which the land is taken is not only the

preservation of the line of the street but includes the building of a bridge to carry the road over a railway on the level of the street.

The Municipal Commissioner purported to take certain portions of plaintiff's premises under the powers contained in section 296 of the Act. A regular line of a public street could be prescribed under the Act as originally framed by the Commissioner

and after it had been prescribed no portion of any building abutting on the street could after such a line had been prescribed be constructed within the regular line. One of the plaintiffs applied in 1902 for permission to build on the road frontage owned by him and his brothers. He was informed in 1903 that no such permission could be granted on the whole of the land as 50 feet of the land had been taken into regular line of the street. Subsequently in 1909 he was informed that 20 feet only were required for the purposes of the street under section 299. The attention of the municipality was drawn in 1909 (July) to the previous correspondence of 1903 and upon investigation it was found that the subsequent fixing of the regular line was not the fixing of the original regular line but the fixing of a new regular line in substitution of the previous regular line. Possession was taken of the plaintiffs' land however on the footing of the land so taken possession of falling within the regular line prescribed subsequently and a resolution was passed by the Corporation to that effect. The plaintiff contended that no regular line of the street has been or was ever prescribed as required by law under the Act and the action taken by the municipality at various times in purporting to prescribe a regular line was *ultra vires* and illegal. The plaintiffs filed the suit in the High Court against the Commissioner for possession of portions of their property but their suit was dismissed so also their appeal. They then appealed to the Privy Council.

HELD that under the Bombay City Municipal Act, 1888, as amended in 1905, the municipal authorities have power to acquire land for widening, extending and improving a public street and to pay compensation to the owner of the land, notwithstanding that the purpose for which the land is taken is not solely the preservation of the line of the street but includes building of a bridge to carry the road over a railway on the level of the street.

Held also that the municipality was not restricted to acquiring the land and paying compensation under the Land Acquisition Act but the municipality can prescribe a line for the street and take possession of the part of the owner's land which falls within the line and so avoid having to proceed under the Land Acquisition Act.

Held further that cases in which it has been held that powers conferred only for a statutory purpose cannot be validly exercised for a different purpose were not in point, such an exercise of those powers being outside the Act which confers them. The exercise of the powers given was within and in strict conformity with the terms of the Act and the 'preservation of the line of the street' was not laid down as the definite and sole object for which the power is to be exercised.

Lord Sumner.—(Extract). The Municipal Commissioner has under his control all public streets in the city and he may from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be altered (section 289). By section 297 he may prescribe a line on each side of any public street and may from time to time prescribe a fresh line in substitution therefor and the line so prescribed shall be called the 'regular line of the street.' If the line is so drawn that any land not vesting in the Corporation falls within it, the Commissioner may by section 299 take possession of the same on the Corporation's behalf, which has the effect of acquiring it for the Corporation and then the land shall be deemed to be a part of a public street and the former owner will be entitled to receive compensation under section 301. Under section 296 the Commissioner has further power to acquire any land required for the purpose of widening, extending or otherwise improving any public street, subject to the payment of compensation in accordance with the Land Acquisition Act. What the Commissioner did in this case was to prescribe the regular line of the street under section 297. For this purpose he wished to acquire additional land on the cheapest possible terms. So he prescribed a line and then took possession of the part of plaintiffs' land which fell within that line, thus avoiding to proceed under the Land Acquisition Act. There is no word in the Act which prescribes the frame of mind in which the Commissioner is to exercise the powers given by section 297 or which restricts the objects for which he is to exercise them to the mere regulation of the street in question or to the creation or preservation of a regular line in it. "Preservation of Regular Line in Public Streets" is the heading to the group of sections beginning with section 297 but this cannot be pressed into a constructive limitation upon the exercise of the powers given by the express words of the Act. The preservation of the line of the street is not laid down as the definite and sole object for which the power is to be exercised. It may be the immediate effect of that exercise but it is not more.

I.L.R. 42 Bom. 462
19/20th Feb. & 14th March 1918.

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THE DECCAN PAPER MILLS

AS A WRITING MATERIAL, paper has a history in the East far more ancient than that in Europe and America. It is only the titanic strides made by science in the West during the nineteenth and the present century that have brought the development of paper-making there to its present level. Nearly a century ago, when machinery for paper-making had no existence, it was entirely a cottage industry. As a utilizer of bye-products and essentially one that made use of the wastage of civilization, the industry was chiefly based on the use of cellulose in the shape of old rags and cast-off clothing and kindred materials.

Raw Materials

The rapid extension of its use led to a great scarcity in the rag supply, and at present by far the greatest bulk of manufactured paper is from pulp made from grasses like esparto, sabai, moonj, etc., and from woods of the conifer type of which there is a large, though a steadily diminishing supply in the north of Europe and America. The main sources of pulp for paper are now Canada, Norway and Sweden and latterly Japan. Japan started on its course of making machine-made paper only about fifty years ago, but such has been its vigour that it has been steadily improving its manufacture of this commodity and now it is estimated that Japan annually exports over 7,500 tons of paper of all kinds and its various products. For, in Japan, paper is not confined to writing alone. Apart from printing paper for books and newspapers there are various articles made out of it like boxes, bottle covers, labels, etc. Japan, not content with its use in this direction, has put it to such uses as napkins, and no fashionable restaurant of the present day in Japan can be considered chic unless neatly folded paper napkins are offered to their patrons.

Indigenous Pulp

In India the necessity for producing our own raw material for paper making was long felt and at last we have begun to employ bamboo as the raw material for this purpose. Bamboo supply in India and Burma is very large and perennially renewable, and if suitable steps are taken it can supply the whole world's market of paper pulp. It is not the purpose of this article to describe the various indigenous plants and shrubs that can be utilised for paper making. That such exist and have from time to time been utilised for paper making is a well-known fact. One of



LATE KHAN BAHADUR SIRDAR DORABJEE PUDUMJEE

these the *Daphne Cannabina*, locally known under various names such as "satpura" or dhak chamboi which appears on the Himalayan slopes, has long been known as one of the best Nepal Paper plants. So is also the *Albizia Stipulata* of the Gangetic plains. The Japanese largely cultivate and make use of the paper mulberry tree, known there as "koze," and the paper made from it, is of various kinds known as "torinoko," and "tengujo." In Europe over sixty sources have been tried for paper making, some of them including such substances as sawdust, cabbage-stumps, thistle-stalke, etc. But the main sources of the raw materials are by now definitely fixed and the industry has to strain every nerve in securing adequate supplies at competitive prices.

Start by the Pudumjees

The starting of a paper industry in Poona nearly half a century ago by the well-known family of Poona is common knowledge to all who know anything of Poona and its environs. Incidentally, readers of the journal will be interested to know that the Pudumjee Brothers, the founders of the Deccan Paper Mills, were both interested in Local Government, and even today Poona bears the impress of the interest these two gentlemen had in the civic life of the capital of Maharashtra, both of them occupying the presidential chair of the Poona City Municipality for a long time. The elder of the two, Khan Bahadur Sirdar Dorabjee Pudumjee, was born at Poona on 24th December 1838, at a time when there were no Universities in India, and higher education fell to the lot of few Indians. Sirdar Dorabjee, as well as his younger brother, Sirdar Nowrojee Pudumjee, C.I.E., who was born on 25th August 1841, had the great advantage of studying under Sir Edwin Arnold, K.C.I.E., the author of the *Light of Asia*, who was then at the head of the Poona College, the precursor of the now defunct Deccan College. In those days the handful of students, who studied English and the western sciences, came into intimate contact with their professors, and benefited considerably thereby. Both the brothers attained a very high standard in English—a rare acquisition in those days. Indeed a facility for languages seems to have been with them a special feature, as they were thoroughly acquainted not only with English, and their mother tongue, Gujarati, but also with other languages, such as Marathi, Hindustani, Persian and also possessed a working knowledge of French. The facility and purity of expression in Marathi of Sirdar Dorabjee was such to challenge comparison with the best scholars of the language. It was this intimate knowledge of the Marathi language that enabled Sirdar Dorabjee to get a firm grip on the civic affairs of the Poona City and made him a leader in the local-self administration that was introduced about that time in the shape of municipalities for important towns. Not only did the two brothers



Late Sirdar Nowrojee Pudumjee, C.I.E.

develop the purely literary side of their studies, but also cultivated scientific subjects and mathematics. Sirdar Nowrojee paid special attention to the latter, and later had the then coveted honour of being appointed a University examiner in mathematics in the newly created Bombay University.

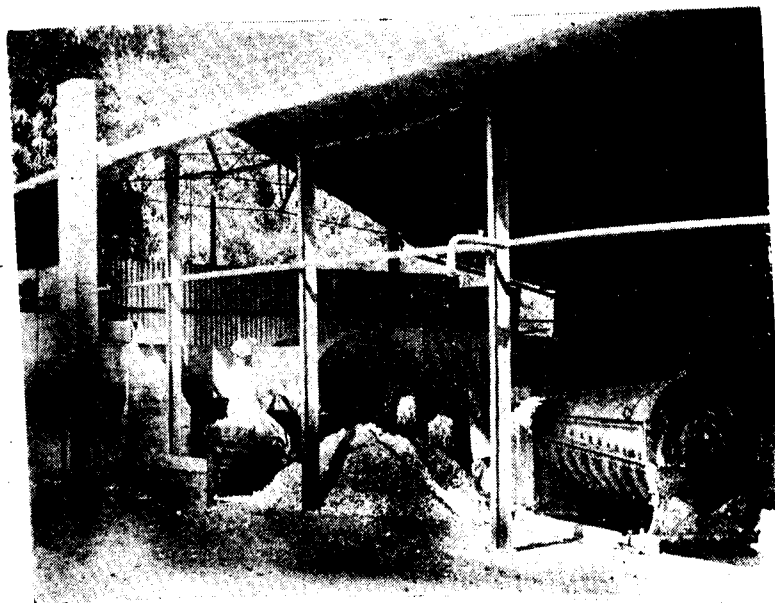
Industrialism

Sirdar Dorabjee's general bent of mind was in the direction of science in its application to industry, which resulted in his starting in 1884, in conjunction with his brother Sirdar Nowrojee, the Deccan Paper Mills Co., Ltd., at Mundhwa near Poona which has now reached its half century. This was the first venture of its kind on this side of India. He also started a bank, an ice factory and a cotton factory in Poona, in all these institutions he was ably supported by his brother Sirdar Nowrojee. Sirdar Nowrojee was his brother's righthand man, and as business extended and responsibilities increased, it was the younger brother who carried on the executive functions, whilst the elder brother stood watchfully and actively at the helm. He fully shared in the accomplishments, hobbies and occupations of his elder brother, who relied on the younger brother's co-operation in all matters. Thus when the Deccan Paper was started it was Sirdar Nowrojee who went to Europe to select the plant and machinery for the mill, and his business acumen was instrumental in securing the same at prices which were of great benefit to the newly started company.

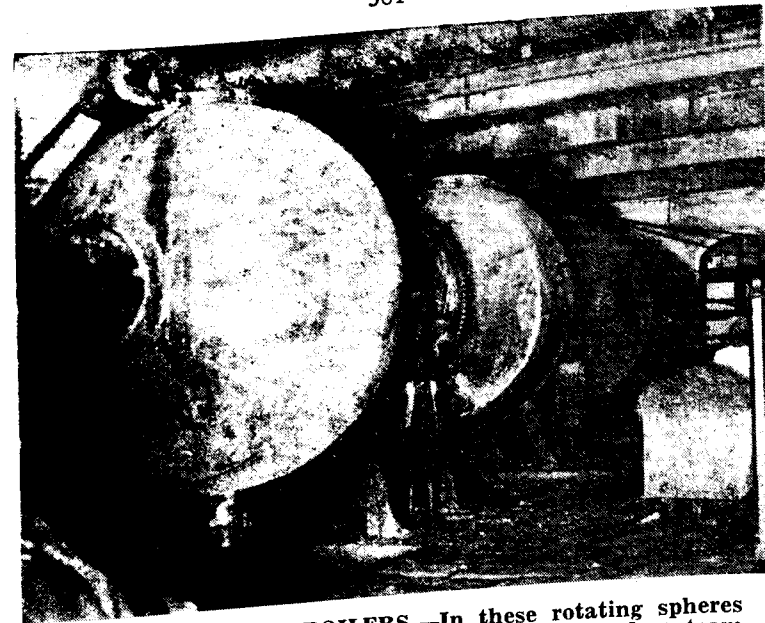
It was the suitability of climate and existence of other facilities that led to its establishment at Mundhwa. The mill at Mundhwa, Poona, was named the Reay Paper Mill in honour of Lord Reay the then Governor of Bombay, who was interested in industrial enterprise. The Mundhwa Mill is situated at the village of Mundhwa, adjoining the Hadapsar Railway Station of the G. I. P. Railway about five miles from Poona. The extensive grounds of the factory at Mundhwa have an area of about 17 acres. Considerations of transport and water facilities governed the selection of the site, which has also the advantage of proximity to the centres of raw materials, an abundant supply of labour, and an easy access to a market for its output. The site has been laid out in different buildings requisite for the paper industry—the main building for the paper machines consisting of a large cathedral-like structure with a aisle on either side accommodating two paper machines and a central passage between. When the Mundhwa Mill started working in 1887, there was only one paper machine but the building had been constructed to accommodate two machines, and the second machine was installed later in 1926 as a result of the Company's development. Recently a 800 H.P. extraction steam turbine driving a 600 K.W. alternator has been



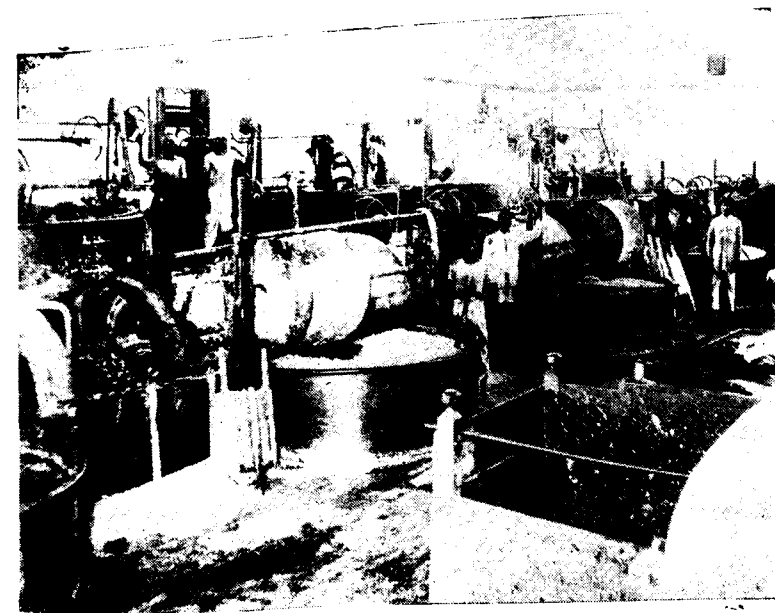
MOUNTAINS OF RAG.—The Rags reach the mill in bales, and they are first dusted and sorted into grades, and foreign matter like rubber, leather, etc., removed.



RAG-CHOPPING.—Women feeding the rag into the cutting machines where revolving cylinders carrying knives cut it into short pieces.



BATTERY OF RAG BOILERS.—In these rotating spheres the rag is digested in a chemical solution, under steam pressure.



RAG-BEATERS.—The rag is next transferred to the hollanders or rag-beaters where clean rag pulp is produced by washing and bleaching.

installed at the Mundhwa Mills to replace the old 500 H.P. reciprocating steam engine, and electric drive is introduced throughout the Mills. Four boilers of the Lancashire type fitted with super-heaters and economisers feed the steam turbine. All up-to-date machinery and equipment for handling different kinds of raw materials from the raw state to the finished product, find place at the factory. All the usual processes of paper making find location, each in its own building, there being a rag-sorting and cutting department, and pulp making and beating department. In the pulp making department an increase is under contemplation.

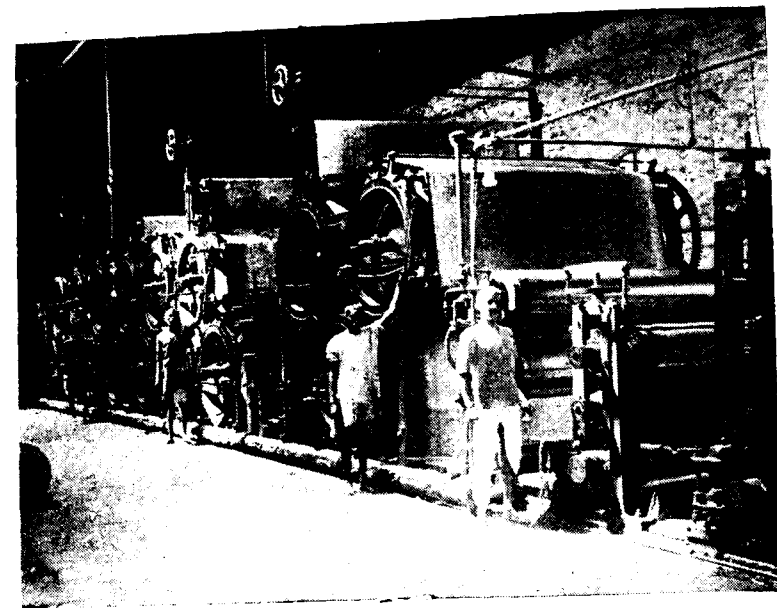
In 1925 the Company took over a paper mill in Bombay, viz., "D. Pudumjee Mill." This mill was started in Bombay in 1913, as a private concern, and was taken over by the Deccan Paper Mills Co., Ltd., who increased their capital for that purpose to Rs. 9,25,000/-. The Mundhwa and Bombay Mills of the Company now possess three paper machines, the last of which, an up-to-date machine with all recent improvements, was installed in the vacant aisle in the Mundhwa machine building. The total capacity of the three machines is over 5,000 tons of paper per annum. These changes involved expensive additions and alterations to suit the increased output and its judicious handling. A railway siding from the G. I. P. Railway line, which adjoins to the Mundhwa Mill premises, is still a desideratum and forms one of the projects under contemplation.

The grounds at Mundhwa have been laid out in different departments requisite for a paper industry. There is the main building which houses two paper machines side by side with a central passage between. The engine and boiler houses are suitably located next to the main structure.

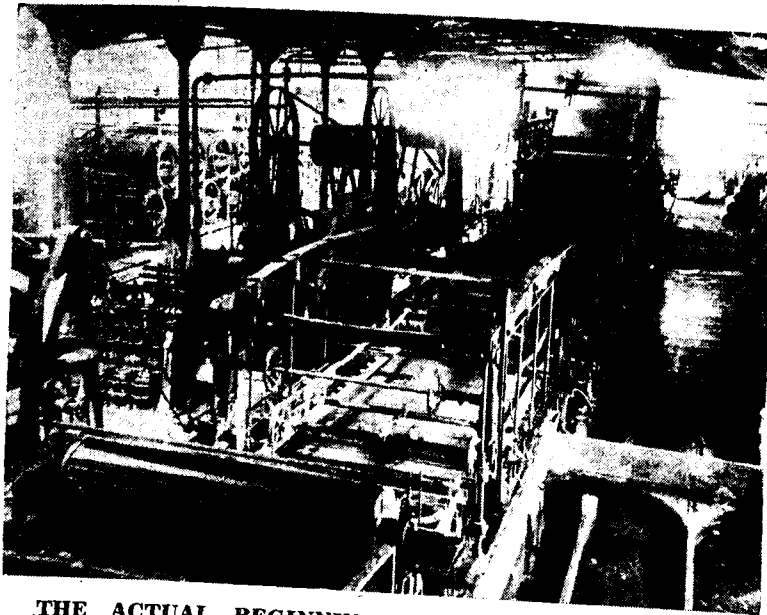
There is a rag department with huge stacks of rags, where the rags, after undergoing willowing and dusting, are taken in hand by the rag choppers that reduce these materials to a proper size. The chopped rags then go to the Rotary Kiers or rag boilers, where they are digested by steam under pressure. The digested rags next go to the rag-beaters or Hollanders, where they are treated with the necessary chemicals, for the preparation of which the Company has a small plant at the factory. Old paper utilised in the manufacture is treated in a kneader or waste paper pulping machine. The finished and bleached pulp is delivered to the huge wire belt of the paper machine, where it assumes the form of a wet sheet, which is later dried on the steam-heated cylinders of the paper machine, and delivered as fully made paper. There is a calendering end of the machine, which sends forth paper in the shape of huge reels. In



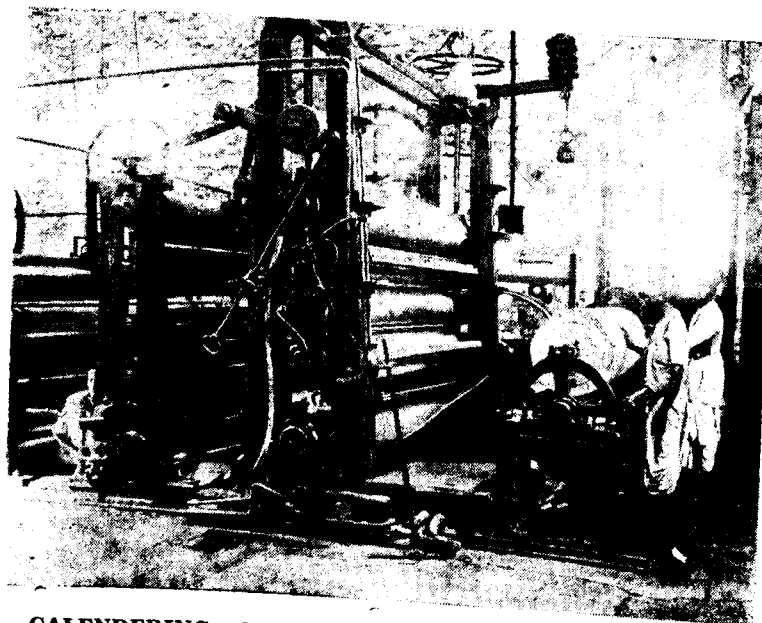
NEW PAPER FOR OLD.—Waste paper is also used with rag.



DRYING END OF THE PAPER MACHINE.—The wet paper is dried on steam-heated cylinders.



THE ACTUAL BEGINNING OF PAPER-MAKING.—The finished and bleached pulp is delivered to the huge wire belt of the paper machine on which it assumes the form of a wet sheet.



CALENDERING.—This end of the paper machine dries the paper on heated cylinders and rolls it into huge reels. It is almost ready now.

the cutting department these reels are cut into the desired pieces of sheets and sorted and packed into reams and packages in the packing department.

The Bombay Mill named after the founders as the D. Pudumjee Mill, which is located in a mill area close to the Central Station of the B. B. and C. I. Railway, is a one machine plant with a Diesel Oil Engine furnishing its motive power. It is equipped with all the necessary adjuncts and arrangements suitable for its location in a big city like Bombay.

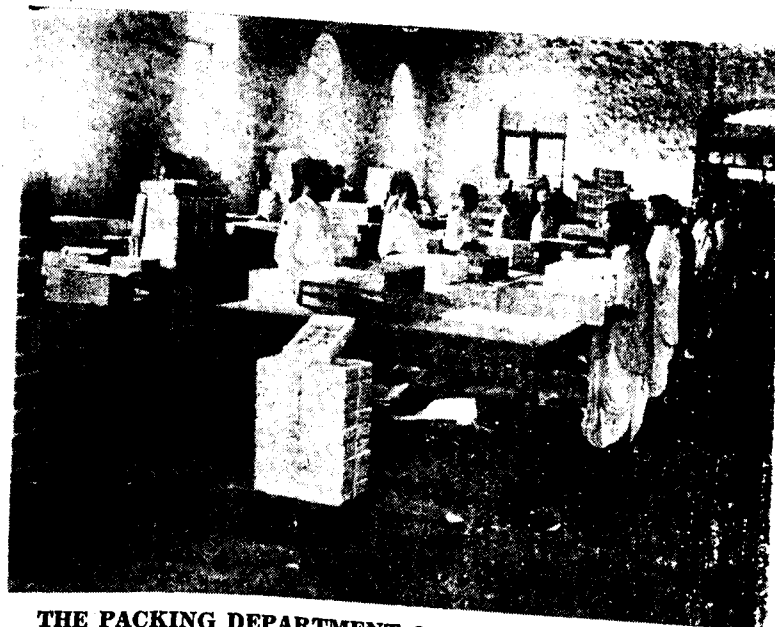
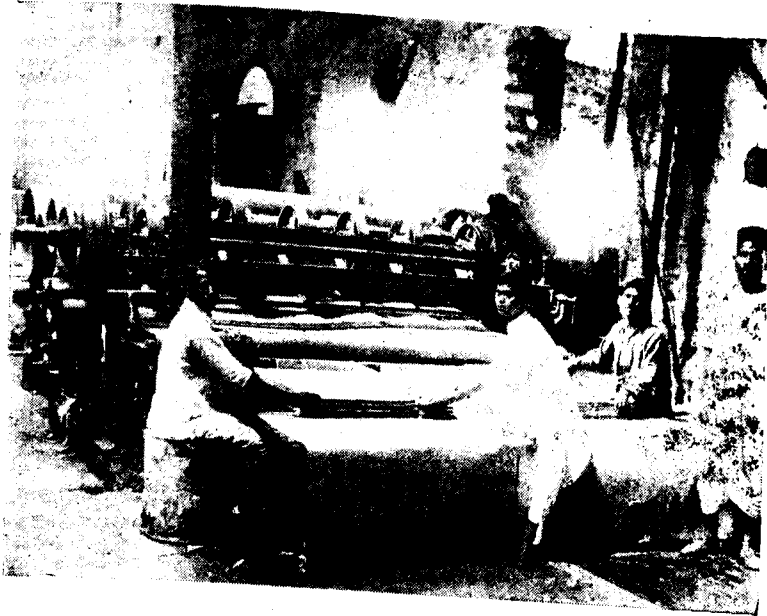
The Company manufacture all the principal trade classifications of paper, the full list whereof extends to over thirty varieties, dependent upon demands, the supply of raw materials and various other circumstances incidental to manufacture.

As an Indian concern the Deccan Paper Mills Company has its shareholders, directors, the superior management staff, and labour, all Indians. The Company now employs at their two Mills at Mundhwa and Bombay over 700 men and women, including superior service men, who have received their technical training and experience in the Mill. The erection of machinery and other parts has been the work of engineers trained by the Company who are efficiently discharging their duties.

Providing residential accommodation for labour is an important question in most industrial concerns. At Mundhwa housing is provided for those who require it, for which purpose blocks of rooms have been built and accommodation supplied free of charge. But as most of the work people come from the neighbouring villages, they naturally prefer staying in their own homes. In congested cities like Bombay, this combination of rural life with urban occupation is an absent feature; the more it is encouraged, therefore, the better for both the urban as well as the rural population.

Government have recently set up in connection with the Mundhwa Mills an Industrial Settlement (Criminal Tribe Settlement) with provision of huts for the settlers. Besides these, two blocks of rooms are lent by the Mills for their use free of charge. About 225 settlers are working in the Mills.

Health is another point that engages the attention of the Company. At Mundhwa a suitable provision exists under this head. A qualified medical man is employed to attend to the workmen and their families, medicine and other adjuncts being provided free of charge. There is also a paid lady health-visitor to look after the welfare work for women



THE PACKING DEPARTMENT OF THE PAPER-FACTORY.
—The last scene of all, showing packers arranging the finished article in reams and quires, ready for marketing.

and their children. A creche is provided where infants of female workers are taken care of during working hours, by 4 ayahs in charge of the lady health-visitor.

There is also a school at the Mundhwa Mill in charge of a qualified teacher, where the children of the mill hands receive education upto the third vernacular standard. Arrangements have also been made for the education of adult workers, both male and female, under the supervision of the Saksharata Prasarak Mandal (Society for the spread of literacy), facilities being given to workmen to attend the classes, in batches for an hour or so at a time during their working hours. A considerable number of men and women are now able to read and write to a certain extent. For recreation purposes a playground is also provided in the Mill compound, as well as outside in the village.

The Registered Office of the Company is at 815-16, Bhawani Peth, Poona, with a branch office at the Ballard Estate, Bombay.

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VILLAGE IMPROVEMENT WEEK

SURAT DISTRICT

By DURLABHJI P. DESAI, B.A.

President, District Local Board, Surat.

THE District Local Board passed a resolution on 23rd July 1938, appointing a Committee to draw up a scheme of "Village Improvement Week." The Committee thereupon prepared a scheme and it was sanctioned by the Board at its meeting held on 15th September 1938. In pursuance of the scheme, a leaflet giving an account of the reasons for starting the scheme, its objective as also the details of the scheme was published and distributed in the whole District. It would not be out of place to give a short resume of the reasons for launching this scheme. The District Local Board's main activities are at present confined to the construction and repairs of the major Taluka roads, to the maintenance of 12 human and 6 veterinary dispensaries and to running the Vaccination Department. It will be seen from this that the activities of the District Local Board hardly touch the fringe of the village problems. Villages are in the same condition as they were 150 years ago. The condition of the village roads, the sanitation of the villages and the condition of water supply are far from satisfactory. It is the opinion of this Board that the condition of the villages will not be better, unless the villagers themselves realise their sense of duty to these requirements. In order to do this, vast propaganda would be necessary. The villages could be improved and made habitable only if they become self-reliant in the matter of the improvement of their villages. If the District Local Boards have done some service to the village people, a great amount of disservice has been indirectly done to the village people by the existence of these institutions. People have come to depend upon Government or the Local Board for all their common amenities. Unless this sense of dependence was removed and the people are made to realise the value of self-help no improvement in the condition of these villages would be possible. If India is on the one hand poor, its immense man power is lying dormant. If this dormant man power were to be stirred up and vitalised and made to work for the common good the result would be wonderful. The apathy of the village people to their common needs in respect of village improvement borne out of despondency due to poverty had to be removed. This could be done only by vigorous propaganda. The main point of the scheme was that as the rural people were not in a position to pay more taxes for the improvement of their villages, all able bodied adult men and women were to give free their manual labour

for seven days in a year according to their convenience and also to give free the services of their carts and bullocks for the same period for improving the villages. By means of the manual labour they could do the earth-work for their village roads, and also improve the sanitation of the villages. The services of the carts and bullocks could be utilized for making their roads *pucca* by bringing road materials from the nearest Khadi or rivers. Accordingly a seven days work programme was laid down. The formal celebration of the week was to be made from 6th April to 13th April but the people were advised to take up works according to their convenience. The programme for the formal week was as under :—

The first four days were to be devoted to the execution of some improvement of the road or other work of permanent utility. The fifth day was to be used for improving the sanitary condition of the village. All the age-long rubbish in the village was to be removed and any uncleanliness near the wells and other sources of water supply was to be done away with. The sixth day was meant for and named as tree-plantation and industry day. The people were expected to do some work which would add to their income. The last day of the week was the celebration day meant for enjoyment. Children's sports were to be organized in the morning and the evening was to be devoted to holding public meetings when a stock of the previous year's work be taken and a programme for the next year's work laid down. Resolutions about social and other reforms could also be passed at these meetings. People could also have *Bhajans*, dramatic performance by students and other means of pleasure.

The *modus operandi* for successfully carrying through all the items of the programme in the 770 villages of the District was not possible without a vast organization. Taluka Committees for each of the eight Talukas with a President and one or two Secretaries were formed and these Taluka Committees formed Village Committees in as many villages as they possibly could. All this was done in the course of the President's tour.

The apathy of the villages was to be removed and as observed above the villages had to be stirred up and vitalized to carry through this scheme. The President, District Local Board, had in the first instance to carry on vigorous propaganda to carry out this object. Three out of the six working days of the week were therefore set out for visiting one Taluka. A regular programme of the villages to be visited and the places and the times of the public meetings was prepared and published beforehand in the whole Taluka so that the public of the neighbouring villages may attend the public meetings. I am glad to be able to report that wonderful awakening was observed during this tour as these meet-

ings used to be attended by large crowds of people some of whom had come from long distances. The people took it to be a phenomenon that the President, District Local Board, was visiting small out-of-way villages and explaining to them the real condition of the District Local Board and the duty of the people to their own villages. The following points were used to be emphasised in these public meetings :—

(1) The detailed figures of the income of the District Local Board were given to the people. It was also explained to the public as to how this income was at present spent by the Board. This clearly and emphatically brought home to the public the utter straitened financial condition of the Board. The people for the first time realised why the Board was unable to spend anything towards the improvement of villages.

(2) The whole scheme of Village Improvement Week was explained at the public meetings and why it was necessary to carry out the scheme by self-help.

(3) As the Board proposed to levy an additional Local Fund Cess of one pice, for the purpose of the expansion and improvement of primary education, public opinion had to be cultivated in favour of accepting this additional taxation.

(4) In villages with backward population, the evils of drinking were explained to the people and why Government undertook this reform first for the good of the public.

(5) The responsibilities of the voters in respect of their votes were brought home to the public. It was also explained to them that no democracy could be successful unless the voters knew their responsibility in this matter.

(6) The advantages of working in mass for the uplift of villages were also explained at these public meetings.

(7) The various ameliorative measures which the present popular Government was adopting were also pointed out and explained to the public to the extent of the time available.

(8) The necessity for the agriculturists to take to some handicraft such as spinning, paper-making, etc., was explained to the audience at these meetings. The fact that unless the agriculturists paid more attention to cattle-breeding, it was not possible to improve the material condition of the farmers was brought to their notice. Two hundred public meetings must have been held in the whole District at which the people of the other villages attended in good numbers and so it could be said that the message of self-help given by the District Local Board was conveyed to the whole District.

Besides the Taluka and Village Committees, the co-operation of the officials was also sought for the successful carrying out of the scheme. The scheme was first approved by Government in the Revenue Department and that Department and other departments of Government issued necessary orders to the Officers to give all possible help in the matter. I am glad to report that all Officers of Government in the various departments fully co-operated with me. But for the help of Mamlatdars and the Circle Inspectors the removal of various encroachments would not have been possible.

The Vice-President of the District Local Board and Chairmen of the Local Board Taluka Committees worked whole-heartedly and devoted a lot of their time and energy to the carrying out of this scheme. All the Members of the District Local Board accompanied the President, District Local Board, during the latter's tour in their respective areas. The District was divided into as many areas as the number of members and each member was asked to look to the works of Village Improvement in the villages of the area allotted to him. This duty was also fairly discharged on the whole.

The leaflets on the following subjects were published and distributed in the villages :—

- (1) A statement of the income and expenditure of the Board and its main activities and a scheme for "Village Improvement Week."
- (2) Resolutions of the "Village Improvement Week" Committee formulating a prize scheme for works done in connection with Village Improvement Week Scheme and for the inauguration of the "Village Improvement Week."
- (3) Village sanitation and how it can be maintained.
- (4) An appeal to all the Congress Workers in the District to co-operate in the scheme of Village Improvement.
- (5) Suggestions and instructions to the village people regarding the points to be borne in mind while doing earth-work of a road or excavating tank.
- (6) A fresh appeal to the village people re-inviting their attention to the Board's "Village Improvement Scheme" and the leaflets already published and requesting them to take up the work of improvement of the villages, if not already done, and to observe instructions issued by the Board regarding sanitation, earth-work of roads, etc.
- (7) Songs specially composed in connection with "Village Improvement Scheme."

- (8) Suggestions as to the steps to be taken after earth-work of a road to render it mudless, etc.
- (9) Village sites and Paders and the steps to be taken to improve them.
- (10) Tree-plantation and its importance in village life.
- (11) Necessity of having trench-latrines for every home in villages and the present insanitary condition in their absence.

The services of the Primary Education Department proved valuable in popularising the scheme. The Schoolmasters were instructed by the District School Board to bring enthusiasm among the people by taking out Prabhat Ferries of students. This was instrumental in bringing about great enthusiasm and awakening among the people. In some villages, the Schoolmasters took the initiative in starting Village Improvement Works. The Schoolmistresses and the girl students also gave substantial help in cleaning the villages. It was a novel thing for the people to see the educated Mistresses and the girl students working to remove the rubbish from the village. It was an object lesson to the village people in self-help. A donor had given 6 prizes of Rs. 5 each for composing the best songs on Village Improvement Scheme. A Committee of the School Board awarded the prizes to the best compositions and these songs on Village Improvement were sung in the Prabhat Ferries.

Achievement of the Scheme

The main objective of the scheme was to improve the condition of the villages in respect of the village roads, sanitation, etc., by self-help. I shall, therefore, deal first with the direct results of the movement and the indirect result will be treated later.

1. Improvement of Village Roads

From Statement No. 1 attached herewith it will be seen that the work of improving the roads was carried out in 362 villages out of 826 villages of the District. In view of the fact that there is a large number of villages of backward Raniparaj people in Mandvi, Pardi and Chikhli Talukas, the response of the people can be considered to be satisfactory. It will also appear from the statement that the total cost of the works done by the people comes to Rs. 1,32,452. Having regard to the fact that the District Local Board spends only about Rs. 70,000/- per year towards the maintenance of the main roads of the District, the quantity of work turned out by the people themselves is really encouraging specially as the scheme of self-help was introduced for the first time in

the District. As regards the nature of the work done the following details are sufficiently explanatory :—

	Rs.
1. Estimated value of the earth-work done for the village roads	1,01,576
2. Estimated value of metal, gravel, murum and sand used for the improvement of the new roads	20,945
3. Estimated cost of building nalas and other constructions	9,931
Total	Rs. 1,32,452

A leaflet containing instructions for making new roads of the village type was issued for the guidance of the village people and the Overseers were also instructed to give necessary instructions and guidance to the people in carrying out these works but unfortunately the leaflet could be issued late in the year and so it was not fully availed of by many villages. The quality of the work turned out cannot, therefore, be said to be satisfactory. It is hoped that by experience and observation the people will come to learn the technique of making and maintaining village roads.

One main defect in respect of these newly made roads requires to be noted. This defect is that most of these roads are *kacha* and therefore they will not go a long way in making the villages mudless. On the contrary, a great inconvenience in wading through these *kacha* roads will have to be suffered till they are made *pucca* by spreading over them such road material as gravel, sand, kanker or bhatha. Emphasis will be laid this year on the importance of making these roads *pucca* in the next monsoon. But there are two directions in which the people of these villages expect help either from Government or the District Local Board. The collection of materials involves some expenditure but the people are unable to meet with this expenditure. If they are given some small grants for the collection of materials, the people will willingly bring the materials on the road site and spread it. The other matter in which help is required is the construction of small nalas, culverts and putting up Hume Pipes for drains. These works cannot be done by manual labour alone. They will require some money to be spent and the people cannot spare money for the works. Government it is submitted should sanction a special grant for this purpose so that it may be an encouragement to the deserving people who have carried out such works by self-help.

2. Improvement of villages in respect of sanitation

As observed above, one special day out of the week fixed for the celebration of the Village Improvement Week was set apart for this

purpose. A leaflet on village cleanliness was also issued and distributed in the villages. In accordance with the instructions contained in the leaflet, the people were advised to clean the whole village site and remove all the rubbish to a distant place and burn it. The subject of cleanliness is one which requires daily work and so long before the day fixed for the purpose, the work of removing the dirt from the villages was started in many villages, specially those having Local Board Schools. The parties of grown up students in the schools did this work voluntarily. To them it was an object lesson and the people appreciated the work done. The public realised the advantages of cleanliness. The day of cleanliness was observed in 305 villages in the District *vide* Statement No. 2. These efforts though spasmodic had their own value in awakening the public sense to the necessity of keeping the villages clean. If the programme is kept up some few more years the people would form the habit of doing these things regularly and from time to time. The surroundings of the wells which supply drinking water are generally insanitary as water is allowed to be collected and mud is formed. These insanitary surroundings were improved in many villages.

3. Sports Day

The last day of the week was set apart as a sports day. The main object of doing this was that ordinarily village life has become dull. There are no organised sports or other amusements to put life into the public. In order to remove this dullness and the general spirit of despondency prevailing in the villages, the last day of the week was fixed up as above. On this day all the fronts of the houses were to be fixed up as above. People were advised to adorn these fronts with "Sathias" and Prabhat Ferries reciting Village Improvement songs were to go round the whole village. The morning was to be devoted to sports. The Schoolmaster was to take a leading part in these activities. The people were to be invited to see the sports of the school children and other adults. Prizes were to be awarded to the best players. In the afternoon a public meeting was to be held in every village where a number of resolutions regarding the improvement of villages in various ways were to be passed. In the evening, *bhajans* were to be recited or where practical a dramatic performance may be made for the village people to see. This day was observed in 276 villages *vide* Statement No. 2. It will take some years before the present dull atmosphere of the village is changed and liveliness is brought into it.

4. The Tree-plantation and small crafts day

In the first place the date fixed for this was ill-suited to tree-plantation. Trees could be properly planted during monsoon and the people were advised to do this part of the programme in monsoon. As regards

encouragement to crafts, nothing appreciable could be done. However the Village Improvement Committee is considering this matter.

Indirect benefits of the Scheme

1. A great awakening was brought about by the vigorous propaganda carried out. The spirit of helplessness and despondency prevailing among the masses was removed. The people realised for the first time that if they could manage to work in co-operation and in mass much could be done by self-help. For the achievement of an object, faith in the cause has first to be created among those who have to carry out the object. This faith was created in the public and as a result the villages started doing work long before the formal celebration of the week.

2. The people of the district had absolutely no idea about the resources of the Board and its activities. The people for the first time came to know the income of the Board from various sources and how it was being spent by the Board. The result of this was twofold. In the first place the people realised how inadequate the resources of the Board were and why it was that the Board was unable to supply the numerous needs of the public. Further, the people came to take greater interest in the affairs of the Board. All unauthorised and unreasonable criticism of the Board ceased. Upto now the people entirely depended even for small requirements in respect of village amenities on the District Local Board. This was a grounding to make the people self-reliant and the spirit of self-help was imbibed by them. People realized for the first time that they were capable of doing many things if they were so inclined. This moral uplift is the greatest achievement of the scheme.

3. Since the passing of the Primary Education Act in 1923, there has been no expansion of primary education during the last 16 years. It is no exaggeration to say that this has been the dark age of primary education. During this long period there has been an increase in the number of children attending the schools of more than 5,000 children. In spite of this for want of funds the Board could not appoint one more teacher or open any new school. The School Board had to contribute 1/3 share of the expenditure in all such matters but the Board had no funds from which this could be done. The Local Board Schools had to be run with a shortage of about 100 teachers. One can imagine what an amount of harm must have been caused to the cause of primary education in the District. Further, there are nearly 150 small villages in the district which are schoolless. The people of these villages have been paying Local Fund Cess without any return. This was highly inequitable. In order to remove these shortcomings it was absolutely necessary to impose some additional tax. The Board proposed to levy an additional

Local Fund Cess of three pies over and above the one anna cess levied at present but the present Board wanted to establish a convention that no such tax should be levied without the consent of the taxpayers concerned. Advantage was, therefore, taken of the propaganda made for the Village Improvement Week. In the 200 public meetings held in the large villages at which the people of the neighbouring villages also attended, the whole position in regard to primary education was explained to the public and the audiences were asked to give their opinion on the proposed taxation by show of hands. I am glad to be able to state that the public supported the proposals at all the meetings. It is true that the people are not in a position to pay any additional tax but two causes contributed in inducing the public to give their consent. The first cause was an assurance given that the proceeds of the additional tax were to be reserved for the development and expansion of primary education and the second cause was the sound common sense of the people who realised the necessity for the measure.

4. The making of village road works costing about a lac and quarter rupees is the direct result of the scheme but the roads done were originally so narrowed by encroachments that but for the good sense of the people and the hearty co-operation of the Revenue Officers, the problem of widening these roads would have been insoluble. Most of the roads made were so narrow that hardly one cart would pass. The people in most cases voluntarily removed encroachments but even this would not have made the roads sufficiently wide. But the people willingly gave away their costly private lands required for widening the roads. Those who know village life have experience of the way in which people fight for small area of land and how they ruin themselves in this fight. It is a wonderful phenomenon that these very people willingly parted with their valuable lands for a public cause. In few cases the Revenue Authorities were helpful in getting the encroachments removed. Not only age-long encroachments were thus removed but the roads were sufficiently widened in many cases. This was one of the results of the scheme.

5. In villages mainly inhabited by backward people addicted to drinking, the evils of drunkenness and the present prohibition policy of Government were fully explained. These people fully supported the Government's policy and appeared to be anxious to have prohibition introduced in their villages as early as possible.

6. As a member of the anti-corruption committee I took advantage of the propaganda made for the Village Improvement Week Scheme and explained to the public at the 200 public meetings held, how Government wished to remove corruption prevailing. The responsibility of the people for this evil was brought home to them and they were asked not

to tempt any Government Officer by offering bribe or other inducement. In my opinion the public has got to be educated in this matter and if the work done in the year in this direction is continued in future years, I feel confident that the evil will be substantially reduced.

7. "The Village Improvement Week" Scheme has been instrumental in removing party factions in some villages. Mass co-operation work is not possible unless the party factions are removed from the villages. Many such factions were removed in order to carry through this scheme. Some of the villages which could not make up the party quarrels, failed to work out the scheme.

8. In villages, there are various classes of people such as the higher classes consisting of Brahmins, Patidars, Banias, etc., and the backward classes such as Dublas, Kolis, Harijans, etc. A great sense of superiority and inferiority exists in these various classes of people. It is highly desirable that the inequality prevailing in these classes should be reduced to the minimum as far as possible. In the scheme of the "Village Improvement Week" all classes of people high and low were expected to work shoulder to shoulder. This sort of work done in mass goes a great way in reducing the present inequality. I have myself seen Harijans working with the people of the higher classes. The present great distance between the higher and the lower classes would be reduced to some extent where work is done by all the people in a body. The scheme has, therefore, been instrumental in partly reducing this distance. It had thus a levelising influence.

The above is a short resume of the achievement of the scheme of Village Improvement Week. Before I close this report I have a pleasant duty to perform and it is to thank the various persons and institutions which have co-operated in getting through this scheme successfully.

(1) In the first place Mahatma Gandhiji had welcomed the scheme by writing an article in *Harijan* on the subject of District Local Boards and given some suggestions about the duties of Local Boards in such matter. The scheme had further been blessed by Sardar Vallabhbhai in a public meeting at Mota. The blessings of these leaders gave a great impetus to the workers and I take this opportunity of expressing our humble gratefulness to these leaders.

(2) Our present popular Government gave a great momentum to the movement by first approving the scheme and then asking the departments to render all possible help to this scheme. Not only this but four of the seven Honourable Ministers to the Government of Bombay in spite of their heavy work were kind enough to inaugurate the Week in the different talukas of the District. The Presidents of the Legislative Assembly and the Council had also agreed to inaugurate the Week in

some talukas but the Honourable President of the Assembly could not come at the last moment on account of some domestic trouble. I take this opportunity of expressing my gratefulness to all these members of Government and the two Presidents of the Legislature. People appreciated their presence in the small villages, and they realised how keen an interest the present Government was taking in the well being of the villages. The whole district is indebted to Government for their solicitude for the poor people of the rural area.

(3) But for the co-operation of all the Congress Workers in the district, the movement would not have been successful to the extent it was. For this, I have to give my hearty thanks to the President of the District Congress Committee, Mr. Kanaiyalal N. Desai. He has spared no pains to attend the various taluka meetings at which his presence was necessary. He has all along been the source of inspiration to all the workers in this cause.

(4) I must also thank all the Government Officers from the highest to the lowest grade in the district who have heartily co-operated in the successful carrying out of the scheme. Mention must specially be made of the various Mamlatdars and Mahalkaris of the talukas of the district who have been ever willing to render help in this cause whenever required specially in the matter of removal of encroachments whenever noticed. I would here specially mention Rao Bahadur K. R. B. Bhadrapur, the Collector, who promised all possible help and co-operation from the start of the movement. I take this opportunity of heartily thanking him for this.

(5) Lastly I must mention the sincere co-operation of my colleagues, the members of the District Local Board in the furtherance of the scheme. The Chairmen of the Board's Taluka Committees and the other members many times at the sacrifice of their private work visited the various villages in the talukas and infused enthusiasm among the village people for the carrying out of the scheme.

The Board and myself is greatly indebted to the Chairman of the District School Board, Surat, Shri Kalyanji V. Mehta also for all possible assistance towards this scheme. He was kind enough to issue instructions to the Local Board school teachers to help the cause of the Village Improvement Scheme during their spare time and it is gratifying to note that their response has been praiseworthy. I take this opportunity of thanking the Chairman and the Local Board school teachers for the assistance rendered by them.

STATEMENT No. 1

Statement of the work of Village Improvement carried out by the people of the Surat District (from 1st October 1938 to 20th May 1939) in accordance with the self-help movement inaugurated by the District Local Board, Surat.

Taluka.	Number of villages in the Taluka.	Number of villages where self-help works carried out	Rough cost of work done.			Total.
			Earth-work.	Road making materials.	Nalas etc.	
Chorasi ...	99	50	13514	3254	5749	22517
Olpad ...	117	67	8200	570	70	8840
Bardoli ...	137	40	13035	1500	590	15125
Mandvi ...	136	6	992	—	—	992
Jalalpore ...	99	72	45013	7162	3390	55565
Chikhli ...	91	38	7009	3176	—	10185
Bulsar ...	65	54	8112	2520	—	10632
Pardi ...	82	35	5701	2763	132	8596
	826*	362	101576	20945	9931	132452

STATEMENT No. 2

Statement showing the number of villages where cleanliness and sport days were celebrated during the Village Improvement Week in the Surat District, 1938-39.

Taluka.	Total number of villages in the Taluka.	Number of villages where cleanliness day was observed.	Number of villages where sports day was celebrated.
Olpad ...	117	68	59
Chorasi ...	99	59	49
Bardoli ...	137	29	29
Mandvi ...	136	—	—
Jalalpore ...	99	42	42
Chikhli ...	91	40	49
Bulsar ...	65	38	37
Pardi ...	82	29	11
	826*	305	276

*(Including unpopulated Villages).

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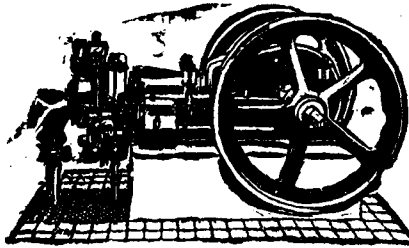
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RURAL COMMUNICATIONS

*By G. R. VARTAK, B.E., A.M.I.E.,**District Local Board Engineer, Satara*

THE subject of rural communications covered a very wide field including all means of communications except what are known as urban or city roads. Rural communications included the highways, they included also the subsidiary roads of lesser importance and also the cart tracks which joined one village with another or served the needs of even a portion of a village population by joining the village to the surrounding fields, etc. The highways have been in existence for many years, they have proved their utility and the present problem is to improve their condition to suit modern requirements of traffic. I do not wish to deal with this part of the question in today's lecture. I want to restrict myself to the subsidiary roads and such of the cart tracks as are required to be improved for affording adequate communication facilities to the village population of a District.

In very old days dating as far back as before the Christian era, the problem of communications was not considered to be very important. Villages then were self-contained units. Villages had their artisans and craftsmen. The requirements of daily life were fully satisfied in the village itself. The needs of life were the minimum; cultivators were content with rearing just enough of subsistence crops as would fulfil the needs of the village. Roads were not looked after by any central authority; villagers made their own roads and repaired them when they wanted. Vehicular traffic was almost unknown and what little transport took place was by means of pack-animals.

With the present depleted economic conditions, the villages could not afford to remain isolated; agriculturists had to raise some money crops as would yield them better income such as cotton, oilseeds, etc., and they had to find good market for such crops keeping the transport charges as low as possible. Villagers coming in contact with cities and towns desired to live better and have improved facilities of life. For supplying all these amenities of life to the rural populations roads are now considered to be a very essential feature of the development of the country.

If we were to examine how far these requirements were fulfilled by our existing road system, we must refer to some statistical details. Statement A attached shows the areas of the different 7 districts of the central division, the urban and rural population, the number of villages, the existing lengths of roads both Provincial and Local, the density of population per square mile and columns 13 and 14 show the road mileage per 100 sq. miles of areas and the road mileage per 1,00,000

population. The figures of road mileage lengths are taken from Government Administration Report of the P.W.D. for 1937-38. In this report the figures of road mileage maintained by Local Boards as shown in column 11 of the Statement A, appears to include in my opinion even cart tracks. At least in the case of the Satara District they are seen to be so included. The length of fairly well maintained roads in Satara District is 604 miles out of the total of 1,641 miles shown in column 11. The averages for Satara District are therefore worked for both these figures. Even after including cart tracks, the road mileage per 100 sq. miles and per one lakh population for all the three divisions of the Province, is not more than 25 and 140 respectively on an average; and if cart tracks are eliminated the figures may be still much less. Similar figures for United States of America as given in the Report of the Royal Commission on Agriculture are population density 31.5, road mileage per 100 sq. miles area 80 and road mileage per one lakh population 2,550. This will show how very inadequate the present road communication facilities are in this Province. In order to get this conclusion verified for Satara District, we would refer to Statement B which shows the different Talukas and Mahals of the district, the number of villages, the rural population of each Taluka. Column 4 of the statement shows the number of villages in each Taluka and Mahal which have got some well-looked-after road within 2 miles of such villages and column 6 shows the population of these villages. It is seen that on an average 39.4% of the villages only have got road communication facilities within 2 miles and only 56.6% of the population is thus fairly well served by the existing roads. Satara District is partly hilly and Tasgaon Taluka is much interspersed by State villages and even if these Talukas are excluded, the percentages of the villages and population served do not exceed 53.8 and 65.3 respectively. People staying in hilly tracts feel the necessity of roads much more than those in flat country areas and even though villages in hilly areas may not have all cart roads, they do require some bridle paths at least. These areas need not therefore be excluded when considering averages. Thus roughly speaking 60% of the villages and 45% of the population in the Satara District are still unserved by road facilities. I could not get similar details for other districts as the whole of my service of the last 20 years is restricted to Satara District only; but I daresay that the details for other districts will generally show the same state of affairs. For the sake of getting a vivid picture, I have prepared an outline map of the Satara District showing existing roads both metalled and murumed that are fairly well looked after, viz., 1,104 miles as shown in column 12 of Statement A. Taluka boundaries are separately shown and it can be seen how the different Taluka areas are served by the existing roads as pointed out in Statement B.

Government have been giving grants-in-aid to Local Bodies for improving their existing roads and developing new ones where they do not exist; but in the matter of selection of roads for improvement or development, Boards are left great latitude and approval of Government Officers like Collectors and Commissioners is not based on a strict scrutiny of the proposals from point of view of the all round development of the district as a whole. Board's proposals are necessarily based on the majority vote of its members; and in a majority of cases the members are not fully conversant with the needs of the whole district or even the Taluka. They naturally know the requirements of their own village and the small area surrounding it and they press their own views and needs of their area as being the most urgent. Other members who are called upon to give their opinion on such proposals are naturally not well posted with the needs of the area as compared with those of the whole district and they rely more or less on the views of the member representing the area. In such circumstances the proposals that come out as Board's proposals are the outcome of some give and take compromise arrangement arrived at between the members and the views of the more influential members generally predominate in such proposals. Besides the Board is newly constituted every 3 years leaving no continuity of policy. Though the Boards thus select works which in the opinion of a majority of their members are very urgent, they having no plan before them, showing the requirements and their order of urgency for the whole district, when making their selections, they are liable to lose sight of some areas which require urgent development. Every individual or a group of individuals naturally gives greatest importance to roads which are more often required for his or its use and being unconcerned with the requirements of adjoining villages and very often not being accustomed to think of things with a wider view, the efforts made at improvement of roads and the money spent thereon are not free from criticisms by others who have not got these facilities. The existing facilities for communications are so meagre and the funds at the disposal of Government or Local Boards are so scanty that it will take a very long time before all the necessary roads are brought to a fairly high standard of improvement. It is therefore essential to see that the money spent affords the maximum facilities possible to the largest number and also tends to develop the district in its economic aspects. In order further to speed the programme of rural reconstruction it is equally essential to encourage people to improving roads of local importance to their villages and making them realize that it is mainly their duty to improve and maintain roads which are useful to their individual villages only. Considering the requirements of roads for one village only, roads are necessary for conveyance of manures to fields and bringing back the harvest from fields, roads

are also necessary for reaching bazaars, railway stations and for attending courts and taluka towns and for several other purposes and if roads that would serve all these requirements of a village were to be constructed we may have to construct roads radiating from the village practically in every direction. There may be instances where enthusiastic and selfless workers of a village have managed to secure through different agencies the maximum facility for such communications and have rendered conditions ideal for their village. The leaders as well as the villagers of such a village are certainly to be complimented for their achievement; but when consideration is made of all the villages in a Taluka or District, it can be immediately seen that such ideal conditions of communication facilities cannot be possibly achieved within any measurable period. It is equally difficult to imagine that all such ideal lengths of roads could be maintained in proper repairs by Government or Local Bodies. Public enthusiasm for roads has therefore to be checked in the matter of road improvement to some extent unless villagers come forward to voluntarily improve roads of local importance to them and maintain these also. Referring to village maps or topographical maps we find that there are cart tracks and footpaths leading from village to village, and even to hamlets under the village; and if judicious selection from out of such roads is not made when taking them up for improvement, there may ultimately be a good deal of waste of money. A tracing from a part of the Satara District map is made to show how cart tracks and footpaths are in existence in rural areas. Though all these roads may be required for use, they may not all be used to the same extent. Some may be used for conveyance of manure and harvest by a part of the village population having their fields in that area and they may be in use only for a part of the year. Some may be used for going to small adjoining villages or hamlets and will also have very limited traffic; while some may be useful for several villages. It is this last class of roads that will have an almost constant traffic and these must get preference and also the condition to which this class of roads is to be brought must be superior to other roads of still minor importance. These roads should have proper alignments and grades and convenient positions for nalla and river crossings and if all these essential and primarily important details are seen to in the very beginning a good deal of waste of money could be stopped.

In a district we generally find the following agencies doing works in connection with roads:

1. Government P.W.D.
2. Local Boards.
3. Village Improvement Committees working under the guidance of Revenue Officers generally.

4. Municipalities and Village Panchayats within the limits of the towns and villages for which they are established.
5. District Committees dealing with village approach roads.

Each one of these agencies has its own principles of selecting road works. Government Public Works Department interests itself in the Provincial roads in charge of that Department and their improvement by modernizing the surface or providing cross-drainages. This Department rarely undertakes the construction of new roads probably for want of funds and so is not in touch with the needs of the rural population. Municipalities look to urban roads which are not required to be considered here. Village Panchayats which so far used to be constituted for one village attend to roads within the area of the village site. With the passing of the New Village Panchayat Act, these bodies may have to attend to roads lying outside the village site but useful for the local needs of the village or villages included under the Panchayat. How selection of works by Local Bodies is influenced is already explained before. The Village Improvement Committees insist that 1/3 cost of the work must be borne locally by the villagers in cash or kind or by the Local Board; but without such contribution, no works are taken up by Village Improvement Committees. Lastly the District Committees undertake through the agency of the District Boards such roads only as can join villages to main metalled roads which are constantly maintained by Government or Local Board Agency. Government bear the cost of works done by Village Improvement Committees to the extent of 2/3 of the cost and in case of District Committees to the full extent of cost. But when selecting works none of these agencies (except the Government P. W. D. for the works in their charge) take into consideration the needs of the whole district and the prospects of improving the communication facilities of the district by the works chosen for execution.

From all these considerations it is very essential on the part of Government to have complete road development plans made out for each district after taking into consideration the needs of the villages, the marketing facilities that the villagers require for getting the best value for their crops and the prospective development of traffic in the district. Alongside with these details the costs of construction and maintenance of these roads, the standards to which they will have to be kept up must also receive consideration. These road programmes should then be classified according to their standard of perfection required. An influential technical body like the Institute of Engineers can be the most proper body to take a lead in this question and impress upon all concerned the necessity of having a planned scheme. Local Boards, Village Improvement Committees or District Committees,

should then be required to select their works from such an approved scheme and no deviations should be allowed unless special reasons satisfy Government that the works if allowed to be chosen are sure to conduce to the good of the district. While sanctioning Government grants to Local Bodies for road works, Commissioners can then see how the Board's proposals fit in with the planned development scheme. This will ensure that whatever little is done will be done along the right lines. Conditions must also be laid that all improvements to roads carried out must be provided with adequate repairs. Though the question of approach roads is left out in this lecture to be tackled by Village Panchayats or individual villagers on co-operative basis, I would like to refer to the present policy of Government in giving grants for village approach roads leading from metalled roads to adjoining villages. The object underlying this policy may be either—

1. That Government consider it to be the duty of Local Boards to provide adequately for the communication facilities in rural areas and Government might at times only help Local Boards by Grants; or
2. That Government consider that the existing road facilities in rural areas have fully met their demand and so what is now required to be done is the further development of roads as approach roads.

It has been already seen by us from general statistics and actual details of Satara District that the existing road facilities are far too below the normal demands for improvement of the district and taking into consideration the Local Board's finances it will not be possible for the Boards to fulfil the requirements of the district in regard to roads within any measurable period. As it is further realized that maintenance of all approach roads if constructed out of Government grants cannot be possibly provided for by either, Government or Local Body or by both together, it seems to me that the Government policy of providing approach roads to villages which are close to metalled roads is like over-feeding those who get some food, when others are known to be starving. This policy has a further defect that it has created a wrong impression amongst villagers that roads leading to all villages must be constructed and maintained by Government and villagers who formerly used to repair their village approaches as a part of their village improvement scheme on co-operative basis, now look forward to Government or Board for doing such works for them.

Government or Local Boards are responsible to my mind for bringing road facilities within easy reach of all the population and as a reasonable ideal to follow I think it enough if every village had a road well-looked-after by Government or Board within at most 2 miles of

that village. It should then be the duty of the Village Institutions like Village Panchayats (or Villagers themselves where Panchayats do not exist) to join their village to the nearest public road and to maintain that road. As such approach roads will be in use mostly by the inhabitants of that village, it will only require them a small cost for their construction and upkeep.

With a view to work out the development of such local institutions and in order that these may be equipped with the necessary funds and at the same time be sufficiently compact for supervision and management I have tried to divide each Taluka into suitable groups; the dividing line being some natural line of demarcation as a nalla or a watershed line, etc. Each group will constitute a population of about 20,000 to 30,000 and cover an area of about 50 to 60 sq. miles and have an assured income of at least Rs. 500 from the Local Board in the form of 1/5 of the Local Fund Cess; so that this income supplemented by house tax in cash or kind and other taxes, can enable the Panchayat to look to the local needs of the area and the roads joining such different groups in a Taluka and the important roads within that group will have alone to be looked after by Government or Local Boards. Though this is a digression on the present subject I think such formation of groups helps in laying out the communication improvement programme. Statement C and Plan 3 shows such a formation of groups in one of the Talukas in Satara District which has a fairly wide net work of roads. Column 9 of the statement shows the existing road mileage in each group and column 10 shows the proposed total road mileage in the group in order that each village will be within about 2 miles of a public road. Columns 11 to 16 of the statement then show how many villages and hamlets will lie (a) close to, (b) within 1 mile and (c) within 2 miles of some one of such roads and columns 17 and 18 show villages and hamlets that will lie beyond 2 miles of a road. It will be seen that a very small population will remain unserved. Out of the 12 villages that will not be served 6 have a population of less than 500 souls each. Out of the remaining six, those having a population of over 1,000 can be joined by approach roads which may add some 15 miles more to the total road length. Thus for the Taluka under illustration, viz., Khatav Taluka the present road mileage which is 120 *vide* column 12 Statement A will be increased to 218 (the lower figure in same column) and bring up the road mileage length per 100 sq. miles from 24 to 43.6. Similarly the number of villages and population served by present roads which is 55.2% and 72% respectively *vide* Statement B columns 5 and 7 against entry for Taluka Khatav will increase to 86% and 92% respectively *vide* remarks under Statement C. The Taluka chosen for illustration is one which can be said to have fairly good facilities as compared with other

Talukas, but there also it is seen that a length of about 100 miles of roads has to be added. In the case of other Talukas having poor communication facilities the required mileage length to be added will be proportionately more. It is only for explaining my ideas of how to develop communications, that the details of one Taluka are worked out and taking into consideration the needs for the whole district and the marketing facilities, economy of construction and maintenance a planned scheme for the whole district can be worked out with the help of experts who have obtained detailed information of the district.

When such a planned scheme is ready and the classification of the roads according to requirements is made and number of cross-drainage works that are essential are also fixed, the cost of the scheme can also be worked out with fair accuracy. The schemes can then be undertaken by Government from loan funds and the development work restricted to concentrated areas in order that the effect of the undertaking in improving the economic aspect of a district or its part can be easily perceptible even to the general public. Maintenance of the roads will be the duty of the Boards and when occasion demands, the condition of any of the roads could be improved to a higher standard without having to waste any of the expenditure already made.

Further discussion on the lecture given by Mr. G. R. Vartak on the subject of "rural communications" and their planning

The Chairman (Mr. Kynnersley) after thanking the lecturer observed that he would like the lecturer to explain the type of surface that the existing roads in Satara District have and their maintenance cost. He further observed that the question of cross-drainage works would be an important item to consider when laying out the planned scheme as in some cases the cost of the cross-drainage works may be out of all proportions to the cost of constructing the road proper. He observed that there must be a supreme authority to control the policy in the matter of road development and agreed that a planned scheme was essential. In the matter of upkeep he expressed a hope that indirect methods of reducing cost of upkeep by encouraging use of pneumatic tyres to bullock carts would help us in solving the question of maintenance cost of these roads.

Dr. V. K. R. V. Rao, Secretary to the Bombay Provincial Industrial and Economic Survey Committee thanked Mr. Vartak for his lecture and expressed that his committee was deeply interested in the development of rural communications and thanked the Secretary of the Institution for having invited him for the lecture. He observed that Sir Purushotamdas Thakurdas, the Chairman of the Committee would have liked to come for the lecture but being otherwise engaged he regretted

that he could not come. Dr. Rao promised to acquaint the members of the Committee with the details of the lecture and discussions. Dr. Rao wanted Mr. Vartak to explain the basis on which he has distinguished between roads and cart tracks. He also wanted to know how the percentages of population served by existing roads and those after Mr. Vartak's scheme was given effect to, would compare with each other. He wanted further to get an idea of the cost of bridges in such a road development scheme and also to know how the planning of roads was made; whether on area and population basis or on transport facilities, etc.

Mr. Modak remarked that as he was mostly concerned with urban roads and City roads he had no remarks to offer except suggesting that while preparing a master plan of road development the question of changing village sites where they were found to be unhealthy and inconvenient may also be considered.

Mr. Joshi inquired whether the roads which were being improved by Local Bodies were guaranteed any maintenance allotments to ensure that the money spent was not wasted through neglect in maintenance. He also desired Mr. Vartak to work out the cost of his road development scheme. By way of suggestion he desired that in order to bring down the cost of construction and maintenance of roads, research work in the behaviour of different classes of soils as road sub-grade or surface material was essential as during his general talk with the lecturer he found that Mr. Vartak had some actual work done in sand clay roads. Mr. Joshi desired that such experiments will enable others to get the benefit of the experience gained.

Mr. Vartak in replying the remarks made by the various speakers said with regard to the Chairman's remarks that the type of surface of all metalled roads in Satara District was water bound macadam and only a few furlongs near about Satara had asphalt treatment. The maintenance costs varied in the case of Provincial roads in Mr. Vartak's opinion from Rs. 600 per mile to Rs. 100 per mile but he had no definite information. In the case of District Board roads which had comparatively less traffic, the maintenance grant was Rs. 400 per mile as a maximum and Rs. 50 to 70 as a minimum in the case of murum roads. In regard to cross-drainage works costs Mr. Vartak agreed that the cost of such works will be high and out of proportion to the cost of the road but in the case of Satara District such works will not in his opinion be required in many cases. With regard to the use of pneumatic tyres on bullock carts, Mr. Vartak said that it was a separate question but may affect the maintenance costs.

With regard to Dr. Rao's remarks, Mr. Vartak explained that he distinguished cart tracks from other roads by the upkeep charges incurred. Where the maintenance allotment per mile was lower than about Rs. 50 he considered that the road could not be properly maintained and could be generally classed under cart tracks. The increase in communication facilities after adoption of his scheme was pointed out from Statements A, B and C to be from 72% to 92%. Question of cross-drainages and their cost could be considered while planning the road scheme. The ideal road alignment would take consideration of area and population served, the construction and maintenance costs and the transport facilities afforded. With regard to Mr. Modak's remarks, Mr. Vartak said that sites of some villages were really unhealthy and water facilities in some were very inadequate and change of sites of such villages was desirable but it had no connection with the subject of the lecture.

With regard to Mr. Joshi's inquiry about guarantee of maintenance to roads Mr. Vartak said that the maintenance grants to roads required the sanction of the Board. The cost of the road scheme could be worked out with fair accuracy so far as Satara District was concerned. As regards research work Mr. Vartak said that though such experiments would be useful in the long run, the Local Boards could not afford to spend for these.

The Chairman in conclusion again thanked Mr. Vartak for his interesting lecture and declared the proceedings closed.

STATEMENT A
Statement showing Areas, Towns and Villages and their Population and length of Roads in the 7 Districts of Central Division

Division	Name of District	Area in Sq. Miles	Total population	No. of Towns and Cities	Urban population	No. of villages	Rural population	Density of Rural population per Sq. Mile	Existing length of Roads				Road Mileage per 100 Sq. Miles	Road Mileage per 1,00,000 Population	Remarks
									Provincial Roads	Local Roads	Board Roads	Total Mileage			
Central Division	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Ahmednagar	6,611	9,88,206	7	98,660	1,350	8,89,546	134.5	542	642	1,184	17.9	133		
	East Khandesh	4,551	12,06,035	23	2,93,086	1,468	9,12,949	200.6	*681	1,054	1,735	15.9	109.5		
	West Khandesh	6,401	7,71,794	8	1,00,408	1,484	6,71,386	104.8	515	1,812	2,327	39.5	275.9		
	Nasik	5,882	10,00,048	10	1,56,408	1,636	8,43,640	143.4	615	900	1,515	28.4	176.9		
	Poona	5,332	11,69,798	12	3,12,700	1,132	8,57,098	160.7	500	1,641	2,141	42.3	200.6		
	Satara	5,053	11,79,712	11	1,12,307	1,330	10,67,405	211.2	360	@ 604	@ 1,104	@ 21.8	@ 103.4		
	Sholapur	4,569	8,77,520	9	2,38,974	708	6,38,546	139.7			1,030	22.5	161.3		
Total for Central Division		38,553	73,72,637	88	14,23,747	9,196	59,48,890	154.3			9,932	25.7	167		
Total for Northern Division		13,615	40,60,352	42	8,89,582	4,817	31,70,770	232.9			3,125	22.9	98.5		
Total for Southern Division		25,029	53,97,681	53	7,27,866	7,472	46,69,815	186.6			6,267	25	134.1		
Average for Presidency								178.6				25.3	140		
Khatav Taluka of Satara District	Do. Do. after communication facilities are developed	500	92,538	Nil	Nil	87	92,538	185	40	80	120	24	129.0	235.5	

Remarks :— * Separate figures for East and West Khandesh Districts could not be available.
@ Excluding Cart Tracks.

STATEMENT B

Statement showing number of Villages and Population in the different Talukas of the Satara District that have got fair facility of communications in having a fairly well-looked-after road within 2 miles

Name of Taluka or Mahal	No. of Villages in the Taluka or Mahal	Rural population in Taluka or Mahal	Number of Villages having a fairly well-looked-after road within 2 Miles of Village	Percentage of Villages in column 4 to total number	Population of Villages having communication facilities within 2 Miles	Percentage of population fairly served by roads to total population	Remarks
1	2	3	4	5	6	7	8
1. Wai ...	111	73,373	47	42.3	44,596	60.7	Partly hilly area
2. Jaoli ...	251	66,703	67	26.7	25,983	38.9	Hilly area
3. Satara ...	146	95,823	54	37.0	52,342	54.6	Partly hilly area
4. Koregaon ...	85	87,176	43	50.5	50,892	58.3	
5. Karad ...	101	1,28,272	66	65.3	96,546	75.3	Hilly area
6. Patan ...	202	1,21,388	59	29.2	55,925	46.0	
7. Walwa ...	53	1,08,704	32	60.4	73,441	67.5	Hilly area
8. Shirala ...	80	57,151	16	20.0	18,612	32.6	Area is scattered
9. Tasgaon ...	48	87,061	17	35.4	37,326	42.8	and interspersed
10. Khanapur ...	89	83,577	51	57.3	52,669	63.0	by several State
11. Khatav ...	87	92,548	48	55.2	66,604	72.0	villages.
12. Man ...	77	60,586	25	32.5	26,340	43.4	
Total for District ...	1,330	10,62,362	525	* 39.4	6,01,276	* 56.6	

* Excluding the hilly and scattered area Talukas the averages will be 53.8 for number of villages and 65.3 for population.

STATEMENT C

Statement showing the formation of village groups into convenient centres and proposal for developing communications in Khatav Taluka of Satara District

Name of Centre.	No. of villages included in the Centre.	No. of villages having population of 2,000 and above.	No. of villages having population of 1,000 and above but below 2,000.	No. of hamlets under the villages.	Population of the Centre.	Local Fund realised in the area in Rupees.	Area of the Centre in Square Miles.	Existing road length in the Centre in Miles.	Necessary road length for proper development in Miles.	Villages and hamlets that will be benefited by the proposed road length.						Villages that will be left beyond 2 miles of road.		Remarks.
										Being close to road.		Being within a mile of road.		Being within two miles of road.		Villages.	Hamlets.	
										Villages.	Hamlets.	Villages.	Hamlets.	Villages.	Hamlets.			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
1. Diskal	5	2	3	13	10,769	2756	55.9	2	15	4	4	1	5	—	—	—	4	
2. Pusegaon	10	1	6	11	12,301	3566	56.3	20	27	2	3	7	4	—	2	1	2	
3. Khatav	14	1	2	6	11,512	3784	52.6	5	17	5	—	4	3	3	2	2	1	
4. Waduj	9	2	—	10	12,765	4564	64	24	35	4	2	2	4	—	3	3	1	
5. Pusegaoli	7	1	—	5	5,561	1890	28.9	13	16	3	—	4	2	—	—	—	3	
6. Vadgaon	9	—	2	3	6,232	2249	34.5	15	21	3	1	4	2	2	—	—	—	
7. Nimsod	7	—	5	4	8,201	2583	51.6	6	18	5	—	—	—	—	3	2	1	
8. Katarhatav	11	1	1	5	8,660	2390	49.9	11	19	1	—	5	3	4	1	1	1	
9. Mayani	10	2	—	6	9,548	2600	60.3	17	22	2	—	3	5	3	1	2	—	
10. Kaledhon	5	1	2	7	6,989	1481	46.0	7	18	2	1	1	4	1	—	1	2	
Total	87			70	92,538		500.0	120	218	31	11	31	32	13	12	*12	15	
75 villages and 55 hamlets will be benefited, i.e., 86% of the villages.																		

* Total population of these 12 villages is 7233. Out of these only 6 have a population of above 500 and 3 villages and 11 hamlets are in interior of hills.

75 villages and 55 hamlets will be benefited, i.e., 86% of the villages.

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SPECIAL QUOTATIONS FOR ROAD TARS

MODERN STREET LIGHTING

(To ensure safety to all road users)

*By A. S. TROLLIP, Hon. Jt. General Secretary, The Safety
First Association of India*

THE problem of street lighting has engaged the attention of an increasing number of people in the past few years and no doubt is a matter which requires most urgent consideration. Many of our streets are now much more congested and the greater speed and volume of traffic impose greater responsibility upon those in charge of Street Lighting. Unfortunately the progress in street lighting has been particularly slow in our country. It cannot be denied that most of our streets are definitely under-lighted whether we consider the matter from the point of view of safety to pedestrians or motorists.

Economical Considerations

Perhaps one of the difficulties—possibly the most serious one—the authorities for street lighting have to face is inadequate funds available for the purpose. The essence of the street lighting problem, therefore, is to determine which are the most efficient and at the same time the most economical systems for producing adequate visibility of objects on the road surface. It is not possible, however, in such a complex problem as street lighting to specify correctly an ideal system, because any system has to fulfil a number of requirements, the relative importance of which varies in different installations. Moreover, cost is the predominating standpoint from which all street lighting problems are viewed. If unlimited funds were available, this ideal system of installation would probably use a number of concealed light sources consuming a great deal of power in order to produce a high standard of visibility over the whole of the carriageway and footpath. Since this arrangement cannot be afforded at present, a system using exposed sources of small size and power at comparatively great spacings has to be retained. Obviously, it is a question of compromise, and we have to arrive at a system that can produce adequate visibility for fast moving traffic at a minimum cost.

Principles of Street Lighting

Perspective View.—Modern conceptions of street lighting are different from those of a few years ago in the importance given to visibility and appearance of the roadway rather than to the illumination

or the amount of light falling on its surface. If this is recognised, the road surface and its surroundings are to be considered from the perspective view. The field of view of an observer on the road consists mostly of road surface, footpaths and building fronts seen almost end on. Consequently an object seen on the road has a background consisting of a long stretch of road surface or building.

Brightness and Contrast.—Although the term illumination is useful as a conception to denote the amount of light falling on a surface, illumination is not the criterion for seeing objects or its parts. All objects and their details are seen by contrast and contrast is produced by differences in brightness or in colour between the object and its background.

Many examples could be found to show this point of view. Where it is desired to make something particularly visible such as poles or pillars on the roadway, they are coloured in such a way as to produce distinguishing and sharp contrasts with their backgrounds. Similarly the use of screens as background to cricket pitches, or objects seen against the sky line are other examples of producing brightness contrast.

When driving by day light one distinguishes objects more clearly because of contrast in colour tone. But at the low levels of artificial illumination existing, even on a well lighted road, perception is chiefly due to brightness contrast, because the impression of colours vanishes except in the immediate surroundings of the light source. The function of street lighting is, therefore, to provide such degree of brightness contrast as will ensure the safety of both pedestrians and motorists.

Effects of Road Surface.—It may be shown by simple experiments that much less intensity of illumination is required to reveal an object in silhouette against an illuminated background than is necessary to illuminate the object itself. The background that has to be illuminated is mostly the road surface. Any attempt to produce this effect successfully requires a careful study of the reflection characteristics of the road surface. If the road surface has unsuitable reflection properties, dangerous dark regions may occur even on a well planned installation.

The effect of the reflection characteristics of the road surface is that a bright area is formed under each light source. The shape and size of this area depends on the road reflection properties, and on the mounting height and candle power distribution of the light source. To any individual observer, the bright area usually appears T-shaped, stretching along the line joining the observer to the light source. Reflection properties of a new road surface are usually different from those after it has been worn. The bright area on a new road is usually very wide and barely distinguishable, whereas on a worn polished road

it will be long, narrow and very bright. It is with a knowledge of these characteristics that the positions of the light sources have, as far as possible, to be arranged in such a way that the bright areas from a succession of light sources merge together to give a uniform road surface brightness.

Level and Uniformity of Brightness.—If the general brightness of the background is too low there is always the danger of light coloured objects which have nearly the same brightness level becoming undistinguishable. Very seldom will such a thing happen at higher brightness levels.

The brightness distribution on the road surface depends entirely on the relative positions of bright areas formed under each light source. When the cost is limited it is impracticable to design an installation which will give absolute uniformity of brightness. Nevertheless it is possible to locate light sources of suitable candle power distribution at appropriate mounting heights which will produce bright areas effectively covering all the important parts of the road surface.

The degree of non-uniformity of brightness which can be permitted is not definitely known, but it should not be such that objects can become invisible in the darker patches. No doubt the importance of a dark region depends very much on its size and position in the field of view. If it is large enough to conceal objects in a position which is of importance to a motorist then it can be a source of danger.

Glare.—This is a much discussed subject, and every road user must have experienced the effect of it at some time or other. There are two classes of glare that are encountered in all roads at night.

The first is "disability glare" exemplified by the motor car head light. Here, vision of objects is to a large extent destroyed by the glaring effect of such lights.

The second is "discomfort glare" exemplified by street lighting lamps which appear close to the objects it is desired to see. Such street lamps are sometimes bright enough in relation to their surroundings to cause a certain amount of disability glare as well; that is to say visibility is actually improved if the eyes are shaded from the direct light of the lamps. Generally the effect is limited to causing a sense of discomfort. This probably depends on the intensity of the source, nearness of the source to the objects in view and the darkness of the background of the field of vision in which such lights are generally placed.

Planning Street Lighting Installations

The principles given above will clearly show the necessity for correct spacing, mounting height and distribution of street lighting lanterns.

In this connection readers will find it very interesting to study certain aspects of the recommendations embodied in the Report of a Departmental Committee appointed by the Ministry of Transport in England. It is considered to be an important document in setting out the best principles of modern street lighting practice.

Recommendations

The Committee recommends classification of roads into two groups with regard to their lighting requirements.

(1) "*Group A—Traffic Routes.*—Roads on which the standard of lighting should provide an ample margin of safety for all road users, without the use of head lights by motor vehicles.

Traffic routes may be defined "as including all those roads which form the main approaches to or traverse important centres of population or pass through detached built up areas, and on which there is appreciable pedestrian traffic."

(2) "*Group B—Other Roads.*—All other roads which the responsible authority considers should be lighted."

Lighting of Traffic Routes

Mounting Height.—Of the order of 25 feet.

On an average road surface the bright area formed by the light source at this height will have such a size and brightness that will permit spacing of light sources economically. Moreover, this reduces objectionable glare which would otherwise exist by the use of powerful light sources at lower mounting heights.

Spacing.—"An average spacing of 150 feet should not be exceeded on straight roads. In certain circumstances, however, as for example to meet requirements of siting at junctions and intersections, it may be necessary for occasional spans to be somewhat longer, but 180 feet should be the maximum for any one span."

The spacing of light sources should be so chosen that patchiness on the road surface can be avoided.

Overhang.—Maximum about 6 feet.

With modern type of lanterns the bright areas from individual light sources are only large enough to give a satisfactory brightness distribution when the distance between two rows of light sources does not exceed 30 feet. It will, therefore, be necessary to have an overhang

for roads of more than 30 feet wide. But an overhang of more than 6 feet is liable to leave the kerb side unduly dark. If the width of road exceeds 40 feet, additional source should be provided centrally in every third span.

Siting.—"The guiding principle in all questions of siting is that there should be a source in such a position as to provide a bright background to any object with which the driver may be concerned. . . ."

The Committee recommends general adoption of the "staggered system" for straight roads (i.e. alternate light sources at opposite sides of a road).

With regard to the "opposite system" (i.e., pairs of light sources mounted on both sides of a road), this has the advantage of producing more uniform brightness and improved visibility on the roadway but, as it involves the use of a greater number of light sources, the relative expense will be greater than the staggered system.

"Single side lighting should be avoided except at bends."

"On bends the sources should be placed on the outside of the curve. Particular attention should be given to siting at bends, junctions and intersections."

"Central suspension system should in general be avoided. This system may be used with advantage where the road is narrow and the conditions at the sides do not permit the staggered system, e.g., presence of buildings, trees, etc. The disadvantages of the central system are inadequate visibility along the kerbs and the formation of a lane of brightness along the centre encouraging motorists to concentrate on the crown of the roadway."

Special attention should be given to lighting of dual carriageways. For satisfactory results each section of the carriageway should be lighted independently, conforming with the recommendations for Traffic Routes given above.

Power of Lanterns

In the opinion of the Committee, lanterns for Traffic Routes lighting should be such that "the amount of light to be provided for 100 feet linear of road having a carriageway not more than 40 feet in width should exceed 3,000 lumens and should be between this value and approximately 8,000 lumens. These figures relate to the luminous output of the lantern and refer to the average luminous output throughout life of the source."

A wide range in light output is provided to enable the lighting engineer to select the size of source in accordance with relative importance of Traffic Routes.

Other Roads

All the principles set forth in the case of Traffic Routes apply equally to these roads and the installations differ only in lower mounting height, closer spacing and smaller light sources.

The following is a summary of the principal recommendations of the Committee :—

Mounting height—between 13 feet and 15 feet.

Spacing —Maximum average spacing 120 feet.
Maximum spacing for occasional spans 150 feet.

Power of Lanterns—Between 600 and 2,500 lumens per 100 feet linear of road.

Distribution of Light

From Lanterns.—Choosing a lantern with suitable light distribution requires a clear understanding of the various methods adopted to represent lantern characteristics, such as iso-candle diagrams, iso-foot-candle diagrams and brightness diagrams. It is not intended to go into details of these methods because of their technical nature.

All investigations to ascertain the suitability of a lantern should be based on two important factors :—

Firstly, that it should provide adequate brightness of background and objects.

Secondly, that of avoiding or limiting the effects of glare.

Lanterns are generally designed to re-direct the light available from the source into suitable directions by means of reflectors or refractors which divert the light rays which would otherwise have been wasted. Two principal types in use at present are the non-cut-off pattern and the cut-off pattern.

The non-cut-off fittings are those which give maximum intensities of light near the axis of the road and slightly below the horizontal. The light rays from these fittings strike the road surface at a glancing angle, producing high and long background brightness.

Cut-off fittings are arranged to cut off the light above a certain angle from the vertical. In this case glare is reduced to a minimum but the bright area is shortened, involving much closer spacing.

Sources of Light

The latest developments in the manufacture of electric lamps, viz., Sodium and Mercury Vapour electric discharge lamps, are bound to play an important part in providing accident-free street lighting. Higher efficiency and longer life obtained from these lamps make it

possible to reduce the cost of street lighting considerably. There is no doubt the colour of these sources is far from sun-light but it should be borne in mind that at low levels of illumination the sensation of colour disappears, leaving only an impression of light and dark. Such being the condition in street lighting, distortion of colour is of no great importance. Moreover, there is an indication of an improvement in colour as well as efficiency in the case of Mercury vapour lamps.

General Considerations

Special attention should be paid to lighting of Traffic Routes. Traffic passing quickly from one section to another requires a high and uniform standard of lighting maintained all along the route. The value of good lighting in one section may be lost by the presence of an inferior standard in other sections. Even changes in colour of light sources are liable to distract attention and should be avoided if possible.

Certain cities and towns may not be in a position to undertake the work of planning and maintaining street lighting installations. In such cases the person responsible should familiarise himself with the general principles of lighting, including planning, so that he can understand and appreciate points brought up in the schemes submitted for his consideration. Moreover, it will enable him to form his own judgment and select the scheme and equipment most suitable for his purpose.



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ADULT EDUCATION AND LITERACY IN THE CITY OF BOMBAY

By R. V. PARULEKAR, M.A., M.Ed. (Leeds), T.D. (London)
Secretary, Municipal Schools Committee, Bombay

RECENTLY, there is a great awakening in India with regard to the need of spreading literacy amongst the masses. Schemes are being planned and put into execution in various parts of India with a view to eradicating illiteracy which seriously comes in the way of the political, economical and social progress of this country. Hitherto, it was generally believed that the speeding up of the spread of primary education for children would be a sufficient guarantee to achieve a high level of literacy for the country. It is, however, nowadays realised that along with the rapid expansion of primary education for school children, it is also necessary to take up seriously the instruction of the illiterate adults so as to make them literate if the country is to achieve a reasonable measure of literacy in the near future.

For the first time in the history of this Province, the Government have realised the need of giving their attention to Adult Education on a wide scale; and with a view to devising ways and means to achieve this object, they have recently appointed 'The Provincial Board of Adult Education' and have further made provision in their budget for pushing forth schemes of adult education in the Province. In the City of Bombay a 'Literacy Campaign' is at present being carried on vigorously in which all sections of the community have joined hands to make it a success. His Excellency the Governor, the Prime Minister and his colleagues have evinced great interest in the cause of the campaign and leaders in various fields of activities in the City have given their hearty support to the cause. Time seems to be ripe when adult education should take its right place in the system of education of this City and play its own part in promoting mass literacy.

The Bombay Municipal Corporation for some years past have been giving full support to the expansion of primary education in this City and have shown willingness to shoulder further financial responsibilities to achieve universal free and compulsory education for the benefit of the masses of the City. Today, the Corporation are spending nearly 37 lacs of rupees on primary education of children numbering about 1,10,000

in municipal and aided schools. In the near future, for the education of about 1,30,300 pupils, the Corporation will have to spend about 45 lacs of rupees to make room for the primary education of all the children in the City. This will, no doubt, be a great achievement worthy of the first city in India.

But with all this achievement of universal free and compulsory education, when every boy and girl in the City will be receiving primary education, it must be realised that the peculiar conditions of the City's population will prevent the City from enjoying the full measure of mass literacy commensurate with the extension of primary education of children in primary schools. The following statistics will explain the situation.

The Census of 1921 showed that in a population of 11,76,000 in Bombay City, there were 2,84,000 literates; while the Census of 1931 revealed that there were 2,81,000 literates in a population of 11,61,000. In both the Census years the percentage of literacy was about 24, i.e., 24 persons out of 100 were able to read and write a letter which is the standard of attainment for the Census literacy. And yet it was during this decade that a wave of enthusiasm prevailed in the City for the improvement and expansion of primary education resulting in the introduction of compulsion in 1925 in the F and G Wards, representing the main labour area of the City. The question naturally arises—what became of the new literates produced by schools during the decade, if the number of literates did not show any increase?

In 1921, the primary schools of the City, both municipal and aided, had on their rolls about 48,000 pupils; while in 1931, the number rose to about 72,000. The annual average number on rolls in the primary schools of the City during the decade 1921-31 was thus about 60,000. Calculations show that about one-sixth of this number was on the rolls of the 4th year primary class (the 3rd Std.) the completion of which is usually considered as sufficient for the acquisition of the Census literacy. Further, it is estimated that about 80% of the pupils on roll of that class complete the class so as to attain Census literacy. Thus the average annual contribution of primary schools to the literate population of the City would come to about 8,000, giving a total of about 80,000 new literates in the decade 1921-31. But of these new literates who would be of ages 10 to 20, death will claim about 5%, i.e., 4,000, leaving about 76,000 new literates on the Census date of 1931.

In 1921, the number of literates recorded in the Census was 2,84,000 out of which 54,000 were of ages below 20 and 2,30,000 of ages over 20.

Taking an average death-rate of about 23% for the decade for the literates of all ages taken together, the deaths among the old literates alone would come to about 66,000. Thus out of the 76,000 new literates added to the population during the decade, 66,000 were required to fill up the gaps caused by an equal number of deaths among the old literates of 1921 and the remaining 10,000 were very probably absorbed to fill up some of the gaps caused by literate people of advanced age retiring from the City to rural areas during the decade. Thus, almost the whole of the literate product of the primary schools during the decade was required to fill up the gaps caused in the literates of 1921 by death or by retirement, leaving no scope whatever for any net increase in the number of literates in the City during the decade 1921-31.

The calculations made above need not be taken to interpret the situation too literally. They are only indicative. They, however, explain why it was there was no actual increase in the number of literates during the decade in spite of a not inconsiderable contribution of literates from the primary schools of the City.

Let us now see what the probable percentage of literacy in the City will be in 1941, if sole reliance is placed on the contribution of literates from primary schools only, during the decade 1931-41. Of course, it is to be assumed that the City's population will remain stationary during the decade. The number of pupils in schools in the City in 1931 was 72,000. In 1939, there are about 1,12,000 pupils in primary schools of the City—municipal and aided. It is expected that at a liberal estimate the number of pupils in all primary schools in 1941 will be about 1,25,000. Thus the average annual number on rolls during the decade will be 98,500 or to be more liberal, say, 1,00,000. Calculating on the lines adopted above for the previous decade, it is found that the contribution of new literates from the primary schools which will be counted in the year 1941 Census will be about 1,21,000. The total population being assumed to be the same as in the previous decade, 76,000 out of these new literates will be absorbed by the gaps caused by deaths and retirement, leaving about 45,000 new literates for showing an actual increase in the percentage of literacy. The number of literates in 1941 will thus be 2,81,000+45,000, i.e., 3,26,000 in a population of 11,61,000, giving a literacy percentage for 1941 at about 28 and showing an increase of only 4% during the decade 1931-41. In arriving at the probable figure of literacy in the City in 1941, it is assumed that the population of the City would be stationary. Actually, however, it may not be so. Very probably, the City's population will show substantial increase in 1941; and if among the newly added population, there

be a large number of illiterate adults who come to seek employment in the City from this as well as from other Provinces, the increase of 4% may be appreciably lessened. It may be stated in passing here, that according to 1931 Census, the percentage of literacy in Calcutta was 39, in Madras 31 and in Bombay 24.

It will be clear from the figures calculated above that mere reliance on the primary schools will not be enough for securing a high percentage of literacy for the City in the near future. And this will be so even if the primary system is made cent per cent effective by eliminating all sorts of wastage, stagnation, etc., which today come in the way of securing the fullest return from that system. The reasons for this are not far to seek.

The peculiarity of the population in the City of Bombay is that the percentage of children of school-going age (6 to 11) to the total population of the City is comparatively smaller than in the Province as a whole. Roughly the proportion is 8:13. While in a population of 11,61,000 living in normal conditions prevailing in the rural or semi-rural parts of the Province there would be 1,50,000 children of school-going age (6 to 11), in the City of Bombay, the number is approximately 93,000. Assuming that every child as soon as he enters his sixth year is made to attend a school, kept there for full five years and made to pass from class to class every year, Bombay City will send out about 18,000 literates every year from its primary schools; while under similar conditions of schooling, an equally big population living in the countryside will send forth annually 30,000 literate persons from its schools. Again in the City of Bombay, out of the total population of 11,61,000 in 1931, there were adults of 20 and over numbering 7,60,000, while in the other type of population of the same strength, the adults of 20 and over number 6,00,000. Bombay City can cover only one-fourth of the adult population of the City in one decade by the literates produced by primary schools, while in the other case, half the population is easily covered within that period. By relying on the literate product from schools, the other type of population may succeed in doing away with its illiteracy within two decades if it succeeds in launching forth a cent per cent effective scheme of compulsory education. Bombay City, however, with its peculiar conditions of population will not be able to go even half the way up in that period with a similar system of school education. In fact, the only way open for a City like Bombay is to make up the deficiency of obtaining the requisite number of school children for schooling by resorting to the instruction of the adult illiterates as quickly and as effectively as possible. There is no other way to meet the situation created by the abnormal percentage of adults in the City's

population. Bombay would have secured a distinct advantage in its efforts of spreading literacy among its citizens through schools if the adults flocking to the City from outside were already literate. But it is not so. On the contrary, Bombay will have to bear an extra burden of making these illiterate adult recruits literate, for the sake of its own welfare; otherwise, there is no possibility of securing for its citizens a high level of literacy until such time as the whole of the Province is raised to the level of literacy which Bombay City would wish to attain. Out of every 100 persons in the City, 66 are adults between the ages of 15 and 45, while in the Province as a whole, this number is 47. This adult population which mostly comes from outside and which is mostly illiterate must be taken up in hand and made literate by a special agency set up for that purpose. Again, this kind of work will have to be carried on from year to year just like the work of instructing children in schools. For, the adult population of ages of 15 to 45 is the most floating part of the population of the City. People of this age-group come to Bombay, stay for a time and go home, others replacing them. After some time, they come back and this process goes on from year to year. Merely to take up such adults for a year or two for making them literate, will not be of lasting advantage. The process will have to be continued unabated for several years to come until the adult population of the whole Province attains a stage of literacy comparable to that of this City. This indeed is a very sad picture. But the facts must be faced if the City wants to achieve a high level of literacy. The problem is fraught with many difficulties and it must be tackled with the full realization of its magnitude.

According to the 1931 Census, the total recorded population of the City was 11,61,000. Out of this 7,63,000 were adults of ages 20 and over. Out of this adult population, 2,20,000 were found to be literates leaving 5,43,000 adults as illiterates. Out of these adult illiterates, at least 4,00,000 could be grouped as shown below:—

2,00,000	Industrial workers.
50,000	Domestic servants.
1,50,000	Labourers and workers (other than industrial.)
4,00,000	Total.

Out of these, at least 80,000 were women illiterates.

The task of instructing these illiterate adults so as to make them literate is formidable. It has been calculated that in a City like Bombay, to make one illiterate adult literate, about Rs. 11/- are required, and the

course of instruction is to be spread over one year. This does not include the expenditure on the central administrative organization, nor the expenditure on tent for the adult instruction classes. It, however, includes all expenses of instruction, supervision and supply of suitable reading material. Even if the instruction of 5,000 adults is taken up in hand, it will require about Rs. 55,000 annually for the instructional side of the work only. It may here be mentioned that attacking illiteracy through adult instruction is not only a quicker method, but it is also a far cheaper method. Taking for example the City of Bombay, it will require about Rs. 11/- to make one illiterate adult literate as mentioned above; while to make one school-going child literate it takes at present 4 to 5 years and the amount which the Municipality has to spend over the child comes to Rs. 160 to 200. From the point of view of economy in time, the method of attacking illiteracy in the City by adult instruction is five times efficacious, while from the financial point of view, it pays twenty-fold.

Apart from the considerations of time and money as explained above, there is one important aspect of the question which must receive special attention. A child begins his education at the age of, say, six years and with regular attendance and application he will be rendered literate by the time he is 10 or 11. But he will have to wait for another ten years before he will be able to take an active part in the civic life of the City. If an adult is made literate and particularly trained in civic duties he will immediately set about contributing his quota to the civic life of the City. This consideration alone is convincing enough in support of an immediate plan of attacking illiteracy in the City by taking up the question of adult education on a very wide scale. There is one more consideration which may be of help in realising the importance of adult education in a City where the bulk of the masses is illiterate. An instructed adult is a great asset not only in every walk of civic affairs, but particularly so, in the cause of expansion of education among the children of the masses. He is bound to be a powerful ally of the administration which looks after the education of children, rendering its difficult task easy and effective. Uninstructed, he will exercise a formidable drag bringing disappointment and a sense of defeat in those who may try to strive for his betterment. Lastly, it may be pointed out that it has been already decided to introduce adult franchise in the civic election of the City from 1942. That being so, it becomes almost imperative to strive hard to make every adult at least a literate at the earliest possible time. It has been already shown that primary schools alone will not be able to meet with this situation. It is

only through a wide extension of adult education that this cherished object will be realised early.

Granting that it is necessary to launch immediately a scheme of adult education with a view to speeding up the spread of literacy among the masses of the City, how could this object be achieved? It will be admitted that the welfare of a community can be best achieved by the united efforts of the people constituting that community and the State that governs it. Adult Education in the City, therefore, on a sufficiently wide scale so as to bring about good results, must be carried on by the combined efforts of the citizens and of the State which here consist of the Provincial Government and the Municipality. Hitherto, the people of this City and the Municipality have been doing some work in the field of adult education, however small it may be. There are several associations and individuals in the City who for some years past have been doing some work in the field of adult education. Mention may particularly be made in this connection of the Social Service League and the Bombay Presidency Adult Education Association. The Bombay Municipality has been giving some aid to some adult schools and classes in the city for some years and for the last three years it has been helping an association called The Bombay City Literacy Association, with an annual contribution of about Rs. 5,000. The Schools Committee of the Corporation have been pleased to accord full support to this Association by placing at its disposal the free use of their school buildings, and the staff of the Committee has been helping the Association in several ways. But the work put in by all these associations and individuals is so small in extent compared with the magnitude of its requirements, that it can scarcely make any appreciable effect on the adult illiterates of the City. It is absolutely impossible for any private bodies or individuals, however anxious and enthusiastic they may be in the cause, to undertake the work of adult education on a sufficiently wide scale so as to have an appreciable effect on the illiteracy of the City. The State, i.e., the Government and the Municipality, must bear the main burden of a wide and sustained campaign against illiteracy, of course, with the help of the people. Measurable success is not possible to be achieved in the field of adult education unless it is recognised by the State as an agency on a par with the system of primary education in promoting literacy of the masses. Small inroads against illiteracy like those now carried on by private agencies and individuals in the City are of little use. For, education, whether for children or for adults, must pour and not trickle, if it is to produce appreciable effect on the masses. If this truth is ignored, illiteracy can

never be driven out of the country. For such wide efforts, therefore, it is obvious that the State, here the Government and the Municipality, must step in to help with their extensive administrative machinery and large resources. It is a happy sign of the times that the Government of Bombay have evinced very keen interest in spreading and helping adult education for the spread of literacy in this Province. It may, therefore, be presumed that their help, both in money and advice, will be readily forthcoming. The Municipality has already recognised the importance of adult education for the spread of literacy by extending its help as stated above. The people of Bombay have shown their willingness to help in every way possible by taking keen interest in the Literacy Campaign that is now going on in the City. What is, therefore, now required is that some one of the three agencies—the Government, the Municipality and the people—must come forward with a definite scheme of a *permanent nature* for the promotion of literacy through adult education. Who should launch such a scheme? Obviously, it is the joint responsibility of Government and the Municipality to undertake such a scheme. Through the administration of Primary Education, the Municipality has been promoting the spread of education among the masses of the City. That measure by itself will not, however, meet the situation adequately, and therefore, other measures will have to be adopted to supplement the work carried on through the primary schools to solve satisfactorily the problem of mass literacy in the City. The inability of the primary schools to cope with the problem by themselves, has been set forth in the foregoing paragraphs. If the Provincial Government takes the initiative, there is not the least doubt that both the public and the Municipality will nobly respond and extend their help to achieve the object of raising to a substantially high level the literacy of the City.

The burden of carrying on adequately the primary education of school-going children in the City of Bombay, has fallen on the Municipality to an abnormal extent compared with other Municipalities of this Province who receive grant from Government nearly to the extent of half of their expenditure. The Bombay Municipality, however, receives from Government a grant to the extent of one-fourth of their expenditure, i.e., about nine lacs of rupees. This, according to the present arrangement with Government, is the maximum grant that will be annually paid by Government and beyond which Government is not inclined to go. The Municipality's expenditure on primary education is bound to go on rising on account of normal increase in the number of children to a figure of about 45 lacs of rupees, under which circum-

stance, the maximum grant of nine lacs will mean only one-fifth of the total expenditure.

However anxious the Municipality may, therefore, be to bear the burden of extra expenditure for the promotion of literacy among the masses through adult education, it is not financially possible for it to do so. And yet, looking to the imperative necessity of taking up the question of removal of illiteracy among the masses, the Municipality should cheerfully share some burden of the proposed expenditure on the new activity of adult education in the City, although it is not its obligatory duty. What is, therefore, now required is that the Provincial Government should come forward with a definite scheme of a permanent nature for the promotion of literacy among the masses of this City. Under the law the duty of attending to the primary education of school-going children is assigned to the Municipality. Education of the adults naturally forms the duty of the Provincial Government and it is they who should bear the main burden of such a scheme.

The Provincial Government may put the scheme into operation in one of the following three ways:—

- (i) By appointing a Committee directly, consisting of representatives of Government, of the Corporation and of members from the public competent and qualified to help in the cause of the promotion of literacy among the masses of the City through adult education.
- (ii) By requesting the Corporation to appoint a Special Committee—say the Adult Education Committee—under Section 40 of the Municipal Act and assuring the Corporation of substantial monetary help for carrying on the new duties.
- (iii) By modifying Section 37 (7) of the Municipal Act so as to include Adult Education for the promotion of literacy in the obligatory duties of the Schools Committee of the Bombay Municipality and by making suitable provision for the creation of a separate fund for the purpose, to be called the Adult Education Fund, contribution to which should be made by the Government and the Municipality under rules to be prescribed for the purpose, Government, of course, contributing the major portion of the Fund.

Granting that the Committee under any one of the above three plans or under any other plan is appointed, what would be the lines on which it should work? One thing must be made clear. Private bodies and individuals who are at present carrying on the work, however small it may be, must not only be allowed to go on with their

work but full encouragement must be given to them so that their number and scope may vastly increase under the fostering guidance and monetary help of the Central Committee.

Fortunately, adult education work is still associated in the public mind with ideas of charity and benevolence. Employers of labour, social workers and philanthropists regard adult education as deserving of help and support. In assuming this new responsibility, therefore, the Central Committee can very well count upon the public support to a greater extent than is possible in other fields of public welfare. It will be one of the main duties of the Committee charged with this kind of work, to explore to the fullest extent these avenues of outside help both in men and money for the promotion of literacy in the City.

It will be necessary for this Controlling Committee to set up a *Central Organization* which will have to be maintained at a fair amount of expenditure. For, success in the undertaking will entirely depend upon the efficient work put in by this Organization which will have to do a sort of pioneering work. Again, taking into consideration the different mother-tongues of the illiterates in the City and the varied social strata from which they come, it will be necessary to impress the services of a number of competent social workers who will have first to do a lot of propaganda work and then to watch closely from day to day the progress of the instructional classes. For, it has been the experience of those who carry on such type of work that it is more difficult to keep the illiterate adults regularly in attendance than to secure their enrolment. This is mainly due, however, to the want of proper methods and material used for adult instruction. The adult student in a City like Bombay when he attends a class at night, is a tired person. He has put in a full day's work. He must have some recreation just to set his mental faculties ready to apply themselves to the dry and dull task of mastering the arts of reading and writing. It will, therefore, be necessary to intersperse the formal instruction with activities which will recreate him and at the same time educate him. Forms of such recreative and educative activities will have to be chosen and used with discretion by the Central Organization for which much of its time will be fully occupied.

The compilation and printing of suitable literature in very simple language on the various aspects of the civic life of the City as well as on general information which will enrich the life of the common workers of the City like Bombay, will have to be undertaken by this Central Organization. In the present circumstances of the country, it is the vital part of the instruction of the adult illiterate that suitable literature

in very simple language should be made available to him as soon as he can read simple thing till he is able to take interest in wider reading.

One important aspect of the work of this Central Organization will be the watching of experiments in the various methods of teaching the illiterate adults and to compare their results so as to find out suitable methods yielding quick and satisfactory results. The teachers will have to be trained in these methods and they will have to be kept informed from time to time of new experiments and improved methods. For, this part of the work of adult instruction has yet to be explored and the Central Organization will have to be busy over this work for a long time.

A good deal of the time of the workers in the Central Organization will have to be devoted to guide the teachers in maintaining an accurate record of each individual adult who may join the instructional classes. His progress from week to week and month to month will have to be watched and he will have to be encouraged by special efforts if he shows irregularity or listlessness. Tests will have to be applied from time to time so that those who by their industry and application show better results may be encouraged to finish the course earlier. For, in the work of adult instruction close attention to the progress of an individual is of vital importance. From the individual registers maintained in each class, an accurate record of the progress of the whole work will have to be maintained and tabulated for the information of the authorities who contribute to the expenses of adult education. Lastly, all individual adults will have to be finally tested as soon as they are able to attain the prescribed standard of literacy and certificates of merit will have to be issued to them. The number of such certificates issued during the year will ultimately show the extent of the success of the scheme.

The Central Organization will have yet another type of work to do for which the members of the staff will have their hands full for a part of the day. A successful organization of instructional classes for the adult illiterate workers of the City will only be possible on a sufficiently wide scale, if managements of industrial works and other large-scale employers of labour are approached in proper spirit to render every sort of help for making their illiterate workers literate. Constant visits to the workshops, factories, mills and chawls where certain types of workers live in large numbers, will have to be arranged, census of illiterates and semi-literates will have to be taken and they will have to be sorted out into groups for instructional purposes. Propaganda meetings will have to be arranged from time to time to awaken interest and liking for instruction among the illiterates. It will also be necessary

to form Local Committees at suitable centres so that sympathy and co-operation of men and women on the spot will be secured. A lot of work on these lines will have to be done in the case of women illiterates for whom day classes will have to be maintained according to the convenience of each group of women concerned. It is obvious that the Central Organization will have on its staff well-qualified women who possess enthusiasm for the social uplift of our sisters who are at the lowest depth of ignorance.

A rather lengthy description of the duties of the members of the Central Organization staff is given above, because it is felt that the Organization will indeed be the *brain* of the scheme of adult education. It is necessary to spend liberally on maintaining such an Organization. It is not intended to have all full-time and fully-paid members on the staff of this Organization. A core of this staff will be of this type. The rest will of course consist of workers who will be paid honoraria. There may be some amongst them who may do the work freely for the love they may bear towards the uplift of the masses. Mention may particularly be made here of large, well-staffed and well-equipped Secondary Schools. Heads and the staffs of these schools will be of immense use in organizing suitable Centres of Adult Education in the various localities of the City. The Colleges and other institutions of higher education may also respond if their co-operation is sought.

For consultation and advice in general, it is possible to secure the free services of many well-qualified men and women of good social status. But the field work, the going round and the desk-work must be entrusted to persons who are paid for it. Although at the beginning, the proportion of expenses on this section of workers which may be styled as "Direction and Supervision" will be rather high compared with the expenses to be incurred on actual instructional work, it will gradually come to normal as the activity expands and the number of adults under instruction increases. But, in the beginning, it will be absolutely necessary to spend an adequate amount for the maintenance of this Central Organization. Utmost care will have to be exercised on the proper choice of the members of this Organization as the success of the scheme will entirely depend upon the ability, enthusiasm and energy, the members of the staff will bring to bear on their work.

It will be necessary to give some idea regarding expenses to be incurred during the first year of the proposed scheme of adult education in the City. In the first year, it should be the aim to bring at least, 5,000 illiterate adults under instruction. Out of these about 2,500 should be brought under instruction in classes maintained directly by the Central Committee and an equal number in classes conducted by

private agencies aided by the Committee. This number of 5,000 is, no doubt, very small compared to the large number of illiterate adults in the City. But during the first year of the scheme, it is advisable to begin with caution and hence with this limited number.

A few details about the items of expenditure during the first year of the scheme may here be given :—

(i)	The Central staff consisting of Organisers and others (Direction and Supervision)	Cost.—Rs. 15,000
(ii)	Expenses to instruct 2,500 adults in classes maintained directly by the Committee at Rs. 10/- per adult per year ..	Cost.—Rs. 25,000
(iii)	Expenses to instruct 2,500 adults in classes maintained by private agencies at Rs. 5/- per adult per year ..	Cost.—Rs. 12,500
(iv)	For the publication of books, pamphlets, charts, etc. ..	Cost.—Rs. 3,500
(v)	Miscellaneous initial non-recurring expenditure ..	Cost.—Rs. 4,000
		Total Rs. 60,000

As has been already pointed out, instruction of illiterate adults supplies the cheapest and the quickest method of promoting literacy among the masses. If 5,000 adults are made literate within an expenditure of Rs. 60,000/- or thereabout, it would be a good investment, when it is seen that to make an equal number of school-going children literate in the City nearly 8 to 10 lacs of rupees are required to be spent by the Municipality at the present rate of expenditure. It is not suggested by this comparison that the solidarity of the education of a child who passes 4 or 5 successive and successful years in a primary school will be achieved by an adult who is under instruction for a year. But it must emphatically be stated that what the adult will gain in one year's instruction, will in no way be a mean acquisition. He will certainly be a better type of citizen in every sense of the term and looking to the comparatively very small expenditure incurred on his education, the gain will certainly be out of all proportion to the expenditure incurred.

Making 5,000 illiterate adults literate is not a great achievement considering the magnitude of the task that lies ahead. But in the first year's experiment proposed above, it is not the numbers that count so much, but the experience gained is the most important thing. This experience will be the main guiding factor for all future work where

numbers will have to play a prominent part and the expenditure will have to go up in proportion to the numbers.

To teach 1,10,000 pupils in the municipal and private primary schools of the City more than 45 lacs of rupees are spent annually from the municipal and private funds. It will be in keeping with this sum, if within a few years the expenditure on adult education were to reach a couple of lacs, turning out within that amount 15,000 to 20,000 literate adults every year, a number which will approximate the annual output of literates from the primary schools of the City, requiring an expenditure of 45 lacs of rupees or more.

After discussion, it was—

Resolved:—That the Note submitted by the Secretary be approved and a copy thereof be forwarded
No. 47. to the Corporation for their consideration and necessary action.

* This note was approved under Schools Committee's Resolution No. 47 dated 26th April 1939, and forwarded to the Corporation for their consideration and necessary action.

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OVERLAPPING AND DUPLICATION IN RURAL ADMINISTRATION

By Diwan Bahadur AMBASHANKAR U. MALJI, Broach

ONE cannot say that things in the rural area are done in an exclusive spirit. In fact co-operation must pervade through the entire fabric. The watertight departments of Government and public service being several and separate, avoidable costs are incurred and duties to a certain extent duplicated. This sort of overlapping can be economically saved and though an attempt is being made to unify these efforts, it is found that unification will be extended to all sorts of rural developments, maintaining societies' existence as an independent entity and here lies the crux.

In the rural area Village Panchayats are the miniature Local Boards and they are worked under the District Local Boards, which now embrace administration of Civil and Criminal justice along with schools, dispensaries and roads. There is no reason why co-operative credit business of the resource type cannot be undertaken by them on defined lines and according to the rules specially framed under the Act which may be suitably amended. Municipal Banks are not altogether unknown. A good capable officer can look after all that pertains to the village with greater efficiency and supervision on adequate payment so as to keep him sufficiently and responsibly occupied.

Instead of engaging so many hands running different shows on inadequate payments and with uneducated hands it is believed that this will be a very good solution and it will not be difficult to train up the Local Self-Government class students in these cognate subjects. The trained Rural Debt Redemption Boards will also then be a much better substitution over the untrained or inadequately educated personnel. It must be conceded that the material to work up the reforms must be self-contained and efficient in all respects.

The Co-operative Movement has not yet touched the fringe and if a fillip has to be given to organise more societies with one for each village, it would be very difficult to realise this dream. Why not go by groups on the lines indicated above? The present short-lived societies will be very much benefited and under better supervision, good results will be achieved and better living and health societies also absorbed in the Village Panchayat.

Consumers Movement has practically died but this too can be revived with marketing arrangements. During the control and war times some Local Bodies had provided that commodities in their markets should be sold on approved prices and even though co-operative producer societies cannot be looked after or managed by the Village Panchayat, there should not be any difficulty felt for resource business being undertaken on due amendments in the Act.

If the suggested arrangements be approved it can reduce the number of arbitrators and liquidators as well. In addition to this agency of the Village Panchayats can well be invoked in serving processes on a suitable provision being made to cover the cost. The same will be more effective and expeditious as well.

The Recovery officers will also be not required as the powers of recovery under the Act will be there and necessary help of the Revenue Department has got to be extended without any extra payment as is done in the case of the Local Boards.

Construction of scientific godowns and running of buses between the villages and Taluka or District towns will also be well within the range of the Panchayat and all these activities are in themselves saving measures mostly touching rural economics.

The sort of business above referred to will not evidently be undertaken under the Co-operative Societies Act but the same will be done under the Village Panchayat Act on due amendments. The question of supervision is not so difficult as the same could be undertaken by the District Local Board staff.

The difficult point is however one of finance and although for banking purposes members deposits will be available in case of deficit floatation of debentures with the guarantee of the District Local Board will have to be provided. Lendings through the Village Panchayats must always be for current needs and for long term loans the Land Mortgage Banks are there.

The views embodied in this contribution more or less affect the existence of Co-operative Credit Society under the departmental control but it is not impossible to permit this by inserting a section in the Village Panchayat Act on the lines of Section 15 of the Co-operative Bill No. 14 of 1924.

MUNICIPAL CALCUTTA

THE STORY OF ITS EVOLUTION

CHAPTER I

By AMAL HOME

Editor, Calcutta Municipal Gazette

WHEN JOB CHARNOCK, after various explorations, fixed upon the village of Sutanuti as a suitable site for the factory of the East India Company traders, in the year 1690, the first beginnings of the future town of Calcutta were laid. At that time, and, indeed, for a long time after, the site occupied by the present town consisted of low-lying marshy patches, jungles, scrubs, with pieces of higher ground on which were dotted small villages or clusters of huts. We find Job Charnock in that year issuing a proclamation permitting settlers in Sutanuti "to erect houses at their pleasure on the waste lands belonging to the Company".

As time went on, people from outside began to come and settle near about the English Settlement, and build themselves houses or huts where and how they pleased; and thus a rambling, haphazard town began to spring up and grow, without any plan or orderly array, or any pretensions to civic amenities or convenience. When a sufficient population had gathered round the settlement, attention was directed to its unhealthy surroundings, and as early as 1704 the Council ruled that the amounts realized from fines levied upon the "black inhabitants" for misconduct, should be expended in filling up and obliterating the foul pits and ditches that abounded the settlement. It is impossible within the space at our disposal to trace the gradual growth of the town, from a settlement of scattered dwellings to its present compact greatness, but the earlier stages must be borne in mind in order to appreciate the gradual evolution of the civic constitution of Calcutta.

Earliest Traces of Municipal Function

As soon as there was any considerable increase in the number of dwellings and in population, the first faint glimmerings of the civic sense began to manifest themselves in Calcutta; and we find the earliest traces of municipal functions in the post of the "Zemindar". This Zemindar was, primarily, the Collector of Revenue under the Company; but he was charged with the "care of public order, convenience and health", and was also empowered to "make necessary repairs in roads and drains" though nothing much seems to have been done by him in these directions.

In the proceedings of the Council of the East India Company, dated the 31st March, 1706, we find certain estimates for public works submitted by one Mr. J. Fortnam, "Civil Architect".

They were as follows :—

	Rs.
To take down the old hospitals and clear away the rubbish, etc.	500
„ two watercourses in Shambazar Road	250
„ two bridges in the Dullanda Road	1,000
„ one watercourse in the Chitpore Road	125
„ two new bridges in the Dum Dum Road	1,500
„ two new bridges in the Baraset Road	1,500
„ trace bridges in the Bellegatta Road	1,800
„ one watercourse in the Chowringhee Road	125
„ 28 small bridges and watercourses in Calcutta	3,000
	Rs. 9,700

We further read that, in 1753, the Calcutta Council, referred to above, directed the Zemindar to “cut down all the old trees and under-wood in and about the town” and further ordered him to “survey the drains about the town.”

A “Surveyor of Roads” was, for the first time, appointed in 1766. For a period of more than hundred years, however, the town of Calcutta continued to grow in an irresponsible fashion, and the state of its sanitation and other amenities was luridly described by the European travellers who visited it in the 18th century.

Filth and Corruption

William Mackintosh, who published his “*Travels in Europe, Asia, and Africa*” in 1872, says of Calcutta, “there was not a spot where judgment, taste, decency and convenience are so grossly insulted, as in that scattered and confused chaos of houses, huts, sheds, streets, lanes, alleys, windings, gutters, sinks and tanks, which jumbled into an undistinguished mass of filth and corruption, equally offensive to human health and sense, compose the Capital of the English Company’s Government in India.”

Grandpre, who visited Calcutta in 1790, is no less vigorous in his indictment. The roads, he says, were “merely made of earth”, the receptacle for all manner of abomination”; dead bodies flung into any tank or open space, and left to putrefy, the only scavengers being the jackals, vultures and adjutant birds,—canals and cesspools reeking with putrefying matter, an insufferable plague of flies;—these are some of the horrifying descriptions left by the French traveller.

High Mortality

The high mortality among the European residents was appalling, and, according to Hamilton, in 1707, there were 1,200 Europeans in epidemic in the settlement in the next year. There was a severe it is said, was responsible for the death of 50,000 “blacks”—we are quoting Hamilton—and 800 Europeans. Side by side with this, highway robberies, murder, and all kinds of lawlessness raged practically

unchecked in those days. From the earlier history of Calcutta it is found that the civic and police functions were almost always combined in the same person, the Zemindar in the earliest times, the Justices of the Peace later, and afterwards the Chief Magistrate, far up to the 19th century.

A Mayor and Mayor’s Court : 1727

As early as 1727, in the thirteenth and last year of the reign of George I, a Corporation consisting of a Mayor and nine Aldermen, with a Mayor’s Court, was constituted in Calcutta under a Royal Charter. This was a Court of Record, and the Mayor and seven Aldermen were required to be natural-born British subjects while the remaining two Aldermen might be subjects of any State in amity with Great Britain. Their chief duty was to deal with the more important civil disputes among the English residents of Calcutta. The Court House, for the building of which a tax was levied on the inhabitants of Calcutta, was erected in 1729 at the site where St. Andrew’s Church, or the Scotch Kirk, now stands at the western end of the street which still bears its name,—Old Court House Street. We read that the Mayor sat in Court in full official dress, on a velvet cushion, and the Aldermen sat beside him “arrayed in all the glory of red taffety gowns.” This Court, however, had practically no civic duties to perform.

A new Royal Charter granted by George II, in 1753, reconstituted the Mayor’s Court and an ineffectual attempt was made to organize a municipal fund by the “levy of a house-tax of two to three lakhs of rupees to defray the expense of cleansing and organising the place internally”.

The “Zemindar”

This, however, made little improvement in the sanitary condition of Calcutta which continued to be in charge of the “Zemindar”, or Collector of Calcutta, one of whose duties it was to “make the drains sweet and wholesome”. Little, however, was done, or could be done.

The most famous of the Zemindars of Calcutta was John Zephania Holwell, who so valiantly defended the Calcutta Fort against Siraj-ud-dowla. Under him was his deputy, Govinda Ram Mitter, who won notoriety as the “Black Zemindar of Calcutta” and whose *Navaratna* temple on Chitpore Road was one of the landmarks of old Calcutta, the loftiest pinnacle of which, we are told, was higher than the Ochterloney Monument, and which was overthrown in the terrible cyclone which visited Calcutta in 1737. Holwell, it may be noted in passing, later became an Alderman and then the Mayor of the Court of Record mentioned before.

In 1785 the first attempt to enforce rules and regulations for proper cleansing and disposal of refuse were formulated in Calcutta by the then Commissioner of Police, who issued a notice systematising the duties of scavengers, and divided, for this purpose, the town into 31 divisions, with a *Thanadar* in charge of each.

Beginnings of Municipal Government

It was in 1794, during the government of Sir John Shore (later Lord Teignmouth), that the first beginnings of organised municipal government were made in Calcutta.

Under the statute 33 Geo. III, the Collector or the "Zemindar" was relieved of his municipal duties, the Governor-General taking powers to appoint Justices of the Peace for the municipal administration of the town, with authority to make regular assessments and to levy rates. This statute may be regarded as a landmark in the development of municipal government in Calcutta inasmuch as it substituted corporate control and responsibility for the autocratic administration of the Zemindar.

The system was not yet based on the principle of popular representation, for the Justices were appointed by Government and were liable to removal at the pleasure of Government; but it followed the old English practice of entrusting to Justices of the Peace those administrative functions which, under local government acts of the last century, are now discharged by elected authorities.

Administration of the Justices, 1794

The administration of the Justices was divided into three departments: (1) the assessment department, (2) the executive department, (3) the judicial department, or the Justices in Session. The functions of these three departments were respectively (1) to assess the rates; (2) to provide for the execution of conservancy works, the collection of the assessment, and for the ordinary watch and ward of the town; (3) to approve assessments and to hear and decide appeals or complaints against the assessors and the collectors. We are told that the sessions were at first held once a year, but as the volume of business increased, quarter sessions became necessary. The Justices were assisted by a 'Clerk of the Peace'—a post corresponding to that of a registrar or recordkeeper. The establishment of the executive branch consisted of an engineer in charge of roads and conservancy, his executive officer or head overseer, and a staff of clerks and menials.

It is evident that considerable attention was being paid to the conservancy of the town, for which the Justices invited tenders in the *Calcutta Gazette* of 17th December, 1801, for providing "eighty-five drivers, for the use of the carts employed under the scavengers for cleaning streets and drains within the town of Calcutta."

The Justices in Session were authorised under the statute to appoint the Collector of Assessment, but this right was practically usurped by Government in 1830, when the post was attached to the office of Superintendent of Police, the divisional magistrates or Justices being relieved of the duties of watch and ward and directed to confine their attention to judicial work. The Justices seem to have set to work at once to improve the town.

During the next few years, they took in hand the metalling and repairing of roads as well as the question of conservancy in earnest. It was felt, however, that these matters required greater consideration

and attention than the Justices were able to devote. Besides, their powers were limited, being restricted to collection of revenues and expenditure, principally on repairing, watering and cleansing the streets. Something more thorough and systematic was called for if the condition of Calcutta was to be effectually improved. This was supplied by Lord Wellesley.

Lord Wellesley's Minute

Realising the importance of thoroughly arousing public interest and attention, he appointed a series of committees to investigate and report. The first of these committees was nominated in 1803 by a Minute, in which the improvement of drains, roads, streets, and buildings was strongly urged, and the need for public markets, slaughter-houses and burial-grounds pointed out. The Governor-General's indictment did not err on the score of comprehensiveness. This famous minute stands out as a landmark in the history of municipal government of Calcutta. He noted that the construction of the public drains and watercourses was defective, and that they neither answered the purpose of cleaning the town, nor of discharging the annual inundations occasioned by the rise of the river or by the excessive fall of rain. He observed that no general regulations existed regarding the situation of public markets or slaughter-houses or burial-grounds, and he urged that "steps should be at once taken to forbid irregularity of buildings, and to ensure the construction, after an orderly fashion, of streets and lanes, which had hitherto been formed without any attention to the health, convenience, or safety of the inhabitants."

Town Improvement Committee: 1803—1814

Thirty of the leading citizens of Calcutta were selected by Wellesley to form a Town Improvement Committee and to carry on the Governor-General's scheme into execution. Extensive enquiries were set on foot, and improvements as extensive were sanctioned. But the project suffered, as did so many of the projects of Wellesley, from the magnitude of the scale upon which it was designed; and when he left India, in August, 1805, his dream of an Empire City was still very far from realisation.

Lotteries as a means of raising funds for public purposes had been in vogue from 1793 in Calcutta, part of the money raised by the sale of tickets being given away as prizes, and a certain percentage kept apart to be devoted to public purposes. The proceeds of several such previous lotteries were placed in the hands of the Town Improvement Committee who, between the years 1805 and 1817, executed many works of improvement with the funds so procured.

The need for supply of pure water was keenly felt, and the Committee did their best in this direction by having many new tanks excavated or old ones cleaned. The Town Hall, which had been begun under the auspices of Wellesley in 1807 was completed in 1813 in the time of Lord Minto, a canal was constructed and numerous new roads were made,—all with funds raised by lotteries.

Lottery Commissioners : 1814—1817

In 1814, the activities of Lord Wellesley's Town Improvement Committee came to an end, and its funds and records were transferred to the Lottery Commissioners, who were empowered to raise funds by lotteries for the improvement of the civic amenities of Calcutta. The Lottery Committee was formed "to improve the health, convenience and comforts of the inhabitants of the city and suburbs." The keeping in repair of streets, roads and drains and matters relating to conservancy were, however, left in the hands of the Justices of the Peace. The Lottery Commissioners and the Justices of the Peace worked side by side, the relations between the two bodies being somewhat analogous to those of the Improvement Trust and the Corporation of Calcutta in our own day.

The Lottery Committee : 1817—1836

The Lottery Committee (1817-1836) took over the proceeds of 17 previous lotteries amounting to four and a half lakh of rupees and continued in their task of making improvements until the year 1836, when they ceased to function under pressure of public opinion in England, which condemned this means of raising money for municipal purpose.

Among the improvements carried out at their instance may be mentioned the laying out of roads and some fine squares, and the excavation of numerous tanks. A long road which bears different names and traverses the city from north to south was opened, and a systematic plan for the metalling of roads was also adopted, and an annual sum of Rs. 25,000 was ordered to be set aside for this purpose. It may also be mentioned that the first step in the supply of drinking water to the city of Calcutta was taken at about this time with the installation of a small pumping plant in one of the ghats of the Hooghly for raising river-water into open masonry aqueducts, which distributed the water, by gravitation, over a small portion of the town, while buckets or pails could also be used to draw water from these aqueducts.

The Chief Magistrate's Functions

The corporate control of the Justices, was, however, gradually giving way to the concentration of authority in the Chief Magistrate's hands. It will be remembered that in theory—under the statute—the administration of the town was vested in the body of Justices, sitting in general or quarter sessions. There were at one time seven Justices or Magistrates, but their number was subsequently reduced to five, including the Chief Magistrate. The steps by which the executive authority of the Justices in Session was in effect transferred to the Chief Magistrate are not very clear, but the impracticability of administering a city through a body which met so seldom was obvious, and he must have enjoyed a large measure of discretion from the first. A Government resolution of the 12th October, 1830 provided that the duties of conservancy should 'continue as before' to receive the especial attention of the person holding the office of Chief Magistrate, and that he should exercise an active and personal superintendence over the establishment maintained. When the Fever Hospital Committee took evidence in 1837, we find the supreme control of the conservancy,

assessment and the police all centred in the person of Mr. D. M'Farlan, Chief Magistrate. He authorised all expenditure and sanctioned all disbursements in the Assessment, Judicial, and Conservancy Departments. He had cognisance of all complaints and questions relative to the Assessment, although the appointment of assessors still required the sanction of the Justices. He dealt with complaints preferred against the Collector, and in the event of collections proving unsatisfactory, it was to him that the Collector's explanation was addressed. The Superintendent of Police was subject to his general control, in much the same way as a District Superintendent of Police is now subordinate to the District Magistrate. The Superintendent of Roads and Conservancy enjoyed much less independence than the Superintendent of Police, and all estimates for repairs exceeding Rs. 25 required the Chief Magistrate's sanction. The virtual supersession of the Justices as a body, provoked some natural jealousy and bitterness.

No doubt M'Farlan, a man of considerable ability, was conscientious and thorough in the discharge of his many duties. (on the other hand, his notes frequently suggest a fondness for a policy of *laissez-faire*), but as Mr. C. K. Robinson, one of the Justices, stated, it 'seemed impossible for one man, however great his talents and fitness for the task, to superintend efficiently a population so large and scattered as of this city and this system, as it appeared to me, deprived the community of the efficient co-operation of four other Magistrates, who could have most advantageously shared the task.'

Assessments and Taxes

We have seen, the first "assessment" of the Town of Calcutta was made in 1795. In 1809 the house-rate yielded a little over two and a half lakhs of rupees. Four assessors were appointed to revise the assessments in 1821, and we find that in 1836, the house-tax yielded about 3 lakhs, and the *abgari* tax one and a half lakhs, while the expenditure on conservancy and police was about five and a quarter lakhs, the difference being made up by Government. The total length of roads constructed upto this period was 170 miles, while the annual cost of road repairs was between 40 and 50 thousand rupees. There was at this time only about 300 oil lamps in the whole of Calcutta, maintained at an annual cost of about Rs. 6,000/-; and in 1836 we find that lamps and lamp-posts were furnished at a fixed rate by a Corporation employee known as the Executive Officer (a sort of engineering foreman), who received a monthly salary of Rs. 300/-. It may be noted that up to this time the public demurred greatly at any increase in taxation, and it was only because of the respectable sum raised by lotteries that the improvements carried out by the Lottery Committee were at all possible. The Committee was dissolved in 1836 as already stated.

Proposal for Representative Government

In spite of the great works which the proceeds of the Lotteries had served to finance, Calcutta, after forty years of the Justices, was still a standing offence against all the canons of municipal science. Local taxation, however, was still almost an untried principle, and the Chief Magistrate himself, M'Farlan who delivered his authority from Government and not from the people, clearly recognised the danger,

although he grasped the need, of further taxation unless authorised by the consent of the people or their representatives.

In this view, the drawbacks of the paternal system of municipal government became apparent. The system was destructive of self-reliance on the part of the citizens; Government spent all town or municipal funds, and considerably more, in maintaining the municipal services, and it was inevitable that the people should prefer this system, with all its imperfections, to one which combined new privileges with additional burdens. The system, however, possessed other inherent defects.

In 1833 the first proposal for an experiment in city-government on a representative basis was made by Mr. D. M'Farlan, who, as we have already seen, combined in his person the offices of the Chairman of the Justices, the Commissioner of Police and the Chief Presidency Magistrate, in whose hands had ultimately come to be concentrated the corporate control of the Justices. He proposed that a "Municipal Committee" should be elected by rate-payers of a certain qualification in each of the four districts into which the town then, as now, was divided. The Committees were to be of an advisory character and to consist of seven or nine members, the Chief Magistrate and the Divisional Magistrate being members *ex-officio*. A circular letter was issued by M'Farlan to the owners and occupiers of premises in Calcutta, in which the defects of the municipal administration of the city was frankly admitted and the advantages and possibilities of the city was frankly set forth. The circular, however, brought forth no response, and Mr. M'Farlan wrote deeply grieved: "I had calculated on some members of the Bar or other usual leaders of the Calcutta public, taking up the question. I found them very indifferent about it. Support was promised generally and coldly; no one was disposed to take a lead." He added, rightly, "Calcutta was not ripe for popular measures of this description."

Fever Hospital Committee

Taking up the thread of our story again from the dissolution of the Lottery Committee, we find Lord Auckland appointing, in 1836, a Committee for the establishment of a Fever Hospital and for enquiring into Local Management and Taxation in Calcutta, with Sir John Peter Grant, Puisne Judge of the Supreme Court (later known as High Court) as President.

Its appointment was primarily due to the enlightened zeal of Mr. (afterwards Sir) James Ronald Martin, surgeon of the "Native Hospital" in Dhurumtollah. His *Note on the Medical Topography of Calcutta and its Suburbs*—chiefly with reference to the condition of the "Native Health", recommending the establishment of a Fever Hospital and the sanitation of the town—excited the sympathy and interest of his Board of Governors. Government's attention was attracted, and Lord Auckland gave an official status to the Committee, which had been appointed at a public meeting in the Town Hall to consider Mr. Martin's proposals. The Governor-General, in his capacity as Governor of Bengal, authorised the Committee to take evidence, added two members of their number, and gave his approval to their intention to undertake—in addition to the Hospital scheme—the more difficult and

important task of endeavouring to frame such a plan of Local Management and Taxation as may be best calculated to secure efficiency and general confidence in the application of the funds collected.' Within the terms of the Committee's reference was included the discovery of 'some plan of judicious and adequate Local Taxation and independent Local Management, in the direction, as in the burdens, of which all who might be most interested should take their share.'

This famous Committee marked an epoch in the municipal history of Calcutta. The final instalment of its Report was not issued until 1847, and its herculean labours over many years succeeded in riveting the attention of all men on the important problems which clamoured for solution. Its monumental Report throws a flood of light over Municipal Calcutta of this time, and its sober and weighty conclusions formed a starting-point for the energetic period of reform which was soon to follow.

Among the members of the Committee were "Prince" Dwarkanath Tagore, grandfather of the Poet Tagore and the first Indian Justice of the Peace, and his cousin Prasanno Kumar Tagore. Sir John was a man of indomitable energy, and under his guidance this Committee enquired into and reported upon all manner of subjects affecting the city, their recommendations ranging from drainage, conservancy and water-supply to the establishment of hospitals and improvements in the system of collecting and appropriating the taxes of the town.

In regard to taxation, the Committee proposed that a tax on carriages of all kinds should be introduced, and recommended that for the expense of the general improvements of the town, a large sum of money should be raised by way of loan (this wise and far-sighted proposal was unfortunately not adopted; the first loan was raised as late as 1864), the payment of interest and repayment of the principal being guaranteed by Government. They proposed that an additional assessment of 2½ per cent, authorised under the statute of 1793, should be made on all houses of the value of 50 rupees per mensem and upwards, and that the proceeds of this tax, amounting (after allowing for vacancy and collection charges) to 75,800 rupees, should be utilised for the payment of interest on the loan and to form a sinking fund for liquidation of the principal.

The Abortive Act of 1840 and After

The immediate outcome of the Committee's labours was Act XXIV of 1840. It not only modified the purposes to which the rates levied under 33 Geo. III c. 52 might be applied—such purposes now becoming the lighting and watering of roads and streets, and the cleansing and repairing of roads and streets and drains—but also empowered the Government, on the application of two-thirds of the rate-payers in any of the four divisions of the town, to entrust to them the assessment, collection, and management of the rates of their division. The Justices were required to publish in quarter session a detailed statement of the expenditure of the public funds. The appointment of assessors and collectors was transferred from the Justices to the Governor of Bengal.

The scheme was, however, not only encumbered by elaborate conditions, but was also undoubtedly in advance of the times.

Not a single application, however, was made under this Act, but the essay stands out as the first beginning of modern "representative" municipal administration—by the rate-payers, on behalf of the rate-payers and for the rate-payers.

This Act of 1840 also contained provisions authorising the Commissioners to make by-laws for seizing and destroying unwholesome articles of food and punishing the vendors, while a later Act of 1852 gave the Commissioners larger powers for the inspection of markets, shops and slaughter-houses. At this time was also passed an Act which had for its object the prevention of the occurrence of fires, which had been very frequent and disastrous hitherto. The preponderance of thatched *bungalows*, straw huts and hovels had been the cause of frequent conflagrations, sometimes of a very serious extent. One of these fires which occurred in March, 1780 caused destruction of 15,000 straw-houses, in which nearly 200 people perished. The new enactment was for provision of an outer roof of incombustible material on houses and outhouses, and it had the effect of considerably reducing the number of fires. In 1837 the first fire-fighting establishment consisting of two European constables and 134 *khalasis*, etc., costing about Rs. 700/- a month came into existence in Calcutta.

The Seven Commissioners

Lord Auckland was succeeded by Lord Ellenborough and then by Lord Hardinge and though the regime of these Governors was filled with schemes of military glory and conquest, an attempt was also made to carry on with Lord Auckland's scheme of partially representative city-government. By an Act passed in 1847 (Act XVI of 1847), a Board of seven Commissioners was constituted for the improvement of the town, three of whom were to be Government nominees and four selected by the rate-payers. These Commissioners inherited the system that had been in force under the Chief Magistrate, while all important duties such as road-repairing, lighting, cleaning and watering of roads, drainage, were performed by a Superintendent of Roads and Conservancy, whose appointment dated from 1785. The conservancy function of the Justices was vested in this Board, who were also empowered to apply municipal funds for the improvement of congested areas, and opening out new roads. This Act also, for the first time, authorised the levy of a tax on horses and carriages. The first Board was composed of four Englishmen and three Indians, Mr. J. T. Pearson, Mr. F. W. Simms (F. A. Lushington appointed in 1849), Babu Tarini Chandra Banerji, Babu Dinabandhu Dey and Mr. H. E. Watts,—but they were stigmatised as "talking a good deal, writing immensely but doing little good."

Lord Dalhousie's Reforms

Lord Dalhousie took up the reins of government in 1848, and his genius soon recognised the urgent need for supplying Calcutta with pure water, introducing a proper system of drainage and sewerage, and making a proper survey of the town. A series of Acts was passed dealing with these matters. Under Act X of 1852 the number of Commissioners was reduced to four, each receiving a monthly salary of Rs. 250/- and the town was divided into two divisions only, northern

and southern. Again, in 1856, an elaborate Act was passed constituting a new Board of three paid Commissioners nominated by Government, followed by two other Acts in the same year.

The conservancy of the town was still deplorable and it was recognised that a more stringent and elaborate law was required. Act XIV of 1856 was a very complete Conservancy Act. It also provided that before beginning to build or rebuild a house, notice should be given to the Commissioners, and a plan submitted showing the levels. Section 56 empowered them "to alter or demolish a building within 14 days, if no notice had been sent."

A Series of Acts

The Act XXV of 1856 consolidated the provisions for the assessment and collection of rates; while Act XXVIII of the same year incorporated the provisions of Act XXV, made 'better provision for the appointment of Commissioners for the conservancy and improvement of the town,' and authorised the raising of additional funds for improving its drainage and lighting. The number of Commissioners was fixed at three, who were to be appointed by the Lieutenant-Governor, and to be liable to removal at his pleasure. The salary of a Commissioner holding no other appointment was not to exceed Rs. 10,000 a year, while the salary of a Commissioner with other occupation was limited to Rs. 4,000 a year. The house-rate was raised to 7½ per cent, out of which 1½ lakhs were to be set aside each year towards the cost of a complete system of drainage, while the sum of Rs. 30,000 was to be set aside for water-supply.

A lighting rate of 2 per cent was sanctioned and the tax on vehicles and animals revived. The registration of carriages and carts plying for hire was made obligatory, and we soon find the Commissioners moving for additional powers for the control and regulation of hackney carriages. The sphere of municipal activities was widened by definite provisions which dealt with the construction of footpaths, the improvement of the road-line and the regulation of building, the erection of huts in proper lines, the supply of water in case of fire, the regulation of the sale of foodstuffs and of offensive trades, the framing of by-laws for the control of markets, *bazaars*, and slaughter-houses, the provision of public conveniences, the cleansing and ventilation of sewers, and the removal of projections and encroachments. The Commissioners under the new Acts were Messrs. Wauchope, Thuillier, and Dowleams; and the last named was a whole-time officer and did the bulk of the work. After nearly twenty years of experiments and failures, the powers of the Chief Magistrate had passed into the hands of an autocratic triumvirate, one member of which (Wauchope) held also the office of Commissioner of Police.

A Commission of Enquiry

In 1861 the Trades Association pressed for the appointment of a committee to examine into the question of municipal administration and the introduction of a plan of government more adequate to the requirements of the town. A mixed Commission was appointed by Government, and submitted its report on the 31st August, 1861. They stated

that the 'main want of Calcutta was an adequate supply of funds,' and made the following proposals for augmenting its revenues:—

- (1) The imposition of a water-rate not exceeding 2½ per cent;
- (2) The doubling of the carriage and horse tax; and
- (3) The introduction of a registration fee of Rs. 6 a year for every cart and hackney.

They recommended that the town should be divided into six districts, each with a board of six honorary members appointed by Government, and vested with complete control over the conservancy and construction of new works in their own district.

The central board consisting of six representative members (viz., (1) the Commissioner of Police—President, (2) a member of the Chamber of Commerce, (3) a member of the Trades Association, (4) a member of the British India Association, (5) a medical man or an engineer, and (6) one of the other Commissioners on an adequate salary) appointed by Government, was to exercise a general control; it was to be entrusted with the collection and allotment of funds, to execute important works, and to deal with the purchase of land and the improvement of roads.

The Local Boards were to be responsible for the proper expenditure of funds allotted to them, but were to have no control over the assessment or collection of taxes, and no power to initiate general schemes. The Commission was opposed to the existing system, with its concentration of authority in the hands of the triumvirate or where conservancy arrangements were in question, in the hands of its whole-time member.

The Commission's scheme was, in the main, a system of self-government, though not based on the fundamental principle of election; it was apparently acceptable to the public, and Government consented to give it a trial. On the 29th March, 1862, a Bill was introduced in the Bengal Council. There were, however, strong misgivings in the Council as to the wisdom and practicableness of the new proposals, and in the end, the Bill was withdrawn. It was believed that the most suitable form of government for Calcutta was one which combined popular representation with the concentration of executive power in the hands of a highly paid officer.

A Corporation of the Justices

A new Bill (Act VI of 1863) was accordingly framed, 'with the object', as Sir Ashley Eden, the then Lieutenant-Governor of Bengal said, 'of entrusting intelligent gentlemen chosen from among the rate-payers with a very considerable control over the municipal government of the town, and at the same time providing that the work of the municipality shall not be liable to interruption or delay from any omission on their part to attend to their duties.' The general control of municipal expenditure was to be vested in a large body of councillors, while the execution in detail of all sanctioned works was to be entrusted to a well-paid officer, devoting his whole time and energy to the work. Thus under the new Act, the property of the town of Calcutta and the general management of its municipal affairs, were entrusted to a corpo-

ration, consisting of all Justices of the Peace for Bengal, Bihar, and Orissa, who might be resident in Calcutta, along with the Justices of the Peace for the town.

The appointment of their Chairman rested with Government, but he might be removed by a resolution of two-thirds of the Justices. The Justices were to nominate their own Vice-Chairman, who was to preside over meetings in the absence of the Chairman, but the appointment required the Lieutenant-Governor's approval.

He too was liable to be removed by Government, on the requisition of two-thirds of the Justices. The powers of the Chairman and Vice-Chairman were to be exercised in carrying out the orders of the Justices or in executing works sanctioned by them, and generally in the management of municipal business. These officers were not to act in opposition to, or in contravention of, any order of the Justices, nor to usurp any power expressly reserved to the Justices.

Strenuous Activity

A decade of strenuous activity followed the Act of 1863, and the Justices have to their credit the drainage works of Calcutta, improved water-supply from taps, filling in of "horrible open drains," the introduction of brick sewers and pipe sewers, the pumping of the sewage of Calcutta, the construction of the Municipal Railway for carrying the refuse of the city to a dumping ground several miles away, the establishment of the Municipal Market, street lighting by gas, establishment of slaughter-houses and the making of footpaths.

The most important work of this period was the construction in 1873 and 1874, at a cost of 18 lakhs of rupees, by the Port Commissioners, of the Hooghly Floating Bridge by which Howrah was connected with Calcutta. The Municipal Railway was constructed between 1865 and 1867 at a cost of nearly 6½ lakhs. The New Market was built and established at a cost of over 6 2/3 lakhs between 1871 and 1874, and the Dharmatala Market belonging to Babu Heralal Seal, which remained a great obstacle to the success of the former, was purchased for 7 lakhs. Public latrines and night-soil depots were made since 1866, costing no less a sum than 3½ lakhs originally. Slaughter-houses were built at a cost of over 2 1/3 lakhs between 1866 and 1869. Besides these, the Municipal Workshop at Entally, with its machinery and building, and the land and machinery, etc., at Kotrung cost the Municipality a sum of nearly 4 lakhs. Thus, inclusive of the drainage works, a sum of no less than two crores of rupees was spent by the Commissioners on the improvement of the town between 1858 and 1876.

Contemporary opinion was, however, perhaps more impressed by the defects of the new constitution than by the solid results which it achieved, and in 1872-73 Sir George Campbell, Lieutenant-Governor of Bengal, recorded the opinion that the system was only possible where the Chairman was able to exercise a strong personal influence over the Justices.

Clumsy Machinery

The clumsiness of its machinery—with its 120 Justices, even after the exclusion of the Provincial Justices by Act VI of 1871—and the

want of definition and distinctness between the powers of the Justices and the Executive, which led to constant struggles between the strong personality of Sir Stuart Hogg and those Commissioners who prided themselves on the title of the "Left" or Opposition, who naturally saw in the official Chairman a perpetual negation of the principle of self-government. Some thought that every notable reform was due to the initiative of the Chairman, who by the aid of a minority often succeeded in persuading the majority; to others, a spirit of criticism and distrust appeared the only effective check on the extravagance of the Executive. Kristodas Pal, whose eloquence would have won him an audience in any assembly, admitted that there was 'much speaking' among the Justices, and that the conflict of authority should be set at rest by the careful definition of powers. The Lieutenant-Governor, Sir Richard Temple, thought that a smaller body of Commissioners (in 1875 there were 153 Justices—98 Europeans, 46 Indians, and 9 of other nationalities) might prove more suitable for executive purposes, that better arrangements were necessary to secure the active co-operation of all the Justices, and that representation should be placed on a broader basis. He was prepared to consider the introduction of the elective principle which his predecessor, Sir George Campbell had favoured. This expediency of limiting the tenure of the office of Justice, if the existing system were continued, appeared to him to deserve consideration.

Growing Dissatisfaction

In 1870 Mr. H. H. Sutherland moved in the Bengal Legislative Council that Government should be requested to appoint a Commission to consider the working of the existing system, and the expediency of introducing some form of government more suited to the requirements of the city. The motion was lost by a small margin. In February, and again in March of the same year, Mr. Wilson, editor of the *Indian Daily News*, brought forward similar motions, which, however, were ruled out of order. Outside the Council Indian public opinion had been gaining in strength for the introduction of a democratic constitution in the city municipality. The educated middle class demanded through the Press and platform real powers to be vested in the chosen representatives of the people. Indian opinion was divided into two opposing camps. One was led by Raja Rajendra Lal Mitra at the head of the aristocratic British Indian Association, many members of which were, as Justices, sitting on the Municipal Council and looked upon such demands as an attack on vested interests and were averse to any fundamental change in the Constitution. The other and the popular party was represented by the India League led by Rev. Krishna Mohan Banerjee and Sisir Kumar Ghose, who felt that the great and growing middle class with considerable stakes in the city and a more progressive outlook was entitled to a larger share in the civic administration, which was only possible if the elective principle was introduced. And they pressed for it with determination and energy.

The legislation of 1876, which followed these attempts, was originally introduced with the idea merely of codifying or consolidating the municipal law. Since 1863 some ten modifying Acts—apart from the Acts relating to markets—had been passed, and it had become essential to incorporate them in one convenient code. When the new Bill, how-

ever, was introduced in Council, the discussion of its details and its scope led to criticism of the radical defects of the old Act; in the end the Government proposed to make material changes in the constitution and the scheme suggested by Sir Richard Temple became the basis of the new Act. The elective principle was the corner stone of the new edifice.

Introduction of the Elective Principle

Under the new Act (IV of 1876) two-thirds of the Commissioners, who numbered seventy-two, inclusive of the Chairman and Vice-Chairman, were to be elected by the rate-payers, the remainder being appointed by the local government. The Select Committee, which reported on the draft Bill, proposed that three-fourths, or fifty-four, of the Corporation should be elected, but also that the number of Hindu, Muhammadan, and other elected members should be fixed by statute; the popular party preferred to purchase the abandonment of the principle of sectional representation by consenting to an increased proportion of nominated members. The two alternatives had been impartially offered for consideration by the Lieutenant-Governor in addressing the Council on the 27th November, 1875, before the draft Bill was prepared. The electoral divisions were to correspond with the *thanas* or police divisions; they were eighteen in number, and were termed 'wards'. Six of these divisions returned only two Commissioners, while twelve had each three representatives; voting was by voting papers and male residents of the town or suburbs were qualified to vote, if they had paid an aggregate amount of not less than Rs. 25 as house-rate, water-rate, police-rate, or lighting-rate, or as taxes on carriages and animals, all professions, trades, and callings. Residents of the town or suburbs, who had paid aggregate rates or taxes of not less than Rs. 50, were qualified for election as Commissioners. The tenure of office was limited to three years.

The appointment of the Chairman who might hold the office of Commissioner of Police, of the Vice-Chairman and others officers, as well as the appointment of Committees was governed by provisions practically identical with those contained in Act IV of 1863, except that under Section 32 of the new Act the appointment of all statutory officers was subject to approval of the local government. (Act II of 1888 went further, in making all appointments worth more than Rs. 500 a month, subject to the approval of Government.)

Salutary Provisions

There were salutary provisions for the payment of interest on the municipal debt and for the formation of a reserve fund; sufficient allotments were to be made for the maintenance of the police; the new underground drainage works were to be completed and extended throughout the town, the water-supply maintained and adequate conservancy arrangements to be made. Criticism was directed chiefly against the provision which enabled the local government to intervene, if at any time it was of opinion that the Commissioners had failed in their conservancy duties. In these circumstances Government was authorised to appoint a commission of enquiry and on its report might require the allocation of additional funds for conservancy; if the

Corporation declined to allot such funds or to carry out the recommendations of the Commission, the Local Government could empower the Chairman to carry out its orders, notwithstanding any powers conferred by the Act upon the Commissioners.

British Indian Association vs. Indian League

The forward party resented the check which this provision imposed on the principle of self-government; Sir Stuart Hogg declared that it was impossible for Government to shirk its ultimate responsibility for the efficient administration of the town, but to many the provision seemed the negation of self-government, and a standing proof of Government's distrust in their ability to administer their own affairs. Many of the Justices who were in reality opposed to the bill saw in this cleavage of opinion an opportunity to "kill" the obnoxious measure. By a masterly stroke of policy the British Indian Association suddenly blossomed forth into the most progressive champion of popular rights and demanded that if the citizens of Calcutta were to be given self-government at all, the gift should be absolute and without reservations—hoping all the time that such extreme demand will effectively spoil the broth of the popular party. The Indian League equally rose to the occasion, and without in any way deviating from the high principle of full popular control, declared that 'a system of election subject to Government control' was superior to the existing system of municipal government. They maintained that even such partial popular control *Ap-ke-waste* Justices,* and their spokesman, while admitting that there were 'a good many independent and honourable gentlemen whose abilities and talents would do honour to any Council', asserted, nevertheless, that 'the vast majority of the existing Justices were men in whom they had no confidence, and between whom and the rate-payers there was no community of feeling and interest'. Babu Kali Mohan Das (an uncle of our first Mayor, C. R. Das), representing the Indian League, whose memorial bore the signatures of 13,400 rate-payers, declared before the Select Committee on the Municipal Bill of 1876 that Government, 'in the beginning of an important and novel experiment', must naturally 'be solicitous and anxious to keep certain powers in their hands', but trusted that Government would not 'interfere except under very exceptional circumstances'. Thus won the popular party in their great fight in 1876.

"Town Council"

It soon became evident that a large deliberative body could not advantageously deal with details of business, which it was required to superintend.

In 1877 a committee which had no statutory sanction, was appointed under the name of the Town Council, in which were merged the Finance, Roads, Conservancy and Water Supply Committees. The innovation was a decided success, and Act VI of 1881, at last invested the Town

* The phrase *Ap-ke-waste* is said to have originated thus: a Muhammadan Justice who knew too little English to follow the debates of the Justices, being called on to vote and desiring loyally to support the Executive, exclaimed 'Ap-ke-waste'—I vote with you, Sir—in his ignorance of the Chairman's views.

Council with a legal status. It was a committee for the consideration of such matters as the Commissioners might think fit to refer to it, with a view to advise and aid the Chairman in the discharge of any portion of his executive work. It was subsequently known as the General Committee, as it was pointed out that a Town Council in ordinary English usage corresponded with the general body of the Corporation.

A Commission of Enquiry: 1884

In response to a memorial presented to Government, a Commission consisting of Mr. Beverley, I.C.S., Dr. Lidderdale, Sanitary Commissioner, and Mr. H. J. S. Cotton, the Corporation representative, was appointed that year under Section 28 of the Act to enquire into certain matters connected with the health of Calcutta. (The appointment of the Commission was strongly resented by the Corporation). The labours of the Commission extended over several months; they made many local inspections, chiefly in the northern quarter of the town, and examined several witnesses—amongst them Mr. Thomas Jones, whose self-imposed investigation into the sewers of Calcutta in 1882-83 had aroused considerable interest and some uneasiness amongst the public.

The majority of the Commission, while recognising the many improvements effected by the Corporation since 1876, expressed their opinion that the cleaning and conservancy of the town was still defective. They stated that the Commissioners had been eminently successful in the control of their finances: 'their budget system is strict, and they had taught the Executive to respect it'. They doubted, however, whether the expenditure for the cleaning and conservancy of the town had been on a scale commensurate with its requirements, and were impelled to the conclusion 'that the sanitary requirements of the town had been sacrificed to the desire to maintain the house-rate at 7½ per cent.' Their report concluded with a summary of their recommendations under the heads of Drainage, Water Supply, Latrines, Road and Conservancy, Compilation of Statistics and—most important of all—a proposal for the amalgamation of the suburbs with the town.

Mr. Cotton recorded an interesting Minute of Dissent, in which he vigorously defended the Corporation and deprecated the Lieutenant-Governor's resorting to the statutory powers vested in him of directing the Commissioners to carry into effect the recommendations of the Report.

A committee which was appointed about this time to report on the proposal for the levy of an octroi in Calcutta, had independently come to the same conclusion as the Sanitary Commission, and the Lieutenant-Governor in his resolution dated the 20th June, 1885, definitely accepted the principle of amalgamation, and appointed a small committee to consider and report on the details and to advise the lines on which the necessary legislation should proceed.

The constitution of the enlarged municipality, its financial prospects, and its electoral divisions, were dealt with in a brief but extremely lucid and forcible report, and legislation was sanctioned to give effect to its proposals.

Important Changes: Act II of 1888

The most important changes introduced by Act II of 1888 were the following:—

- (1) The increase in the number of Commissioners to 75, of whom 15 were to be appointed by the Local Government, 50 to be elected by rate-payers (2 by each of the 25 wards into which the enlarged municipality was divided), 4 to be selected by the Bengal Chamber of Commerce, 4 by the Trades Association, and 2 by the Port Trust, which had come into existence in 1870. Under the Act of 1876, the professional and the land-owning interests had greatly preponderated on the Corporation and it was thought advisable to secure a more adequate representation of the commercial and trading classes.

- (2) The Town Council was reconstituted as the General Committee consisting of 18 members of whom 12 were to be chosen by the elected Commissioners and 6 by the nominated Commissioners. The reduction in its numbers had important consequences and its powers were secured to it by statute.

It was made the Budget and Finance Committee of the Corporation with power also to deal with any other business that might be expressly referred to it.

The Chairman and the Vice-Chairman were to be *ex-officio* members of the Committee, and the Chairman, or in his absence the Vice-Chairman presided over its meetings.

- (3) The Act made obligatory the expenditure of two lakhs a year for drainage works and the improvement of *bustees*, and 3 lakhs for the improvement of the area newly added to the town.

It should be mentioned here that during the period from 1876 to 1890, the original drainage scheme was completed, the supply of filtered water increased, and a tramway service was inaugurated in 1880. Many insanitary *bustees* were demolished and the sites cleared away, old and narrow roads were widened, and several new roads constructed.

The Mackenzie Act and After

The next change in the Municipal administration of Calcutta occurred under the Lieutenant-Governorship of Sir Alexander Mackenzie. It was during this period that the great plague broke out in Bombay in 1896, a great famine occurred in 1898, and the great earthquake of 1897, which shook Calcutta to its foundations; but an upheaval of no less intensity for Calcutta was the passing of the Calcutta Municipal Act of 1899, popularly known as the Mackenzie Act. The full story of this great Act and subsequent amendments is told in the next article.

THE MACKENZIE BILL—HOW BENGAL FOUGHT IT

CHAPTER II

By SATYENDRA NATH GHOSE

Introduction

The closing years of the nineteenth century were fraught with grave import for India in all spheres touching her national well-being. It was a period of cruel adjustments, of grim fight, of heroic failures. And this had to be; because the Bengalees led India in the struggle to force Britain to shape her policy of Indian administration in tune with the best interest of India. Again and again, the manipulations of the British element in India were thwarted by educated Indians who made clever use of British pronouncements and protestations and fought Britishers with the same weapons which they used themselves at home.

The middle class of Bengal had grown up as an unavoidable adjunct to the policy pursued by Britain to consolidate and advance her own interests in India. This middle class was the first to take advantage of the great possibilities of the new education which Britain was fostering in India. Many Indians laid aside age-worn prejudices and went to educate themselves in England. They returned saturated with the spirit of English liberty on British soil and lost no time to do all that lay in their powers to bring the administration of India more in line with the well-meaning Liberal than the dogmatically Conservative views regarding India. And thus grew up in Bengal a large body of men educationally forward, socially enlightened, politically conscious and potentially powerful.

"Vested Interests"

To understand the basis of these different English views we have to notice, in retrospect, the relations between Britain and India since the early advent of Europeans in this country. Towards the middle of the eighteenth century occurred two historic events which, one may well say, altered the destiny of the world. The first, in importance, was the Industrial Revolution in England; the second, the Great Rebellion in India (1857-58). The Industrial Revolution made Britain the "workshop of the world", it raised her to a position of unparalleled supremacy among the nations in the world. Britain developed her trade, took control of world markets, and in the process, she developed, through her foreign dealings, a "new imperialism" based on "monopoly capitalism". It is this "monopoly capitalism" which defined the British attitude towards India, for India had become indispensable to Britain. The suzerainty of India,—the absolute, unfettered and unquestioned control of India's vast resources—was now an imperiously "imperial necessity", a cardinal factor for British existence. It was well said that Britain could sustain and survive the loss of a Dominion; but if she lost India, she would herself be unequivocally lost. A stern realisation of this fundamental fact of British power in India hardened the Conservatives against the Liberal attitude of accommodation to

Indian sentiments which, as we have seen, were fast consolidating into a Voice which could not be ignored in India.

But however clamant this 'Voice' had become, and whatever position this claim might have acquired in the eyes of the world, Britishers who had "invested" their own "capital" (under Government of India guarantee) in the "industrial expansion" of India were never in a mood to endanger the security of their "stocks". Therefore, another "imperial" spoke was here added to India's wheel of destiny, another "safeguard" of "vested interests" of Britain in India. These "vested interests" of British capital in India had their own "managing agents" who came to India in greater and greater numbers as "business" developed. The opening of the Suez Canal in 1869, gave a great impetus to the British trade in India. With greater opportunities came the greater urge of greed for profits. The "managing agents" got busy and entrenched themselves in the three leading provincial towns of Calcutta, Madras and Bombay. These were the strongholds of British Power in India—political and economic.

Calcutta and the Empire

If India was the pivot of the British Empire, Calcutta—the Imperial Capital of India—had by now become the pivot of Britain's all-important Indian Empire. Having the only port through which the entire wealth of Hindustan could be shipped off to swell the coffers of British merchants and strengthen the "imperial" world-supremacy of Britain, the city now occupied a position of unique eminence.

But along with her commercial development, Calcutta had also caused into being a remarkable institution of municipal administration—the Calcutta Corporation. This was a direct outcome and an outstanding example of the beneficial adaptation of Western standards of administration of a great city. The Calcutta Corporation came into existence in 1863—a corporate body controlling municipal property and funds and functioning under the chaperonage of a Government-appointed Chairman and "Justices of the Peace" who looked after and also controlled nuisances, slaughter-houses, burial-grounds and public conveyances (hackney carriages). In 1876 an Act was passed introducing a system of election. This Act was the result of the untiring energy of one Englishman in particular—Sir Richard Temple. Sir Richard, in his *Men and Events of My Time in India*, acknowledges the good work done by the educated middle class of Bengal who successfully "objected to the exclusive power heretofore pertaining to the upper class and desired to have a voice and share in the urban administration".

Self-Determinant Municipality

The Calcutta Municipal Act of 1876 provided that only a third in number of the total Commissioners of the Corporation were to be Government-appointed and the rest were to be elected by rate-payers who had the voting qualifications prescribed by the law. Sir Richard noticed that at first, due to the very novelty of the situation, created by the new principles of self-determinant municipal administration, the

"candidates elected often failed to give practical attention to progressive measures for the improvement of the place. Subsequently, however, there must have arisen that benefit which cannot fail to arise from the natives having some power over and interest in their municipal affairs. The moral effect too must be beneficial in forming their national character and making them feel jointly responsible with the government for the improvement of their city which comprises so many interests."

Notwithstanding, however, the guarded language of Sir Richard, the "natives" did remarkably well;—so well, indeed, that following further reforms (in 1888) which gave the Corporation 50 elected Commissioners out of a total of 75, the "natives", who thus had a "standing majority", administered the affairs of the municipality in the interest of the rate-payers "without fear or favour and heedless of official frowns".

This state of things was undoubtedly galling to the powerful "managing agents" who could not brook anything between themselves and the high heavens. On the other hand the political "imperialism" of Britain viewed with alarm the growth of political consciousness in India led by the educated Hindu community. They had already combined and had founded the Indian National Congress. They had their strongholds in the three provincial cities of Calcutta, Madras and Bombay. They were preparing to secure for themselves an abiding partnership in the administration of India. This was more than "vested interests" could tolerate;—a clash was inevitable.

The Inevitable Clash

It came with Lord Curzon's Viceroyalty. The noble lord faced the "Indian agitator" with an unflinching policy of blind reaction against the growing power of Indian Nationalism. Of this determined policy, the infamous Mackenzie Act was a concurrent phase. It did incalculable harm to the cause of self-government, of civic liberty and of human justice. Under the double stimulus of "imperial" encouragement and their own irrepressible rapacity, the handful of Europeans who controlled the commerce in Calcutta demanded that theirs should be the paramount voice in the Calcutta Corporation,—and the subservient Government of Bengal and the Government of India proceeded to alter the laws.

The storm had been brewing for quite some time past. It was Sir Alexander Mackenzie who first charged down the tide and struck the frail bark of Indian Nationalism as it was securing its moorings at the broad jetties of the self-governing municipality of Calcutta. Closely following Sir Alexander came the army of "vested interests" who did short work of the "broad principles of self-government" nobly enunciated by Lord Ripon. And so that this ruthless sabotage might be accomplished undisturbed, there stood, on guard, the mighty Destroyer *Imperialism* to protect British "vested interests" against native crafts manned by "wily agitators".

That is what the Mackenzie Act aimed at: it sought to close for all time to come the chapter of self-government in India in municipal administration of the great city of Calcutta.

II

In the Corporation of Calcutta

Open hostilities commenced with a remarkable and unusual speech delivered by Sir Alexander Mackenzie, the Lieutenant-Governor of Bengal, when 'His Honour' was invited by the Calcutta Corporation to lay the foundation stone of the new Drainage Works at Palmer's Bridge, Entally. Sir Alexander characterised the Corporation as "an arsenal of talk and armoury of delay". The principal points of his speech were :—

- (1) That Calcutta was a disgrace to the Empire and the nineteenth century ;
- (2) That the Corporation was handicapped by its own constitution against execution of productive work ;
- (3) That the Commissioners, although at times capable of rising to the height of great enterprise, generally obstructed progress by far too much speaking for the sake of speech ;
- (4) That the Executive was not nearly strong enough and was too readily upset and interfered with ;
- (5) That work was unnecessarily repeated and afterwards spoilt by "Councillors and cooks" * who paid far too much deference to the wishes of special interests ;
- (6) That "excessive tenderness" was shown in dealing with "so-called rights of private ownership", *private interests being too strongly defended in the Corporation* ;
- (7) That the existing law was not put into operation ;
- (8) That the Warrant Department was a "standing scandal" and the Loan Department could be all the better for a thorough overhauling ;
- (9) That the Executive should be trusted with the fullest powers in the preparation of projects and in carrying them out ; and
- (10) That the defect of the constitution lay in its having been borrowed *en bloc* from the advanced methods in England "without reference to the utterly different circumstances of an Oriental city".

The Re-action

Inevitably, the speech of Sir Alexander Mackenzie raised a storm of indignant agitation not only in Calcutta, but all over the land—even, later, agitating the Indian National Congress. There was every reason to believe that the speech was the "echo of an irrational clamour"—to borrow the phrase from the Hon'ble Babu Surendra Nath Banerjea's speech at the meeting of the Commissioners of the Calcutta Corporation (on May 7, 1896) in reply to the Local Government's observations against the Municipality in the Administration Report for 1894-95. In that speech, the speaker spoke out the mind of the Corporation supporting the action of its then Chairman (Mr. Ritchie) who had

* Quoted from a report of the speech in "Bengal under Lieutenant Governors", Vol. II, by C. E. Buckland (pp. 978-82).

already addressed the Government strongly against the wanton and mischievous remarks against the Corporation. Surendra Nath exposed the "weak spot" of the Local Government's attack by justifying the "fruitful economy" effected by the Commissioners, after a great deal of cautious delay, by cutting down the estimates for certain proposed projects from 171 to 66 lakhs of rupees. But the speech of Sir Alexander openly lent support to the clamour already started in the Anglo-Indian Press since Mr. Ritchie's letter.

Considering that it was the Engineer (Mr. A. J. Hughes, C.I.E., whose estimates chiefly had been cut down) who had been responsible for the invitation to His Honour the Lieutenant-Governor to lay the foundation stone of the New Drainage Works (*vide* Corporation proceedings, 30th October 1896), and also taking into account the unconcealed conflict between the Health Officer and the Commissioners (who disagreed with his costly "schemes"), the suspicion was natural that behind the invitation there had been the intention to create an opportunity for His Honour to say what he did. The suspicion was confirmed at the Special Meeting held—on the requisition of commissioners headed by Babu Kally Nath Mitter—just a fortnight after (December 10, 1896) Sir Alexander's speech at Palmer's Bridge, when the Chairman (Mr. H. C. Williams), in answer to certain questions put by Babu Bhupendra Nath Basu, evasively replied that his authority had been verbally obtained at the meeting of 30th October, 1896 and that the Address to His Honour prepared at his instance had no formal sanction from the Commissioners, but he had consulted "a few gentlemen about it". The contempt of the Europeans was scarcely veiled against the system which allowed "natives" to sit in judgment over questions affecting European interests, and the zeal of the Commissioners to save the rate-payers money was never appreciated.

The Corporation Replies to Sir Alexander's Charges

A lengthy statement was prepared by the Corporation of Calcutta categorically dealing with Sir Alexander's speech of the 26th November, 1896. This statement was discussed at a Special Meeting of the Commissioners on the 21st December, 1896. The proceedings of this meeting throw an interesting sidelight on the actual 'goings-on' at that time in the Corporation of Calcutta.

At the outset, the Chairman "explained" the delay which prevented the printed copies of the statement reaching certain Commissioners earlier than the morning of that day. It was disclosed that the printers (Messrs. Traill & Co.) had sent the printed copies of the Statement to the Engineer's Office on the evening of the 18th ; but from there the copies did not reach the General Office till 4-30 p.m. on Saturday, the 19th January. Mr. Simmons, one of the European Commissioners, thereupon moved for a three weeks' adjournment on the technical thereupon moved for a three weeks' adjournment on the technical ground of want of sufficient notice. As a further 'ground' Mr. Simmons drew attention to a letter (which had previously been circulated) from the Medical Board stating that the Lieutenant-Governor desired to consult the Board before His Honour addressed the Corporation. Mr. Simmons was supported by Mr. Abdur Rahaman and opposed by Babu

Priyanath Mallik who challenged the validity of his objection. The Hon'ble Moulvie Mahomed Yousouf also supported Mr. Simmons. Babu Kally Nath Mitter suggested a compromise to the effect that the resolutions which needed no further time for consideration might be taken up and the others (the last two) deferred by adjournment. This suggestion was turned down by Mr. Simmons but accepted by the Meeting, the Chairman also concurring.

A 'Walk Out'

Thereupon the following Commissioners left the meeting:—Khan Bahadur Moulvie Ahmad; Nawab Syed Ameer Hossain, C.I.E.; A. F. N. Abdur Rahaman, Esq.; Sahebzada Mahomed Bakhtyar Shah; The Hon'ble Rai Durga Gati Banerjee Bahadur, C.I.E.; G. C. Farr, Esq.; Babu Juggernath Khannah; Sir John Lambert, C.I.E.; Maharaja Bahadur Sir Narendra Krishna, K.C.I.E.; P. McGuire, Esq.; F. N. Baker, Esq.; The Hon'ble Mr. C. C. Stevens, C.S.I.; W. J. Simmons, Esq.; The Hon'ble Khan Bahadur Moulvie Mahomed Yosouf.

The Hon'ble Babu Surendra Nath Banerjee then moved the following resolution:—

"That the Commissioners in meeting hereby record their respectful but emphatic protest against the condemnation, passed upon them by His Honour the Lieutenant-Governor of Bengal on the occasion of his laying the foundation stone of the New Drainage Works, as being unmerited and inappropriate to the occasion, as involving a grave misapprehension of the facts of the case and as amounting to a severe censure of the Municipal Administration of the Town without the Commissioners being allowed the opportunity of explanation or defence."

Allegations Challenged

He said that the wisdom of holding that meeting had been in question in some quarters and the attitude of the Commissioners had been misconstrued. But, the speaker explained, their attitude was not one of defiance but of defence, of explanation and of vindication; they had "all assembled animated by one common sentiment of dutiful allegiance to the constituted Head of the Province". The speaker characterised the speech as a "scathing, unmitigated condemnation of the Commissioners", and further deplored the mischievous move by the Local Government in publishing a subsequent explanation of the speech which sought to "establish a distinction between the Executive and the Commissioners" (after the latter had been "condemned unheard"). Besides, the speaker pointed out that the occasion scarcely permitted the tone, temper and attitude of that speech. The speaker continued to say that the Corporation of Calcutta could "bear comparison with any similar body in the world". He challenged the allegation that the Municipal Commissioners of Calcutta were "mere talkers". The speaker quoted from testimonies and also gave figures showing that the major portion of the heavy work done by the Calcutta Corporation had been put through, with commendable despatch, on the strength of "silent, sensible and solemn votes".

Surendranath denied that the municipal constitution of Calcutta had been "borrowed *en bloc* from England". There was no town in England, he pointed out, "where the municipality consisted of *partly elected and partly nominated* members, where the Mayor was appointed by the Government, where the entire municipality was subject to municipal control". He further asserted that the men who had framed the Calcutta Municipal Acts of 1876 and 1888 could not have been ignorant of the "heterogeneous interests" of the city. He then drew attention to the "magnificent results achieved by an elective municipality; the increased and increasing receipts of the Corporation, the magnificent works of sanitation which enhanced the aspect of Calcutta and made it a sanatorium for Bengal". All this and the increasing price of land in Calcutta were the direct benefits produced by the untiring zeal and labour of the "much calumniated Commissioners".

He maintained that if the affairs of the city had not been managed efficiently, the Corporation would have been "dissipated and destroyed" long ago. But the Commissioners had prevented that. He then referred to the charge made by Sir Alexander Mackenzie that the Executive had been "too weak and easily upset". He stated that the Executive had had all the support from the Commissioners that they needed. It was only on grounds of financial economy that the Commissioners differed with their officers—particularly the Health Officer.*

"Stake in the City"

Referring next to the statement that the Commissioners had "no stake in the city", he protested that Calcutta was "the home of their ancestors, themselves and their children to come. If evil befell Calcutta it would be they who would suffer the most". The Commissioners had certainly "a far greater stake in Calcutta than the adventurers who came to shake the Pagoda tree",—declared the Hon. Babu Surendra Nath Banerjee.

Concluding, Surendranath emphasised the danger ahead to Municipal democracy in the changes to the constitution which were foreshadowed by the serious pronouncement that the Lieutenant-Governor had made about a probable amendment of the Calcutta Municipal Act. "This Corporation," he said, "recognised no distinction between Europeans and Natives, between Officials and non-Officials"; they were all united by one common desire to uphold the prestige and dignity of the

* It is interesting to note that exactly one year later, at the Special Meeting of the Commissioners held on 21st December, 1897, the Chairman (Mr. Greer) made certain illuminating remarks about the post and position of the Health Officer to the Corporation of Calcutta. Mr. Greer said: ". . . they (the Commissioners) had to look beyond the mere needs of the municipality: they should take a far higher standpoint, namely, an imperial point of view. The whole trade of Bengal, Assam and Behar passed through Calcutta, and it was essential to have a Health Officer who would not only command the confidence of the communities whom they represented, but of the Government and the country at large." These words were said when the Corporation had to choose a Health Officer. The upshot of that meeting was that Dr. R. Sen, who had efficiently been acting as the Assistant Health Officer for a period exceeding ten years (and had on more occasions than one been the Acting Health Officer), was superseded by the "imperially efficient" Dr. Cook, then "a qualified young man of seventeen summers".

Corporation, and they would stand shoulder to shoulder to defend their interests. There was no mistake that they were in the midst of a great crisis in the history of the Corporation. So long as they were members of this Corporation, as long as the Municipal Administration of Calcutta was entrusted to them, "undaunted by the frowns and unseduced by the smiles of power, he hoped and trusted that the most perfect accord and unanimity would exist. United they stood, divided they would fall".

Mr. N. N. Ghose seconded the motion and said they had met, not to criticise, but to express their regret at the condemnation of the Commissioners which should not have come from the Lieutenant-Governor without calling for an explanation. Mr. Ghose deplored that His Honour had chosen the occasion to say what he did on the eve of their starting a great sanitary work, which would cost the Corporation about a crore of rupees.

Anglo-Indian Propaganda

Mr. Apcar commented that he had deliberately kept aloof from the events of the 26th November because the way the Address to the Lieutenant-Governor was got up directly contravened a previous resolution of the Commissioners, duly accepted at his instance and initiative. He also recalled certain phrases in the speech, which had appeared in some minutes of Sir Alexander Mackenzie about 15 or 16 years ago, when he was a Secretary to the Government of Bengal. The Lieutenant-Governor had now, he said, only "focussed what had so long been avoided in this Municipality". The Executive, he continued, had been singled out for approval and were referred to as a body which should be given freer hand and the Commissioners were blamed as distinguished from the Executive. Mr. Apcar noticed the resemblance of His Honour's words with the propaganda that was being carried on at that time by the Anglo-Indian Press. The words, he said, were actuated by "minimum of knowledge and maximum of prejudice".

Mr. Braunfeld also deplored the "ill-considered" speech and felt sure that His Honour would regret having inadvertently cast a slur on the Commissioners. The Resolution was then put, the Chairman agreeing, and was carried unanimously, the Chairman refraining from voting himself.

Secret Accusers

Babu Kally Nath Mitter then moved the next Resolution which stood thus:

That the introduction of the elective system into the Municipal Administration apart from the stimulus which it has given to the public spirit of the citizens of Calcutta and the wider public interests in the Municipal affairs of the City, has been attended with great sanitary reforms, and the improvements effected since the introduction of the system would bear favourable comparison with similar improvements made during a corresponding period in the past history of the Municipality when it was under Government control or under the control of the Justices entirely appointed by the Government.

The mover said that as the Commissioners did not know who their accusers were and on what materials the accusations had been based, the Statement under consideration of the Meeting, justified itself. But in making their own vindication, he said, the Commissioners did not desire to cast any blame on the Executive save and except one particular officer—the Health Officer, who along with the Engineer were, strictly speaking, not the Executive but officers who could be dealt with as the Commissioners desired. By the Executive the speaker would mean only the Chairman and the Vice-Chairman. He said that under the stimulus of the Act of 1877, introducing the elective system, the municipal activities had improved in Calcutta (although they had commenced since 1864); public spirit was awakened, and for the first time the citizens of Calcutta took a lively interest in the city's affairs, and the elected Commissioners devoted, at much personal sacrifice, considerable time and attention so that the entire Corporation of Calcutta had a splendid record of achievements in broad, new thoroughfares and the system of water-supply and drainage. He maintained that the Commissioners were solely guided by the consideration for the best civic welfare inasmuch as they had not hesitated to replace an Indian Chairman (Babu Shama Charan De) by an European (Mr. William Soutter) to reduce deficits and balance the Corporation Budget by administrative efficiency.

The Resolution was seconded by Mr. W. H. Phelps, who accorded it his perfect sympathy. Mr. Braunfeld also thought it astonishing that "an Englishman should suggest to place limitations on the franchise". The greatness of England, he said, was due to the elective system. He also remarked: "he who would wish to destroy the elective system would destroy everything which was dear to humanity and to every right-thinking man".

The Chairman (Mr. H. C. Williams) then commented upon the different interpretations which had been made of the speech of Sir Alexander Mackenzie. The Chairman never understood that His Honour wanted to praise the nominated Commissioners at the expense of the elected Commissioners.

Babu Kally Nath Mitter's resolution was then put and carried unanimously and consideration of the remaining items was postponed.

The next meeting of the Commissioners to discuss the question took place on the 7th January, 1897. In view, however, of a Note received from the Health Officer the meeting was adjourned for a fortnight. As no quorum, however, could be formed on the 21st, the Commissioners met on the 28th January 1897 to consider the remaining Resolutions.

Another 'Walk-Out'

On that day, however, as soon as the previous item ("Electric Traction and Tramways") was disposed, the following Commissioners left the meeting:

W. Busby, Esq.; Dr. Shaik Bachoo; Captain W. Corkhill; The Hon'ble Rai Durga Gati Banerjee Bahadur, C.I.E.; Babu Heeralall Bagla; E. C. Coates, Esq.; E. T. Longley, Esq.; Sir John Lambert,

K.C.I.E. ; W. R. T. Aitkin, Esq. ; E. N. Baker, Esq. ; The Hon'ble C. C. Stevens, C.I.E. ; W. J. Simmons, Esq. ; The Hon'ble Moulvie Mahomed Yousuf Khan Bahadur.

The remaining Resolutions on the speech of the Lieutenant-Governor, at Entally, were then considered by the meeting. The Resolutions were :

I

That the Commissioners desire to call attention to the following points which involve a misapprehension of the facts in the speech of His Honour the Lieutenant-Governor :—

- (a) *That the Loan Department is one of the best regulated Departments of the Corporation regarding which there has been no complaint of any kind, and that no overhauling is necessary ;*
- (b) *That the occasional relaxation of the Building Regulations in some of the minor details in special cases as warranted by the By-laws, has not tended to the uncleanness of the town nor interfered with the sanitary arrangements ;*
- (c) *That the Commissioners are not satisfied with the working of the Conservancy Department, due to the want of proper supervision on the part of the Health Officer, who is of opinion that it is not his duty to look after the scavenging of the town, and that with a view to the more efficient working of the Department a Committee was appointed to consider the feasibility of amalgamating it with the Road Department and placing it under the control of the Engineer but that in consequence of the inaction of the Executive the labours of that Committee have been rendered infructuous ;*
- (d) *That the Commissioners have, on an average, spent year by year, more than Rs. 4,35,000 on drainage and bustee improvements, which sum is more than double the minimum amount fixed by law.*

Moved by Babu Nalin Behari Sircar ; seconded by Mr. J. Ghosal.

II

That the Statement laid on the Table, dealing with the various points raised in the speech of His Honour the Lieutenant-Governor, be adopted.

Moved by Mr. N. N. Ghose, and seconded by Babu Lalbihary Bysack.

Below is given an analysis of the Statement.

Commissioners Vindicate Their Honour

Summed up, the accusations of Sir Alexander Mackenzie were:—

- (a) far too much speaking for the sake of speech ; (b) needless interference with the Executive ; (c) the vicious constitution of the

Corporation ; (d) animus against the Health Officer ; (e) defective conservancy and filthy and insanitary condition of the Town ; (f) violation of building regulations ; (g) Warrant Department—a public scandal ; (h) Loan Department in need of thorough overhauling ; (i) Bustee question only played with.

Some accusations, said the Statement, aggrieved and humiliated the Commissioners, and the condemnation was entirely unmerited. The occasion was singularly inappropriate for such a speech. If, however, as explained subsequently, His Honour only desired to stir them up and not to attack the Commissioners, the better way was to offer the stimulus of appreciation. It was not appreciated by His Honour that the Commissioners rendered gratuitous services at considerable loss and personal inconvenience to themselves ; and that some of them had spent the best part of their lives in furthering the cause of Local Self-Government in Calcutta.

The Commissioners were fully prepared to meet His Honour and render a satisfactory account of themselves and their work in the Corporation. But no opportunity had been given to them to justify themselves before being publicly condemned. They recalled that when, in 1883, a Memorial was presented against the then Commissioners to the Local Government, the Commissioners of the time were supplied by the Local Government with a copy of the memorial. But in the present case they were kept in the dark about the character of the complaint against them. Nor did they know which quarter the accusations came from. But they had occasion to notice from time to time certain complaints made in Anglo-Indian journals. But such complaints were part of the politics of some writers and were totally misleading as a basis of estimation of the actual work done by the Commissioners for and in the Corporation of Calcutta.

Silent Work

Free and full discussions, the statement proceeded, were essentially needed in order to arrive at sound conclusions on important and intricate subjects. Where a question presented different points of view and affected many interests, elaborate discussion thereon was a gain rather than a loss to any business. Reference to the municipal proceedings of the Justices would reveal, it was maintained, that there used to be far more talk than in the period under notice. The usual speed of the present General Committee, meeting once a week, was disposal of thirty items in a ninety-minute sitting. Of course, there had been notable exceptions under special circumstances. In 1894-95, the total number of items brought up were 239, of which 191 were disposed ; number of items disposed by short debates were 38, and by long debates, 10 ; average attendance at each meeting was 40 ; average number of speakers, 6 ; average number of silent votes, 24. The corresponding figures for 1895-96 were, respectively, 328 ; 249 ; 54 ; 25 ; 47 ; 7 and 40. The Commissioners further quoted from the testimony of the late Mr. Lee, an ex-Chairman, who had said, on March 23, 1893, as follows :

Less frequently than of old, because the outside public is better acquainted with the facts, but still occasionally, we hear insinuations that much time is wasted in this hall by long speeches from

the Municipal Commissioners. No charge could be further from the mark. . . ."

The Commissioners further recorded the appreciation expressed, of their ability and capacity for useful work, by such other distinguished ex-Chairman as Mr. William Soutter (15-11-78—17-4-81), Sir Henry Harrison (18-4-81—15-4-90), Mr. Beverley (*Offg. Chairman*, 10th March to 19th October, 1880) and Mr. Cotton (*Offg. Chairman*, 6th May to 9th November, 1887).

Strained Relations

Health Officers often came into conflict with the Commissioners. Dr. Payne (1876-79), for instance, was so dissatisfied with the Commissioners that he made a vigorous complaint which reached the then Lieutenant-Governor, Sir Ashley Eden, who told him that "the people of the city must be led and not driven into co-operation with the Sanitary Department." Like Dr. Payne, the Health Officer at the period under discussion, Dr. Simpson (later Sir W. J. Simpson), happened to be an idealist and an impractical and inefficient executive officer. His relations with the Commissioners were not satisfactory as he was inclined to be high-handed and refused to accept his own proper responsibilities. His schemes often involved terrible and useless expense. An outstanding example was the construction of an additional shed for the Plague Hospital. The work was executed without authority or sanction. On enquiry it was found that the Health Officer was responsible for the irregularity; but he tried to shirk the responsibility at first and then set it down as a "mistake" of his assistant. Then came an astounding bill for Rs. 33,000/- which, on reference to the Engineer, was cut down to Rs. 12,000/- and was finally settled at Rs. 11,000/-. But the members of the General Committee, who had seen the shed, believed that the expense could or should not have exceeded Rs. 3,000/-. Next came the case of the Entally Incinerator. The Health Officer had suggested Burra Bazar as one of the three likely sites for the Incinerator! The Commissioners then reluctantly sanctioned the construction of an Incinerator at Entally as the Health Officer was vigorously insistent. At the cost of a lakh of rupees of Corporation money the Incinerator was started; but, ultimately, it had to be closed down completely as it was too near the town. Other instances existed of the reckless waste of Municipal funds by the Department, and the Commissioners were fully justified in "interfering with the Executive" under the circumstances.

Representative Character

The Corporation of the day consisted of 54 elected Commissioners. Of these, 22 were Lawyers; 5 Merchants; 1 Zemindar; 10 House-owners; 5 Doctors; 2 Engineers; 3 Newspaper Editors; 2 Government servants; 1 Captain; and 1 Contractor. (2 of the Lawyers, again, were Editors of newspapers). The Commissioners were not prepared to admit that such a body was not fitted to guide Municipal deliberations. The Government had 4 Lawyers among the 15 nominated members, and the European constituencies had 2 Editors among the 6 representatives they had sent.

It was not a fact, as it was sought to be proved, that the elective system had failed in the Corporation of Calcutta. As far back as 1884, the Hon'ble Mr. Cotton, who was a member of the Commission appointed by Sir Rivers Thompson, had, in his Note of Dissent (dated November 9, 1884) supported the representative Corporation "discharging the duty of economic control". In 1886, again, when the Act was on the legislative anvil, Mr. Colman Macaulay (then Chief Secretary to the Government of Bengal) had said: "I wish to state my distinct opinion that the working of the elective system has been a decided success." Further, on February 4, 1888, Sir Henry Harrison, in the Bengal Legislative Council, spoke very highly of the elected Commissioners.

The Commissioners who now addressed the Local Government could not be held responsible for the defects which existed under that Act because they had no voice in the making of that law. They, further, denied that the law as it stood was borrowed *en bloc* from any model, advanced or otherwise, in England or anywhere else. No other system guarded minorities so jealously, no other system deviated so much from the principles of democratic representation as the municipal system of Calcutta with its accommodation for Government-nominated members and special guardians of European commercial interests.

Administrative Efficiency

Even a cursory review of the Calcutta of 1888 and of 1876—"the legacy of the Justices"—would show extensive and thorough improvements, in every department of civic life and welfare, that had been accomplished by the Commissioners since the introduction of the elective system in the Corporation of Calcutta. Since then, larger and further improvements had been effected and vast sums of money spent for further improvements within the limits of the funds available to the Corporation. Considering the Commissioners' constitutional position as against an indifferent Executive, the Commissioners had accomplished much in the short space of ten years (1888-89). Only sheer ignorance and prejudice led to the mischievous misrepresentation which found place in the Lieutenant-Governor's speech.

Dealing with their work during the "Plague scare", the Statement went on to say that the Commissioners had acted with commendable foresight in dealing with the danger to the health of Calcutta attacked by plague. The Health Officer would only put forth expensive "schemes", and the actual working of the supervision and preventive sub-departments, that were specially created for the occasion, was faulty and corrupt. Besides, *none of the cases reported by the Health Officer were cases of plague at all*. The Commissioners had acted coolly, promptly and vigorously and did not merit censure.

So far as the Building Regulations are concerned, the Commissioners had to say that most of the buildings existed from before 1888 and, therefore, no blame attached to the Commissioners for their faulty construction. The Commissioners had felt the inadequacy of the laws and by-laws regarding Building Regulations and had, in 1895, set up a

Committee which had duly reported. But the suggestions of the Committee had not received Executive attention.

Regarding the Warrant Department, the Commissioners—the Statement maintained—had taken all suitable measures and the failure of satisfactory result from the Department did not in any way make the Commissioners blameworthy therefor. It was the Chairman himself—the highest Executive authority—who had opposed them in their endeavours to set up a Committee to enquire into gross mismanagement of the Markets; and when the Committee was set up, the Market Officer, absconded. Similar opposition from the Chairman came when the Commissioners wanted to set up an enquiry into the Collector's Department. Mr. Beverley, however, when he became the Chairman, helped the Commissioners in setting up a Committee to enquire into the affairs of the Road and Licence Departments. The Commissioners further recorded that they were able to put the affairs of these departments into shape with valuable assistance from Sir Henry Harrison.

The Commissioners regarded the Loan Department as one of the best regulated Departments of the Corporation of Calcutta. The proposal to hand over the Department to the Bank of Bengal had been opposed by them, in the first instance, on the ground of costs involved.

On *Bustee* Improvement, the Commissioners had, between the years 1885 and 1896, spent Rs. 4,35,728 *annually* besides a further sum of about Rs. 40,000 per year for petty Town Improvements. The Commissioners had exceeded the amount fixed by law for them to spend on the *Bustees*, and were, further, handicapped by the heavy financial drain of the expenses in connection with the plague prevention operations.

"Fatal Inaccuracy"

The Resolutions moved by Babu Nalin Behary Sircar and Mr. N. N. Ghose were put and carried. Mr. Ghose spoke vigorously and said that the present unsatisfactory conditions resulted not from the Executive's wanting in powers for action but due to the Commissioners having trusted the Executive too much. The Local Government, said Mr. Ghose, had kept itself misinformed even to what the Commissioners were doing even then; and he concluded with the remark,—“some fatal spirit of inaccuracy seemed to be dogging the footsteps of the Government.”

After Mr. Ghose's Resolution was passed, Babu Kally Nath Mitter moved an amendment:

“That the substance of the Statement laid on the Table be adopted and a small Committee be appointed to make such alterations and modifications as may be necessary, and it then be submitted by the Chairman to His Honour the Lieutenant-Governor for his consideration.”

Mr. J. Ghosal seconded this motion.

The Chairman Protests

The Chairman begged to record his formal protest against the Resolutions and the Statement. He criticised the resolutions as being

the opinion only of a section of the Commissioners because many other Commissioners of the Corporation had stayed away. He further criticised the Resolution moved by the Hon'ble Babu Surendra Nath Banerjea, because, the Chairman said, that as the mover of that resolution had stated, the Executive were inseparable from the Commissioners, and therefore the Resolution contradicted itself. Further, the Chairman thought that it was no use criticising the Lieutenant-Governor now for his speech as His Honour did believe in the elective system and had only reiterated the general opinion that where it had been applied so far there was no cause to complain. With reference to the Loan Department the Chairman did admit that the word “overhauling” was too strong; but the Chairman himself favoured the proposal to hand the Department over to the Bank of Bengal before the Government sanctioned any Loan to be raised by the Corporation.

Babu Kally Nath Mitter's amendment was put and carried and the Committee was formed with (1) the Hon'ble Babu Surendra Nath Banerjea, (2) N. N. Ghose, Esq., (3) Babu Narendro Nath Sen and (4) the Mover, Babu Kally Nath Mitter. This Committee further considered the Statement and sent a summarised version.

Sir Alexander Replies

The Government's reply to the Statement and the Resolutions (quoted above) was put up before the Commissioners on the 30th March. The Commissioners, at the meeting of 1st April, 1899, ordered that the letter be recorded. The salient points of the letter were:

(i) That Government noted the fact that the original Statement which the Commissioners had discussed and resolved on, had not been sent. Government did not think that the “revised edition” was authoritative and that, therefore, Government would not consider the paragraph 33 of the original Statement (which did not find place in the “revised edition”) is excluded and apart from the Commissioners' submission and views. Government further had noted that in several proceedings in the Corporation meetings the same views as appeared in the said paragraph 33 of the original Statement were expressed and, therefore, Government would consider “the intention of that paragraph as part of the Commissioners' case.”*

* The paragraph 33 ran as follows: “. . . it is impossible for most of the Commissioners to follow the advice given by His Honour the Lieutenant-Governor, namely, to leave the preparation of every scheme and its perfection to the Executive. In this matter they feel strongly and so long as they hold office they cannot leave exclusively either the preparation or perfection of schemes to the Executive. It is their firm belief that hitherto by their interference in many a scheme there has been a great deal of saving of money as well as proper elaboration of the scheme itself, and they would only refer to one instance out of hundreds in which satisfactory results have followed from their interference. The one instance they refer to is the new Drainage Scheme, the expenses of which, if it is adopted in its entirety, by the Commissioners as desired by the Executive, would have been one hundred per cent more than what is now estimated to cost. The Commissioners hope and trust that His Honour will be pleased to peruse this document and thereafter pass such judgment on it as may seem to him meet and proper.” (It was the concluding paragraph of the original Statement).

No Reason for Withdrawal

(ii) The Lieutenant-Governor certainly saw no reason for withdrawing any portion of his address and was disappointed that so many Commissioners had failed to understand the main purport and object of his remarks. His Honour had "a right to expect" that his remarks should have been taken more in reference with the recently published Administration Report of the Local Government than "his known attitude to the question of Local Self-Government and friendly feelings towards the Bengali community." It was no personal question with him, but he had spoken only from a sense of public duty. The speech was not a condemnation of the Commissioners. His Honour had given them praise where it was due.

(iii) His Honour had made no secret about his accusations. He had quoted openly from the Report of the Sanitary Commissioners. There was no doubt that the Health Department of the Corporation of Calcutta was badly run. His Honour was not personally interested to hold a brief for Dr. Simpson. But the Statement of the Commissioners disagreed substantially from the findings of the Medical Board and the Sanitary Inspectors' Report. "Other experts" also had declared against the views stated by the Commissioners, whose excuses on the score of finance did not hold good as reasons for their exoneration from blame for the extremely insanitary condition of the Town.

Interference with Executive

(iv) The Commissioners had curtailed the power of the Chairman and further interfered in executive work by appointment of unwieldy committees which consisted practically every Commissioner who desired to be let in. Cases in point were:—Water-Supply Extension Committee (31 members); Bustee and Town Improvement Committee (38 members); Suburban Improvement Committee (21 members); Roads, Buildings and Tramways Committee (40 members); and Complaints Committee (33 members). Thus the Commissioners had lapsed the true representative and controlling functions of the Corporation as the supreme body into detailed executive management of conservancy and practical municipal work. Again, the Sub-Committee often choked all executive work which had to stop, and time was further wasted in wrangling over trivial issues.

(v) That private interests were considered to the detriment of the public was proved, in much stronger language than His Honour had used, in the speech (at the Commissioners' Meeting on 18th July, 1895) by Mr. N. N. Ghose, and also admitted by Babu Kally Nath Mitter. Mr. N. N. Sen (16th September, 1895) had also strongly criticised the inordinate delay over works of improvement.

The Lieutenant-Governor's letter, which was as lengthy as the Statement submitted to him, then dealt in detail with specific instances which sought to prove "the harmful effects of interference by the Commissioners in the Municipal administration of the city." The letter was signed by Mr. H. H. Risley, Secretary to the Government of Bengal.

'Divide and Rule'

The next move to break the solidarity of the opposition in the Corporation of Calcutta came by way of two proposals made at the meeting of the Commissioners on the 29th April, 1897. The first of these wanted to remove the Vice-Chairman (Mr. Nilambara Mukherji) on the ground of his being much too heavily involved in personal debts to be entrusted with the position of great responsibility and trust which he held in the Corporation.

The second resolution, moved by Mr. Shirley Tremearne, proposed:

"That the representation of the Municipality in the Bengal Council should alternate between the Hindu and Mahomedan and other Communities."

Mr. Tremearne said that his idea was to have "something on record to show that an arrangement had been come to by which minorities might be represented." Moulvie Mahomed Yousuf took the opportunity, at the same meeting, to warmly thank Mr. Tremearne because he did not want to "open the race question but to provide for equal representation".

In the discussion which followed Babu Mohiney Mohan Chatterjee was afraid that the resolution, if accepted and given effect to, would land the Lieutenant-Governor in the unenviable situation of being forced to make a "Hobson's choice" in the matter.

Mr. N. N. Ghose thought the resolution *ultra vires*. Mr. Ghose also pointed out that the restriction would hamper the Corporation from having proper representation in the Council as the best man available for the occasion might not always belong to the community which would enjoy its turn to send in such representative. Mr. Ghose further said that "very good care" was taken of the minorities, and that it would be neither right nor wise to press the Resolution.

Mr. Braunfeld also expressed himself against the Resolution on grounds of expediency and said Mr. Tremearne was bringing in the difficult and "obscure doctrine" of representation of minorities that had been unsuccessfully tried "in many kingdoms with established representative government."

Babu Bhupendra Nath Basu also opposed the motion. Mr. Simmons expressed himself in favour of the Mahomedan point of view. Babu Nalin Behary Sircar pointed out that communal differences did not count in Municipal affairs.

Mr. Tremearne's motion was put and lost by 21 votes for and 32 against.

In the meanwhile, however, the Calcutta Municipal (Amendment) Bill of 1898 was introduced in the Bengal Legislative Council by the Hon. Mr. H. H. Risley, on the 19th March, 1898.

The Corporation Protests Again

The Commissioners met on the 13th April, 1898, and appointed a Special Committee to go into the Bill as forwarded to them by the Local Government, with instructions to the Committee to report by the

15th June next. Considering, however, the "bulk of the Bill" and also "the important character of its provisions which were entirely new and, therefore, required patient and careful consideration", the Select Committee wanted, on 8th June, further time to report. But the Local Government thought that "as the principle of the Bill had been affirmed by the Legislative Council by the vote taken on the motion to refer the Bill to a Select Committee" (refer to Council proceedings dealt with below) the Corporation should not take further time beyond the 1st July to submit their views on the "detailed application of those principles." The suggestion, however, was made to send in the report in instalments. Accordingly this procedure was accepted. The Special Committee of the Corporation held 44 sittings in all and sent the 2nd, 3rd and 4th (and final) instalments of its report on the 5th October, 1898, the 7th December, 1898 and the 5th April, 1899, respectively.

"Corrupt Politicians"

Following the publication in the *Calcutta Gazette* (July 12, 1899) of the famous Despatch No. 93, dated 17th June, 1899, of the Government of India (which caused the Bill to be referred back to a Select Committee in the Council), a requisition for a special meeting was signed by 45 Commissioners of the Calcutta Corporation. The meeting took place on the 2nd August, 1899, when Babu Kally Nath Mitter moved the following Resolution:

That having regard to one of the principal grounds for the introduction of the Calcutta Municipal Bill, as summarised by the Government of Bengal in their Letter No. 383-T.M., dated 17th June 1897, since quoted by the Government of India in their Despatch No. 93, dated the 17th June 1899, and lately published for general information, viz., "the growth of party spirit and the appearance among the elected Commissioners of professional and in some cases corrupt politicians"—the Commissioners in meeting respectfully solicit that they be furnished with the information that may be at the disposal of the Government, upon which such a grave charge has been based. They beg respectfully to point out that a charge so definite as regards the persons against whom it is brought involves a reflection against the character of every elected Commissioner, and they must first express their deep regret that an imputation of the kind should have been made by the Government of the Province against a Public Body entrusted with such responsible functions as the Corporation, and communicated to the Government of India without any public enquiry, and without affording the elected Commissioners the opportunity of explanation or defence.

"Bengali Adventurers"

Babu Kally Nath Mitter said that the charge was a grave one, and this was its first publication in this form. He then referred to a quotation from a speech of Sir Alexander Mackenzie, delivered at the Assam Dinner in London and reported in the *Capital* of the 28th July, which read:

"While he (Sir Alexander) had been an earnest advocate of the principle of local self-government as applied to the interior, where the Communities were homogeneous, he had been unable to see why the whole commercial community of Calcutta should be in the hands of a lot of Bengali adventurers. He had discovered that the whole work of the Municipality practically being conducted by a Committee which met at the India Club, the Committee consisting of half-a-dozen men who lived simply by the position given them by directing municipal affairs, and that really no respectable European would have anything to do with the Municipality."

The speaker referred to the great injustice done by the Government withholding from them the information which was so vital for them to have. He said that the information was of paramount importance both for the Corporation and the public; he also said that it should not have been published without giving the persons maligned an opportunity for explanation. "When Adam sinned", he said, "God called upon him to explain his conduct, and I do not see why the highest personage in the land should have done the same". He further pointed out that it was "singular" that the Despatch of the Government of Bengal was not published before the matter came before His Excellency the present Viceroy (Lord Curzon). He further emphasised the fact that the persons thus maligned "occupied as high a position as most men in Calcutta" and that they did not fear an open enquiry.

"Shame and Humiliation"

Supporting Babu Kally Nath Mitter Mr. Apar said that he had yet to learn that because some Commissioners assembled to discuss municipal affairs, they were to be classed as adventurers.

Mr. Braunfeld thought that as His Honour's experience was confined only to the Province, and further that as the Lieutenant-Governor was not a politician or statesman used to the intricate problems of continental issues, the speech should not be taken too seriously.

Mr. Oldham took the line that the Resolution was contradictory; for, the Commissioners having admitted the existence of "black sheep" among them could not turn round on His Honour for saying so. Mr. Oldham said that the London speech was made without the knowledge that reporters were present, and therefore, was not authentic.

The Hon'ble Babu Surendra Nath Banerjee considered it very regrettable that the Government would make such declaration against the Commissioners in a public document of such importance as the Despatch No. 93 of the 17th June, of the Government of India. He also deplored the fact that this official document which "blazoned forth to the shame and humiliation of the Commissioners" should convey the first information of the Government's accusation to the Commissioners thus calumniated.

Resignation of 28 Commissioners

To this Resolution, Government replied in a curt note, dated 19th August, saying that Sir Alexander Mackenzie's views had been publicly

stated in his speech in the Bengal Council on the 4th April, 1898, and the Lieutenant-Governor declined to enter into any correspondence with the Corporation on the subject.

The Commissioners met on the 1st September, 1899, to consider the letter. As soon as the Chairman placed the letter before the meeting, Babu Kally Nath Mitter handed the Chairman a letter of resignation signed by 29 Commissioners. One of them, however,—Dr. Rammoy Roy—later withdrew his resignation on the spot. Thus twenty-eight of the most prominent public men resigned from the Corporation. Their names are :

WARD No. I	WARD No. XI
Mr. Bhupendra Nath Basu	Mr. Devaprosad Sarvadhikari
„ Pashupati Nath Bose	
WARD No. II	WARD No. XIII
„ N. N. Ghose	„ Mohiney Mohan Chatterjee
„ Chandilal Sinha	„ Benode Behary Banerji
WARD No. III	WARD No. XIV
„ Kally Nath Mitter	The Hon. Mr. Surendra Nath Banerjee
„ Akshoy Chunder Bose	WARD No. XV
WARD No. IV	Moulvi Syed Shamsul Huda
„ Nalin Bihari Sircar	WARD No. XVII
Kumar Manmotho Nath Mitter	Mr. J. Ghosal
WARD No. V	WARD No. XIX
Mr. Lal Behary Bysack	„ Amirtolal Ghose
WARD No. VI	WARD No. XX
„ Amarendra Nath Chatterjee	„ Jyoti Prakash Ganguly
„ Radha Churn Pal	WARD No. XXI
WARD No. VIII	„ Kanty Chunder Banerji
„ Sreenath Dutt	WARD No. XXII
WARD No. IX	„ Jogendra Chunder Ghose
„ Narendro Nath Sen	WARD No. XXIII
WARD No. X	„ Ramtaran Banerjee
„ Raj Chunder Chunder	WARD No. XXIV
„ Surendra Nath Das	„ Surendro Nath Roy
	WARD No. XXV
	„ Moneylal Banerjee, Rai Bahadur

It may be noted in this connection that when Dr. Rammoy Roy (Ward XXI) withdrew his resignation "on subsequent consideration", his speech was greeted with cries of "Shame", "shame"—particularly from the European Commissioners, some of whom hissed loudly. The Chairman (Mr. Bright) paid high tributes to the great services rendered by the Indian Commissioners and agreed that the resigning Commissioners were taking the only course which was now open to them. Mr. Braunfeld associated himself with the Chairman's views.

III

In the Bengal Legislative Council

Unperturbed by the vigorous agitation in the Press, platform and in the Corporation itself against the new measure, the Government of Sir Alexander Mackenzie launched the Bill to amend the Calcutta Municipal Consolidation Act (the Bengal Act II of 1888). The Bill was introduced in the Bengal Legislative Council by the Hon'ble Mr. Risley (later Sir Herbert Risley) on the 19th March 1898. It met with as vigorous and determined opposition there as in the Corporation or throughout the country. Even the Indian National Congress took up the question of the Calcutta Municipal Amendment Bill as a direct challenge to the established rights of Local Self-Government. The entire agitation was as deep and as real as the famous Partition Agitation in Bengal at its beginning*. In the Council, those who fought for the peoples' cause against the machinations of British *vested interests* displayed remarkable tact, forbearance, logic and masterly control of facts and arguments; they fought constitutionally in a manner which would reflect the highest credit on any parliament of the people in any country: *and yet they lost*. But in their defeat they laid bare the real intentions of the British "imperial" policy in India and the racial arrogance of the guardians of British "vested interests". All liberal pretences to good government and the "White Man's Burden" were forgotten as the fight progressed between the Indian Nationalists and the European *coterie*,—and the one aim of the united forces of Government, foreign commercial interests and Indian henchmen of the British "managing agents" was to destroy the growing power of the educated Indian middle class. In this contest the Government of India (of Lord Curzon) eagerly "aided and abetted" the Bengal reactionaries who were out to kill and crush democracy in the civic administration of Calcutta. It was the old story of the camel and the tent-keeper: and that was exactly the intention and the implication of the infamous Bill of Sir Alexander Mackenzie which became the Act III of 1899.

The Plague Scare

In introducing the Bill in the Bengal Legislative Council the Hon'ble Mr. Risley made great capital out of the Report of the Sanitary Commissioners exactly as Sir Alexander Mackenzie had done to silence the Commissioners of the Corporation. The plague "scare" in Calcutta served well as a convenient peg to hang all the preposterous denunciations engineered by the Anglo-Indian Press and European commercial interests. The monopoly enjoyed by the educated Hindu community in the administration of the Corporation of Calcutta was the target of Mr. Risley's attack under the excuse that "the elective system had failed in the Calcutta Corporation". To establish this fantastic theory on the solid basis of "facts", the Hon'ble Mr. Risley trotted out the details of Calcutta's insanitary condition and stuck bravely to the game of singling out the "Executive" for praise for the little that had been accomplished and heaping all the blame on the elected Commissioners for all that had been left undone. His case was that these Commissioners

* See "A Nation In Making"—By Surendra Nath Banerjee, pp. 164-165.

had monopolised all executive power, had acted constantly as the "brake-power" against the Chairman and other Executive Officers and had opposed progress by too much talk and squabbling amongst themselves. Therefore, it was the determination, he announced, of the Government of Bengal to provide the Corporation of Calcutta with a strong Executive.

"Hindu Preponderance"

The Hon'ble Mr. Risley quoted statistics to describe the unjust Hindu preponderance in the Corporation of Calcutta. He said that the proportion of the elected Hindus had declined from 64.6 to 61.6, and on the main body of elected and nominated members from 52.7 to 52. On the general body, he said, the Hindus yet had the same strength as in 1882—66.6 per cent. The percentage of Mahomedans, he said, had risen from 11.1 in the Corporation to 17.3; and on the General Committee from 10.1 to 16.1, largely due to Government having, at the instance of the Chairman, nominated 6 Mahomedans (which, "in itself was no cause for regret"). But this gain for the Mahomedans was counter-balanced by the decline of proportional European and Eurasian representation from 31.9 to 26.8 in the Corporation and from 20 to 5.6 per cent on the General Committee. Native representation (including Hindus and Mahomedans) had risen since 1882 from 63.9 to 69.3, and on the General Committee from 76.6 to 83.3; but the proportion of other nationalities had fallen from 36.1 to 30.1 in the Corporation and from 23.4 to 16.7 in the General Committee. According to profession: Lawyers had increased from 21 (in 1882) to 27 in 1895—Hindu Lawyers gaining the 6 seats. Land and House-owners had fallen from 17 to 12; and merchants and traders "had the same number of seats as in 1895 and went ever unrepresented although the commercial interests in the municipal administration had advanced rather than declined." [This, however, was a fact; because great Anglo-Indian houses and business organisations had grown up and the roll of licensed contractors in the Corporation was steadily and increasingly being decorated with their honourable names.]

New Constitution for the Corporation

Three Municipal authorities, said the Hon'ble Mr. Risley, were now proposed to be set up,—the Corporation, the General Committee, and the Chairman (assisted by a Vice-Chairman).

The Bill "*abandoned the system followed in the previous Acts, of vesting the entire municipal government in the Commissioners, with the permission to the Chairman to exercise such powers of the Commissioners, not being reserved to the Commissioners in meeting, as they may not withdraw from him by resolution, and subject to such conditions as they may lay down.*"

All powers conferred by the Bill were distributed among the authorities with reference to their assumed fitness to exercise them. The General Committee, standing between the deliberative and the executive authorities, was to deal with those matters, which, "by their very nature were ill-adapted for discussion by the Corporation and were

too important to be left to be disposed of by the Chairman alone",—the power being reserved to the General Committee to appoint *Sub-Committees either from their own body or from the General body of the Commissioners.*

In the appointment of the General Committee adequate safeguards were taken to protect the interests of the European commercial community "which made the town the centre of trade", of the Government "which made it (Calcutta) the Capital of the Indian Empire" and lastly, of the "residents and house-owners and landlord", whose property values "increased two-hundred-fold by the creation and maintenance of Calcutta as a commercial Capital". The General Committee was, therefore, to be composed by "representation in equal proportions of (a) elected Commissioners *voting by groups of the Wards* into which the city had been divided, (b) the Chamber of Commerce, the Trade Association and the Port Commissioners, and (c) the Government; so that 4 members of each of these sections would go to form the General Committee of Twelve 'Strong men and True'. The Hon'ble Mr. Risley excused the departure from correspondence with reference to area, taxation, and voting power on grounds of "municipal needs".*

With this laudable object it was also provided that the "Deputy Chairman ordinarily must possess engineering and architectural qualifications" to properly assist the Chairman whose duties, it was anticipated, would be greatly increased by the coming alterations in the Building Regulations. *The Chairman had the entire Executive power*, said the Hon'ble Mr. Risley proceeding with his speech. The Local Government would "appoint the Chairman", while the "important offices" of the Engineer, the Surveyor, the Health Officer, the Collector and the Assessor, "*were withdrawn from the patronage of the Corporation.*" These were to be selected by the General Committee "to avoid the scandal that has been caused by the canvassing of rival candidates." The offices which carried salaries of not less than three hundred rupees were to be filled by the Chairman by selection. The Local Government was the authority to prescribe the qualifications for the Health and Conservancy Officers, and also of the Engineer. "That the Government ought to have an effective power of interference is, I imagine, incontestable," declared Mr. Risley.

"One Cardinal Principle"

Overruling the objection preferred by the Hon'ble Babu Surendra Nath Banerjee against the motion to suspend the Rules of Business in order to put the Bill through the initial stages, His Honour, the Hon'ble the President, Sir Alexander Mackenzie, declared that "the Bill really

* According to the statistics he had previously given, the registered electors amounted to only 2 per cent of the total population of Calcutta, and the Hindus, forming only 66 per cent of the total population, had 73.3 per cent of the registered electors and 69.5 per cent of the voting power; the Mahomedans, forming 29 per cent of the population, contributed only 10.5 per cent of the electorate, but exercised only 9 per cent of the voting power. On the other hand, the Hindus with 69.5 per cent of the voting power secured in 1895 only 61.6 per cent of the seats; the Europeans with 19.5 per cent of the voting power got 23.3 per cent of the elected Commissioners; and the Mahomedans with only 9 per cent of voting strength had 13.4 per cent of the Ward elections.

involved one large point of principle". The remainder (consisting of about 700 sections which, the mover himself had admitted as introducing "large changes in the law") His Honour was pleased to dismiss from immediate consideration as "a mass of details". His Honour invited the Hon'ble Members "if they chose to stand up and discuss the principle". The Bill was then formally introduced by the Hon'ble Mr. Risley.

Opposition Opens Attack

The Council met on the 2nd April (after an adjournment granted on the 26th May) to consider the Bill. The Hon'ble Babu Narendro Nath Sen opened the attack from the Opposition. He characterised the Bill as "unjust, unnecessary, uncalled for and distinctly retrograde in character and entirely subversive of the principles of Local Self-Government in the municipal administration of Calcutta." He regretted that just as they were on the eve of extensive measures of popular and civic benefits, the Government should put in this mischievous measure on the legislative anvil. No case, he said, had been made out for extending the huge powers already enjoyed by the Executive in the Calcutta Corporation. As regards the Chairman, the speaker opposed in principle "the vicious system to combine administrative, executive and deliberative functions in one and the same person who happened to be the head of the Municipal Executive, when such person was answerable to the Commissioners for many things done by him in his executive capacity". The speaker vehemently opposed the policy of giving the Chairman "absolute powers subject to the control of a packed majority". He objected to these attempts "to enable a minority to control a majority". He said that by the provisions of the Bill the Corporation would be reduced to a "hopeless nullity" and the elected Commissioners shall be in standing minority in the General Committee. He strongly defended the Commissioners who, he said, by sheer force of merit and ability, "deserved well of the Government and the Calcutta public for the success of their administration". He spoke of the strong feeling prevailing among the elected Commissioners of having been condemned unheard. In conclusion, he said: "If self-government in Calcutta has failed, let it be abolished by all means. But while it lasts, its integrity and independence must be respected".

The Hon'ble Mr. Turner (Chamber of Commerce) referred to the correspondence that the Chamber had had with the Local Government in July 1895, September 1896 and January 1897. He said that "in cases of important break-down and crisis", it was the Government of Bengal who had to answer to the Government of India. In attempting, therefore, to put the Calcutta Municipality's affairs in order, the Local Government certainly did not trespass into the privileges of self-government enjoyed by the Corporation. It was, he said, in keeping with "the practice adopted in England". He thanked the Government on behalf of his Chamber for having introduced the measure.

A Challenge

The Council adjourned till the 4th April, when the Hon'ble Babu Surendra Nath Banerjea addressed the House. He challenged the

mover to produce his evidence and his facts and materials to justify his premises and then declared:

Sir, if this Bill should unhappily become the law of the land, and if its principles were to be engrafted upon the system of Local Self-Government which prevails in the *Mufassal*—one of the greatest blessings we enjoy under British Rule, and with the inauguration of which, Sir, your name is honourably associated—the inestimable boon of Local Self-Government—will have become a thing of the past. . . . The Hon'ble Member had not done justice which the Corporation is entitled to receive in his hands. He has read out the indictment, but not the explanation—the charge but not the answer of the Corporation. But it was never for one moment to be supposed that the Corporation allowed judgment to go by default. . . . Of the alleged charges . . . some were admitted, others were challenged and with regard to the rest explanatory notes submitted. . . . In the face of these statements and counter-statements—statements made by high authority and counter-statements made by the authority equally high and actually entitled to weight . . . the obvious thing for the Government to do was to institute a Commission of Enquiry.

The speaker then dealt categorically with the disclosures made by the Mover in his introductory speech and proceeded to state that so far as these charges were concerned, the Explanatory Statement of the Commissioners was sufficient to dispel the suspicion that public health was endangered in Calcutta and that the city was in a grossly mismanaged condition owing to the elected Commissioners of the Calcutta Corporation having defaulted in their duty. He said that considering the Calcutta in the days of the "Justices", the Commissioners had turned the "filthy bequest to splendid account". They had, he said, turned the city into "one of the healthiest in India"; and the charge of "fitful, spasmodic and haphazard action against the Corporation was utterly unfounded", he said. He upheld the Commissioners' case that the fault lay most with an indifferent Executive (who had behaved on many occasions with perverseness and even insolence against the constitutional authority of the Commissioners). He emphatically could not agree that the "delay" caused by the Commissioners was anything but deserving of praise as it had *saved about a crore of the Corporation's money*. Surendra Nath characterised the Hon'ble Mr. Turner's speech as "objectionable both in matter as well as in form". He reminded the House that as a result of the Chamber of Commerce's letter, dated 10th July 1895, and the subsequent hue and cry raised over "typhoidal epidemic" (to which the Health Officer of the Corporation had merrily contributed) the Local Government had thought fit to censure the Health Officer for "lending his authority to a false rumour". He strongly opposed, on the highest grounds of expediency, the passing of the Bill into law as that would disperse and dissipate all executive responsibility from the Calcutta Corporation altogether.

New Powers

Next, he referred to the manner in which the Local Government was seeking, through this Bill, to capture power and authority which

by law it did not have. The *new powers* which Government was trying to arrogate to itself were :—

(i) Appointment of 4 out of 12 members to the General Committee of the Corporation; (ii) fixing the Chairman's salary; (iii) appointing the Deputy Chairman and fixing his salary; (iv) granting leave of absence to the Chairman and the Deputy Chairman; (v) removing a Commissioner's disqualification by a Local Government Order; (vi) prescribing qualifications of the candidates for the posts of the Health Officer, the Engineer, the Conservancy Officer; (vii) providing for occasional or periodical inspection of any Department of the Corporation by officers of the Government; (viii) approving resolutions of the General Committee which will have to be forwarded to Local Government for such approval, and also, similarly, collecting all minutes, reports and information published in all the proceedings of all the meetings that took place in the Corporation of Calcutta; (ix) controlling municipal funds by issuing certificates on strength of which immediate disbursements for executive works thus declared "urgent" were to be made out of municipal funds (although the work might later be challenged in the Corporation); (x) acting as the *final authority* to dispose of disputes between the General Committee and the Corporation; and (xi) granting exemption to owner or occupier of any building from the payment of consolidated rates on the recommendation of *any two of the three* authorities,—the Chairman, the General Committee and the Corporation.

The speaker solemnly warned the House against the Bill "which was launched in the name of sanitation". Speaking with his experience of public service for over a quarter of a century, he appealed to them to remember that it was *funds* which the Corporation of Calcutta was in need of rather than changes in law. He also appealed to the Lieutenant-Governor to abandon the measure. He then concluded :

Our municipal institutions are the gift of our rulers. We owe them to their beneficence. But they have taken firm roots in our hearts and our convictions, for they are in entire accord with our ancient traditions and the inherited instincts of our race. . . . It would be most unwise, most unstatesmanlike in these days of political unrest and excitement, to do aught which would in the least impair the utility of these institutions or shake public confidence in them. . . . Sir, greatly as we value sanitation, we are not prepared to sacrifice our civic freedom for its sake, especially when such a sacrifice is unnecessary and uncalled for, and when it will prove disastrous to the fortunes of our people in other, higher and nobler directions.

The Hon'ble Mr. Spink supported the Bill because the "chief among the interests to be maintained by the Municipality are those of the European community". He further went on to say that "the introduction of the elective system in this country was an experiment with an educational object". Therefore he argued that it would be preposterous to put the trading and commercial interests of Calcutta—the great centre of commerce—too largely into the hands of those who were

in *statu pupillari*. . . . He was followed by the Hon'ble Sahibzada Mahomed Bakhtyar Shah who said that the Bill "supported itself."

Mentality behind the Measure

The Hon'ble Rev. Kali Charan Banerjee opposed the motion. He said that the object in bringing this Bill had been twofold,—first to strengthen the municipal executive; and secondly, to secure larger European representation. The speaker said that existing circumstances did not justify this measure. If any change was thought of, it should have been for the extension and not curtailment of self-government as the Corporation had an excellent record of work behind it since the elective system came into existence. He objected to the illegitimate desire for dominance of minorities which seemed to have actuated this Bill rather than the legitimate object of protection of minorities. He said that the anxiety displayed by the Hon'ble Mr. Risley for the *prestige* of the Chairman—a "government officer entrusted with a high and responsible post" who had to suffer the indignity of depending on native Commissioners for increase of his pay and provisions—betrayed the mind behind the measure. He also criticised the detailed provisions regarding salaries and appointments to posts in the Bill and said that if there were friction in the Corporation it was "between a desire to assert irresponsibility and to hold people on to their responsibility". He deprecated any provision of the law which sought to accentuate racial differences and racial feelings. Dealing with the General Committee and, particularly, with the Chairman he said that "the functions of the Chairman were defined in the Bill into a *plenum* and those of the Corporation into a *vacuum*". He pointed out that according to the Bill the General Committee would consist of 4 Government nominees out of 15; 2 representatives of the Chamber of Commerce out of 4; 1 Trade Association representative out of 4; 1 Port Commissioner representative out of 2; and 4 out of 50 elected Ward Commissioners. who will, thus, be in a permanent minority of 4 against 8. Concluding, he deprecated the idea of the Europeans thus securing predominant position by "artificial provisions of the law".

The Hon'ble Babu Jatra Mohan Sen-Gupta (father of the late Jatindra Mohan Sen-Gupta, who had the unique honour of being five times the Mayor of Calcutta) then recorded his protest against the Bill on the following three grounds :—(a) that the passing of the Bill into law will be a blow to Local Self-Government; (b) that no case had been made out for the proposed enactment; and (c) that the Bill would take away from the Commissioners the powers which they possessed under existing law.

"No Infringement"

Replying to the debate, the Hon'ble Mr. Risley claimed that the Government had not infringed upon the rights of self-government in the Calcutta Corporation but had *affirmed and extended it*. Even the principles of Lord Ripon, he said, excluded the provincial cities; Calcutta had no homogeneous population; questions of sanitation affecting this particular city had acquired international importance; as matters stood, the municipal affairs of Calcutta were being done by "three Hindus sitting on one European and one Mahomedan"; the affairs of

Calcutta were in the hands of an "ill-balanced oligarchy"—'Young Bengal', 'New India' or call it whatever you like, but these were the people who "talk and canvass and agitate"; the Commissioners of the Calcutta Corporation shirked their responsibilities and yet jealously held on to every power and thus stifled the executive into inaction and also adopted dilatory tactics,—all these the Hon. Mr. Risley expounded as the solid facts which justified the Government setting about to improve the administration of Calcutta by provisions expounded in the Bill. He dealt with the charge of the government having arrogated to itself new powers, in these words :

All municipal government is a large delegation from the ruling power of certain of its functions for certain purposes, and the limits of that delegation are a pure matter of convenience and experience.

Thus Government justified the hateful measure.

Sir Alexander's Closing Remarks

In summing up the debate the Lieutenant-Governor, Sir Alexander Mackenzie said that it was not that His Honour did not recognise the worth of good men—and there were many in the Corporation. But although the Corporation presented a fair superstructure, "we all know", said he, "that beneath this there is a good deal of what no Corporation or any one would be proud". He further assured the House that he would have "thrown the Bill into the fire", could he be convinced that valuable assistance from competent Indians, who had already made their mark in municipal administration, would be unavailable because of the provisions which the Bill would pass into law. He repeated that "the cardinal principle of the Bill was to leave the ordinary every day work of the city in one man's hands". His Honour found no reason to suppose that there would be "any predominant majority in the General Committee." He hoped that "men of all classes would then unite to do the work of the town in a businesslike way." Sir Alexander further averred that democratic principles were not strictly applicable to India: "We have not", he said, "to count heads, but to weigh interests in deciding on the best form of city government."

To Select Committee

The motion was then put that the Bill be referred to a Select Committee consisting of :

The Hon'ble Rai Durga Gati Banerjee Bahadur, the Hon'ble Mr. Oldham, the Hon'ble Mr. Buckley, the Hon'ble Sahibzada Mahomed Bakhtyar Shah, the Hon'ble Mr. Turner, the Hon'ble Babu Narendro Nath Sen, the Hon'ble Babu Surendra Nath Banerjee, the Hon'ble Mr. Spink, and the Mover, the Hon'ble Mr. H. H. Risley.

The motion was carried, the Council dividing as follows :

Ayes.—12 (The Hon'ble Messrs. Spink, Turner, Buckley, Oldham, Finucane, Pratt, Risley, Grimley, the Hon'bles Mahomed Bakhtyar Shah and Durga Gati Banerjee, and the Hon'ble His Honour the President, Sir Alexander Mackenzie, the Lieutenant-Governor of Bengal.)

Noes.—4 (The Hon'ble Babus Jatra Mohan Sen, Surendra Nath Banerjee, Kali Charan Banerjee and Narendro Nath Sen.)

On the 12th November, 1898, the Hon'ble the President of the Bengal Council, His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal, made a *personal statement* in the Council regarding the Calcutta Municipal (Amendment) Bill. His Honour said :

Sir John Woodburn Explains

"The Corporation of Calcutta has under its present constitution assented to some great and far-reaching schemes of improvement for the City. . . . The solution which Sir Alexander Mackenzie proposed, and which this Council has accepted, is that the executive body of the Corporation—its agents for all purposes and action—shall be a committee limited in numbers in which the three great interests of the city shall be equally represented—the rate-payers, the men of commerce, and the Government. Under the name of the Government are gathered those great sections of the people—the Mahomedans for instance and the poor—who, but for government nomination, may never be represented at all. . . . The gravamen of the protests (against the proposal) is that the constitution of the Executive Committee, as proposed in this Bill, is an infringement on the great principles of Local Self-Government . . . but whatever may or may not be the demerits of the Bill, it most certainly cannot be alleged of it that it infringes in any way the principles of self-government. . . . Self-Government is not circumscribed into one solitary and sacred system. Self-Government would cease to be a defensible system of government if it were refused permission to adjust itself to the lessons of experience."

On that very day, the Hon'ble Mr. Edward Norman Baker (later Lieutenant-Governor of Bengal), who took his seat on the Council on that day, was, on the motion of the Hon'ble Mr. Bolton, taken into the Select Committee. Thus that Committee now consisted of 6 Europeans "sitting over" 1 Mahomedan and 4 Hindus (including the Rai Durga Gati Banerjee Bahadur) ; the fatal ratio of 8 against 4 was here solemnised and, as a foretaste of the promised "extension of self-government" in the civic administration of the Town of Calcutta did not belie "imperial" expectations.

The Select Committee submitted its Report on 26th April, 1899.

Lord Curzon takes a Hand

On August 5, 1898, the Hon'ble Mr. Baker moved in the Council that the Hon'ble Mr. Mackenzie and the Hon'ble Mr. Apcar be taken into the Select Committee, and that the Hon'ble Babu Surendra Nath Banerjee be "re-appointed to the Select Committee."

Next, the Hon'ble Mr. Baker again moved that :

The Calcutta Municipal Bill be referred back to the Select Committee for further consideration with reference to the correspondence between the Government of India and the Government of

Bengal, which was published as the Supplement to the "Calcutta Gazette" of the 12th July, 1899 and with instructions to report within two weeks.

But the Council adjourned till the 7th on the Hon'ble Mr. Apcar's motion to accommodate him as he has taken his seat on the Council on that day.

The Curzon Despatch

Below we reproduce relevant extracts from the correspondence received from the Government of India :

I

No 93, dated Simla the 17th June, 1899.

From

A. H. L. Fraser, Esqr., C.S.I.,
Officiating Secretary,
Government of India
(Home Department).

To

Secretary,
Government of Bengal,
Legislative Department.

2. Sir Alexander Mackenzie set forth the grounds for introduction of this Bill in Mr. Risley's letter No. 383 T.M., dated 17th June, 1897. The principal grounds as summarized by him were :—
[The italics are ours.]
 - (i) The complete failure of the elective system to secure adequate representation *even of the different interests existing in the native city* ;
 - (ii) The practical exclusion of European men of business from all share in the municipal government of Calcutta ;
 - (iii) *The growth of party spirit and the appearance among the elected Commissioners of a class of professional and in some cases corrupt politicians* ;
 - (iv) The abuse of the Committee system, which paralyzed the executive officers and demoralized the subordinate staff ; and
 - (v) The consequent breakdown of the conservancy and water supply of the town and of every department of municipal administration.
3. The Government of India fully accepted the necessity for the remedy of these abuses.

Here the letter referred to the Despatch No. 1, dated 6th January, 1898 (submitting the Bill to the Secretary of State) from the Government of India which gave "fullest support to the Lieutenant-Governor's endeavour to improve the system of Municipal Government."

4. Bodies representing the trade of Calcutta should have a voice on the General Committee.

Special Responsibility

7. *Special responsibility of the Government of India* : "they are deeply persuaded of the importance of a local administration, which shall adequately represent the various great interests that have placed, and still keep, Calcutta in its premier position in India, and which shall be businesslike, efficient, and free from scandal or reproach. At the same time it would be their natural desire, in the interests of both of continuity of administration and of public harmony, to see these objects attained, not by any contravention of the broad principles of Local Self-Government already conceded, but by a curtailment of the abuses to which in practice they may have become exposed, and by a restriction, within limits suggested by experience, of the range of their future operation.
8. There are features in Sir Alexander Mackenzie's Bill which are not in accordance with the principles just laid down, and which might not in practice ensure that amicable and patriotic co-operation of all parties in the future municipal government of the city, which is essential to its efficient administration.
9. The want of correspondence, in constituent proportions, between the Corporation, which is still left under the Bill with its original numbers (75) and constituent elements (50 elected by Wards, 10 elected by bodies representing trade, and 15 appointed by Government) and the new General Committee of 12 members, to be constituted in the opposite proportions of 8 from 25 members representing trade or appointed by the Government, and 4 from the 50 Ward members . . . this lack of proportion and the divergent interests which it may be expected to some extent, will be liable to produce friction between the two bodies, upon whose harmonious co-operation the future government of Calcutta must so largely depend.
13. The Government has been struck, in their examination of the grounds advanced both by Sir Alexander Mackenzie and Sir John Woodburn for the measure, by the allegation that the existing Corporation has devoted itself to speech and criticism rather than to action. There can be no reason why a number of voters returned as only 13,890 out of a total Ward population estimated at about 650,000 or a proportion of little more than 2 per cent, should return as many as 50 members ; or the interests of a city even of over 681,000 inhabitants should require the services of 75 Commissioners for their protection.

"Restricted Bombay Model"

17. In other Wards it is advised that the Corporation should be composed of 50 members, 25 being elected as now by the 25 Wards into which the city is already divided, and 25 being partially nominated as now by the Government and partially elected (as now) by bodies representing commercial interests.
18. The General Committee might be constituted by the nomination, as in Bombay, of one-third of its total number of 12 members by the Government and by the election of the remaining two-thirds by the Corporation.
19. The Bengal Government would, therefore, find it desirable to suggest some plan that will secure to that proportion (two-thirds) of the General Committee which is to be elected by the entire Corporation a strictly fair and proportionate representation of the constituents of the electoral body.

II

No. 276 T.M., dated Darjeeling. the 3rd July, 1899.

From

E. W. Collins, Esq.,
 Officiating Secretary,
 Government of Bengal,
 Municipal Department.

To

Secretary,
 Government of India,
 Home Department.

(Reference paragraph 9 of the Despatch dated 17th June, 1899) :

It is therefore proposed to reduce the number of Commissioners, so that the future Calcutta Corporation should, like that of Bombay, consist of two equal factors; and in order to effect this object, it is suggested that the Corporation should be composed of 50 members, 25 being elected by the 25 Wards into which the City is at present divided, and 25 being partially (as now) nominated by Government and partially elected by bodies representing commercial interest. With regard to the General Committee it is suggested that the Bombay model should again be followed, with certain reservations, necessary on account of the special features of Calcutta, and that two-thirds of its members should be elected by the Corporation.

With regard to the suggestions in paragraph 19, that provision should be made to secure to the portion of the General Committee, which is to be elected by the Corporation, a proper representation of the constituent elements of the Corporation, the necessary amendment will be accordingly introduced in the Bill.

Lieutenant-Governor stops Discussion

The Hon'ble Babu Surendra Nath Banerjea moved that instead of two weeks, six weeks be given to the Select Committee to draw up its Report; and that the Bill be referred to the public and the Corporation for opinion. He then referred to the reasons given by the Government of India in their letter. But His Honour the Hon'ble the President of the Council refused to allow any discussion thereon. The speaker, however, contended that as these grounds were *absolutely new* and did not appear in the previous letter of the 7th March, 1898; consequently these could not be held to have been covered by His Honour's ruling, that matters previously discussed in the Council would not be allowed to be discussed again. But the Hon'ble the President stuck to his decision.

The speaker then referred to three particular points in reference to the Government of India's letter. He said that the statements could be challenged as they were not made in accordance with the findings of any impartial Court of Enquiry. But he was again interrupted by the President who barred any discussion thereon. Next, the speaker dealt with the fact that the statements made by the Government of India in the despatch under discussion "were in direct conflict with the avowed policy of the Government of India".

Paramountcy of the Corporation

In this matter he brought up the question of the basic functions of self-government in the municipal administration of Calcutta. He said that the paramountcy of the Corporation was an acknowledged fact; it was "the corner stone of the system of 1876". He hoped that the principle of co-ordinate authorities, which was the main feature of the Bill, would be abandoned. He then referred to the absurd position that would be created if the Government of Bengal, by virtue of the powers given them under the proposed measure, would proceed to draw upon municipal funds by means of issuing certificates of urgency and proceed to execute the very works against which an appeal might be pending hearing by the Government of India. "What is the good", asked he, "of an appeal, if the works are to be proceeded with?"

Referring to paragraph 13 of the Despatch, Surendranath said that for Calcutta with a population of 650,000 to have 75 Municipal Commissioners was nothing extraordinary. He showed that Birmingham, with 632,512 had 64; Sheffield and Leeds, with 347,278 and 402,449, respectively, had also 64 Commissioners each; Glasgow, with 705,052 had 78; Edinburgh 41 with 276,514; and Manchester, 104 with 529,561. He further said that restricted franchise in Calcutta had certainly deprived the poor people from representing themselves in the Corporation; but, he pointed out, that the poor residents of the city had made the habit of referring their grievances to the respective Ward Commissioners of the residential areas so that it was these Ward Commissioners who looked after the interests of the poor in the Corporation. Then, again, as several notable ex-Chairman had openly certified, Calcutta Commissioners did actually manage the affairs of the city with creditable efficiency. Besides, the speaker pointed out, there seemed to be no point in cutting down the number of the elected Commissioners

on the score of garrulity because the nominated ones could talk "just as well eloquently or as tediously".

A Permanent Minority

As to the future constitution of the Calcutta Corporation the speaker drew attention to the fact that apart from the 15 nominated members and 10 representatives of special constituencies, not all the remaining 25 Ward Commissioners would constitute an Indian bloc, because "the Europeans, after this unhappy strife, will make serious efforts to return Europeans". Thus, he said, *real representation of Indian ratepayers' interests would be in the position of a permanent minority*. "The Hindu and Mahomedan taxpayers", he said, "pay the bulk of the taxes but their representatives will have no hand in determining how they are to be spent". He concluded thus:

It has always been the crowning glory of the British Government never to withdraw a privilege which it has once conferred. There have no doubt been temporary aberrations, like the eccentricities of the planets; but the Government has soon resumed its steady career of beneficence and progress. I trust, Sir, that it will be our high privilege to associate Your Honour's name and that of His Excellency the Viceroy, if not with the expansion, at any rate with the preservation of an institution, which, while it has contributed to the sanitary improvement of Calcutta, has stimulated the public life of the people, and has helped the cause of popular and political education, which it is one of the avowed objects of the Government of India to foster and to promote.

The Hon'ble Mr. Mackenzie rose to oppose the motion. He stressed on the dangers of restoring to the Corporation, "the power of electing their high officers" which, he said, would mean opening "a door for canvassing and jobbery which has not been wanting in the past". He also spoke strongly against handing over the control of the affairs of the city to a fixed "set of political agitators".

"To Crush Elective System"

The Hon'ble Mr. J. G. Apcar spoke next. He supported the theory that politics should not predominate in the municipality, but he vigorously opposed the attempt to cut down the elective principle in the management of the Calcutta Corporation. He further pointed out that although the Government of India had made a point of saying that their object in supporting this measure was "to secure adequate representation by the elective system—even in the native city", the restrictions proposed in the application of the elective principles would, he said, *annihilate the chances of the Mahomedans*. He could find no reason for cutting down the number of elected Commissioners, except "to crush the elective system".

The Hon'ble Mr. Apcar further repudiated the Hon'ble Mr. Risley's theory that the Corporation of Calcutta was ruled by inexperienced and hot-headed politicians—"Young Bengal, or New India, or whatever you may call them". He said that the "younger people", as a matter of fact, "were barely listened to except when they had something of real

importance to say". He maintained that the "leaders of the Corporation of Calcutta" were men of proved ability and experience in municipal administration and had earned unstinted praise from Sir Henry Harrison on that score.

The Hon'ble Mr. Apcar deprecated the unfair criticism levelled against the Commissioners by persons who "never attended one single meeting of the Corporation". Proceeding next to deal with the charge against the Commissioners that they were "unbusinesslike", the speaker was called to order by the Hon'ble Mr. Baker who pointed out that "past administration of the Corporation was not in question". The Hon'ble the President considered the Hon'ble Mr. Apcar's contention that he had a right to refute base slander and allowed the speaker to proceed.

Deliberate Mischief

The Hon'ble Mr. Apcar then related the mischief deliberately created by the Engineer in one particular instance. It was when the Tramway Co., after repeated attempts to draw the Corporation's attention to the shocking state of a drain at the Kidderpore Dock, had at last got the authorities moving in the matter, the Engineer suggested that "the new pumping machinery required for the drainage scheme under construction should be telegraphed for and obtained from England *without calling for tenders*". He was asked, however, to submit estimates to proceed with the drainage work by utilising a portable engine which was then lying in the Stores of the Corporation. This took place in December, 1897; but in spite of the Chairman (Mr. H. C. Williams) having repeatedly called for the estimates, the Engineer would do nothing till Mr. Williams went away to England, on leave, in March, 1898.

"The new Chairman" (Mr. W. R. Bright), continued the speaker, "shortly after entering upon office, at the close of a meeting of the General Committee, when only a few members, myself among the number, were left, without due notice, brought up the proposal that had been rejected . . . to give the Engineer a free hand, to enable him to telegraph to England to purchase the pumping engine at a cost of Rs. 60,000. . . . Formal objection was taken on the ground of want of notice when he (the Chairman) withdrew his proposal, undertaking to bring it up again, with due notice, in the following week."

A Great Nuisance

But, stated the speaker, *nothing had been done till the moment of speech*, for, on personal inspection of the spot in February last (1899), the speaker had found it yet in a state of great nuisance. The speaker said that the uninstructed public and everyone not in the know of the actual position of these affairs would, with reason, be led to lay the blame on the Corporation. In this particular matter, he said, the Government of Bengal had written officially to the Corporation and the District Magistrate of Kidderpore had threatened to take legal proceedings, but the Chairman had never brought the subject before the Commissioners since then. But all the while (in 1897 and 1898) the Commissioners had been kept in ignorance, the speaker having only come to know about it purely "by chance". Thus the Commissioners were

"condemned". The speaker said that in this case even the specific orders of a Chairman were ignored. "The whole mischief", said the speaker, "was that the present proceedings are being conducted by those who are ignorant of the past history of the questions that are raised". The speaker defended the system which allowed elected Municipal Commissioners to control the municipal works of the city, or rather, the policy guiding the works. He recalled that Sir Henry Cunningham (whose lead in the agitation over sanitary questions in Calcutta led to the appointment of the Beverley Commission) was obliged to withdraw his suggestion of a Municipal Board of Control on the Lines of Port Trust and, due to the reception that it met at the hands of Sir Rivers Thompson, also apologised for having made the suggestion. In Mr. Apcar's opinion the real need of the day in order to carry on with the municipal administration was for the Government to extend the powers of the Commissioners to legislate in order to deal more effectively with deadlocks wilfully created.

"Unsupported Conclusions"

Dealing with "the decision (as conveyed by the Despatch of the Government of India), which it will be idle to deny conveys a mandate to us (the Bengal Legislative Council)", Dr. Asutosh Mukhopadhyaya (later Sir Asutosh Mookerjee) said: ". . . the despatch from the Government of India was remarkable for the fact that the conclusions embodied in it were not deducible from the premises". Under the circumstances, however, he did not think it would be any use getting into any detailed criticism of the despatch. He heartily supported the amendment moved by the Hon'ble Babu Surendra Nath Banerjee.

The Hon'ble Babu Jatra Mohan Sen also supported the motion stating that "a proper and reasonable time should be allowed to the public to express their opinion in the matter".

"Who are the Bengalis?"

The Hon'ble Mr. Oldham then addressed the House. He criticised the suggestion made by the Hon'ble Mr. Apcar that "the diminished representation now proposed to be given must have the effect of obliterating the Muhammadan representatives on the Corporation". Corrected by the Hon'ble Mr. Apcar that the latter's remarks were in relation to the Ward elections, the speaker went on to say that no Muhammadan had yet been taken into the Corporation General Committee. He maintained that the Hindu predominance was an absolute fact. He denied that men like Henry Harrison, Mr. Cotton and Mr. Lee, who were undoubtedly able officers and excellent Chairmen, could be said to be representative of general opinion when they had praised the Commissioners. Having studied the agitation over the Bill, which had progressed for about a year, the speaker said that it was focussed in and confined to the Bengalis.

By Bengalis the speaker only meant, "that intellectual race who are now competing with us in nearly every field, and I think outstripping us in some,—we mean only those whom I would call the Brahman and the lesser Brahman. By the lesser-Brahman I particularly refer to the Baidya, who occupies in Bengal the place taken

by the Kshatriya in Upper India, and who was sprung from the Brahman, the honoured offspring, though not the heirs." The speaker noted in this connection that the Hon'ble Mr. Risley had assigned, "in that monumental work of his", the great caste of the Kayastha a position "almost higher than the Brahman's", which, however, would not be conceded by either the Brahman or the Baidya.

The opposition created against the Bill, the Hon'ble Mr. Oldham continued, was "wholly a Hindu opposition . . . wholly a Bengali opposition." He denied that they were anything like a numerical majority in this city or among the ratepayers. "To make an estimate you must eliminate all Europeans, Australians, and Americans, and foreigners; all the numerous Hindustanis and Uriyas; all *Muhammadans* (!) and also those who do not belong to races or caste from whose hands a Brahman can take water; and then you will have left the Brahman, the lesser Brahman and the nine castes who are an absolute and a comparatively small minority of the Calcutta ratepayers."

Referring next to the comparative study of municipal population in towns like Birmingham, Glasgow, Manchester, etc., as quoted by the Hon'ble Babu Surendra Nath Banerjee, the Hon'ble Mr. Oldham maintained that those towns had homogeneous population and there could be no parallel for comparison between them and the state of affairs in Calcutta. With regard to the "birds-of-passage" argument, the speaker asked: "Is it even *prima facie* probable that the English after founding and developing a city in the East, which has come to be one of the great cities of the world, would be as careless about its future as about its present?"

The Hon'ble Raja Ranjit Sinha Bahadur of Nashipur wanted to move an amendment cutting down the "six weeks" in the amendment in discussion to "four weeks"; but he was prevented by the Hon'ble Mr. Baker's objection that no previous notice has been given with regard to this amendment. The Raja Bahadur then discussed the existing elective system in the light of quotations from the Government Administration Reports since 1889 to 1894, and said that "the present number of Commissioners were fixed after mature and deliberate consideration". He submitted that "the election should not fall on the shoulder of the elected Commissioner only as in such case it will strike at the very root of Local Self-Government".

"Balance of Interests"

The Hon'ble Mr. Baker opposed the motion to extend further time to the Select Committee as then the Bill could not have been put through during that session. Dealing with the constitutional issues, the speaker had to say that the proposal for the reduction of the number of the Commissioners was intimately connected with and formed an integral part of "the very important reform proposed for the readjustment of the balance of interests between the two wings of the Corporation". He next dealt with the proportional ratio between the ratepayers and the actual residents of the city. The electors, he said, constituted 2 per cent of the population. This proved, according to the

speaker, that the elected Commissioners were not representatives of the ratepayers. He reiterated that the reforms sought to be introduced by the measure were justified because the elective system had failed to give a really representative character to the administration on the Corporation. He also attacked the Hon'ble Mr. Apcar's remarks regarding Muhammadan representation. He said that the inference of the Hon'ble Member was incorrect, because "as the total number of Commissioners is reduced, the relative value of each nomination will be increased, and the powers of the Government will in no way be affected".

Decreed by 'High Command'

Replying to the debate, the Hon'ble Babu Surendra Nath Banerjee said that the questions relating to the reduction of the number of elected Commissioners, the constitution of the General Committee and other matters, had never been before the public nor the Corporation. He thought that it would be only fair to refer the Bill for their opinion regarding the *new proposals* which were before the Council. He also protested against the remarks of the Hon'ble Mr. Mackenzie who had insinuated that the agitation against the Bill was the work of political "wire-pullers" from outside; he also referred to the fact that the Hon'ble Mr. Mackenzie did not himself hesitate to canvass for the measure among the tea-planters. Finally, he appealed to all not to tolerate or assist in giving the "death blows to the prospects of Local Self-Government".

The Hon'ble the President (Sir John Woodburn) said that it must be universally admitted that there was an imperious need of improvement in the methods of administration of "our city". His Honour then said that "another tribunal . . . the Government of India, completely changed", had upheld the decisions of Sir Alexander Mackenzie in 1897. His Honour could "conceive of nobody whose impartiality and whose judgment were more to be trusted". The Lieutenant-Governor was of the opinion that the opinion of this "impartial tribunal" the Bengal Council was "bound to accept". He said that the measures to be introduced would not be "death blows" but would help to foster Local Self-Government.

The motion was then put and lost, the voting being:

Ayes.—6 (The Hon'ble Babus Sndrendranath Banerjee, Baikuntha Nath Sen, Jatra Mohan Sen, Dr. Asutosh Mukhopadhyaya, Mr. Apcar, The Raja of Nashipur).

Noes.—11 (The Hon'ble Messrs. Mackenzie, Spink, Slack, Handley, Buckland, Baker, Bolton, Buckley, Oldham, Durga Gati Banerjee and Nawab Bahadur Syud Ameer Hossein).

They Fought and Lost

The Bill then dragged on through the discussion of the clauses. The Indian Nationalists fought every inch of the ground, contesting every section; challenging, amending, but invariably losing. At every division they were ousted by the sheer number of votes supporting the Government. The voting strength of the Government has been recorded

above. It was easy to foretell from the debate of 7th August, what the ultimate fate of the Bill would be—particularly after the Lieutenant-Governor's open admission of the mandatory nature of the India Government's "suggestions".

On the 27th of September, 1899, the Bill was passed into law. It was, indeed, the death of Local Self-Government in the Corporation of Calcutta. It was the greatest ramp of European "profitmongers", those unconstitutional "nabobs" who had stepped into the shoes of Clive and Watson. They are still known as the *Anglo-Indian clique*. They were responsible, in 1877, for Lord Lytton's reluctantly yielding to Lancashire's pressure to remove the import duty on cotton goods (although the Government of India was in a perilous situation financially—having yet not recovered from the heavy expenses of the Mutiny and, further, the loss of revenue owing to the Great Famine of 1876); they were responsible for the "Ilbert Agitation" and the systematic pressure of the Government to sabotage the measures of Lord Ripon; they were (and are) the "power" which shook (and shake) the throne of Viceroys and provincial satraps, gaining support from powerful British capitalists by the most mischievous misrepresentation of Indian motives and methods; they are the "agents" who create discord, dissension and rancour among the "children of the soil" in India. Knowing and respecting nothing but what serves their own interests for the time being and, unfortunately, never failing to find adequate "native" support to carry out their schemes and designs—they constitute, to this day, the ugliest feature of British rule in India. Their machinations have not yet ceased and thanks to the "Communal Award" they have found new allies, ready to do their bidding and be "rewarded".

IV

AGITATION IN INDIA AND ENGLAND

Calcutta Meetings and Memorials

Calcutta has seldom been more agitated, except perhaps on the occasion of the controversy on the Ilbert Bill, than it was on the proposed legislation to curtail the powers of the Corporation of Calcutta. A series of protest meetings was held all over the city, two of which were held at the Town Hall. The first of these was held on the 31st August, 1898 with Raja Benoy Krishna Dev Bahadur of Sovabazar in the chair.

Of this meeting the *Amrita Bazar Patrika* of the 1st September, 1898 wrote:

"It is seldom if ever the Town Hall is so crowded as it was last night. The occasion was the entering of the protest of the city against the new Municipal Bill which is now before the Bengal Council. The protest was firm and emphatic and it befitted the intelligent rate-payers of the city. . . The grey-headed Hindus, the long-sleeved Mahomedans, the money-loving Marwarees, who perhaps had never before attended a meeting at the Town Hall,

were there in their hundreds. They perhaps have no faith in political agitation, neither do they care to mix in it; but the present Bill has convulsed them so much that what is most unusual, leaving their own grooves they came to the Town Hall to express their feeling on the matter and to appeal to Government to release them from the impending danger of the passing of the new Bill in its present state. . . . Most of the Municipal Commissioners were present but they did not take part in the proceedings of the meeting. The speeches were generally short and to the point and they elicited loud out-bursts from the assemblage. There were some vernacular speeches in Hindi, Urdu and Bengali as there were many who did not understand the English language. In short the meeting was a decided success and proved the fact that the people of Calcutta were at last alive to the great danger that stared them in the face.

The Sheriff of Calcutta, Babu (later Raja) Sitanath Roy, opened the proceedings, and the following Resolutions were adopted:

I

Retrograde and Subversive

"That this meeting desires to record its respectful but firm protest against the Calcutta Municipal Bill as being retrograde in its character and subversive of the principle of Local Self-Government and as vesting large and important powers in the executive, which as they must be delegated to subordinates and will be exercised without the wholesome check of the Corporation, cannot fail to be attended with grave oppression.

The resolution was moved by Rev. Protap Chandra Mazumdar, seconded by Kumar Radhaposad Roy. Mr. A. Chaudhuri, Barrister-at-Law, delivered a powerful speech in support of the resolution. He bitterly attacked the British Indian Association for not joining the meeting. He asked the meeting "to show by passing the resolution unanimously the estimate in which you hold the British Indian Association" (hisses, a voice: "Down with that body"). The resolution was further supported by Maulvi Sheik Zackeriah Ali in Urdu, and Babus Ram Lal Sen, Nanda Lal and Hemendra Nath Sen.

II

No Case Made Out

The second resolution ran as follows:—

That in the opinion of this meeting no case has been made out for the complete supersession of a municipal system which has now been in existence for nearly a quarter-of-a-century and which has contributed so largely to the financial solvency of the Corporation and to those sanitary improvements which have converted Calcutta from being, in the words of Mr. (after Sir John) Strachey, "a scandal and a disgrace to civilized Government", from a sanitary point of view, to one of the healthiest cities in these provinces. But should the Government think otherwise, this meeting prays that a

Commission be appointed to institute an enquiry into the municipal administration of Calcutta since the introduction of the elective system and that no legislation be undertaken except upon the basis of their report."

The resolution was moved by Mr. A. M. Bose, seconded by the Rev. A. P. Begg and Babu Shew Bux Mall; and supported by Babu Rajkristo Dutt and Babu Panna Das Kshetry.

III

A Memorial

Kumar Monindra Mullick then moved that a memorial which was taken as read, be adopted and submitted to His Honour the Lieutenant-Governor under the signature of the Chairman (Raja Benoy Krishna Dev Bahadur) of the meeting. Pandit Sivanath Sastri, the great Brahmo leader, seconded the resolution. It was carried unanimously. A Committee was also appointed to watch the progress of the Bill in the Council.

Accordingly a memorial was presented to the Lieutenant-Governor. In his speech at the Bengal Council, on the 12th November, 1898, Sir John Woodburn referred thus to the memorial:—

"The gravamen of these protests is that the constitution of the Executive Committee, as proposed in the Bill, is an infringement of the great principles of Local Self-Government. If it were so, the Bill would have had from me a most reluctant adhesion, but whatever may or may not be the demerits of the scheme, it most certainly cannot be alleged of it that it infringes in any way the principles of Self-Government. . . . I read it [the Memorial] with the careful attention that it was my duty to give them. The speeches, if I may say so, were not comparable, in practical knowledge and dialectic skill, to those which were delivered in the Council Room by my Hon'ble colleagues, Babu Narendranath Sen and Babu Surendra Nath Banerjea. Those speeches . . . I have read with equal attention to those in the Town Hall. . . .

Continuing, the Lieutenant-Governor declared that Government had decided to concede to the Memorialists in one point raised by the Town Hall Memorialists—that of "duty of sanctioning the by-laws."

Another Town Hall Meeting

Another meeting was held at the Town Hall on 22nd September, 1899, again with Raja Benoy Krishna Bahadur in the chair "to enter an emphatic but respectful protest against the action of the Government of India in connection with the measure; and, in the next place, to express the approval of the recent resignation of the 28 elected Commissioners of the seats in the Corporation."

The Arguments

Of this meeting the *Amrita Bazar Patrika* wrote:

" . . . The arguments used at the meeting against the present measure have very many times found expression both on the

platform and the press; but those who heard the dispassionate eloquence of Mr. N. N. Ghose, every one of whose words came out and hit like bullets, the burning and fiery speech of the Hon'ble Babu Surendranath Banerjea whose pathetic reference to his connection with a ceremony which would end in the total extinction of Local Self-Government could not but strike everyone. The calm and placid but scathingly satirical speech of that fearless speaker—Babu Bhupendra Nath Basu—and the lofty and dignified words of Ray Yatindranath Choudhuri could not but convince of the retrograde and revolutionary character of the measure. Babu Kally Nath Mitter referred to the constitutional portion of the Bill, sarcastically. Mr. A. M. Bose observed that 'the present gloom in the political atmosphere of India, had done at least one good, in that it has brought on the heroic self-sacrifice of the champions of the people's cause and made martyrs of them. Referring to the change of corruption which the Government had preferred against them he pointed out that they had better look for such things nearer home—in fact, to the London Municipality itself'."

The Resolutions

The following resolutions were adopted at the meeting:—

I

"That this meeting desires to express its deep sense of regret and disappointment which the various representations of the rate-payers and the inhabitants of Calcutta on the subject of the Calcutta Municipal Bill have received at the hands of both the Government of Bengal and the Government of India.

II

"That this meeting begs to record its respectful and firm protest against the Calcutta Municipal Bill as finally revised by the Select Committee in accordance with the recommendations of the Government of India and as it is about to be passed into law on, among others, the following grounds:—

(A) That the Bill as now being finally settled by the Bengal Council is more retrograde and revolutionary and, therefore, open to more serious objection than the Bill as first revised by the Select Committee or even than the Bill as originally introduced into the Council.

(B) That the Bill virtually deprives the rate-payers of Calcutta, who contribute almost wholly to the revenues of the Municipality, of the privilege of administering the affairs of their Town by withdrawing from the Corporation many of the important powers hitherto enjoyed by it and further by reducing the proportion of their elected representatives on the Corporation from two-third to one-half and that on the General Committee from two-third to one-third, thus placing them in the position of a standing minority.

(C) That although the administration of the affairs of this Town (entrusted for the last 36 years) to one central body, viz., the Corporation will now be ostensibly divided among three separate co-ordinate authorities, viz., the Corporation, the General Committee and the Chairman, it will virtually, in a large measure pass into the hands of an official Chairman appointed by the Government, who will no longer be answerable to or subject to the control of the rate-payers or their elected representative.

Irresponsible Executive

(D) That the establishment in Calcutta of an irresponsible municipal executive with vast and varied powers who have to come in daily contact with the residents of the city is likely to lead to grave abuses and will entail oppression upon the poorer section of the community.

(E) That the method of transacting business hitherto followed by which the proceedings not only of the Corporation but also of the General and other Committees are made public will be entirely changed: the proceedings of the General Committee and its Standing Sub-Committees (between which the bulk of the business of the Municipality, other than executive work, will be disposed of) will no longer be published nor will these be circulated even to the members of the Corporation for their information.

(F) That the system of payment of fees for attendance at meetings of the General Committee and its several Sub-Committees is an innovation in this Province, wholly unnecessary and uncalled for, involving a heavy annual drain upon the Municipality and cannot fail to demoralise the recipients of the fees as well as the general public by lowering their sense of public duty and of the demands of a true public spirit.

(G) That in the Bill provisions have been made in regard to the supply of filtered water, the building of new houses and huts, repairs or construction of old houses and huts, assessment of residential houses, acquisition of land, determination of the value and similar other matters, which are calculated to work harshly upon the residents of the Town generally, and the poor in particular.

III

Resignations Approved

That having regard to the fact that the boon of Local Self-Government, generously conceded to the rate-payers of Calcutta by the Government of Sir Richard Temple in 1876, is about to be practically withdrawn, under the proposed law without any sufficient or reasonable ground and in spite of the pronounced and public recognition by the Government from time to time of the valuable services rendered by the elected representatives of the rate-payers in effecting large improvements of the Town, this meeting is of opinion that it would be better if the administration of the affairs of the Town were to be conducted directly by the Local Government itself as being less mischievous

than the system about to be introduced which with some ostensible, but wholly illusory, semblance of Local Self-Government will deprive the rate-payers of all powers and authority and will have at its head a practically irresponsible official Chairman.

IV

That this meeting desires to express its approval of the recent resignation by the 28 elected Commissioners of their seats on the Corporation and begs to offer that their action has been quite in accordance with the general feeling of the Indian population of Calcutta.

V

That the following memorial to His Excellency the Viceroy be adopted and forwarded under the signature of the Chairman of the meeting, together with a copy of the foregoing resolution."

"*Sabash Atash*"

The echo of these meetings reached the Bengali stage, and the well-known playwright, the late Mr. Amritlal Bose produced a characteristic play which he very appropriately named *Sabash Atash* ('Bravo Twenty-eight') in which the action of the twenty-eight Councillors in resigning their seats on the Corporation was applauded. The play drew crowded houses for successive nights and proved to be one of the most popular attractions.

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ROADS

By S. S. NAIK, B.A. (Bom.), B.SC. (Edin.), L.C.E. (Bom.)

CHAPTER I

MEANS OF COMMUNICATION AND THEIR
INTER-RELATIONS

Roads are a means of communication for men, and for transport of materials required for human needs; and as human civilisation goes on increasing the question of roads goes on becoming more and more important, complex and costly. The Romans who constructed roads in all the countries under their control were the people who helped the civilisation of many a backward nation such as Briton. The Mahomedan rulers, particularly Sherkhan, was the pioneer of the Road systems in the north of India. These roads were required specially for the purpose of military strategy as the people named above were all conquerors and wanted to have all facilities for the movement of troops. The most recent example is of Germany, who spent enormous sums running into hundreds of million marks on a Road programme, constructing wide, well-laid concrete roads on which they could run their military lorries at 70 to 90 miles an hour and mass troops on the frontiers of Austria and Czechoslovakia and intimidate the inhabitants into submission. This may be the Imperial idea behind some of the Indian Road programmes also.

As against this, we see in America the still more gigantic programme of roads because of a genuine desire to afford facilities to trade and commerce.

There are four means of communication :—

- (1) Roadways,
- (2) Waterways,
- (3) Railways, and
- (4) Airways.

Of these Roadways and Waterways are known to man for a very long time. Railways have been known for about a century and airways are only a recent innovation which are today exclusively used by the rich.

The inter-relation of these four means of communication and their respective uses are also important.

(1) **Roadways.**—These can be constructed over *terra firma* with crossings over rivers and streams, and can be used by man if he so desires by his own exertion without any means of transport. He can walk over the distance or carry a load on his own head or back if he likes. He can also use or employ a wheeled conveyance such as a cart, tonga, bicycle or motor vehicle on these roads according to his desire or means. But the main point is that he can be *independent of such means of transport* and can walk. The modern tendency of introducing the factor of time in all these operations of communication and transport, whereby man tries to economise in the time taken, has introduced the idea of speed of locomotion; and the question of the construction and maintenance of roads is becoming more and more costly and complicated.

(2) **Waterways.**—The existence of large sheets of water are taken advantage of, for transport of men and goods by means of boats. These vary in size from a small boat or raft manufactured by a man by his own exertions from the trunk of a tree or pieces of wood tied together, and managed and manipulated by one man and having a carrying capacity of very little besides the weight of the man, to the superliner fitted up like a floating palace and carrying thousands of passengers and thousands of tons of cargo. But here the man *must depend on some means of transport*. Nature helps man and the cost of transport is very moderate as compared with the cost of mechanical transport by road or rail, and much cheaper than that by airways. But these means of transport are available only where there is enough water to float and work the boats. The transport is necessarily comparatively slow, as speed can only be developed at a very great cost and the maximum limit of speed is very much less when compared with the speeds developed on all the other means of communication—25 to 30 miles an hour on a fast liner as against 60 to 80 miles on a fast motor vehicle on road, 100 miles an hour on an Express train, or 200 miles or over on an air liner. The other great disadvantage of Waterways is that of ports or stopping places for ships or boats, which are far apart and to avoid inconvenience of landing NECESSITATE A ROAD FROM THERE TO THE HOME OF THE PASSENGER OR GODOWN OF GOODS, if the distance is short and a railway if the distances are large. The need of railways is very great where large quantities of goods are received at harbours and have to be distributed over land in cross country tracts.

(3) **Railways.**—These depend on a track laid out under a definite system at a very great cost. The main principle is that the friction between the wheels and the rails is reduced to a minimum and hence the cost of haulage is reduced to a minimum. The idea behind the

whole thing is mass transport. The arrangement is very costly and a railway line is mainly a capitalist concern. The elaborate arrangements required at stopping places or stations make it compulsory to have these stations at some distance and facilities are needed to transport men and goods from these stopping places to the passengers' home or goods godown, by construction of roads.

(4) **Airways.**—These are at present confined to aristocracy and to the rich alone. The transport is very quick and very costly. Elaborate arrangements are needed near the airports or stopping places and these are necessarily very far from each other. Means of transport such as Railways and Roads are needed to take the passenger or goods home.

Thus we see that whatever the means of communication we think of, the Roadway is the intercommunicating link, and the national means of communication must be so arranged and designed that all these means go to supplement each other and not to compete with each other. In competition so much of the national resources are frittered away in duplication. There is now a tendency in this country to use a car or bus in competition to the Railway. Take the instance of a man who has to go from Bombay to Poona. There are fast trains provided, running at different hours of the day, which provide a means of travelling more comfortable and economical than those provided by a journey by car. Hence there is no justification for the use of a car for this journey except for those who want to satisfy their own vanity in going by a car from Poona to Bombay. This is a national waste which should receive no encouragement from Government. Then take the Passenger buses. These buses when they use the road for running a service parallel to the Railway line have no justification for their existence. People can travel best by Railways. The Government of India are taking a serious view of this as their Railway system is being disorganised for want of traffic. When the traffic is limited, it is a national waste to have two parallel organisations for transport purposes. Take for instance Motor Lorries. Except on feeder roads and on roads which are cross country, not served by Railways and not parallel to them, motor lorry transport is not a necessity. A system of motor lorry transport parallel to a Railway is a sinful national waste. If the Railways are not efficient, make them so. If the cost of transport is costly, agitate to get it down to a proper level. Supposing the distance between two stations is 100 miles and the Railway overcharges by as much as two annas per maund. You send five hundred maunds per day by lorry service. The apparent gain is Rs. 62-8 per day to the consignee. But to have a road of heavy section fit for the heavy

traffic and to maintain it efficiently would cost lakhs of rupees per year, including the interest, wear and tear and maintenance charges. Thus the State has to spend lakhs in order that the transport saving of Rs. 20,000 might be made to some people.

Having thus traced the existing means of communication, we can see that whatever the nature of the country and the means of communication, roads are a necessity. Their advantages can best be summed up as under as far as the development of Society from a crude form of existence to organised Society is concerned :—

- (1) Growth of villages.
- (2) Growth of towns.
- (3) Growth of markets and market places and consequent growth of trade and other economic activities.
- (4) Development of routes for armies for self-defence and aggression in wars and peace. The sites of all battlefields depend upon roads. Recent examples in France, Germany, Italy and in India show that roads were constructed solely with an eye to military necessity.
- (5) Development of Education—Education is backward in places remote from and not served by a road. This condition holds even in the case of primary education.
- (6) Industrial growth—Raw products must be taken to factory, workers must have facility of travel, and finished products must have easy access to markets and to Railway and Steamship depots for transport.
- (7) Development of railways, waterways and airways also depend upon roads as Road is the only form of communication that takes the traveller from the stations to his own door.

Thus the administration, progress and well being of a nation depend on roads. The most well developed or prosperous country or part of country is therefore necessarily where the mileage of roads to every sq. miles of surface or to every 1,000 heads of population is the highest. Of course there would be some exceptions such as in the case of a country or part of country where waterways abound like Bengal or where the military or political or strategical considerations force the Government to have higher proportion of roads. The development in the first case is probably far in excess than indicated by the mileage of roads and in the latter cases may be comparatively far too low.

Given below are the figures for some of the provinces of India :—

PROVINCES.	Area in Sq. Miles.	Average Density of Population.	Length of roads maintaining Public funds to 100 sq. miles area.	Area per mile of roads.	Persons per mile of road.
			Miles.		
Madras ...	1,22,620	382	26.80	3.73	1420
Bombay ...	77,035	284	23	4.35	1235
Sind ...	21,670	118	39	2.56	327
Bengal ...	71,684	679	55.40	1.80	1226
U. P. ...	93,000	506	35	2.85	1450
Punjab ...	73,000	290	29.10	3.42	1000
Bihar & Orissa ...	83,161	453	39.40	2.54	1150
C. P. ...	85,581	167	8.77	11.40	1908
Assam ...	32,590	236	22.00	4.42	1117
N.-W. F. P. ...	7,231	265	22.00	4.50	1200

(Mitchell and Kirknesses Report).

A comparison of the mileage of roads per square mile of area and also per 1,00,000 of population in some of the leading countries of the world would be very interesting and instructive so that we may be able to judge as to how much we have yet to do in our country.

Comparative Statement showing Road-mileage per square mile of area

1. Japan ...	3.00
2. United Kingdom ...	2.00
3. France ...	1.89
4. Germany ...	1.19
5. Poland ...	1.12
6. U. S. A. ...	1.00
7. British India ...	0.18

Comparative Statement showing Road-mileage per 1,00,000 of population

1. Australia ...	8213
2. Canada ...	5814
3. U. S. A. ...	2853
4. France ...	1392
*5. Japan ...	684
6. Poland ...	623
*7. Germany ...	595
8. Russia ...	547
9. United Kingdom ...	277
10. British India ...	142

* These figures are very low because of the great congestion of population in these countries.

The development of Roads in India is an item that has not been carried out according to a pre-arranged and correlated plan for the whole country as a unit. Each Local Authority and each Province had a habit of having its own arrangement to suit its own budget during the year. The thing that is most important is to have a programme extending

over a number of years in which, from the village roads to the inter-provincial trunk way, every case of new roads must be included, according to a certain fixed principle. The whole scheme when complete must be able to supply the needs of every place according to its traffic so that the greatest facility is afforded to the villager to cart his produce to the town market and from there it must be transported as speedily and cheaply as possible to the rail heads or steamer ports. An outlook in such a programme, if left to individual associations or bodies, is bound to be influenced by local outlook and thus defeat the very object of correlation.

CHAPTER II

CLASSES OF ROADS

Roads can be divided into—

A. Natural roads—

- (1) Tracks for men ;
- (2) Tracks for loaded animals ;
- (3) Cart tracks.

B. Constructed roads—

- (4) Katcha Roads ;
- Pucca Roads :—
- (5) Waterbound Macadam Roads ;
- (6) Cement Roads ;
- (7) Asphalt Roads ;
- (8) Stone pavements ;
- (9) Wooden pavements.

Of these we will take the natural roads first.

These are called natural roads because in the construction of these roads no special effort is needed, though some sort of effort is needed to keep up the roads in order, mostly coming in as voluntary individual labour, where out of pure goodwill any passer-by is prompted to do some necessary work, or some sort of a voluntary labour of the community is forthcoming.

Natural Roads

A track in an immense wilderness to show the direction of travel in going from place to place, forms the primary conception of a road. The feet of the travellers themselves beat down a track so that later generation have a well-beaten track. Generally the tracks go in a straight direction from place to place, except where they meet natural obstructions such as lakes, mountains, swamps, forests, rivers (to find better fordable places), or dangerous places where there is fear of beasts and men. Also the direction is sometimes changed to reach en route some place of interest or utility such as hamlets or places where water or food are available. This track is the first step in the science of Road-Building. It requires no effort or labour except that of finding the general direction. In all countries where the people are in a primitive stage, these tracks are the only means of communication.

Tracks

These are of two sorts :—

(1) Tracks for men without consideration about loaded animals.

In many places particularly in mountainous districts, all loads are carried by men by head-loads and all persons who desire to go from place to place have to walk the whole distance. The sick or disabled persons or those who cannot walk owing to their dignity being offended by walking, such as Sawakars or Government officials are carried in Dolis on the shoulders of four or more men. Such traffic follows the line of least resistance in straight lines, except where it is necessary to avoid very high mountains, deep valleys, deep and torrential streams or marshes. Except for a demarcation of the beaten track in some cases by keeping stones at intervals of 10 or 15 feet along both sides of the track, no effort is necessary on these tracks. The crossings of streams in places where it is possible to do so in the rainy season is done by means of long pieces of wood, sometimes two or more pieces tied together, being laid in convenient places across the stream above the highest flood and tied to convenient trees on both sides. These logs of wood are laid across the streams just before the rainy season and removed and stocked in convenient places after rains for re-use. Such crossings are of course few and far between and all tracks do not boast of these crossings. In the Ratnagiri District these tracks are very common and the District Local Board spends money annually on these nala crossings.

(2) Next come the paths required for commerce when goods are carried on beasts of burden such as bullocks, sheep or camels. These follow the tracks referred to above, but the path has to be developed by providing a certain width and ease of gradients so as to afford facilities for the beasts to carry burdens, so that they may not slip and fall while going up and down. Some efforts will have to be made to remove all the big stones, boulders, etc., so that the beasts may have some ease. This requires certain efforts, cost, and have to be looked after from time to time and so require maintenance.

The tracks for loaded animals, where all goods are carried over animals are common where the distances travelled are very great sometimes running into hundreds of miles, are more common in the Himalayas or Tibet. They were in existence in the Ratnagiri and other districts where the country is very mountainous, but owing to the advent of the good roads and motor lorries, have almost disappeared. The merchant prefers to send his goods by a lorry even by a very round about road than to entrust it to the mercies of the animal and its driver. But in the economic life of India these people have played a

very important part. The Vanjaras and Lamans used to do this transport work and they are very well known for their honesty and hard work. They were so rich owing to their hard work and inexpensive life, that they used to lend money to kings. Such tracks were well demarcated with some efforts made to have easy gradients for the animals. (An animal can go even up a gradient of 2 to 1). Some sort of efforts was made to ease the difficult places on the roads either by the villagers or by the owners of the animals. No stream crossings are necessary for these tracks as the traffic ceases during rains and continues during those months of the year which constitute fair weather, the programme of work of these men and their beasts being for 8 months only. During the remaining 4 months the animals were allowed to graze or were used for cultivation of fields.

The largest of all trade routes passing through Baluchistan, Kashmir, the Himalayas, Central Asia, China, Persia, Russia, Siberia, Mongolia and all the so-called uncivilised countries are roads of this class. The trade carried on by these routes is very large, in fact the entire trade of some of the countries is carried by these routes. Large caravans of camels, yaks and other beasts of burden, sometimes running in thousands or tens of thousands, descend into the frontier towns such as Peshawar. The merchants join together for safety and are many months on their journey and back. Until there is a possibility of carrying goods by aeroplanes at moderate rates, these trade routes will continue even though some of them will be abandoned as civilisation advances and faster means of traffic such as motor lorries can be made to run by these routes, or by routes which though circuitous afford facilities for the running of the lorries.

Village Roads

In this class we take those village roads which have been adopted by the villagers by long usage or right of way and which have been in existence for ages.

These roads are useful for the passage of carts to carry merchandise from fields to village, from village to village or from village to the nearest convenient market. These slowly grew up from time immemorial and followed the line of least resistance. There was no effort to demarcate them by any means except by hedges. Only two ruts to carry the wheels being all that was necessary to show them. In case where the ruts were so deep as to interfere with the passage of the carts, a slight detour was made by the carts and a new line of ruts formed. Care had to be taken and effort made to have the two wheels at such comparative levels as not to upset the carts. These cart tracks have

generally no river and stream crossing except for the cutting away of the steep banks to some sort of a gradient. After the rains the silt deposited in these approaches has to be excavated and removed.

These roads are public roads and usage has handed them over to the public even though they pass through private fields. They are generally shown on the village map, the alignment being generally such as to interfere as little as possible with rights of private ownership and cultivation. Where they have to cross a field they cross it near the boundary and so that the road forms a boundary of the field.

In the villager's economic life these roads play a very integral part, because he carts all his field produce to the market in his own cart by his own bullocks and has to pay nothing for the transport. He does the work when his bullocks are idle and when he himself has no work. Thus this is the cheapest form of transport to him as he has to spend nothing. A motor lorry in such cases entails a net loss to the villager as he has to pay in hard cash to the lorry owner and his bullock remains idle eating away the fodder. Thus these village roads are most important in the village and national life and economy.

These roads are necessarily very inconvenient and put a great strain on the bullocks for pulling the carts in bad places. The modern demand for a good road, such a one that it may be available almost all through the year has also permeated to the village people, and I suppose we must accept the axiom that it is the privilege of every village to have a good cart road leading from it to the nearest town so that a villager may be able to cart his agricultural produce to the market with as much facility as possible and that medical relief and other amenities of civilisation may be available to him with as much ease as possible. If there is no road a doctor may refuse to come to his village. Maternity benefits may not be available to the women and so on, educational facilities may be denied to the children. It must be a primary duty of the authority in charge of the rural section of the District such as the District Local Board to provide a road for every village. The funds for such works are not easily available. I would suggest that a programme be made for providing every village with a good road made according to the requirement, to be carried out in say ten or twenty years and to be scrupulously followed. This will give some amenities to the needy poor.

Roads according to the demand under these new conditions will have to be specially constructed, and we will consider them in Chapter VI.

CHAPTER III

ROAD CONSTRUCTION

Explanation of Technical Terms

Before proceeding with the construction of roads it is necessary to explain some technical terms which are used in the science of road construction so that a layman can understand those terms.

Alignment of a Road

The alignment of a road is the fixing of the direction or the general line along which the road is to proceed to reach its destination. This is a very important problem and is considered in Chapter IV.

Formation of Road

The formation of road is the level to which road is to be raised above the natural ground or to be excavated below ground level in order to have the required slope or gradient. The raising of a road level is done by putting an addition of earth on the natural soil. This addition of earth is called an 'embankment' or simply 'bank'. When a road level is to be taken below ground level, the earth is to be excavated and removed. This is called 'Cutting'.

When materials are heaped in a loose condition, the heap assumes a conical shape with sloping sides. For the same materials in the same condition of moisture, fineness, etc., the slope is always the same. This slope is called the 'angle of repose' of the material. Thus sand, earth, murum, etc., have got their own angle of repose. When embankment is made or when a cutting work is done, the slope at which the sides must be kept must not be steeper than the angle of repose of the material. Thus in the case of earth the slope must be about $1\frac{1}{2}$ horizontal to 1 vertical. This is called a slope of ' $1\frac{1}{2}$ to 1'. It may be steeper, say $\frac{1}{2}$ to 1 in case of soft rock and almost vertical in the case of hard stable rock.

When materials are excavated and then heaped up to reach the required height in the embankment, many voids are left in the super-heaps and the embankment 'settles down' by the weight of the super-incumbent materials or by the action of water during rains. This settling has got to be accounted for. The usual procedure is to put the materials in layers of 6" to 12" and then consolidate each layer by rolling or by passing loaded animals. Then the next layer is put on. Even after this, no final work on the road is done before one or two seasons

have elapsed, when the embankment is allowed to settle during rains. If this is not done the road will not have a regular surface but will be all uneven.

Foundations of Road

The excavation or embankment being generally of ordinary earth, gets wet and muddy during rains when water finds access to the earth. The wet and plastic mud sinks and distorts when a loaded vehicle passes over the surface and breaks up or permanently distorts the surface of the road. In order to prevent this, a layer of hard substance such as pieces of rock well arranged, or a layer of cement concrete are introduced between the formation and the surface of the road so that the loading due to the vehicle should not reach the wet or plastic formation directly but through the cushion of the hard material and sufficiently distributed. This layer of hard substance which is usually 9" to 12" in thickness is called a 'foundation of the road'. In small unimportant roads with light traffic or where the road is carried over hard substratum which is not much affected by water, such as hard murum or soft rock, no foundations are needed.

Surfacing Materials of Road

The top layer of a road surface consists of what is called the surfacing materials such as gravel, kankar, hard murum for *katcha* roads and pieces of hard stone of different kinds such as granite, blackstone trap, quartzite, etc., for *pucca* roads. The durability of the road surface depends on the durability of this material. These pieces of rocks used for road surface are called 'Road Metal'. They are broken to different sizes as per requirement $2\frac{1}{2}$ ", 2", $1\frac{1}{2}$ " and so on, the size being taken as that size which just passes through an iron ring of that diameter.

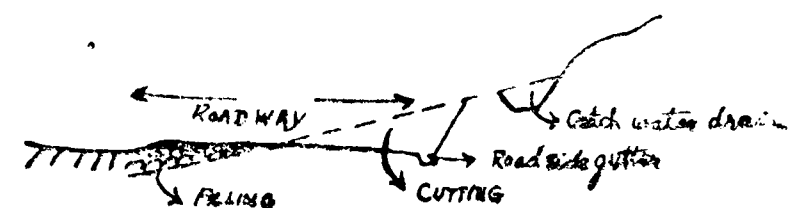
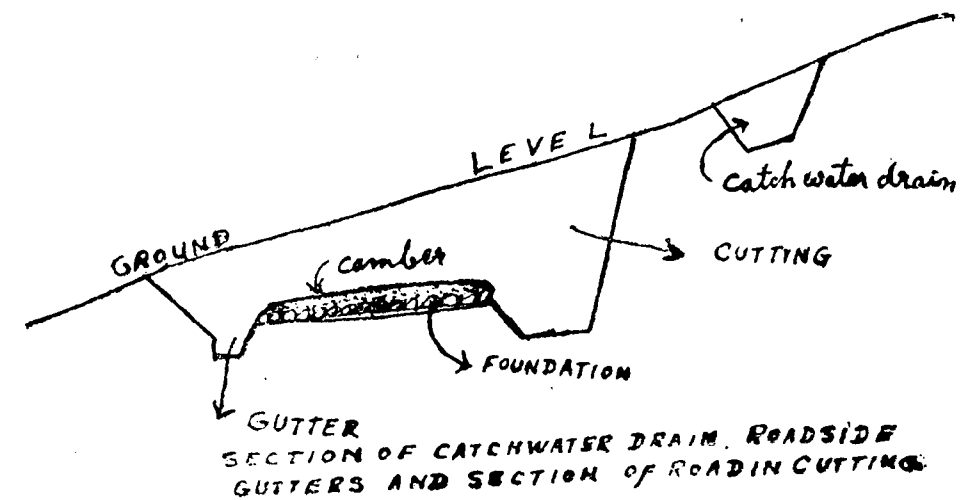
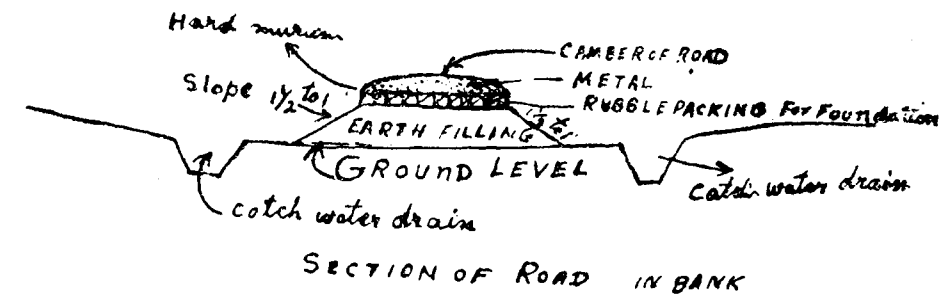
Camber of Road

The camber of a road is the shape or form given to the road surface when the surface is considered in cross section or cut across the road. This camber is generally in older roads like a wooden barrel or hog's back slightly raised in the middle.

All these are illustrated in the plates given opposite.

Kankar

Kankar is the name used for pieces or nodules of limestone found deposited in the earth's crust by action of water. These are of all grades of hardness and the usually the hardest are used for road surfacing where they are available *in abundance* and no other materials of a



harder nature such as rock are available. They are materials which have got an intrinsic value, because when burnt or calcined in a kiln yield good lime which is a very valuable building material.

Road Metal

Road metal is a term used to denote pieces of rock broken to sizes to form the surfacing materials of roads as explained above.

The size is between 1" to $2\frac{1}{2}$ " or 3". The pieces must be sharp and cubical and not in chips.

The rocks from which the pieces can be obtained are either (a) Aqueous or (b) Igneous. Under (a) we have hard limestone, hard slate or sandstone. Of these probably sandstone is the best because it is a compound of silica or quartz which is not affected by weather. Sandstone is also available in large layers and some of these being under great pressure are sufficiently hard. There is however a weak surface near the laminae or top layers, where extraneous materials such as iron salts find access. Igneous rocks are however the best for road metal because of the extreme hardness and uniform texture. Thus granite, gneiss, basalt or the black Deccan trap form the best materials for road metal. The top layers of rocks become damaged by the weathering action of thousands of years. The lower layers protected from this action are best.

The excellence of the road metal depends on two factors, hardness and also availability. In many places the materials can be brought only from a long distance. In Sind and Gujerath materials have got to be transported from hundreds of miles. In the Deccan plateau, very good materials are available very near, almost from the roadside quarries to quarries 5 or 10 miles from the roadside. It is purely a matter of relative economics as which materials are to be used. Sometimes surfacing materials of an inferior nature, available just near may be more economical to use, even though the road surface thus made up may be shortlived, than a long-lived surface from hard materials transported from a distance of hundreds of miles.

In places where none of these are available, for small unimportant roads, even pieces broken from overburnt bricks are used.

CHAPTER IV

ALIGNMENT AND SURVEY OF ROADS AND LAND REQUIRED FOR ROADS

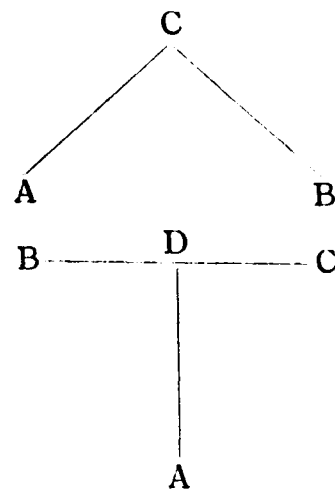
Naturally a road running from one place to another must take the straight line between those two points. But many circumstances cause a deviation from this line.

The alignment has to be deviated from a straight line joining two points—

- (1) To avoid marshy places, where neither bank nor road surface can be economically constructed. Such a construction is not impossible but costly. In many countries, cost or no cost, roads have to go through marshy places. It is said that in Silesia in Germany, roads strong enough to allow heavy howitzers were constructed in marshes by use of thick layers of coir rope under foundation.
- (2) To avoid bad crossings of rivers, nalas or streams so as to get good foundations for bridges or culverts or to avoid costly banks. In case of the Tapti in West Khandesh District the Bombay-Agra Road had to be shifted three miles, from Savalda to Gidhad with a corresponding shifting on the other side to join the old road.
- (3) To avoid forest or vegetation and consequent difficulty of cutting down the trees and loss caused thereby. In forests the road keeps constantly damp in rains and deteriorates quickly. Also the fear of forest fire by carelessness of cartmen or pedestrians is great.
- (4) To avoid crossing high hills or very high grounds so as to get better gradients for the road.
- (5) In order to get as near as possible to the materials required for road construction such as earth, murum, metal, sand and even water. The cost of road construction and repair and maintenance depends on these materials and if the lead of those is less, the cost of construction and maintenance and repairs is much cheaper.
- (6) To avoid costly land acquisition. If a road has to pass through cultivated land or garden land, the owner whose land is taken up for the road will demand a stiff price and so it is best to take a road through barren land or unproductive land which can be acquired at a nominal cost.

Besides the land under cultivation or under garden is soft land and the passage of water through roadside gutters cuts up such a land very much. The water is likely to be held up in fields, etc., owing to choking of gutters by the soft stuff and cause damage both to the road and to the fields. Garden land is soft and requires costly foundations.

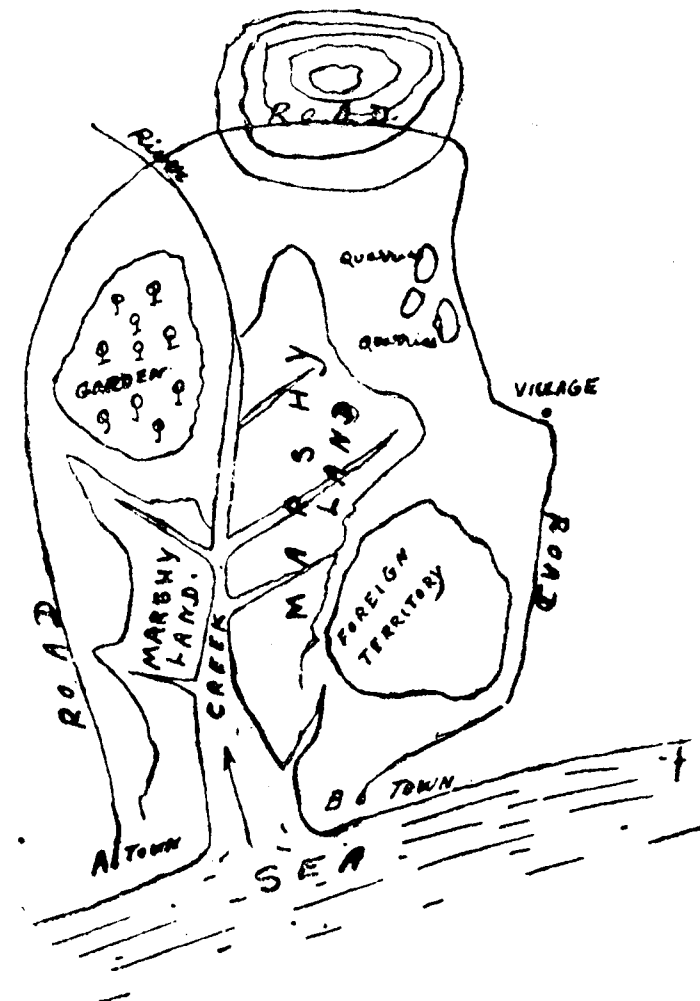
- (7) A road has sometimes to be deviated from the straight course to avoid too many nala crossings. If you can take a road along a ridge or watershed you can avoid all nala crossings. This will make the road cheaper in first cost and also for maintenance.
- (8) Besides this a road has to be deviated to serve an important village or town between these two points.



Thus while going from A to B if we go via C, it is more useful for all concerned. If there is an existing road such as B C and if we have to join A to B, it is best to go from A to D so as to join the road C B at right angles, and then go on to B along the existing road.

- (9) Another important point is political or other considerations which deviate a straight road. Supposing by going straight you have to go through foreign jurisdiction, it is best to take a round about way through one's own jurisdiction to avoid tolls, import and customs duties, etc., and to have the road freely available in wars, etc.

All these cases are illustrated in the plate given opposite.



The important considerations that require special thought and technical knowledge are—

- (1) Survey of Road.
- (2) Land required for road.
- (3) River or Nala crossings by bridges or culverts.
- (4) Gradients and curves.

Survey of Road

The length of the road has to be accurately determined and this can be done by means of a surveying chain. The land is measured by a chain and all features are marked by means of offsets and a survey map prepared which gives all the details of the land through which the road is to pass in relation to the horizontal plane.

The rise and fall of the land is measured by means of a level and staff which gives the details of the land in the vertical plane showing the heights of the various points in that plane.

The Trigonometric survey has divided this country into various sections and all data of that section are given in maps. Government have also published topo-sheets which give a map of the country on a suitable scale. These give also the configuration of the land and are thus very useful as guides and points of reference for such road maps as we have to prepare from time to time.

Land required for Road

The question of land required for the road is very important, because land has to be purchased. The area of land required has got to be estimated accurately, because if more land than necessary is taken, it is a pure waste of money. If however less land than necessary is taken up and then the land is to be purchased at a later date, with the construction of the road, the prices of land go up very fast, sometimes ten or twenty times the cost before the road was taken in hand. Therefore taking up any land at a later date becomes a costly job.

The width of land to be taken up depends upon—

- (1) width of road including side widths or footpaths ;
- (2) the side slopes of the embankment or cutting ;
- (3) space required for roadside or catch-water gutters ;
- (4) space required for tree planting ;
- (5) space required for stocking materials for road repairs and maintenance ;

- (6) space required for taking earth for embankments ;
- (7) some additional space required for widening the road in future.

Besides land is required for quarries, etc.

As we have seen under alignment of road, we avoid valuable land for roads and make it pass through waste land and as such the price of the land is not much. In such cases it is usual to acquire land 66 ft., 99 ft. or 132 ft. in width so that the area required can be reduced to acres very easily.

In towns and in valuable land the width required must be the minimum possible because the cost of acquisition is very great. But here also great care must be taken to take land as much as possible. In all new development schemes the roads must be kept as wide as possible with open space in front of houses. In many of the old towns it is being found impossible to relieve the congestion of traffic on the existing roads and it is equally impossible to widen the roads because of the valuable house property on both sides of the road which will have to be acquired at a very great cost. In many towns the only feasible remedy is tried of having one way traffic on some roads, but even in spite of this remedy the congestion of traffic, loss due to accidents and the inconveniences owing to the congestion are very great. Some towns have laid down and are carrying out a gradual programme of acquiring properties on both sides and widening the streets by 'set-back lines'. But the cost required is very great. In towns the requirements for pipelines, electric mains and drainage have also to be considered.

CHAPTER V

RIVER AND NALA CROSSINGS

Whenever a road has to cross a watercourse it requires a very serious consideration as to how it is proposed to cross the stream.

All streams can be divided into three or four classes.

(1) Large Rivers

Large rivers like the Narmada, Tapti, Mahe, Sabarmati, Godavari, Krishna which are perennial rivers having water all through the year, when in flood, have a water spread extending over miles of country. Bridges on such rivers are very costly. Narmada Bridge at Broach cost the B. B. and C. I. Railway about a crore of rupees. The Howra Bridge near Calcutta cost much more. The bridges over the Sabarmati are costing the Ahmedabad Municipality 6 or 8 lacs of rupees. Such rivers can only be crossed by bridges on very important roads. Generally on other roads, the crossings are natural crossings. During floods, the traffic is carried by ferry boats which carry all the traffic carts, bullocks, motor cars, sheep, men and goods in the boats. The progress of these boats is very slow and the time taken to cross is long. The loading and unloading is also very slow and takes a lot of time. So at each crossing quite a lot of time—two, three or four hours—is lost. In most places only one ferry boat is provided and traffic has to wait till the boat goes to the farther shore and comes back. The danger of these boats sinking is also great. When the floods are exceptionally heavy the ferry boat traffic is stopped. Some of these rivers have enough water even in the fair season for the running of these ferry boats, e.g., the Tapti at Surat and the Narmada at Broach.

During low water in the case of those rivers which do not possess enough water for plying of ferry boats, temporary crossings are made by means of a roadway in the sandy bed, by scooping away the sand and putting in a mixture of earth and sand as explained in the next Chapter, and by providing openings in the portion having the stream of water by means of a bridge of boats, or by putting good strong planks on piers made of masonry, bags filled with sand or any convenient material. Such crossings require constant supervision and cost.

The time between the flood and the low water, when water is too little for the ferry boat but too much for the temporary crossing is the most troublesome time. Temporary crossings cannot be constructed till one is sure that there will be no more floods which would wash away the temporary crossing and waste the money spent thereon.

The question of tidal rivers is different. There can be no temporary crossing. The crossing must be done by ferry boats in the absence of a bridge. At times at low water the traffic has to wait for hours till the tide rises and gives enough water for the boat to work properly.

In North Kanara (Karwar) and South Kanara districts, where the towns are generally situated near the sea-shore, there are beautiful roads connecting one town with the other, with three or four creeks in between; so that if you want to take your car or go in a bus service you have to waste two or three hours at each ferry. Bus services are from one ferry to another and the passenger has to carry all his luggage while changing from bus to bus.

(2) Large Dry Streams

These streams carry enormous quantities of water during floods which last for a few days or hours, and then have a very thin stream of water not more than 9" or a foot, upto about October end and after that they are dry.

Such streams are not capable of having a ferry boat and the bed is too sandy to give facilities to wheeled traffic. The best way is to have high level causeways, which are useful for traffic all through the year except during the heavy floods when water runs over the causeways. During such time the traffic ceases.

There are many such streams all along the Deccan Districts and the Karnatak Districts of Bijapur, Dharwar and Belgaum. These are slowly being provided with bridges either from the Road Fund or from the ordinary P. W. D. grants.

(3) Small Nalas

These nalas can easily be bridged at a small cost and even when not bridged on very small and minor roads, the natural crossings for bullock carts can easily be made. The only danger is when the flood comes all of a sudden and catches a cart or tonga in the bed of the nala. Many such accidents happen every now and then.

The one important information you must have in this connection is the amount of flood you are to expect in the nala. The maximum flood level of every nala has to be found out if possible.

This can be done in two ways.

(a) By Calculations

The maximum flood depends on three factors:—

- (i) The catchment area of the nala;

- (ii) The rainfall in the area ;
- (iii) The run-off from the catchment.

(i) This is popularly called the watershed. The geographical configuration of the land is generally such that the rain water falling thereon finds its way to the lowest point which lies in the stream or the river. Thus the whole surface drains to a certain point. A catchment of a point on a river may therefore be defined as that area from which the rain water drains to that point.

Now according to this definition we can find out the catchment area of any place on a stream or river. In case of large rivers they can be found by reference to maps or topo-sheets on which the catchment areas can be marked and then measured from the maps. On small streams they can be actually judged on the spot and measured. In the case of small streamlets they may be in acres. In the case of nalas so many square miles ; in large rivers so many hundreds of square miles and in very large rivers thousands or lacs of square miles.

(ii) The rainfall is the amount of rain measured in terms of inches at any place. One inch of rain means that if all the water falling on any area were to accumulate on that area, it would cover the area by one inch depth of water. This amount of rain may fall in any time, five minutes, one hour or five hours. The usual statistics give the amount of rain during the year.

The amount of rainfall is measured by means of rain-gauges which are fixed in many important places. These are maintained by Government and a record of the readings is kept from day to day throughout the year.

What we want in a bridge design is to know the maximum flood that would come to the river. For this we must know the amount of the most severe showers of rain. The mere statistics that the total rainfall of a place is thirty inches during the year is of no use. If we find that the most severe downpour in the catchment was five inches in one day, then this information is most useful. It is only for this purpose that rain gauge records can be of use. In a large catchment there are so many different areas of varying amounts of severity of rainfalls at one and the same time. Suppose a catchment is 10,000 square miles, one part a hilly area of 100 square miles where there might be a downfall of 5 inches of rain in 3 hours, whereas the remaining a plane where there might be no rain at all during that time. So on the whole the results from these statistics are very complicated.

(iii) The water falling on any catchment does not all go to the river bed. Some of it is lost by absorption in the porous soil, some lost

by evaporation from the ground, which goes on all the time, some lost by retention by roots of trees and by the pits and hollows in the soil, whereas the remainder finds its way to the riverbed. The proportion which finds its way to the riverbed is called the "run-off" from the catchment and is expressed as a percentage or fraction of the total quantity of the water received. Thus when we say that the run-off is 50 per cent we mean that half the water only flows to the riverbed.

Provided we know the three factors as above described, we can know the maximum amount of water which has to flow through the river section at the place where the bridge is to be situated and knowing the velocity and the area of cross-section of the river, we can calculate the height to which the flood would rise.

(b) By Actual Observation

The high flood levels of rivers are best known by records of the heights to which the floods had risen in previous years. Generally the old inhabitants of the village or town can be depended upon to show the highest point to which the river had reached during the floods in their life. A fifty or seventy years record in this respect is very useful, because by law of averages the highest flood during about 50 years may be taken as a general index of the maximum flood to expect. At many places on the larger rivers Government have maintained high flood marks on conspicuous objects, year after year and from these the highest flood can be known.

But sometimes unexpected conditions come up. An abnormal rainfall comes down and we find the highest flood level of the last fifty years or so, overtopped by ten or fifteen feet and so all the elaborate calculations are thrown overboard. But no human ingenuity can overcome such exceptional things and cannot overcome these catastrophes. The worst instance on this side was the flood in Musa River at Hyderabad (Deccan) in the early years of this century when the rainfall was 13 inches in a day. Even supposing it was known that such a flood would come, ordinary ingenuity could not have designed a bridge to withstand such flood and the town could not afford to be without such a bridge for daily routine of life, even with the knowledge that such a bridge is liable to be washed away say once in hundred years. If it is washed away, it has got to be rebuilt.

So then getting this information we can proceed with the other points, which have to be settled before we decide as to what kind of crossing we want to have on the river or stream.

River and Nala Crossings

There are four forms of river or nala crossings.

(a) Natural crossing, where the banks are cut to give a good gradient and then there is nothing further done. All traffic has to cross through the bed of the stream in water if there is any. Such crossings are difficult for traffic and dangerous at times. During rains when the stream is in floods the crossing is impossible. In fair season in many cases a sort of roadway is made for the traffic, but this is only possible where the stream is dry or has so little water that it can be confined to a small space of three or four feet from December to the end of May.

(b) Natural crossing with a temporary fair weather road. On all important roads, it is not possible for motor traffic to go through water as the water might get inside the engines and other machinery. In such cases a temporary fair weather road is made, by making a good road almost upto the edge of the water and by crossing the stream by a bridge of boats or by piers constructed in water and planks laid to span the piers. As described in the beginning of this Chapter the trouble comes in when the water is too little for a ferry boat and too much for a temporary crossing.

(c) Partial bridges called high level causeways are constructed so as to pass off the ordinary flow of the stream and also even ordinary floods. During extraordinary floods the water passes over the causeways and the road is closed for days. A typical instance is that at Mugut Khan Hubli in the Belgaum District over the river Malprabha on Poona-Bangalore Road, or at Rahuri and Kolhar in the Ahmednagar District. Such a causeway is closed for traffic only for about a week a year. There are all sorts of designs for these causeways depending upon the purse.

(d) Bridges or culverts crossing the streams and available for traffic at all times of the year in all seasons and in all conditions of floods in the streams.

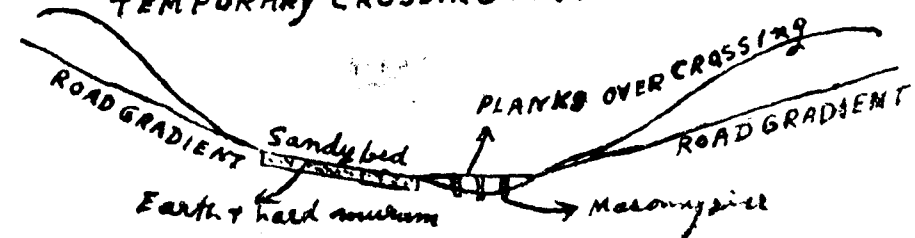
In considering the designs of bridges the following points are to be considered :

- (i) The solidity of the banks and their immunity from erosion and collapse or sinking, by impact of water heading up or flowing through the spans of the bridge.
- (ii) The nature of soil in the bed so as to get good foundations. Rock at surface is best. Generally it is best to found on rocks, and sometimes foundations have to go deep enough to find rock. Where the bed is tolerably good and the stream only small, foundations can be laid on hard

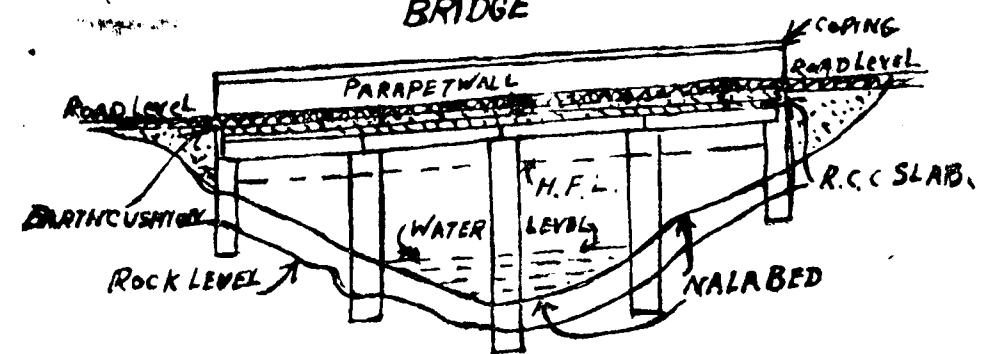
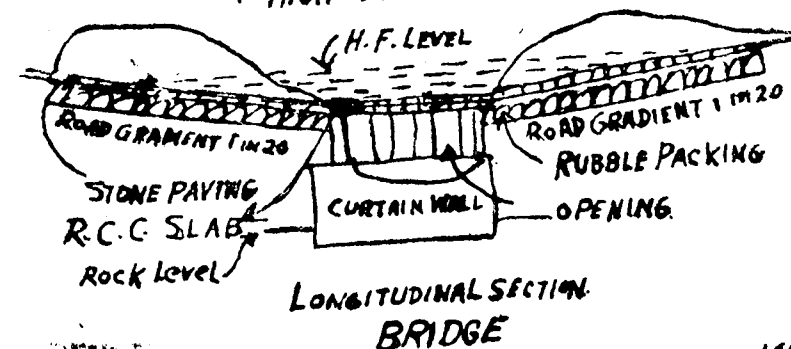
NATURAL CROSSING.



TEMPORARY CROSSING FOR FAIR WEATHER.



HIGH LEVEL CAUSEWAY



murum. When the foundations have to go very deep, well foundations are used. In some cases these wells have to go very deep even over 100 ft. and instead of resting on rock have to depend on friction for safety.

- (iii) The condition of the approach land which should be dry and hard to bear the weight of the high embankment which is necessary in all cases.
- (iv) The velocity of water at the point of crossing is also a factor to be considered. If the velocity is great, there is a great danger of the soil between the piers of the bridge being washed away and the foundations being undermined.
- (v) The point of crossing has to be selected so as to give a width of crossing as small as possible. This is particularly so in case of tidal rivers or creeks which are very wide at places and narrow at others. The narrower point has to be selected to reduce the length of the bridge.
- (vi) The situation has to be selected in such a place that plenty of good hard durable material for the work is available as near as possible near the site.

The best form of ordinary culverts and bridges in these days are abutment piers at every 10 or 12 or 20 feet clear distance apart and reinforced concrete roadway over these with good parapets or railing.

A bridge is a strategic point on a road both for civil and military purposes. A bridge can be held against the enemy easily or even blown up to stop the passage of the enemy. For the road authorities it is the best place for toll or tax collection so that none can avoid payment. Whenever a bridge is to be designed it should be designed so as to be strong and wide enough to satisfy conditions of traffic which can be seen for at least 50 years ahead. With the advent of motor and bus traffic all bridges of the old designs are the weakest points of road development. Rebuilding them would entail enormous cost. And although roads on both sides of the bridge have been brought upto date, the bridge is of an old insufficient design fit only for carts and carriages. The best instance is the Mahim creek bridge at the start of the Bandra Ghod Bunder Road joining Bandra to Bombay, which is now being built at a very great cost and trouble.

The survey required in the case of a nala crossing must have the following details :—

- (1) Catchment area of the nala, which should be determined either by actual survey or by measurement off a topo-sheet.

(2) Determination of the cross section of the nala at the point of the bridge construction. This can be determined by the level and staff.

(3) Determination of the velocity of water during the floods at that point where the bridge is to be constructed. This can be done by finding the slope of the bed of the nala, by taking the levels one or two miles both upstream and downstream along the nala bed from the point of the bridge crossing. From tables the velocity of the water in this bed can be calculated.

When these things are known, the height to which the water will rise in the stream bank can be found out so that the road on the bridge may be above the highest flood, and during all weathers the road be available for traffic.

In all important rivers experiments of velocity of current are carried out from time to time and records kept. Also records of highest floods are kept year after year and marked on permanent objects of the banks called H. F. L.

CHAPTER VI

VILLAGE ROADS CONSTRUCTED BUT KATCHA

Having fixed up the alignment of the road and the nature of nala crossing we now consider the most elementary kind of specially constructed roads, the village roads which are specially constructed and have a good hard surface for the carts to pass. If the road is made to pass through ordinary soil, deep ruts are formed by wheel and the soil is pulverised into dust. The dust nuisance on these roads is very great. During rains the ruts are full of mud and the bullocks have great difficulty in raising their feet from the mud and in pulling the wheels which sink in the mud right up to the axle.

The surface crust in these specially prepared village roads is made up with a mixture of soil and sand. Each one of these have different physical properties. Soil has got cohesion but when dry, it cracks, and when wet, is plastic. Sand has got great hardness, but has no cohesion when dry. In both cases either of these alone has no value as a surfacing material of roads.

But if we take a suitable mixture of the two, wet it with water and allow it to dry, it gets a good hard surface and retains its hardness even when dry and does not crack and thus fulfils the requirement of a good surfacing material for a village road where the traffic consists of men, animals and a few carts. The principle is the same as that of selection of earth for bricks. The proportions of the quantity to be taken of each of the kinds of the materials depends upon the presence of the amount of sand and earth in each specimen. If we find a sample rich in soil alone we require more sand than in the case of another sample which contains a little less soil and a little more sand. The best way to determine how much is required of each material, is to do experimental work. Mix different proportions of sand and soil with water and allow them to dry. Watch has to be kept to see which of the samples do not develop cracks while drying and after drying. Such samples should be taken as the basis for the determination of the proportion of the mixture. The principle should be the same as that of brick making, where the mixtures are taken of those samples which do not crack.

The following cases therefore naturally develop when such village roads are to be constructed.

(1) The natural bed of the ground along the proposed alignment of a roadway may be composed of soil in which sand and clay is mixed naturally in such proportion as are required for road surface. Con-

struction of roads along such beds only requires proper grading lengthwise and crosswise and then consolidation to the required degree.

(2) Generally such natural beds are obtained in short stretches and the intermediate bad stretches are surfaced with (a) suitable natural mixture of sand and clay excavated from the sections where it is available and hauled to the site, spread and consolidated to the required width and depth; or (b) by bringing sand and clay separately to the site of work, mixing them in proper proportion and surfacing the road bed with it to the required grade, thickness and width.

(3) In some cases the natural bed of the proposed roadway contains either sand or clay, i.e., one of the constituents. In such cases, it is economical to bring the deficient material and use it on the natural bed by mixing it with the natural material of the bed in the proportion needed rather than surfacing the bed with a ready made mixture of sand and clay.

Some of the above cases require further elucidation.

Case 2 (a).—In this case the road bed is graded to the required longitudinal and cross grade, but the middle portion which is required to be surfaced is kept flat. The central portion which is to receive the surface material is trenched out and the natural mixture of sand and clay is spread to a depth of about 12" and consolidated to a depth of 8". When the surface is consolidated either with a roller or traffic, it should be properly attended to bring it into proper camber. When there is abundant quantity of surfacing material and can be had cheaply, trenching is not necessary but the surface layer is extended to project over the boulders.

Case 2 (b).—In this case, the road bed is graded properly. Sand and clay are brought separately to be mixed at site. A trench is formed as in Case 2 (a) to receive the bottom layer either of sand or clay. Say, sand is spread on the subgrade and then a layer of clay is spread. Both the layers are ploughed and harrowed until the sand and clay are well mixed and then the surface is shaped to required grade and camber and consolidated and opened to traffic. After the first rains, the surface may again require ploughing, harrowing and consolidation. After first construction the road should be carefully watched and any discrepancies in shape or material should be properly made up. The depths of the layers of sand and clay should be such as to give a compact surface of 8" or so and the proportion of sand and clay may be 1 part of clay to 2 parts of sand.

Case 3 (a).—Here the material of the bed is sand, and a sand clay road is formed by mixing a layer of clay in proportion. The bed is graded

as usual, keeping the portion (central) level to receive the material. Clay is spread to required thickness say 6" to obtain an 8" surface when mixed with sand from road bed. Then sand is ploughed up from beneath to a depth as would give the proportion of 2 of sand to 1 of clay. Then the surface is harrowed, ploughing and harrowing is repeated till sand and clay are properly mixed. The surface is brought to required grade and camber and consolidated and opened to traffic. The usual care after first construction should be taken.

Case 3 (b).—In this case, the material of the road bed is of clay and sand is mixed and the process is exactly the same as in 3 (a) above, except that sand is spread and clay is ploughed up. The plough furrows extend down into clay to about 3" to 5".

The following points should be borne in mind in construction of sand clay roads :—

(1) The proportion of sand and clay should be such as to have a slight excess of clay after it fills up all the voids in sand. The usual proportion is 1 of clay to 2 of sand.

(2) The compacted layer of sand and clay should be when loose about 12" and when consolidated 8".

(3) Sand and clay should be carefully and thoroughly mixed together by ploughing and harrowing.

(4) After a new road is open to traffic, it should be carefully watched and any discrepancy in grading or material should be immediately made up. Weak spots should be made right before they get worse and out of control.

CHAPTER VII

SPECIALLY PREPARED ROADS

So far we have considered roads which are in a natural condition or have the surface treated and artificially made hard and consequently more fit for traffic.

We now consider the roads which are specially prepared according to Engineering science taking all the considerations about traffic, etc.

These roads consist of three stages :—

- (a) Formation of sub-grade,
- (b) Foundations if and where necessary,
- (c) Surfacing materials.

(a) Formation of Sub-grade

The alignment of the road being fixed the next points to be settled are the gradient at which the road is to run, the curves to be used on a road and the width of the road.

Gradients of Road

Gradient is the slope or inclination to the horizontal at which a road ascends or descends. When seen from the bottom of the slope it is a rising gradient and when seen from the top it is a falling gradient. The gradient is expressed in terms of rise to the horizontal distances. Thus 1 in 15 means for every 1 ft. rise the horizontal distance is 15 ft. If you want the angle at which the road is inclined to the horizontal it can be found from the trigonometrical tables by finding the angle whose tangent is $1/15$.

Much of the art of the road designer—once the survey is made and line decided upon—is the fixing of the gradients. The road must be such that in no place must the gradient exceed the maximum allowable gradient and the quantities of cutting and embankment must be such as are not excessive. The ideal conditions are when the quantity of cutting is equal to that of embankment. The problem of gradients on Ghat roads is very difficult.

Ruling Gradient

The maximum gradient allowable on a road depends on the use to which the road is to be put and on the kind of surfacing material used on a road. Mules, sheep, yaks, bullocks can carry a load on almost any gradient though with difficulty when the gradient is very steep. That

is why these animals are used on the rough steep passes in the Tibet and on the Himalayas. Next come the camels and donkeys, etc., who can carry loads on more or less flat slopes only. Carts require a still flatter slope. Tongas, etc., require a still flatter one and cars require very flat slopes indeed.

The theory which determines the slope is very simple :—

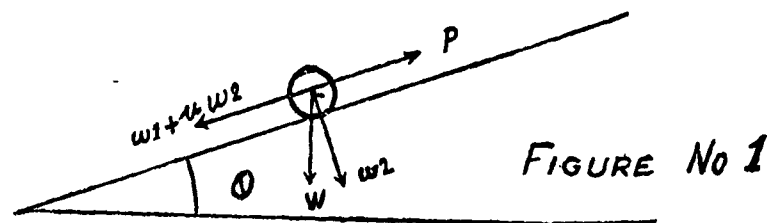


FIGURE NO. 2

If w is the load which is to be dragged and p the pulling force, while going up the slope, the load w which acts vertically down by gravity has two components W_1 along the surface of the slope AB and W_2 at right angles to the same. (A is the angle of the road to the horizontal surface.)

$$W_1 = w \sin A, W_2 = w \cos A.$$

This W_1 has to be directly pulled up and W_2 being at right angles to the surface exerts only a frictional resistance. Frictional resistance depends upon the coefficient of friction between the two surfaces, the surface of the road and the surface of the tyre of the wheel.

When we take the same kind of surfaces under the same conditions of temperature, moisture and surface polish or smoothness, the coefficient of friction is the same in all cases. There is however a difference even under the same physical conditions as mentioned above of the surfaces, between the coefficients of sliding friction and rolling friction between the same two surfaces. On a road we are concerned with rolling

[To be continued.]

SELECTED CASES ON LOCAL SELF-GOVERNMENT ACTS (Bombay Series)

By CHUNILAL D. BARFIVALA, M.A., LL.B.

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[These cases have been selected from the Book *Cases on Acts relating to Local Bodies* (Bombay Series). This work contains an exhaustive analysis of all the cases decided by the High Court of Bombay and reported in the Indian Law Reports and the Bombay Law Reporter for the last 40 years. The work is published with the kind permission of the Government of Bombay and the proprietors of the Bombay Law Reporter.—Editor].

1918

Emperor

vs.

Ramrao Vishvanath and others

Lanes which are being sewered before Bombay Act III of 1888 came into operation are public streets under the Act and section 305 has no application to such streets.

There are two lanes known as Hanuman Cross Lanes in the City and the municipality had laid a sewer pipe in 1880 for the purpose of carrying sullage from houses on either side of the lanes. The municipality issued a notice under section 305 of the City of Bom. Mun. Act, 1888 (Bom. III of 1888), Sections 305 and 3 (w), (x) and (y).

Bombay Municipal Act, 1888, calling upon the owners of the houses to level, metal, drain and light the lanes in question. The owners failed to comply with the notice and the municipality prosecuted them contending that the notice was properly issued since the sewer laid in the lanes did not make them public streets and the street did not include houses on either side of the streets. The trying Magistrate, however, acquitted the accused owners on the ground that section 305 had no application to the cases in question, they having become public streets within the meaning of the Act. The Government of Bombay thereupon appealed against the order of acquittal.

HELD, dismissing the appeal, that the lanes in question having been sewered since 1883, they were public streets, and section 305 of the Act had no application.

Held also that the term 'street' in the Act includes houses on either side of the street.

Section 305 of the Act runs as follows :—

"If any private street be not levelled, metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the Commissioner, he may with the sanction of the Standing Committee, by written notice require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct."

Section (3) (w), (x) and (y) is as follows :—

"(w) 'Street' includes any highway and any causeway bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and when there is a footway as well as a carriage way in any street, the said term includes both.

(x) 'Public street' means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the Corporation, and any street which becomes a public street under any of the provisions of this Act.

(y) 'Private Street' means a street which is not a public street."

Shah, J.—(Extract). Section 305 applies only to private streets and the expression 'private street' must be understood in a restricted sense. The meaning of the expression according to the definition in the Act is a street which is not a public street and 'public street' means any street heretofore levelled, metalled, channelled, sewered or repaired by the Corporation. There is nothing in the subject of context to show that if these streets are sewered within the meaning of the definition of 'public street' they are private streets for the purposes of section 305. If these streets are sewered the streets would be public streets under the Act and section 305 would have no application. It has been held in several cases that a street includes the houses on either side of it and that it does not merely mean the roadway. The word should be understood in that popular and generally accepted sense.

Martin, J.—(Extract). Each of these lands or streets was sewered by the Corporation prior to the Act inasmuch as the Corporation between the years 1881 and 1883 laid under the whole length of each lane or street a pipe which took the drainage from the houses on both sides.

In the ordinary and popular sense of the word 'street' means a highway with houses on each side (*Robinson vs. Local Board of Barton, Eccles, (1883) 8 App. Cas. 798*).

Before one can apply section 305, one must first find out whether the street in question is a private street. The test for that is given in sub-section (x) of section 3.

I.L.R. 43 Bom. 122
20th March 1918.

1919

The Viramgam Municipality (orig. deft.)

vs.

Bhaichand Damodar (orig. plff.)

An ota being an addition to an existing building it cannot be constructed without asking for permission of the Municipality under section 96 (1) of the District Municipal Act, 1901.

The plaintiff raised an *ota* in front of his house without previously obtaining permission of the municipality as required by clause (1) of section 96 of the Bombay District Municipal Act, 1901 (Bom. III of 1901). The defendant municipality served the plaintiff with a notice to remove the *ota*. The plaintiff sued for a permanent injunction restraining the municipality from removing the *ota* alleging that the notice of removal was illegal and *ultra vires*.

The defendant municipality contended that the street land was municipal land and that the *ota* being an encroachment on municipal land and an addition to the plaintiff's building, permission of the municipality was necessary.

The lower Court allowed the plaintiff's claim on the ground that the street land on which the *ota* was built was not a public street vesting in the municipality and therefore no permission of the municipality was necessary to build the *ota*.

The lower Appellate Court agreed with the Subordinate Court and confirmed the decree.

The municipality made a second appeal to the High Court.

HELD, dismissing the suit, that in raising the *ota* the plaintiff was seeking to add to an existing building which he could not do without asking for permission of the municipality under clause (1) of section 96 of the Bombay District Municipal Act, 1901.

Per Macleod, C. J.—(Extract). The lower Court found that the site on which the *ota* was constructed did not belong to the plaintiff nor was it in his occupation but he held that it was a part of the street land not vested in the municipality. The lower Appellate Court also held the same view, but thought that the plaintiff's case fell under section 92. But in arriving at this conclusion, both the Courts misconstrued section 96. That section provides that a person intending

- (1) to begin to erect any building, or
 - (2) to alter externally any existing building, or
 - (3) to add to any existing building, or
 - (4) to reconstruct any projecting portion of a building in respect of which the municipality is empowered by section 92 to enforce a removal or set-back.
- has to give notice thereof to the municipality in writing and to furnish certain documents and plans.

But this is not a case falling under section 92 for the plaintiff was seeking to add to an existing building and was bound to ask for permission before he could build the additional structure and if he built without obtaining permission he did so at his risk. The municipality was therefore justified and acting within its powers in issuing the notice calling upon him to remove the structure. The appeal succeeds.

I.L.R. 44 Bom. 198
25th Aug. 1919.

The Ahmedabad Municipality

vs.

The Gujarat Ginning and Manufacturing Co. Ltd.

An owner of a private latrine, who connects the latrine with a municipal sewer is liable to pay a special sanitary cess under section 59 (b) (vi) of the Bombay District Municipal Act, 1901, inasmuch as the latrine must be deemed to be cleansed by the municipal agency.

The municipality have provided a main sewer along the road on which the company's premises abut. The company have on their premises private latrines for their operatives which were cleansed by manual labour. Subsequently the company were allowed to connect their latrines with the municipal sewer at their own expense. The company was thereafter called upon to pay a special sanitary cess which the municipality claimed to be entitled to levy under section 59 (b) (vi) of the Bombay District Municipal Act, 1901. The company paid the tax under protest and brought a suit for the recovery of the amount so paid. In the lower Court the company's claim was allowed on the ground that as the company at its own expense had connected the latrines with the municipal sewer the municipality had not made any arrangement for receiving and conducting sewage into municipal sewer. On appeal by the municipality the High Court

HELD that the Act intended that if the municipality provided a sewer for receiving the sewage and the owner of private latrines connected them with the sewer and then the municipality provided the water, the additional cost of which was paid by the owner, for carrying the sewage from the latrines to the sewer, the latrines were being cleansed by the municipal agency and the municipality was entitled to levy a special sanitary cess.

Macleod, C. J.—(Extract). Although the owner of private premises with private latrines may pay the whole of the expense of the connection between his premises and the manhole, it can still be said that the municipality have made provision for the receiving of sewage from his private latrines by having laid down the sewer, with the manholes at intervals, with which connections are made with private premises. The making of the connection consisting of a few pipe-lines from the manhole to the

owner's premises is a minor matter. If the municipality provide the sewer and the manhole then they have done what is required of them by proviso (b) (i) and the municipality is entitled to levy a special sanitary cess under section 59 (b) (vi).

Heaton, J.—(Extract). The latrines are cleansed by the combined operation of the municipal water system and the municipal drainage system, both of which are organised and maintained by the municipality.

I.L.R. 44 Bom. 527
26th Nov. 1919.

Nurmahomed Gulam Rasul

vs.

The Surat City Municipality

It is in the discretion of the municipality to determine whether a lime-kiln is or is likely to be a nuisance to neighbours. The Courts will only interfere if that discretion is exercised in an improper manner.

Nurmahomed Gulam Rasul was the owner of a lime-kiln on land near the Varagate at Surat. A notice was served upon him by the municipality under section 151 (1) of the Bombay District Municipal Act, 1901, calling upon him to stop working the said kiln on the ground that it was likely to cause nuisance. He brought a suit against the order and for a permanent injunction. The municipality contended that the kiln was situated near the inhabited quarter of the city and the smoke issuing from it was causing or likely to cause injury and nuisance to the inhabitants of the locality. The Subordinate Judge granted the injunction but on appeal the District Judge reversed the decision on the ground that the municipality on proper inquiries had found the use of the lime-kiln was a nuisance and under section 151 of the Act, discretion was vested in the municipality and the discretion not having been shown to have been exercised in a wanton or capricious manner the Court has no jurisdiction to interfere, and dismissed the suit. On second appeal the High Court

HELD that section 151 of the Bombay District Municipal Act, 1901, comes under the heading 'nuisance from certain trades and occupations,' one of which is the use of property for the purpose of a lime-kiln, so that a lime-kiln in view of the legislature might be a nuisance and the section gives the municipality power, if it be shown to their satisfaction that it is likely to become a nuisance to the neighbourhood, to require the owner to discontinue the use of it. The municipality are the judges as to whether it is or is likely to become a nuisance to the neighbourhood and the Courts will not interfere with the exercise of that power unless it can be shown that they have exercised it in an improper manner.

I.L.R. 44 Bom. 738
19th Decr. 1919.

1920

vi

Tayaballi Abdullabhai Vohra
vs.
The Dohad Municipality

A district municipality cannot order a person to give up possession of an encroachment on street land standing adversely for over thirty years as the holder's title was complete under Art. 146-A, Sch. I of the Indian Limitation Act, 1908.

The plaintiff Tayaballi owned a house at Dohad. There was in front of his house an *otla* part of which encroached upon the street land on which it abutted. The *otla* in question was in its position for over thirty years. The defendant municipality called upon the plaintiff to vacate the land in question on the ground that it was an encroachment on public road, the order being confirmed by the general board of the municipality. The plaintiff thereupon filed the present suit for a declaration that the land in question belonged to him and for an injunction. The suit was decided in the plaintiff's favour by the trial Court but on appeal, the lower Appellate Court mainly on the authority of *Dakore Town Municipality vs. Anupram* (15 Bom. L.R. 833) reversed the decree. The plaintiff thereupon appealed to the High Court.

HELD, reversing the decree of the Appellate Court, that when a person has his *otla* encroaching upon the street lands for upwards of thirty years, it is not competent to a District Municipality to direct him to give up possession of the encroached land, under section 122 of the Bombay District Municipal Act, 1901.

The material portion of section 122 (2) of the Bombay District Municipal Act, 1901, is as follows :—

"122. (2) The municipality shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space be vested in the municipality or not, provided that if the space be vested in His Majesty.....as an amount claimed on account of any tax recoverable under Chapter VIII."

Macleod, C. J.—(Extract). The decision in the case of *Dakore Town Municipality vs Anupram* on which the Appellate Judge has relied does not apply to the facts of this case. Neither has the municipality powers under section 122 of the Bombay District Municipal Act to direct a person, who may have been in possession of a portion of a public street or road, to give up possession of such part of the public street or road. In this case, it has been proved that the *otla* has been on the present site for more than thirty years. Assuming that it was originally built on a part of a public street or road, the municipality is now debarred from bringing a suit for recovering possession by virtue of Art. 146-A of Schedule I of the Indian Limitation Act and the result must follow under section 28 that the plaintiff has acquired a title to the land on which the verandah is built by over thirty years' possession. It is, therefore, no longer a part of the

vii

public street or road, and the municipality have no jurisdiction over it, because section 122 only refers to encroachments or obstructions in a public street or obstructions or encroachments of the like nature in any open space not being private property. The municipality cannot, therefore, issue a notice against the owner to remove it. The municipality by their laches had lost all rights to the land covered by his verandah and, therefore, they had no longer any power to issue notice under section 122 for the removal of the verandah.

22 Bom. L.R. 951
15th January 1920.

Emperor
vs.

Haji Aboo

A magistrate cannot convict a vendor who exposes for sale unwholesome meat in a market under section 142 (1) of the Bombay District Municipal Act. The municipality may destroy such meat.

A vendor of such unwholesome meat may be prosecuted and convicted under section 273 of the Indian Penal Code.

One Haji Aboo owned a beef stall in the Bandra Municipal Market. His servant sold meat which was found unfit for human consumption. The accused Haji and his servant were convicted by the Resident Magistrate, Bandra, of an offence punishable under section 142 (1) and sentenced to pay a fine.

The District Magistrate of Thana to whom an appeal was preferred against the conviction referred the case to the High Court as he was of opinion that the convictions were not in accordance with law.

The material portion of section 142 (1) of the Bombay District Municipal Act runs as follows :—

"142. (1) The president, vice-president or any councillor or officer authorised by the municipality in this behalf

(a) may at all reasonable times enter into any place for the purpose of inspecting, and may inspect, any animals.....meat..... whether hawked about for sale, or deposited in, or brought to any place for the purpose of sale.....or may enter into and inspect any place.....; and

(b) in case any such animal.....or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or.....may seize the same.

Any article which is of a perishable nature may under the orders of the president.....if in his opinion it is diseased, unsound or unwholesome or unfit for food, drink and medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate. If it appears to the Magistrate upon sufficient evidence that any such article is diseased.....or unfit for human food..... the owner or person in whose possession it was found, not being

merely a bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine.....and the Magistrate shall cause such article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink or medicine."

The municipality contended that although section 142 (1) of the Bombay District Municipal Act does not render the possession of a perishable article of food an offence under the section, the High Court may in exercise of its power under section 423 and section 439 of the Criminal Procedure Code alter the finding as to the enactment under which conviction can be made and confirm the conviction and sentence.

HELD that the District Municipal Act does not render the possession of an article of perishable nature an offence under section 142 (1) and the convictions were wrong.

Held also that the power which the section gives to the municipality is the power to destroy forthwith any article which is of a perishable nature and which in its opinion is unwholesome or unfit for food.

Held further that as the complaint related to an offence under a special Act and not to an offence under section 273, it would not be fair to allow the case to be treated as one relating to an offence under the Indian Penal Code.

I.L.R. 45 Bom. 193
5th May 1920.

The Municipal Commissioner for the City of Bombay
vs.

M. Damodar Brothers

(Orig. Suit No. 910 of 1920 tried with Suit Nos. 911, 912, 955 and 956 of 1920)

Land acquired by Government at the instance of the municipality vests absolutely in the municipality free from all encumbrances on payment of compensation awarded, no conveyance of the land to the municipality being necessary.

The municipality is empowered to acquire land in addition to that required for its scheme and sell such additional land.

The Bombay Rent Act does not override the general provisions of the Land Acquisition Act or the Bombay City Municipal Act and leases for fixed period terminate on compulsory acquisition.

The Municipal Corporation of the City of Bombay had adopted in its final form a scheme for the widening of the Churchgate Street and Armenian Lane within the Fort and for the development of that portion of the Fort determined to acquire certain properties abutting on these streets. Having failed to acquire these properties by private agreement under the provisions of section 91 of the City of Bombay Municipal Act, 1888, the Municipal Commissioner moved the Government of Bombay to acquire them on behalf of the Corporation under

City of Bom. Mun. Act, 1888 (Bom. III of 1888), Sections 91 and 296. The Land Acquisition Act, 1894 (I of 1894), Sections 16 and 31. The Bombay Rent (War Restrictions) Act, 1918 (Bom. II of 1918), Section 9.

Bombay Municipal Act, 1888, the Municipal Commissioner moved the Government of Bombay to acquire them on behalf of the Corporation under

the Land Acquisition Act, 1894. The several plots were then notified by the Government for acquisition. Sir Mahomed Yusuf happened to be the owner of those properties and he had let them for 3 years to one D. Purshottam under a lease, clause 16 of which ran as follows :—"The lease shall be null and void in respect of the buildings or any of them or such portions thereof as may be acquired by any public body or Government." D. had let out different portions of the buildings to the several defendants in the suits on monthly tenancies. After the properties were notified the Collector proceeded to determine the compensation to Sir Mahomed Yusuf, and the Gresham Life Assurance Society who claimed certain easements on the properties acquired and Government to whom certain annual payments were to be made for the land. The lessee D. had no share in the compensation to be awarded as his lease would be null and void under clause 16 referred to above of the lease. Before the award was actually published the municipality and Sir Mahomed came to a certain agreement whereby it was agreed that the latter should not claim the compensation payable to him but should pay the portion of the compensation to the two other claimants mentioned above and in return the municipality should convey to him the residue of the land acquired after retaining the portion necessary for the purpose of widening the street and to give in addition a certain strip of land which the municipality were to get from a third party. The Collector of Bombay was informed of the above arrangement and he thereupon published his award and asked the municipality to receive charge of the land from his surveyor. Two cheques of Sir Mahomed for the amounts payable to the two claimants were forwarded to the Collector who paid them to the parties concerned. Soon after the Collector's Surveyor informed the A. O. of the municipality that Sir Mahomed had handed over to him charge of his properties and also sent a charge receipt for the properties signed by the Surveyor and the A. O. whereby it was recorded that they had respectively handed over and taken charge of the said properties. Notices were served upon the different tenants to vacate the premises in their occupation and on their refusal to do so the municipality filed suits against them in ejectment.

The municipality contends that by virtue of the provisions of section 91 (2) of the Act the properties vested absolutely in the Corporation who thereby acquired all existing interests in the property and that such vesting gets rid of everybody; that the provisions of the Bombay Rent Act do not apply and if they apply there is satisfactory cause for the recovery of possession.

The defendants contended that there was no vesting of the premises in dispute in the Corporation because the provisions of the Bombay City Municipal Act and the Land Acquisition Act had not been complied with; that when property vests in the Corporation under section 91 such vesting is not of such an absolute character as the vesting in Government under the Land Acquisition Act, section 16; the Bombay Rent Act applied and there was not sufficient cause for ejecting the defendants within the meaning of the proviso to section 9 of the Bombay Rent Act.

HELD that under section 16 of the Land Acquisition Act when the Collector made the award he could take possession of the land which thereupon vested absolutely in Government free from all encumbrances. The

acquisition and the resulting vesting were equally effective and complete in the case of acquisition undertaken by Government on the application of the Municipal Commissioner under section 91 of the Bombay City Municipal Act which *pro tanto* modified the provisions of the Land Acquisition Act so as to vest the property in the Corporation instead of in the Government on the payment of compensation awarded; and that no transfer from Government to the Corporation was necessary.

Held further that the provisions of section 31 of the Land Acquisition Act did not apply in the case of acquisitions made by virtue of the provisions of section 91 of the City of Bombay Municipal Act, and payment of the compensation amount by the Commissioner was enough.

Held also that in the case of acquisitions under section 91 of the City of Bombay Municipal Act, the taking of possession by the Collector and his handing over the same to the municipality was not necessary inasmuch as the property vested directly in the Corporation without the intervention of the Government or the Collector and the Corporation became entitled to take possession and that if actual possession was required the same was given by the Collector as evidenced by the signing of the charge receipt.

Held further that the provisions of the Bombay Rent Act could not be held by implication to repeal and override particular and special enactments, like the Land Acquisition Act and the Bombay City Municipal Act inasmuch as the whole object of such acquisition was to get land immediately for useful public purposes and it would defeat the object to lay down that the public body acquiring the land was not entitled to immediate possession and that assuming the Rent Act applied the premises were required by the municipality for a satisfactory cause in order to enable them to carry out the whole scheme and to fulfil their obligation under the agreement with Sir Mahomed.

Held also that on the compulsory acquisition of the premises the lease in favour of the lessee terminated and that on such termination, the monthly tenancies also came to an end and the defendant remained on the premises as tenants on sufferance.

Held further that section 296 of the Bombay City Municipal Act expressly empowers the municipality to acquire in addition to the land actually required for widening any public street all such land and buildings outside the intended regular line of such street as it shall deem expedient and to sell such additional land.

I.L.R. 45 Bom. 725
6th Aug. 1920.

Ambalal Sarabhai Sheth
vs.

The Ahmedabad Municipality

The procedure laid down by a rule for the recovery of house and property tax made under a superseded Act but kept in force under Bom. III of 1901 must be strictly followed.

The absence of authentication by an officer of the assessment list does not render the levy of the tax illegal.

The Municipality of Ahmedabad framed rules for the levy of house and property tax under the powers conferred upon it by clause (h) of section 32 of the Bombay District Municipal Act, 1884. Those rules were kept in

force by section 2 of the Bombay District Municipal Act, 1901. Rule 74 of these rules laid down certain procedure to be observed on certain fixed dates before the house and property tax could be levied or enhanced. In the year 1911-12 the municipality sought to enhance the tax on the plaintiff's houses by observing the procedure laid down in section 74; but the several formalities were gone through long after the dates fixed by the rule. The assessment list was published in April 1911, and the notice of the proposed increase was given to the plaintiff on 20th June 1911. On 12th July 1911 the plaintiff objected to the enhancement. On 18th July 1911 a demand was made. A further protest by the plaintiff was made on 30th July 1911 and his objections were dismissed in December 1911. A notice of demand was made on 27th January 1912 and the amount claimed by the municipality for the year 1911-12 was paid by the plaintiff under protest. The plaintiff sued the municipality for declaration and injunction and to recover a sum of money by way of refund. The trial Court allowed the plaintiff to recover a small portion of the amount levied from him on the ground that the assessment of plaintiff's houses was fixed on a wrong basis and though the municipality had not taken the several steps on dates fixed by rule 74 the irregularity did not affect the legality of the levy of the tax. On appeal the plaintiff's claim was further reduced and the Court was of opinion that the absence of authentication on the assessment list did not invalidate it.

On a second appeal the High Court

HELD that the municipality was competent to make rule 74 and it was binding both on the municipality and the house-owners within the municipal limits; that the enhanced tax not being levied in accordance with rule 74 should be refunded to the plaintiff.

Held further that the mere fact that an officer does not authenticate the assessment list by signing it as provided in clause 4 of section 65 of the Bombay District Municipal Act does not affect the question as to whether the levy of the tax is legal.

Shah, J.—(Extract). As the rule is not *ultra vires* the intended increase in the house and property tax was to be notified to the house-owners concerned before 1st March 1911. All objections to the proposed increase were to be lodged before 15th March 1911 and the investigation was to be completed before the 1st April 1911 and the payment of the tax for the official year was to be considered due on that date. In the present case if the provisions of the rule had been duly followed by the 1st April 1911, all objections should have been considered and the amount payable for the year 1911-12 determined. The effect of the rule would be that for the year 1911-12 the municipality would be entitled to such amount as is determined

by the beginning of the year and not to any increase that may be determined at any time during the year. Unless the increased amount was determined in the manner contemplated by rule 74 the only amount that could be said to be due by the owner for 1911-12 was the amount which was fixed for the next preceding year. The rule is not *ultra vires* and inconsistent with the provisions of Act III of 1901 and reliance cannot be placed on section 67 (2). The provisions as to time when a house-owner is to receive notice of the intended increase and his objections relating to the increase are to be decided, are within the scope and powers of the municipality to make rules for the levy of the taxes, the words of clause (1) of section 46 being wide enough to justify such a rule. It is binding both on the municipality as well as upon the house-owners and the non-compliance with the rule entitles the plaintiff to recover the tax in excess of what was payable at the beginning of the year, which would be the amount fixed for the next preceding year.

I.L.R. 45 Bom. 611
16th Aug. 1920.

The Municipality of Sholapur (orig. deft.)

vs.

Abdul Wahab Valad Shaikh Chand (orig. plff.)

Permission to build once granted by a district municipality cannot subsequently be cancelled.

In 1913 the respondent applied to the municipality for the purchase of a plot of land for the purpose of placing flower pots, etc., on it. The Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Sections 96 and 40 (6). Managing Committee decided to sell the land on 'usual terms.' The sale was sanctioned at a general meeting of the municipality as required by sub-section (3) and by the Commissioner under sub-section (2) of section 40. The municipality was paid the price and the possession of the land given to him. The respondent then applied to the municipality for permission to build on the plot. The permission was given by the municipality in due course. But subsequently the municipality revoked the permission as it was objected to by the neighbour. The respondent thereupon filed a suit to restrain the municipality from obstructing him in building upon the land and for damages. The First Court dismissed the suit but on appeal the suit was decreed. The municipality then appealed to the High Court on the ground that the sale of the plot in question is not evidenced in writing, signed and sealed as required by section 40 (6) of the Bombay District Municipal Act and that the plot was purchased subject to the condition that it was to be used for putting flower pots, etc.

HELD that non-compliance with the provisions of section 40 (6) afforded no justification on the facts of the case for cancelling the permission granted by the municipality under section 96 of the Bombay District Municipal Act, 1901. The order issued by the municipality purports to be a sort of provisional order which was not contemplated by the section and the purpose and scheme of the section do not empower the municipality to

cancel the permission granted under the section on such grounds, the question of the exact title of the respondent being irrelevant for the purposes of this suit.

Held also that the fact that the purchase by the owner was subject to the condition that he was not to build on the land in question would not be a sufficient ground for cancelling the permission once granted.

I.L.R. 45 Bom. 797
7th Sept. 1920.

N.B.—This case was discussed and distinguished from *Mulji Tribhovan Sevak vs. The Dakor Municipality*, I.L.R. 46 Bom. 663, in which it was held that the permission to build granted by the Public Works Committee of the Municipality can be cancelled or revoked by the General Body of the municipality either of its own motion or on the application of the person injuriously affected thereby.

Emperor

vs.

Narayandas Karsandas

Vegetable oils are 'oil (other sorts)' for the storing of which a licence was required under the Act.

A vendor who stores such oils without a licence cannot say when prosecuted that the Commissioner wrongfully refused to renew his licence and his refusal was tantamount to a grant of licence.

The accused was a licensed vendor of vegetable oils in Bombay. He was granted a licence to store oils in his shop in any quantity. The Commissioner refused to renew his licence unless he gave an undertaking not to store more than 300 gallons of oil in his shop. The undertaking was not given and the licence was withheld. He was subsequently prosecuted for storing sweet and cocoanut oil in his shop without a licence under section 394 of the City of Bombay Municipal Act, 1888, and convicted and sentenced to pay a fine.

The accused applied to the High Court contending that the oil stored by him cannot be considered as oil within the meaning of the expression 'oil (other sorts)' used in Schedule M, Part II of the Act as amended and that the storing of the oils in question without a licence cannot be said to be contrary to the provisions of section 394 as the licence was wrongfully refused by the Commissioner.

HELD that the expression 'oil (other sorts)' as used in Schedule M of the Act includes sweet and cocoanut oil and that it is no defence to a prosecution for storing oils without a licence to say that the Commissioner wrongfully refused to grant a licence.

The material portion of section 394 runs as follows:—

"Except under and in conformity with the terms and conditions granted by the Commissioner no person shall—

(a) keep, in or upon any premises, for any purpose whatever,

(ii) any article specified in Part II of Schedule M, in excess of the quantity therein prescribed as the maximum quantity of such

article which may at any one time be kept in or upon the same premises without a licence.

The material portion of Schedule M, Part II, is as follows :—

Petroleum as defined in the Indian Petroleum Act, 1899 ..	40 gals.
Dangerous petroleum as defined in the same Act ..	20 gals.
Oil (other sorts)	15 gals.

Shah, J.—(Extract). The words 'oil (other sorts)' must be taken to mean oils other than petroleum as defined in the Indian Petroleum Act and 'dangerous petroleum' as defined in the same Act in the absence of any words of limitation, and sweet and cocoanut oil cannot be excluded from the scope of the expression 'oil (other sorts).' Neither the relative position of the expression nor the lower limit of the quantity allowed to be kept would be a sufficient ground for importing such a limitation, namely, that the expression must mean only those oils whose flashing point is not higher than the flashing point of dangerous petroleum as defined in the Indian Petroleum Act.

The accused is charged under section 394 under which he was prohibited from keeping any articles mentioned in Part II, Schedule M in excess of the quantity allowed except under and in conformity with the terms and conditions of the licence. That the Commissioner did not exercise his discretion in refusing to grant him a licence will not afford any answer to that charge and the oil cannot be treated as having been kept under the terms of this supposed licence to be inferred from the wrongful refusal to grant the licence.

Crump, J.—(Extract). The words 'oil (other sorts)' indicate oil of a description different from that defined by the two preceding entries and the words are general in their scope and must necessarily include oil of any other kind. *A wrongful refusal of a licence cannot be pleaded as a defence for doing an act for the doing of which a licence is necessary.*

*I.L.R. 45 Bom. 1076
22nd Sept. 1920.*

1921

Emperor
vs.
Ardeshar Jivanji Mistri

A Notified Area Committee is not entitled to refuse permission to build for an indefinite period.

The accused who owned a plot in the gowthan land at Gundavli in the Salsette taluka and it was included in the Notified Area Committee appointed under section 188 of the Bombay District Municipal Act, 1901. Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Section 188 (1). The accused applied to the Committee for permission to build on his plot under rule 27 of the rules formed by the Government of Bombay under section 188 of the Act. The rule in question was copied almost verbatim

from section 96 of the Act and the Committee sent a model reply "permission refused." Some correspondence followed and the accused built up his house after waiting for one month. He was convicted for building the house without permission by the Resident Magistrate, Bandra. The accused applied to the High Court.

HELD, reversing the conviction, that the model reply in question was not proper as it refused permission for an indefinite period and all that the Committee could do under the rules was to pass a provisional order directing that for a period, which should not be longer than one month from the date of such order, the intended work should not be proceeded with.

Macleod, C. J.—(Extract). Although the model reply purports to have been sent under the provisions of rule 27 (3), all that the Committee could do was to pass a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with. On the face of it this order refusing permission was for an indefinite period.

Under sub-rule (4), a person who has given notice under sub-rule (1) may proceed with his building if the Committee within one month from the receipt of the notice given under sub-rule (1) have neither passed orders under sub-rule (2), nor issued under sub-rule (3) any provisional order or any demand for further particulars.

The Committee has not issued proper orders under either sub-rule (2), or sub-rule (3) and consequently the accused was entitled to build. After he received the model reply he called upon the Chairman, and requested him to give the grounds for refusing permission. He was informed that permission was refused because there was no existing metalled road there and none projected and also that a bungalow there would lead to undesirable congestion. Neither of the reasons given was justified by the circumstances of the case or by the rules.

Reference was made to by-law 38 which does not make a reference to metalled roads. There was no justification for the conviction under section 27 (5) as the petitioner had given notice as required by sub-rule (1). He had furnished the documents and afforded information required of him and no legal order was served on him which would prevent him from building.

*24 Bom. L.R. 102
10th Novr. 1921.*

Emperor
vs.
Ramrao Abaji Prabhu

A compound-wall being a building a notice to municipality before erecting it is necessary.

The accused owned a house to which there was a compound thirty feet wide. At the end of the compound the accused commenced to build a stone wall as a compound without obtaining the permission of the municipality to build it. During the construction he was asked to stop the work by the municipality and apply for permission which he refused to do

and completed the wall. He was prosecuted but the trying Magistrate acquitted him holding that the compound-wall was not a building.

The Government of Bombay appealed against the order of acquittal.

HELD that the compound-wall of a house is included in the term 'building' as defined in section 3 (7) of the Bombay District Municipal Act and before erecting such a wall notice must be given under section 96 of the Act.

Macleod, C. J.—(Extract). The definition of 'building' in section 3 (7) of the Act is as follows :—" 'Building' shall include any hut, shed, or other enclosure, whether used as a human dwelling or otherwise, and shall include also walls, verandahs, fixed platforms, plinths, door-steps and the like." Ordinarily a building cannot exist without walls; but as the word 'walls' is mentioned it must be deemed to include other walls in addition to those walls without which the building could not exist.

In the old Act of 1873 the definition of the word 'building' stated that it should include compound-walls, door-steps, verandahs, and the like and the omission of the word 'compound' from the present definition clearly shows that the legislature intended to include not only compound-walls but other walls which the owner of the premises might erect for various purposes besides that of enclosing the land on which the building stood. Otherwise the definition that the term 'building' shall include walls would be meaningless. The accused was therefore bound to give notice to the municipality under section 96 and having disregarded the notice to stop work he was liable to be punished under section 96 (5) of the Act.*

*I.L.R. 45 Bom. 1151
9th June 1921.*

* This case was followed in *Emperor vs. Chhaganlal Motiram Mehtaji*, *I.L.R. 51 Bom. 818, post.*

Baban Hemraj and another (orig. plff.)

vs.

The City Municipality of Poona (orig. deft.)

A suit to recover fines and penalties levied by a municipality for breach of contract entered into under section 40 of the Bombay District Municipal Act, 1901, must be brought within 6 months from the date of the act complained of.

The plaintiff entered into a contract with the Poona Municipality to carry soil water for a period of one year and deposited a sum for due performance of the contract. There were breaches of contract by the plaintiff and the municipality levied fines and penalties from the bills and deposit. The contract came to an end on 31st March 1916 and the plaintiff filed the suit to recover the amount of fines and penalties levied on 22nd June 1917.

Both the lower Courts dismissed the suit on the ground that it was governed by section 167 of the Bombay District Municipal Act and had not been brought within six months from the date of the act complained of.

A second appeal was preferred to the High Court.

HELD that the suit was governed by section 167 of the Act and not having been brought within a period of six months from the acts complained of was time-barred.

Macleod, C. J.—(Extract). The municipality had entered into the contract under the powers granted to it under section 40 of the Act. As the municipality obtained their powers to enter into the contract under the Act it follows that their powers to enforce the contract according to the construction they put upon it, must also be in pursuance of the Act. Any suit therefore which the plaintiff might wish to bring under the contract would come within the provisions of section 167 of the Act.

*I.L.R. 46 Bom. 123
15th June 1921.*

* This case has been discussed and distinguished in the case of *District Local Board, Poona vs. Vishnu Raghoba Wadaskar* (*I.L.R. 57 Bom. 67*).

The Sholapur Municipality (orig. deft.)

vs.

Shankar Sheshbhat Ambalji (orig. plff.)

A municipality cannot levy a rate on owners of houses and a separate rate on the owner of land underneath them.

The plaintiff was the owner of two survey numbers for which he paid assessment to Government. He let out the lands in those survey numbers to 350 tenants who had built their houses on the plots demised to them and each paid a ground rent to the plaintiff which was less than Rs. 10/- per year. The municipality had made rules for the levy of a general rate on the buildings or lands. Those yielding a yearly rent not exceeding Rs. 10/- were exempt from payment but a graduated scale of rates was provided in the case of buildings or lands yielding rent more than Rs. 10/- a year. Each of them was assessed by the municipality to house-tax and also assessed the plaintiff for these Survey numbers on the aggregate rental received by him per annum from all his tenants. The plaintiff sued the municipality for the refund of the amount of the rate on his land and for injunction restraining the municipality from levying double house-tax in his land.

The Subordinate Judge dismissed the suit holding that the levy of the rate under section 63 of the Bombay District Municipal Act was not illegal.

On appeal the Assistant Judge reversed the decree and decreed the suit and the municipality filed an appeal in the High Court.

HELD that the municipality can levy a rate either on the building or on the land on which the building stands or it can levy one rate for both building and land. But it cannot levy a rate which would include the rate on building and land and a second rate on the land itself.

Macleod, C. J.—(Extract). It is clear from the by-law that if an existing building is to be taxed separately from the land then the municipality can levy only rate on the plot on which the building stands. It is a different

matter if the plot of land is vacant and the rate is levied on it because it is capable of yielding a rental of more than Rs. 10/- then if after the land has been rated it is let out for building purposes, that portion would be deducted from the whole and the rate on the land suffer a proportionate reduction, while the plot of land on which the building was erected, with the building, would be rated at the annual letting value of the buildings and the land. But this is not what has happened in this case. No rates were levied on these survey numbers before they were let out and the municipality have been levying a rate on the building and the land in one and having done that they cannot levy a separate rate on the land. If they did they would have to do so on each plot underneath each building and not on the whole survey numbers.

I.L.R. 46 Bom. 205
14th July 1921.

Abaji Ragho Mhalas (orig. plff.)

vs.

The Municipality of Jalgaon (orig. deff.)

The municipality cannot order removal of the obstruction in a public street on the site which was held adversely for 30 years as the holder's title was complete under Art. 146-A, Sch. II of the Indian Limitation Act.

In 1886 the plaintiff built a house and encroached upon a portion of a public street by building pucca steps. He was called upon in 1917 by the municipality to pay rent for the land encroached upon or in default to remove the steps under section 122 of the Bombay District Municipal Act, 1901. The plaintiff thereupon filed the suit to restrain the municipality from removing the steps and to recover the rent he had paid under protest.

The lower Courts dismissed the suit and the plaintiff appealed to the High Court.

HELD that the municipality could not take any action under section 122 of the Bombay District Municipal Act, 1901, because the municipality was barred from filing a suit for the possession of the site encroached upon and the site was no longer part of the public street but belonged to the plaintiff.

The material portion of section 122 runs as follows :—

- " 122. (1) Whoever in any place after it has become a municipal district shall have built or set up or shall build or set up, any wall.....step or any projecting structure or thing, or other encroachment or obstruction, in any public street.....shall be punished with fine which may extend to twenty-five rupees.
- (2) The municipality shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property.....and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment.....

Macleod, C. J.—(Extract). After 30 years of adverse possession an owner of a house who has encroached upon a public street obtains a good title and section 122 which deals with encroachments on streets no longer applies. As the municipality is barred from filing a suit for the possession of the site encroached upon after 30 years, the site after that period no longer forms part of the street but belongs to the party who has been in adverse possession.

Shah, J.—(Extract). The powers conferred upon the municipality under section 122 for the removal of encroachments upon public streets are subject to the rule of limitation to be deduced from the combined operation of section 29 and Art. 146-A, Schedule II to the Indian Limitation Act as regards the acquisition of title by adverse possession. It is no doubt obligatory under section 54 on the municipality to see that encroachments on public streets are removed and that the necessary powers are conferred upon the municipality under section 122 without any limitation in the interests of the public. But there is no express provision for a case where for 30 years the municipality has taken no action and the party encroaching upon have acquired a title under the Indian Limitation Act. As there is a conflict of considerations and the question is one of practical importance the Bombay District Municipal Act should be amended so as to give effect to the real intention of the legislature.

The decision in *Tyaballi vs. Dohad Municipality* (22 Bom. L.R. 951), the basis of which is that after thirty years' adverse possession an owner of a house who has encroached on the public streets obtains a good title, is followed.

I.L.R. 46 Bom. 335
27th July 1921.

Mulji Tribhovan Sevak (orig. plff.)

vs.

The Dakor Municipality (orig. deff.)

Permission to build granted by the Public Works Committee of the municipality can be cancelled or revoked by the General Body of the municipality either of its own motion or on the application of the person injuriously affected thereby.

The decisions in—

- (1) *Emperor v. Kareem Ranjan*,
(19 Bom. L.R. 65);
- (2) *Vithal Dhonddeo v. Alibag Municipality*,
(I.L.R. 42 Bom. 620); and
- (3) *The Municipality of Sholapur v. Abdul Wahab*,
(I.L.R. 45 Bom. 797);

lay down that an order once given by the municipality cannot be revoked. But these decisions can be distinguished inasmuch as the effect of the provisions of section 36 was not considered in those cases.

The plaintiff applied to the Dakor Municipality for permission to add a storey to his house at Dakor under section 96 of the Bombay District Municipal Act, 1901 (Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Sections 96 and 36 (2)). The permission was granted by the Public Works Committee of the municipality on 22nd March 1917. The plaintiff's neighbour thereupon applied to the municipality complaining that if the plaintiff built under the permission granted, his light and air would be blocked up. The municipality asked the plaintiff not to proceed with the work and on 9th May 1917 the General Body of the Municipality cancelled the permission granted by the Public Works Committee. The plaintiff thereupon sued for a declaration that he was entitled to build under the permission granted and that the General Body had no right to cancel the permission thus granted. The Subordinate Judge following the decisions in 19 Bom. L.R. 65 and 20 Bom. L.R. 756 decreed the suit. On appeal the decree was reversed and the suit was dismissed by the Assistant Judge holding that the revocation of the permission was legal within the powers of the municipality.

The plaintiff appealed to the High Court. The appeal was heard by a Division Bench and a reference was made to the Full Bench for the decision of the question whether the order made by the Public Works Committee of the municipality under section 96 could be cancelled or revoked by the General Body either of its own motion or on the application of a person injuriously affected thereby.

HELD that the order made by the Public Works Committee under section 96 could be cancelled or revoked by the General Body of the municipality, either of its own motion or on the application of a person injuriously affected thereby.

The material sections of the Act and the rules made thereunder are as follows :—

"Section 29. The municipality may appoint for a period not exceeding one year, any committee or such or so many committees consisting of such councillors as they think fit for any purpose or respectively for any of the purposes, other than those specified in section 28 for which a managing committee may, under section 27, exercise the powers of a municipality, and may invest each committee so appointed with such of the said powers as may be necessary or expedient for the fulfilment of the purpose for which it is appointed.

Section 36 (2). Every order passed by a managing committee or by a committee appointed under section 28 or 29, other than orders under sub-section (3) of section 65, shall be subject to such revision, and open to such appeal, as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 46.

Section 46 (a). Every municipality shall make rules regulating the conduct of their business and the delegation of any of their powers or duties and subject to the provisions of section 27, the appointment and constitution of committees.

Rule 42. Every delegation of the municipality's executive functions, powers or duties shall be deemed to be made subject to the general control of the municipality and in particular to the provisions of rules 43 to 55.

Rule 49. It shall be the duty of the president to watch over delegates (whether committees or individuals) and to bring to their notice and, if necessary, to the notice of the municipality any instances in which they seem to have erred in the exercise of their functions as delegates or to be negligent or dilatory about exercising the same.

Rule 54. Except as otherwise expressly provided in the Act or in the rules under the Act no act of any delegate shall be revised or called in question otherwise than—

(i) as provided in rules 49, 50 and 55, or

(ii) by a resolution supported by at least half the total number of councillors at a special general meeting called for this purpose.

Rule 55. First appeals against the decisions or orders of delegates other than the orders of a committee under section 65 (3) shall lie to the municipality.

Rule 58. (1) Any appeal may be rejected by the authority to which it lies, if received more than 20 days after the date of delivery of the order appealed against to the party affected orally or in writing."

Macleod, C. J.—(Extract). A municipality has appellate and revisional powers over orders passed by the Managing Committee or by a committee appointed under section 28 or section 29 other than orders under section 65 (3), which powers are to be exercised in accordance with the rules framed under section 46. Any person injuriously affected by an order of the committee would be entitled to appeal to the General Board of the municipality against the order.

Shah, J.—(Extract). The power to deal with notices under section 96 is delegated to the Public Works Committee and the delegation is subject to revision and appeal as provided by section 36 (2) and the rules of the municipality framed under section 46. The General Board of the municipality can exercise the power vested in them consistently with the provisions of section 96. Even if there may be difficulty in the way of exercising those powers effectively, the municipality have the legal right to exercise the powers of revision and appeal within the limits allowed by the statute and the rules thereunder. As rule 55 provides for appeals against the orders of delegates generally a party who is injuriously affected by an order even though it may not be communicated to him orally or in writing, may appeal to the municipality. In the absence of any specific rule as to the parties who may appeal a neighbour may be deemed to have had the right of appeal. The municipality will have to consider whether the appellant has sufficient interest in the order to make his appeal competent. In any case the municipality have the power to revise the order of their own accord. Suggested that the position of the municipality and the persons desirous of building should be defined by the legislature so that the General Body exercising revisional or appellate powers and the persons who want to build may know definitely their respective positions after an order is made by a committee or any other authority under sub-section (2) which is subject to revision or appeal against the person proposing to build. The cancellation or revocation of the order must be consistent with the provisions of section 96 of the Act.

Fawcett, J.—(Extract). The power of making orders under section 96 can be delegated by the municipality to its Public Works Committee, that is,

a committee appointed under section 29 of the Act. The permission was given by the Public Works Committee under section 36 (2). Under that sub-section the exercise or discharge by the delegate of the powers delegated to him under section 96 is made subject to such conditions and limitations, as may be prescribed in the order of delegation and also to control and revision by the Municipal Commissioner as in cases falling under sections 186 G and M. There is therefore nothing incongruous in the municipality exercising under section 96 have been delegated. Where an order is passed by a committee in exercise of the powers delegated under section 96, the words 'municipality' in section 96 must be read as 'the committee subject to the provisions of section 36, sub-section (2)'. There is nothing in rules 55-58 to suggest that the word 'party' should be read in the narrow sense of a party to a suit or legal proceeding but they cover the case of a person who was affected by the order complained of. Rule 42 subjects every delegation of the municipality's executive functions, power or duties, to the general control of the municipality and the rule cannot be limited to executive functions as opposed to powers of the kind referred in section 96 in view of the provisions of rule 45 which speak of executive functions involved in the exercise of a power conferred on the municipality. It was therefore coming petent to the municipality to pass their order first suspending the proceeding with the building and subsequently to revoke the permission granted by the Public Works Committee. There is nothing in the rules to show that it was intended that the municipality should not be able to act in revision on their own motion, independently of any initiation by the President or Vice-President under rules 49 and 50. The use of the words 'in particular' with reference to rules 43 to 55 in rule 42 imports that the reference was without prejudice to the right of general control already mentioned.

I.L.R. 46 Bom. 663
18th Novr. 1921.

1922

Haji Dawood Haji Elias

vs.

The Municipal Commissioner for the City of Bombay

In fixing the rateable value of a building under section 154 of the City of Bombay Municipal Act, 1888, the owner is not entitled to deduct the cost of bath tubs and lavatories and electric fittings and fans.

The appellant built a building and fitted it up with electric lights and fans, gas stoves, bath tubs and lavatories. Rent bills were made out to include municipal taxes in the rent but in each case Rs. 50 were charged separately as for hire of electric lights and fans, etc. Thus the rent in each case was made to appear as if it were Rs. 50 less than the amount actually paid. In the leases the rent was fixed at a lump sum without any reference to a separate charge for hire of electric lights, fans, etc.

The respondent municipality assessed the appellant on the basis of the actual amounts received. In fixing the rateable value, respondent's assessor

disallowed abatement for costs incurred on the provision of bath tubs and lavatories and of electric installation for lights and fans on the ground that the baths, lavatories and electric lights and fans enhanced the lettable value of the building and should, therefore, be rated. The appellant claimed deduction for the costs because such deduction was allowed in another case and on the ground that the electric fittings and fans should be treated as machinery under section 154 (2) of the Act. The Chief Judge of the Presidency Small Causes Court who heard the appellant's appeal against the decision of the assessor referred for the opinion of the High Court the question whether deduction should be allowed for the reasonable cost of bath tubs, lavatories and electric lights and fans in the rateable value of the building.

HELD that the appellant was not entitled to claim deduction for the cost of bath tubs and lavatories as without those conveniences the premises would not ordinarily be let and that the electric lights and fans did not come within the term 'machinery' in section 154 (2) of the Act and therefore their cost could not be deducted.

Macleod, C. J.—(Extract). There can be no doubt that the baths and lavatories are annexed to the free-hold and all electric fittings are also annexed to the free-hold, except perhaps such fittings as are attached to the plug in the wall. Without baths and lavatories the premises would not be let unless perhaps a tenant were found to take the premises on a long lease on favourable terms on the understanding that he should put up such fittings himself. With regard to electric fittings and fans it may be that the landlord may not attach these conveniences to the premises and may get tenants to take the premises on the understanding that they should put the fittings themselves. But it is obvious that if the landlord puts in those fittings it would be easier to get tenants. The only reason on which the appellant's claim for deduction can be based is that these fittings should be treated as machinery which under section 154 (2) of the City of Bombay Municipal Act shall not be included for rateable value of the building. It seems that when electric fittings are installed by a landlord they become part of the premises and so are necessary for the user of the premises of the tenant. Therefore no deduction can be allowed for the cost of such installation.

24 Bom. L.R. 476
27th March 1922.

Nathalal Ramdas Vaghaji and ors. (orig. plffs.)

vs.

The Nadiad Municipality (orig. defts.)

Government is not a necessary party to a suit filed for a declaration of ownership over a plot of land in the municipal area which was declared to be a street land by the City Survey Enquiry Officer.

In the municipal limits of the town of Nadiad, a survey was undertaken as contemplated by section 50-A of the Bombay District Municipal Act, 1901. The City Survey Enquiry Officer held that the land in dispute was 'a street land' as defined in section 3, clause (12), under the District Municipal

Act. The plaintiffs filed a suit in the Subordinate Judge's Court at Nadiad for a declaration that the plaint land was of their ownership and for an injunction restraining the defendant municipality from obstructing them in the enjoyment thereof. The Subordinate Judge held that Government was a necessary party because it reserved its rights therein and the Court had therefore no jurisdiction and dismissed the suit. On appeal the District Court held the same view but reversed the decree and directed that the plaint be returned to the plaintiffs for presentation to the proper Court.

The plaintiffs appealed to the High Court.

HELD that Government was not a necessary party, as the decision of the Survey Officer that the site in question formed part of a street did not mean that Government had interest in the land; the decision of the Survey Officer, as far as it went being entirely a matter in which the municipality and the plaintiffs were interested and the adjudication sought in the suit being with reference to the rights of these two parties.

Shah, Ag. C. J.—(Extract). The order was passed by the City Survey Officer and then by the superior officer in appeal and the decision was that it was 'street land.' The definition of the word 'street' as given in section 3 (12) does not in any sense negative the idea of private ownership. The decision of the Survey Officer does not mean that the decision was that the Government had any interest in the land. It was really a decision relating to a dispute between private owners and the municipality, that it was part of street land which means that the municipality had certain powers with reference to such land which had been given under the statute, e.g., under section 90. This would affect the rights of private owners and to that extent the municipality is interested in upholding the decision of the City Survey Officer and the plaintiffs are interested in questioning that decision. That is a dispute between the private owners and the municipality in which the Government have no manner of interest. The case which relates to the decision of the City Survey authorities that the land in question was a street land will not be affected by the vesting clause in the Act with reference to public streets. It is not necessary and formally to sue to set aside the decision of the Survey authorities. The wording of sub-section (2) of section 50-A clearly indicates that whether the relief claimed is inconsistent with that order or whether the relief is to have the order set aside, the suit has to be filed within a particular time, and that the suit as there contemplated is clearly a suit between a private party and the municipality.

Government is not a necessary party because the decision of the Survey authorities is not in favour of Government in any way and the parties interested in that decision are plaintiffs and the municipality who are before the Court.

I.L.R. 47 Bom. 306
21st September 1922.

1923

R. S. Navalkar
vs.
Mrs. Sarojini Naidu

The High Court has no jurisdiction under section 115 of the Civil Procedure Code, 1908, to interfere with a decision of the Chief Judge of the

Small Causes Court at Bombay in an election petition under section 33 of the City of Bombay Municipal Act, 1888, as he is a persona designata and not a Court.

The applicant Navalkar was a disappointed candidate at the municipal election held in the City of Bombay in January 1923. There were 17 candidates for 16 seats. Out of them, 16 including the opponent Mrs. Sarojini Naidu were successful. Navalkar applied to the Chief Judge of the Small Causes Court at Bombay under section 33 of the City of Bombay Municipal Act, 1888 (Bom. III of 1888), Section 33.

Act to declare the election of the opponent invalid on the ground that she was not a duly qualified candidate. The Chief Judge held that she was duly qualified and properly elected and dismissed the application. Navalkar applied to the High Court under sections 115 and 151 of the Civil Procedure Code.

HELD that the Chief Judge in the Small Causes Court at Bombay acting under the powers granted to him by section 33 of the City of Bombay Municipal Act, 1888, is a *persona designata* and is not a Court subordinate to the High Court of Bombay, which has not therefore jurisdiction under section 115 of the Civil Procedure Code, to interfere with his decision.

The material portion of section 33 of the Act runs as follows:—

- "33. (1) If the qualification of any person declared to be elected for being a Councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the Commissioner of a nomination or of the improper exception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may, at any time, within fifteen days after the result of the election has been declared, apply to the Chief Judge of the Small Causes Court. If the application is for a declaration that any particular candidate shall be deemed to have been elected, the applicant shall make parties all candidates who although not declared elected, have according to the results declared by the Commissioner under section 32, a greater number of votes than the said candidate, and proceed against them in the same manner as against the said candidate.
- (2) If the said Chief Judge, after making such inquiry as he deems necessary finds that the election was a valid election and that the person whose election is objected to is not disqualified he shall confirm the declared result of the election.
- (3) The said Chief Judge's order shall be conclusive."
- (4) * * *
- (5) * * *

Macleod, C. J.—(Extract). The petition was admitted in order that this matter might be argued as there is no direct authority on the question.

Section 151 of the Civil Procedure Code may be easily ruled out as it is clear that the relief which is asked for by the petitioner cannot be granted under that section. Then under section 115 the High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto. The real question is whether the Chief Judge in the Small Causes Court acting under the powers granted under section 33 of the City of Bombay Municipal Act is a subordinate Court, so that if a case is made out for an interference within the

powers granted to the High Court by section 115, the High Court may make such order as it may think fit.

A similar question arose in *Balaji Sakharam vs. Merwanji Nowroji* where it was held that a District Judge acting under section 23 of the Bombay District Municipal Act was not a Court within the meaning of the word in section 622 of the Civil Procedure Code, 1882, and that the High Court had no jurisdiction to revise his order refusing to set aside an election. Section 23 of the Bombay District Municipal Act is practically identical in terms, apart from certain immaterial differences, with section 33 of the City of Bombay Municipal Act.

In another case *Bhaishankar vs. The Municipal Corporation of Bombay* (I.L.R. 31 Bom. 604 : S.C. 9 Bom. L.R. 417) it was held that the High Court had no jurisdiction to entertain the suit. It was a suit filed by the plaintiff under section 33 of the City of Bombay Municipal Act against the Municipal Commissioner of Bombay.

Although the point in issue did not arise in the above case the decision in that case will not in any way assist the petitioner in showing that it was considered by the Chief Judge of the Small Causes Court acting as a special tribunal under the City of Bombay Municipal Act was a Court subordinate to the High Court. There is no reason whatever in differing from the decision in *Balaji Sakharam vs. Merwanji Nowroji* (I.L.R. 21 Bom. 279) inasmuch as there is no distinction between the provisions of section 23 of the Bombay District Municipal Act and section 33 of the City of Bombay Municipal Act with regard to the particular part, whether or not the Chief Judge acting under section 33 is a *persona designata* or a Court subordinate to the High Court. The High Court has, therefore, no power to interfere with the decision of the Chief Judge in this case.

25 Bom. L.R. 463
28th March 1923.

The Broach City Municipality (orig. opponent)

vs.

Gulam Rasul Haji Banubhai (orig. applicant)

An order awarding compensation by the District Court under section 160 (3) of the Bombay District Municipal Act in respect of land acquired can be executed as a decree.

Certain lands belonging to the opponent were acquired by the Broach Municipality under section 160 of the Bombay District Municipal Act, 1901. On proceedings before the District Court of Broach under section 160 (3), the District Judge awarded compensation to the opponent, who filed a *darkhast* in the District Court to recover the amount awarded. The municipality contended that the award by the District Court could not be executed as if it was a decree but a separate suit was necessary. The contention was overruled and execution was ordered.

Bom. Dist. Mun. Act, 1901 (Bom. III of 1901), Section 160

Bom. Dist. Mun. Act, 1888 (Bom. III of 1888), Section 36 (p) and Section 16 (g) to (h).

The municipality appealed to the High Court.

HELD that an order passed by the District Court under the provisions of section 160 (3) can itself be executed as a decree.

Macleod, C. J.—(Extract). The District Court in cases in which the compensation is claimed in respect of land acquired has to follow, as far as may be, the procedure provided by the Land Acquisition Act, for proceedings in matters referred for the determination of the Court. Under the Land Acquisition Act in the case of reference the Court proceeds to hear the parties, to determine the value of the land and to make an award. That award is executed as a decree. It follows that where the District Court makes an order under section 160 (3), it must be treated for the purpose of execution in the same way as an award made in a reference under section 18 of the Land Acquisition Act.

The municipality's contention would be inconsistent with the provisions of section 160, proviso (b), which allows the Court full power to give and apportion the costs of all proceedings in any manner it thinks fit.

I.L.R. 47 Bom. 654
23rd January 1923.

K. F. Nariman

vs.

The Municipal Corporation of Bombay

The interest contemplated by section 36, cl. (p) of Bombay III of 1888 and by section 16 (1) (f) must not be speculative and remote nor a mere sentimental interest but must be pecuniary and material and a councillor who is a shareholder of a registered company and who has a beneficial interest in the shares cannot vote or take part in the discussion of any matter pertaining to the said company. Where however the councillor has no beneficial interest in the shares but is a mere trustee he is not disqualified from voting or taking part in the discussion of any matter relating to the company at the meetings of the Municipal Corporation.

The question of validity of a vote at a meeting of the Corporation being a question of law and not relating to the internal management of the Corporation can be decided by a Court of law alone, neither the Corporation nor the Chairman having power to decide it.

On 20th May 1922 the Managing Engineer of the Bombay Electric Supply and Tramways Company applied to the Municipal Commissioner for a revision of the existing scale of fares charged by the said company. The letter was forwarded by the Commissioner to the Corporation with his recommendation to the effect that the company was required to maintain a uniform rate on the old lines but an increase in the fare for longer distances should be allowed. On 3rd August 1922 the matter came up for consideration before the Corporation

City of Bom. Mun. Act, 1888 (Bom. III of 1888), Section 36 (p) and Section 16 (g) to (h).

meeting and the President ruled that having regard to the provisions of section 36, clause (p) of the Bombay Municipal Act such of the councillors as held shares in the company or were directly or indirectly interested in the said company should neither take part in the said discussion nor vote in respect thereof. By a resolution the matter was referred to the company for report. On 15th February 1923 the Tramway Company's Committee report approving of the Commissioner's recommendations was placed before the Corporation but the matter was adjourned to 19th February 1923. At the adjourned meeting an amendment was moved that the consideration of the said report be postponed till 1st April 1923 when the new Corporation would be formed. The Chairman (Dr. D. B. Master) declared the amendment carried by majority but a poll was taken and there were 17 votes including the ordinary vote of the Chairman against the amendment and 17 votes for the amendment. The Chairman gave an additional vote as a casting vote against the amendment and declared the amendment lost. The plaintiff contended that six out of the seventeen councillors who voted against the amendment including the Chairman were disqualified from voting under section 36, clause (p) on the ground that one of them was the holder of the company's shares which nominally stood in his wife's name, that three of them held shares in the company which they had transferred to their nominees some time before 19th February 1923 to enable themselves to vote, that one of them held a free pass to travel as he was an editor of a newspaper in which advertisements of the company were inserted and two of them had in addition medallions which entitled them to travel on the rear platform of a car when the inside was full though on payment of usual fare. The plaintiff therefore brought this suit for a declaration that the declaration made by the Chairman that the amendment was lost, was invalid and that the Municipal Corporation should be restrained by an order and injunction from acting upon the said declaration and for a declaration that the postponement of the matter was duly carried. The defendants contended that the six councillors in question were not disqualified from voting as they had no beneficial interest in the shares and that two of the councillors who had voted in favour of the amendment had shares in the said company and were disqualified from voting and their votes should be disregarded if the poll was to be reopened.

HELD that the 'interest' contemplated by section 36, clause (p) and by section 16 (1), clause (f) of the City of Bombay Municipal Act, 1888, must not be too speculative or remote nor a mere sentimental interest (such as that of a father in the prosperity of his son). But where there is a pecuniary advantage, it must be regarded as an 'interest.' If the 'interest' is pecuniary it is immaterial that the amount involved is small and trifling. If the interest is not pecuniary it must at least be a material interest. Under section 36, clause (p) a councillor whose name stands as a shareholder on the register of the company and who has a beneficial interest in the share, is, therefore, disqualified from voting or taking part in the discussion of any matter pertaining to the said company. If the shares stand not in his name but in the name of his nominee, the beneficial interest being in him, he is similarly disqualified. Where however he has

no such beneficial interest but is a *mere trustee* he cannot vote at meetings of the company in which he holds shares in a manner inconsistent with the interests of the beneficiaries the reason being that he derives his position as a member of the company from the legal ownership of the shares. But if such member is also a member of the Municipal Corporation he is not disqualified from voting or taking part in the discussion of any matter relating to the company at the meeting of the Municipal Corporation. He is under no obligation to vote at such meetings in a manner beneficial to the interest of the *cestui que trust*, for he does not owe his membership to the fact that he is a shareholder of that company. He commits no breach of the trust, if he votes at meetings of the Corporation in contravention of the interests of his beneficiary.

Held also that the declaration of the Chairman as to the result of the poll demanded at a meeting of the Corporation is not conclusive under clause (r) of section 36 of the Act. The question of law and not one relating to the internal management of the Corporation, can be decided by a Court of Law alone. Where therefore councillors disqualified from voting vote and create a majority, the minority can get relief by an action in Court of Law. The Court cannot entertain the plea that the relief if granted would be rendered nugatory if the President of the Corporation convened another meeting to nullify the effect of the decision of the Court.

Held further that those councillors whose shares stood in the names of their nominees were disqualified from voting but that the editor of the newspaper, the trustee and the holders of the medallions had no such interest under clause (p) of section 36 of the Act as disqualified them from voting at a meeting of the Corporation where affairs relating to the company were being discussed.

The material portions of section 36, clause (p) and section 16, clauses (j) and (k) are as follows:—

- "36. (p) A councillor shall not vote or take part in any discussion of any matter before a meeting in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l) both inclusive, of section 16 or in which he is professionally interested on behalf of a client or other person."
- "16. (j) Any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or
- (k) any joint-stock company which shall contract with or be employed by the Commissioner on behalf of the Corporation."

Mulla, J.—(Extract). In construing section 36 clause (f), regard must be had to the 'matter' before the meeting. A councillor having an interest in a lease of land within the meaning of clause (g) cannot be held by reason of his having that interest only to be disqualified from voting on a question relating to a loan to the Corporation contemplated by clause (h). The term 'interest' need not be defined. It must not be too speculative and remote nor must it be a mere sentimental interest. Where there is a pecuniary advantage or a reasonable expectation of a pecuniary advantage it must be regarded as an interest. If it is pecuniary it may be

xxx

trifling. If it is not pecuniary it must at least be a 'material' interest. Conflict between 'interest' and 'duty' explained. Questions as to the validity of votes are not questions relating to the internal management of the Corporation; the declaration by the Chairman of the result of the poll is not conclusive evidence of the fact under section 36 clause (r) and a Court of Law alone is to decide whether it is conclusive or not. The councillors disqualified from voting vote at a meeting of the Corporation is not an injury to the Corporation and the present suit need not be brought in the name of the Corporation. There is no question of redressing a wrong done to the Corporation. It is not a Corporation for making any gain.

The suit is brought by the plaintiff in his own name without joining two or more councillors on behalf of themselves and others. The suit need not fail on that account for the defect can be cured by amendment. The Court has wide powers to allow a party to amend his pleadings under order 16, rule 17. If the permission is granted it will cause unnecessary delay and as far as notice to other persons interested is concerned, the Municipal Corporation being a party to the suit every councillor whether he has the same interest in the suit as the plaintiff or not had notice of the institution of the suit. It is not therefore necessary to direct an amendment having regard to the special circumstances of the case. The amendment was not lost and the plaintiff was entitled to the declarations and injunctions prayed for by him.

I.L.R. 47 Bom. 809
19th March 1923.

The Municipal Corporation of Bombay

vs.

L. R. Mallandaine

On an application by residents in the house for the abatement of nuisance by the erection of stables with the permission of the municipality, the Magistrate has power under section 515 of the City of Bombay Municipal Act to order the Municipal Commissioner not to issue a licence under section 394.

The applicant Mallandaine lived in a bungalow in Mazgaon belonging to one Ali Mahomed as a paying guest of Ali Mahomed's tenant, Webster. The locality in question was inhabited by Europeans and Anglo-Indians.

City of Bom. Mun. Act, 1888 (Bom. III of 1888), Section 515.

Ali Mahomed also lived there. In July 1922 Ali Mahomed acquired a long lease of the open land round the bungalow and thereafter with the permission of the Municipal Commissioner began to erect stables for the accommodation of 400 horses and 200 hack conveyances. The stables in question surrounded the bungalow on its three sides and were at a distance of only 24 feet. The construction of the stables was protested against but the stables were erected and occupied although the necessary licence was not issued. The owner had complied with all the requirements of the Municipal Commissioner and the licence was ready to be issued. The applicant then applied to the Chief Presidency Magistrate to abate the nuisance under section 515 of the City of Bombay Municipal Act. The

xxxi

Magistrate found that the stables were a nuisance and directed the Municipal Commissioner not to grant any licence to any owner or occupier of the stables, to keep or allow to be kept upon the premises horses, cattle or other four-footed animals for sale, letting for hire for any purpose for which any change is made or any remuneration is received, for sale of any produce thereof and to take action and to act under the provisions of the Municipal Act that may enable him to prevent the occupation or the continuance of the occupation of the stables for the purposes abovementioned after a period of four weeks. Against this order the municipality appealed to the High Court. It was contended on behalf of the municipality that section 515 deals with two things: (1) abatement of nuisance which can be dealt with by the Municipal Commissioner under the powers given to him under the Act; and (2) nuisances which arise from the power exercised by the Commissioner under any of the sections; that the section is aimed at an ascertained and existing nuisance and that the section does not empower the Magistrate to substitute his discretion for that of the Commissioner and that the Magistrate can interfere only when there is a breach by the Commissioner to put into force any of the provisions of the Act.

HELD that section 515 (2) of the Act gives the right to any person to make a complaint where there is any nuisance or where in the exercise of any of the powers conferred by the sections more than the least practicable nuisance has been created.

Held also that under the section the Magistrate had jurisdiction to direct the Municipal Commissioner not to issue a licence under section 394 of the Act.

Held further that the person who is alleged to have caused the nuisance complained of should ordinarily be made a party to the proceedings under section 515 as well as to an appeal from the Magistrate's order.

Section 515 of the Act runs as follows:—

- "515. (1) Any person who resides in the City may complain to a Presidency Magistrate of the existence of any nuisance or that in the exercise of any power conferred by section 224, 244, 245, 246 or 367 more than the least practicable nuisance has been created.
- (2) Upon receipt of any such complaint, the Magistrate after making such inquiry as he thinks necessary, may if he sees fit, direct the Commissioner—
- (a) to put in force any of the provisions of this Act or to take such measures as to such Magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance,
- (b) to pay to the complainant such reasonable costs of and relating to, the said complaint and order as the said Magistrate shall determine inclusive of compensation for the complainant's loss of time in prosecuting such complaint.
- (3) It shall be incumbent on the Commissioner to obey every such order.
- (4) Nothing in this Act shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by an act done in the exercise of any power conferred by section 224, 244, 245, 246 or 367 to recover damages for the same."

Shah, Ag. C. J.—(Extract). The person who is said to have caused the nuisance should be made a party to the proceedings before the inquiry before the Magistrate under section 515 and on appeal in this Court. His formal absence in the present case is immaterial; but ordinarily he should be treated as a necessary party to such proceedings.

There is nothing in the section to justify the contention of the municipality that the second part of clause (a) of sub-section (2) which relates to the direction to the Municipal Commissioner to take such measures as to such Magistrate shall seem practicable and reasonable applies only to the exercise of the powers under any one of the sections in sub-section (1).

The scheme of the section gives the right to any person to make a complaint where there is any nuisance or wherein the exercise of any of the powers conferred by the respective sections, more than the least practicable nuisance has been created. The extent of the power of the Court is indicated in sub-section (2) and the whole clause (a) of sub-section (2) applies to the case of a nuisance, as well as to the case where in the exercise of powers under certain sections more than the least practicable nuisance is created.

The section is enacted for the protection of persons residing in the city and it provides a remedy, which is open to any resident of the city. That the contention of the municipality that the legislature could not have contemplated that the Court should control and regulate the discretion as to matters about which the Municipal Commissioner possesses special knowledge is not correct. For the section provides that the measures for preventing, abating, diminishing or remedying the nuisance may be taken by directing the Municipal Commissioner to do certain things and the extent of the power of the Court is to be found in clause (a) of sub-section (2), namely, that the Magistrate may direct him to put in force any of the provisions of the Act or to take such measures as shall seem practicable and reasonable to the Magistrate for preventing, abating, diminishing or remedying the nuisance. This shows that the powers of the Commissioner are limited and some control is placed over his acts. The Court has nothing to do with the question whether the legislature should have conferred such powers on the Court. The exercise of the powers by the Magistrate under sub-section (1) is purely discretionary. This is not a technical nuisance but is one which cannot reasonably be tolerated if the protection which the section gives is intended to extend to the residents of the city. Whether the complainant is a paying guest or a tenant is immaterial. He resides in the city and is entitled to complain of the nuisance.

As the nuisance cannot be allowed to continue and as no licence has been granted the Magistrate's order is proper. Even if the licence had been granted the order could have been differently worded so as to secure the same result.

Crump, J.—(Extract). The definition in section 3 (2) of the Act makes no discretion between 'public' and 'private' nuisance and the legislature did not intend any such distinction. The Court is bound by the terms of the special legislation but within the four corners of the Act and as the Act gives a remedy the applicant is entitled to seek the remedy provided in the Act.

I.L.R. 48 Bom. 241
12th Oct. 1923.

LOCAL SELF-GOVERNMENT INSTITUTE (BOMBAY PRESIDENCY)

ELEVENTH ANNUAL REPORT AND AUDITED STATEMENT OF ACCOUNTS FOR THE YEAR 1938-39

I have the pleasure to submit to the Provincial Council of the Institute the Eleventh Annual Report and the Statements of accounts for the year 1937-38 audited by the Examiner, Local Funds and for the year 1938-39 audited by the Hon. Auditor, Mr. R. N. Rajadnya.

PROVINCIAL COUNCIL

At the last triennial General Meeting held on 4th and 5th June 1939, the following persons were elected to the Provincial Council for the period of 1938-41.

1. *President*: The Hon'ble Mr. L. M. Patil, B.A., LL.B.
2. *Vice-President*: G. D. Vartak, Esq., B.A., M.L.A.
3. *Hon. Secretary*: S. S. Naik, Esq., B.A., B.Sc. (Edin.), L.C.E.
4. Balavantray P. Thakore, Esq., B.A., S.T.C., M.L.A.
5. R. B. Dr. V. V. Mulay, L.M. & S.
6. T. V. Kirad, Esq.
7. Dr. Tarachand J. Lalvani, M.B.B.S.
8. G. T. Saraiya, Esq., M.Sc., LL.B.
9. K. V. Joshi, Esq., B.E., M.R.S.E.
10. Dingomal H. Advani, Esq.
11. Bhailal Sarabhai Patel, Esq., B.A., LL.B.
12. Durlabhji P. Desai, Esq., B.A.
13. Chaturbhai N. Patel, Esq., B.A., LL.B.
14. A. V. Lawate, Esq., B.A., LL.B.
15. D. W. Raut, Esq., M.L.A.
16. V. N. Khodke, Esq., B.A., LL.B.
17. S. S. More, Esq., B.A., LL.B.
18. Sardar Shivrao Bhavanrao Thorat
19. R. S. Patil, Esq., B.A., LL.B.
20. M. M. Hansi, Esq.
21. R. K. Powar, Esq.
22. M. B. Hurlikuppi, Esq., B.A., LL.B.
23. R. V. Parulekar, Esq., M.A., M.Ed., T.D.
24. Sardar Rao Bahadur Bhimbhai R. Naik
25. Prof. S. G. Dabholkar, B.A., LL.B.
26. Khan Saheb G. B. Khan

Ahmedabad Municipality.
Sholapur Municipality.
Poona City Municipality.
Karachi Municipality.
Surat Municipality.
Representatives of Local Bodies in Sind.
Representatives of Local Bodies in Gujrat.
Representatives of Local Bodies in Konkan.
Representatives of Local Bodies in Maharashtra.
Representatives of Local Bodies in Karnatak.
Representatives of Individual Members.
Representative of Indian States.
Minister's Nominee.

OFFICE-BEARERS

The following persons were elected Office-Bearers for the said triennium.

President: The Hon'ble Mr. L. M. Patil, B.A., LL.B., Minister for Local Self-Government, Government of Bombay.

Vice-President: G. D. Vartak, Esqr., B.A., M.L.A.

Hon. Secretary & Treasurer: S. S. Naik, Esqr., B.A., B.Sc., L.C.E.

Hon. Auditor: R. N. Rajadnya, Esqr.

EXECUTIVE COMMITTEE

In the meeting of the Provincial Council held on 5th June 1938, the following persons were elected to the Executive Committee.

1. The Hon'ble Mr. L. M. Patil, B.A., LL.B.—*President*.
2. G. D. Vartak, Esqr., B.A., M.L.A.—*Vice-President*.
3. S. S. Naik, Esqr., B.A., B.Sc., L.C.E.—*Hon. Secretary & Treasurer*.
4. R. V. Parulekar, Esqr., M.A., M.Ed., T.D.—*Jt. Hon. Secretary*.
5. Dr. Tarachand J. Lalvani, M.B.B.S.
6. Balvantray P. Thakore, Esqr., B.A., S.T.C., M.L.A.
7. S. S. More, Esqr., B.A., LL.B.
8. R. K. Powar, Esqr.
9. Prof. S. G. Dabholkar, B.A., LL.B.
10. R. S. Patil, Esqr., B.A., LL.B.
11. Khan Saheb G. B. Khan.

I am sorry to place on record that Mr. Balvantray P. Thakore died during the year. He had placed at the disposal of the Institute all his mature experience, invaluable influence and advice and exerted his best to advance its usefulness.

MEMBERSHIP

Subscriptions for membership were received during the year 1938-39 from the following :

Municipalities

1. Special Municipalities	5
2. Borough Municipalities	18
3. District Municipalities	67

Local Boards

1. District Local Boards	21
--------------------------	----

Others

1. Village Panchayats	21
2. Notified Area and Sanitary Committees	7
3. Individuals	22

The amount of subscription for the previous year was Rs. 8,371-12-0 as against Rs. 8,540-4-0 received during the current year. This shows that the strength of membership has been maintained in tact despite the fact that Taluka Local Boards have been abolished and Sind has been created into a separate Province. This is due to the fact that the Government of Sind at the request of this Institute have permitted Local Bodies within their jurisdiction to contribute towards the membership of the Institute. Important Local Bodies in Sind have therefore continued to pay their subscription. As far as our Province was concerned the Hon'ble Mr. L. M. Patil, B.A., LL.B., our President repeated his appeal to the Local Bodies for continuing membership of the Institute. The appeal had a gratifying effect.

ACTIVITIES OF THE INSTITUTE

Conferences

Three Conferences of Local Bodies were organised during the year under report.

1. Joint Conference of Local Bodies in East and West Khandesh Districts held at Bhusaval on 4th and 5th February 1938, inaugurated by the Hon'ble Mr. L. M. Patil, B.A., LL.B., and presided over by S. S. More, Esqr., B.A., LL.B., President, District Local Board, Poona.
2. Provincial Conference of Local Bodies held at Bombay on the 4th and 5th of June 1938 presided over by the Hon'ble Mr. L. M. Patil, B.A., LL.B.
3. Maharashtra Divisional Conference of Local Bodies held at Ahmednagar on 8th and 9th October 1938 presided over by K. F. Nariman, Esqr., B.A., LL.B., M.L.A.

In addition to the above Conferences, a Conference of Presidents of Local Authorities and Chairmen of School Boards was convened at the instance of S. S. More, Esqr., B.A., LL.B., President, D. L. B. Poona at Bombay on 6th March 1938 to give expressions of their views regarding the Primary Education Bill which was then on the anvil.

Training Classes (L.S.G.D.)

The Training Classes continue to be our most valuable activity. In response to the inquiry from the Institute Local Bodies have expressed

their appreciation of the services of L.S.G.D.'s employed under them. The number of Local Bodies engaging the services of L.S.G.D.'s has been steadily increasing. It is very gratifying to record that there are not less than 42 L.S.G.D.'s serving in the Ahmedabad Municipality. Some of the Local Bodies who have no trained staff under them have shown their willingness to send their staff for training and engage L.S.D.G.'s when there is an occasion for fresh recruitment.

Increase in T. C. Fees

The Provincial Council resolved by a circulating proposition to increase the T. C. Fees from Rs. 50/- to Rs. 75/- and the Ex-students' examination fees from Rs. 10/- to Rs. 20/-. The following reasons were mentioned in the preamble to the said resolution :

"The expenses of conducting the Training Classes at the three Centres at Bombay, Poona and Ahmedabad have considerably increased since these fees were fixed some ten years before. Moreover the income of the Institute from membership subscription has materially fallen down on account of the separation of Sind and is likely to be substantially decreased by the complete abolition of Taluka Local Boards. The fees charged by the other Institutions like the Royal Sanitary Institute are comparatively very high. I quote hereunder Regulations Nos. 10 and 14 of the Regulations in force framed by Bombay Municipality re: Sanitary Inspector's Examination.

"10. The fees for the course, which lasts for six months is Rs. 150/- payable in advance before the 15th of October."

"14. The fee for examination is Rs. 50/- Rs. 30/- are payable for reentry, it must be sent with the application form during the first week of April."

"It will be seen therefore that our present fees are uneconomic and abnormally low. At the same time it is realized that a radical increase in fees would in some measure retard the flow of candidates. I therefore suggest a very moderate increase of only Rs. 20/- to 25/- as in the proposition hereinbelow mentioned.

"I have carefully considered the effect of such small increase and I am of opinion that the increase will not keep off any appreciable number of students from receiving the tuition. There is moreover no other source of income on which the Institute can depend."

It may be mentioned here that this increase of fees has had the desired effect on the income of the Institute. If the present increase in the income is maintained, it will serve as a safeguard against the likely decrease in the membership fees. It is however too early to say whether the increase will continue.

Practical Training

For some time past it was considered desirable that L.S.G.D.'s should undergo practical training by serving for some time in Local Bodies. In the beginning of the year, therefore, a circular was sent to several Local Bodies requesting them to afford facilities for giving six months practical training free of cost to those Diploma-holders of the Institute who desire to avail themselves of the same. The Provincial Council will be glad to notice that so far the following Local Bodies have been pleased to comply with our request :—

1. District Local Boards

(1) Kaira, (2) Bombay Suburban District, (3) Dharwar, (4) Kanara, (5) Nasik, (6) Panch Mahals, (7) Thana, (8) Ratnagiri, (9) Surat, (10) Satara, (11) Kolaba, (12) Poona, (13) Bijapur, (14) Sholapur, (15) Ahmednagar.

2. Borough Municipalities :

(1) Kurla, (2) Jalgaon, (3) Nasik, (4) Hubli, (5) Gadag-Betgeri, (6) Dharwar, (7) Bandra, (8) Ahmednagar, (9) Belgaum, (10) Bijapur, (11) Lonavla, (12) Dhulia, (13) Broach, (14) Poona Suburban, (15) Nadiad, (16) Thana, (17) Chalisgaon, (18) Bhusaval.

3. District Municipalities :

(1) Umreth, (2) Borsad, (3) Mehmabad, (4) Dohad, (5) Juhu, (6) Kaira, (7) Jambusar, (8) Kapadvanj, (9) Yawal, (10) Shirpur, (11) Dhond, (12) Ghatkopar-Kirol, (13) Parola, (14) Junnar, (15) Bulsar, (16) Ashta, (17) Indapur, (18) Erandol, (19) Viramgam, (20) Prantij, (21) Karmala, (22) Wai, (23) Haveri, (24) Jejuri, (25) Chopda, (26) Yeola, (27) Gokak, (28) Sinnar, (29) Ranebennur, (30) Bail-Hongal, (31) Manmad, (32) Sirsi, (33) Vile Parle, (34) Satara Suburban, (35) Alibag, (36) Bassein, (37) Mahad, (38) Bhiwandi, (39) Sirur, (40) Nipani, (41) Bagalkot, (42) Karad, (43) Barsi, (44) Mathe-ran, (45) Byadgi, (46) Rander.

Recognition of the Diploma by the Indian States :

The following States have been pleased to recognise the L.S.G.D. Diploma awarded by the Institute :

(1) Baroda, (2) Indore, (3) Cochin, (4) Hyderabad (Deccan), (5) Gwalior, (6) Chhota Udepur, (7) Bikaner, (8) Patiala, (9) Jodhpur, (10) Navanagar, (11) Morvi, (12) Cooch Behar, (13) Jamkhindi, (14) Miraj (Jn.), (15) Ramdurg, (16) Cambay, (17) Jawhar, (18) Aundh, (19) Jind, (20) Jhalawar, (21) Alwar, (22) Banswara, (23) Palanpur,

(24) Junagadh, (25) Rajkot, (26) Dharampur, (27) Banganapalle, (28) Dungarpur, (29) Sangli, (30) Jath, (31) Bhor, (32) Rampur, (33) Baria, (34) Rajpipla, (35) Patdi, (36) Palitana, (37) Jambughoda.

University Prize :

The Provincial Council will be gratified to know that a Diploma-holder of this Institute Mr. Rasikchandra G. Shah has won the Sir George LeGrand Jacob Prize to the value of Rs. 350/- awarded by the University of Bombay for writing an essay on "The Growth of Local Self-Government in the Presidency since 1858."

Examination Results :

I give hereinbelow examination results of the last 5 years.

1934-35	65	passed
1935-36	80	"
1936-37	89	"
1937-38	83	"
1938-39	79	"

Quarterly Journals of the Institute :

We continue to publish four Quarterly Journals. The English is edited by Mr. C. D. Barfivala, M.A., LL.B., the Marathi by Mr. S. S. Naik, B.A., B.Sc., L.C.E. The Gujarati was edited by Messrs. C. D. Barfivala, M.A., LL.B., and Pranal K. Desai, B.A., S.T.C.D. The latter however resigned. I am glad to inform you that Durlabhji P. Desai, Esqr., B.A., President, District Local Board, Surat, has been pleased to accept co-editorship of the Gujarati Journal. The Kanarese Journal is edited by Mr. R. V. Jathar, B.A., LL.B. I have no doubt the members of the Provincial Council will have noticed the high standard which has been maintained in the editing of these Journals.

Other Activities

Besides the principal activities mentioned above, the following main services were maintained efficiently.

- (1) The Institute's Book Depot.
- (2) Information and Advice on legal, administrative and technical matters.
- (3) Insurance of properties and vehicles of Local Bodies against Fire & Accident.
- (4) Purchase of Municipal requirements.
- (5) Propaganda for use of swadeshi articles for Local Bodies.
- (6) Employment Bureau for L.S.D.G.'s.

- (7) Assistance to Research-students.
- (8) Compilation and distribution of Index to all Government Resolutions pertaining to Local Bodies.
- (9) Compilation of Local Government statistics.

Local Self-Government Directory :

It will be seen from the budget submitted to the Provincial Council that it is proposed to undertake the compilation of Local Self-Government Directory for our Province during the year 1939-40. I have no doubt it will be a very comprehensive work invaluable to local bodies and students of local self-government.

Finances of the Institute and Audited Statement of Accounts :

The Statements of Accounts of the Institute for the year 1937-38 audited by Government and for the year 1938-39 audited by our Honorary Auditor are circulated along with this Report. These will furnish an adequate idea of the financial position of the Institute. The progressive improvement in the position will be evident from the following figures :

Year	Receipts (incl. Open Balance)			Payments			Closing Balance		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
1933-34	29,672	10	0	17,474	6	10	12,198	3	2
1934-35	34,379	10	2	18,192	9	3	16,187	0	11
1935-36	39,253	13	2	20,681	3	7	18,572	9	7
1936-37	39,476	15	1	19,102	3	11	20,374	11	2
1937-38	44,184	2	8	21,078	5	11	23,105	12	9*
1938-39	51,058	14	3	20,435	1	2	30,623	13	1†

* This balance is inclusive of Government Securities to the face value of Rs. 10,000 purchased for Rs. 9,784-6-0.

† This balance is inclusive of Government Securities to the face value of Rs. 10,500 purchased for Rs. 10,279-0-6.

AUDITOR'S REMARKS

Copies of the Remarks of the Hon. Auditor Mr. R. N. Rajadnya and Government Auditors are attached hereto for information. Extracts therefrom are reproduced hereinbelow :—

- (1) Hon. Auditor's remarks :—

"I have examined the accounts of the Institute for the year 1938-39.

I am glad to report that despite the enormous growth of the Institute's activities, the accounts department of the Institute's office continues to be exceptionally well maintained.

My audit experience of the Institute's accounts tallies with the experience of the Government Audit Department whose notes are uniformly favourable."

(2) Government Auditor's Remarks :—

"The Accounts were found to have well maintained and no remarks are called for....."

STAFF OF THE INSTITUTE

I have been reporting from year to year that there has been a tremendous increase in the volume of the office work of the Institute whereas the staff has remained constant. It is impossible to expect the present staff to cope with the increased work. I have therefore made a modest suggestion of adding to the schedule a post of a junior typist. The scale of pay of the present staff has been revised as per resolution of the last Provincial Council. I have no doubt the Council will view these proposals favourably.

It is unnecessary for me to repeat every year the expressions of my highest admiration for Mr. Barfivala's services to the Institute. They are invaluable.

30th June 1939.

S. S. Naik,
Hon. Secretary & Treasurer,
Local Self-Government Institute,
Bombay.

LOCAL SELF-GOVERNMENT INSTITUTE (BOMBAY PRESIDENCY)

Statement of Accounts for the year 1937-38.

Particulars	Receipts	Expenditure	Expenditure classified by sub-heads						
			Establishment	Stationery and printing	Postage	Book	Dead stock	Miscellaneous	
Opening balances—									
Head office	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	
Branches and Training Classes ..	19,741 1 11	...	...	...	...	...	...	...	
Subscriptions	633 9 3	...	...	...	...	...	...	...	
Government grant	8,371 12 0	...	...	...	...	...	...	...	
Donations	3,000 0 0	...	...	...	...	...	...	...	
Public Education	100 0 0	...	...	...	...	...	...	...	
General Administration	2,405 8 6	3,636 2 9	7,109 14 7	657 8 0	423 9 3	...	...	3,212 9 6	
Library and Equipment	...	11,773 8 10	...	...	487 5 9	...	...	3,518 12 6	
Conference	157 15 3	185 8 0	...	...	...	...	...	...	
Miscellaneous	1,461 7 0	537 11 3	...	...	...	...	...	...	
Training classes	6,865 0 0	58 6 0	...	...	...	...	...	...	
Investments	50 0 0	3,702 1 6	1,368 0 0	473 6 9	184 1 6	...	...	1,676 9 3	
Deposits	613 5 3	9,834 6 0	...	...	...	...	...	...	
Advances	80 0 0	847 6 10	...	...	...	...	...	...	
Publications	670 15 0	90 0 0	...	...	...	...	...	...	
	44,150 10 2	174 0 3	...	...	...	...	...	...	
	44,150 10 2	30,829 3 5	...	...	...	...	...	...	
Closing balances :—									
Head office	...	12,848 15 6	...	...	...	...	...	...	
Branches and Training Classes ..	...	472 7 3	...	...	...	...	...	...	
	44,150 10 2	44,150 10 2	...	...	...	...	...	...	

T. N. S. RATNAM,
Assistant Examiner, Local Fund Accounts.

Verified and found correct.

xlii

AUDIT NOTE ON THE ACCOUNTS OF THE LOCAL SELF-
GOVERNMENT INSTITUTE, BOMBAY PRESIDENCY, BOMBAY
FOR THE YEAR 1937-38.

No. L. 2/3A—2113 of 1938-39.

OFFICE OF THE ACCOUNTANT GENERAL:

Bombay, 12 Oct. 1938.

From,

THE EXAMINER,
Local Fund Accounts, Bombay.

To,

THE SECRETARY TO GOVERNMENT,
General Department, Secretariat, Bombay.

The accounts of the Local Self-Government Institute, Bombay Presidency, Bombay, for the year 1937-38, were audited between the 22nd and 24th August 1938.

2. The accounts were found to have been well maintained and no remarks are called for.

3. A statement of accounts of the Institute for the year 1937-38 prepared in the form approved by Government is appended to this note duly certified correct.

T. N. S. RATNAM,
Assistant Examiner, Local Fund Accounts.

No. L. 2/3A—2114 of 1938-39.

Copy forwarded to—

The Honorary Secretary, Local Self-Government Institute, Bombay
(with a spare Copy).

The Senior Auditor, Bombay III Circle (G. R. D.).

T. N. S. RATNAM,
Assistant Examiner, Local Fund Accounts.

xliii

L. S. G. D. EXAMINATION
November 1938—March 1939 Session

The following students have passed the L. S. G. D. Examination held at the end of the Session:—

(In Order of Merit)

- | | |
|------------------------------------|---------------------------|
| 1. N. P. Pai (with distinction). | 26. K. N. Bhatt. |
| 2. N. Sundaram (with distinction). | 27. M. A. Mohluddin. |
| 3. K. N. Dhamnikar. | 28. H. D. Purvat. |
| 4. N. D. Dravid. | 29. B. G. Prabhavalkar. |
| 5. R. R. Udas. | 30. Krishnarao S. Desai. |
| 6. M. C. Patel. | 31. R. W. Parásnis. |
| 7. R. B. Gandhi. | 32. N. C. Trivedi. |
| 8. U. V. Vadodia. | 33. S. V. Venkata Ramiah. |
| 9. M. M. Antia. | 34. A. S. Joshi. |
| 10. M. V. Bopardikar. | 35. H. L. Bhatt. |
| 11. Mohamad Ali Mohajir. | 36. Khushman S. Desai. |
| 12. N. Z. Shah. | 37. K. V. Natu. |
| 13. P. R. Dhodapkar. | 38. A. K. Deshpande. |
| 14. H. S. Dhoble. | 39. N. B. Nimak. |
| 15. K. B. Rao. | |
| 16. N. P. Joshi. | 40. C. D. Hemnath. |
| 17. P. H. Patel. | 41. K. Hanumantha Rao. |
| 18. S. G. Mahajan. | 42. R. G. Shete. |
| 19. V. R. Pabalkar. | 43. G. D. Joshi. |
| 20. M. L. Raichura. | 44. M. D. Joshi. |
| 21. H. H. Thaker. | 45. S. N. Damle. |
| 22. Chimanlal S. Shah. | 46. S. G. Banadekar. |
| 23. D. S. Joshi. | 47. D. M. Patel. |
| 24. P. G. Menon. | 48. H. R. Agashe. |
| 25. Girdhari Prasad. | 49. J. G. Purohit. |

Bombay,
Dated, 1st June, 1939.

R. V. PARULEKAR,
Chairman,
Board of Examiners,
L. S. G. D. Examination.

L. S. G. D. EXAMINATION
November 1938—March 1939 Session

EXEMPTION LIST

The following students have been exempted in papers mentioned against their names :—

Name of the Student.	Paper I	Paper II	Paper III	Paper IV	Paper V	Paper VI
1. R. S. Bhonsale	..	..	..	..	..	6
2. K. K. Menon	1	2	..	..	..	..
3. M. H. Mehta	..	2	..	..	..	..
4. K. D. Kadam	..	2	..	4	..	..
5. David Jacob	1	2	..	..	..	..
6. A. J. Karl	..	..	..	..	..	..
7. S. V. Karnik	1	2	..	..	..	6
8. S. T. Lasure	..	..	..	..	..	6
9. R. M. Patil	1	2	..	..	..	6
10. S. R. Dixit	1	2	..	..	..	6
11. Amar Singh	1	2	..	..	..	..
12. N. Somayazulu	1	..	..	..	..	6
13. S. V. Jathar	1	2	..	..	..	..
14. T. M. Jikar	1	2	..	..	..	6
15. A. N. Koul	1	2	..	..	..	..
16. P. T. Baxi	..	2	..	..	..	..
17. M. B. Warke	..	2	..	..	..	6
18. V. K. Gupte	..	..	3	4	..	..
19. K. P. Khadlikar	..	..	..	..	..	6
20. M. B. Konjalgikar	1	2	..	..	..	6
21. K. V. Mokashi	1	2	..	..	..	..
22. S. M. Thaker	1	2	..	..	..	..
23. P. L. Oza	1	2	..	..	..	6
24. G. G. Modi	..	2	..	..	5	..
25. D. N. Pathak	1	2	..	..	5	6
26. N. C. Talati	1	2	..	..	5	6
27. A. V. Sohoni	1	2	..	..	..	..
28. S. M. Anklesaria	1	2	..	..	..	..
	..	..	..	..	..	6

Bombay,
Dated, 1st June, 1939.

R. V. PARULEKAR,
Chairman,
Board of Examiners,
L. S. G. D. Examination.

Just Out!

Just Out !!

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ON
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CHUNILAL D. BARFIVALA, M.A., LL.B.
Director, Local Self-Government Institute, Bombay.

The Hon'ble Mr. L. M. Patil, B.A., LL.B., M.L.A., Minister for Local Self-Government, Government of Bombay, writes :—

"Mr. Barfivala's contribution to the spread of sound knowledge in matters relating to Local Self-Government through the medium of the "Quarterly Journal of the Local Self-Government Institute," which he edits, is pre-eminent and well-known. His keen studies and varied experience in the domain of Local Self-Government and his long connection with Rural and Urban Local Bodies have justly acquired for him the position of a recognised authority on the subject.

"Mr. Barfivala's volume on "Cases on Local Self-Government Acts" is a unique publication. It is the first of its kind in India. The Summaries of Cases are quite exhaustive. Judgments are reproduced in extenso, practically in the words of the eminent judges who delivered them. The indices are helpful.

"I have no doubt the Volume will be useful to the Local Bodies. Those who are interested in running the administration of these bodies will heartily welcome this publication. I congratulate Mr. Barfivala on accomplishing this laborious task in a competent manner."

1-8-39.

L. M. Patil

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Director, Local Self-Government Institute.

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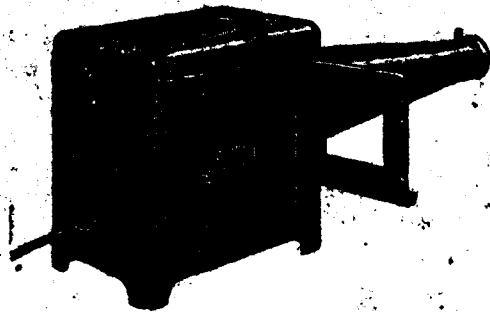
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