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Local & Municipal

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Pres. **SERIES.**

G.O. No. 1680-1M

Dated 12. X. 1911

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Government of Madras.

LOCAL AND MUNICIPAL DEPARTMENT.

CONFIDENTIAL.

Recd. } *1911.* *Enclosures*

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G.O. No. 1680 M., 12th October 1911.

Recommendations of the Royal Commission upon Decentralization.

Passing orders on the remarks of the Corporation of Madras on the — in respect of Presidency Corporations.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

I

Letter—from Sir HAROLD STUART, K C.V.O., C.S.I., I.C.S., Secretary to the Government of India, Home Department (Municipalities).
To—the Secretary to the Government of Madras, Local and Municipal Department.
Dated—Simla, the 17th July 1909.
No.—126.

I am directed to invite your attention to paragraphs 864—870 of Chapter XX of the report of the Royal Commission upon Decentralization, relating to the Presidency municipalities, and to request that the Government of India may be favoured with the views of His Excellency the Governor in Council on the proposals contained therein.

II

Memorandum—No. 2821-1 M., dated 8th June 1910.

The President, Madras Corporation, is requested to ascertain and report as early as possible the views of the Madras Corporation on the recommendations made by the Royal Commission on Decentralization in paragraphs 864—870 of Chapter XX of their report.

2. The Commission consider (paragraph 867) that the Presidency Corporation should have as full powers as Bombay now possesses and especially commend (paragraph 869) the Bombay system of a nominated official Commissioner with an elected Chairman.

3. In order to give effect to these recommendations it would apparently be necessary to re-enact the Madras City Municipal Act, 1904, as upon a comparison of the provisions of the two Acts it will be observed that it is not only in the extent of powers reserved to the Local Government (paragraph 867) that the Madras Act differs from that of Bombay but that there are material differences also in the powers and duties conferred upon the Corporation and the Standing Committee. For example, the Bombay Act gives to the Standing Committee powers which in Madras are exercised by the Corporation, an important instance being the power to sanction contracts; section 66 (2) (*d*) of the Madras Act requires the approval of the Corporation to contracts exceeding Rs. 10,000 in amount, whereas section 69 (*c*) of the Bombay Act merely requires the approval of the Standing Committee.

Again in Bombay the Official Commissioner can himself exercise powers which in Madras are reserved to the Standing Committee (compare the provisions of Chapter XXII in regard to streets in the Madras Act with the provisions of the corresponding Chapter XI in the Bombay Act).

Further, there are no sections in the Bombay Act empowering the Standing Committee to hear appeals against the orders of the Commissioner in regard to certain matters corresponding to section 427 of the Madras Act. Nor is the Official Commissioner in Bombay subject to interpellation to the same extent as is the President of the Madras Corporation [compare section 16 (2) of the Madras Act with the provisions of section 66 of the Bombay Act] In Bombay the Commissioner can only be required to produce documents, furnish reports and returns, etc.

4. In considering the recommendations of the Decentralization Commission therefore the views of the Corporation are requested not only as to the specific recommendations made by the Commission in regard to the limitation of the powers of control reserved to Government and the substitution of an official Commissioner with an elected Chairman for the President of the Corporation, but also in regard to the consequential amendments which would be required in other matters such as those alluded to in the foregoing paragraphs which relate to the powers and duties of the Corporation and the Standing Committee so as to bring the whole system into accord with that in Bombay.

L. M. WYNCH,
Ag. Secretary to Government.

To the President, Corporation of Madras.

III

Letter—from P. L. MOORE, Esq., I.C.S., President, Corporation of Madras
To—the Secretary to Government, Local and Municipal Department.
Dated—the 20th December 1910.
No.—G.D. Dis. 1234/Index.

With reference to Government memorandum No. 2821-1 M., dated 8th June 1910, requesting the views of the Corporation on the recommendations made by the Royal Commission on Decentralization in paragraphs 864—870 of Chapter XX of their report, I have the honour to report that for the consideration of these recommendations the Corporation appointed a committee constituted as follows :—

P. L. Moore, President.
Lieutenant-Colonel R. F. R. Formby.
The Hon'ble Diwan Bahadur N. Subrahmanyam Avargal.
The Hon'ble Rao Bahadur P. Tyagaraya Chetti Garu.
M.R.Ry. T. Rangachariyar Avargal.

The committee made the following recommendations :—

(1) The adoption of the Bombay system of a nominated commissioner and a President elected by the Corporation from among the commissioners.

(2) The creation of the appointment of a Secretary, with a separate office, which is consequential on the first recommendation.

(3) The revision of the powers of the Standing Committee, the Corporation and the Government as shown in column 5 of the schedule appended to the Committee's report, a copy of which is enclosed.

The important changes proposed in the Madras City Municipal Act, 1904, which the third recommendation involves, are enumerated in the report of the committee.

2. The Corporation considered the report of the committee at a special meeting held on 13th December 1910. The recommendations were first considered in committee when a proposal that the qualifications for election as commissioner and for voting should be raised by substituting Rs. 200 and Rs. 30, respectively, for Rs. 100 and Rs. 20, respectively, in sections 33 and 32 of the Act was rejected and the recommendations of the special committee were accepted.

The regular meeting of the Corporation was then resumed and the following resolution was passed :—

"In forwarding the report of the committee which the Corporation in the main adopts, the Corporation is of opinion that the constitution of the Corporation and of the Standing Committee requires modification and accordingly requests Government to re-constitute them so as to make them more representative of the rate-payers.

"The Corporation is further of opinion that it is highly desirable to draft a consolidating and amending Municipal Act in the place of the existing Act III of 1904 which, it considers, is highly defective."

ENCLOSURES.

Report of the committee appointed by the Corporation on 16th August 1910 to consider and report on the proposals of the Decentralization Commission referred to in Government memorandum No. 2821-1 M., dated 8th June 1910.

The committee have considered the powers exercised in Bombay and in Madras by the Local Government, the Corporation and the Standing Committee. Their first recommendations are—

(1) the adoption of the Bombay system of a nominated Commissioner and a President elected by the Corporation from among the commissioners :

(2) the creation of the appointment of a Secretary, with a separate office, which is consequential on the last-mentioned amendment.

2. The other recommendations of the committee are detailed in column 5 of the schedule appended to this report. In making these, the committee have in the main followed the provisions of the Bombay Act. These involve several very important changes in the Madras Act: notably—

(1) the appointment of the chief Executive Officers of the Corporation, with the exception of the Commissioner, by the Corporation subject to the sanction of Government :

(2) the abolition of most of the powers now exercised in Madras with regard to the Corporation by the Local Government :—notably (*a*) the power to control the employment of establishments ; (*b*) the power to approve contracts involving an expenditure of over rupees one lakh ; (*c*) the power to approve the budget and to sanction increase and reduction of allotments and transfer of funds ; (*d*) the power to approve the levy of taxes and tolls :

(3) the devolution of increased powers to the Standing Committee, who have under the Bombay Act, power to approve all contracts costing over Rs. 5,000 :

(4) the devolution of certain powers to the commissioner, who has power under the Bombay Act to approve contracts up to Rs. 5,000, reporting to the Standing Committee every contract made in excess of Rs. 500.

3. The committee, however, propose to retain certain features of the Madras Act, viz., the right of commissioners to interpellate the President and also the provision for appeals against the order of the Commissioner in many cases, detailed in the schedule.

4. In the matter of appointments the committee propose that, with the exception of those referred to above, the power to make appointments on salaries exceeding Rs. 500 be vested in the Corporation, appointments on Rs. 500 and under being made by the Commissioner. This is not in accordance with the Bombay Act, under which the Commissioner makes all appointments except those of the Engineer, the Health Officer, the Secretary and the clerks in the Secretary's office. Nor is it in accordance with the Madras Act, under which the chief executive appointments are made by Government and all others by the President.

5. The committee submit their recommendations for the consideration of the Corporation.

CORPORATION OF MADRAS,
14*th November* 1910.

P. L. MOORE, *Acting President.*
P. TYAGARAYA CHETTI.
T. RANGACHARI.
R. F. R. FORMBY.
N. SUBRAHMANYAM.

The constitution of the Standing Committee here is not the same as in Bombay. The proportion of elected members is larger there. If the same proportion can be obtained here, I have no objection to giving the power to approve and accept all contracts to the Standing Committee. Failing that, I am for retaining the power in the Corporation of sanctioning contracts over Rs. 10,000.

11*th November* 1910.

T. RANGACHARI.

SCHEDULE.

LIST I.—Powers possessed by the Standing Committee in Madras.

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the Committee appointed by the Corporation.
(1) 3 (24)	Power to recommend for the approval of Government what shall be "populous parts of the city."	Peculiar to Madras ..	..	The power to approve the recommendation should be vested in the Corporation and not in Government (*vide* item 4 of the list III).
(2) 11 (*b*) (iii) & 12	Power to permit the President, the Revenue officer, the Health officer and the Engineer to hold the office of Chairman of any public institution or any other honorary office.	Corporation (in regard to Commissioner alone).	57 (2) (*b*).	No change is necessary.
(3) 17 (*a*)	Power to supervise the appropriation of budget grants with reference to progress report of work done and expenditure.	Apparently the Commissioner.	No specific corresponding section in the Act.	Do.
(4) 17 (*b*)	Power to dispose of applications for pensions and gratuities.	Apparently the Commissioner and the Secretary in regard to the respective establishment under each.	64 (3) (*b*), 78 (2).	Do.
(5) 17 (*c*)	Assist the President in acquiring and disposing of buildings and lands.	No corresponding duty. But see sections 90 and 92.	..	Do.
(6) 17 (*d*)	Power to write off sums due to the Corporation which are irrecoverable.	Standing Committee in the case of only taxes or the costs of recovering them.	216	Do.
(7) 18 (1)	Power to have access to all the accounts of the Corporation.	Standing Committee (for purposes of audit and scrutiny).	135 (2).	Do.
(8) 18 (1)	Power to require the President to furnish explanation as to the receipts and disbursements of the municipal fund.	Do. do.	135 (2).	Do.
(9) 18 (2)	Power to audit municipal accounts *monthly* and to check the monthly abstracts of receipts and disbursements.	Standing Committee (audit and check are done *weekly*).	135 (1).	Do.
(10) 19 (1)	Power to authorise the President to take action in anticipation of its sanction.	No similar provision ..	..	Do.
(11) 59 (1)	Power to hear and dispose of appeals against the President's order of dismissal of servants drawing not less than Rs. 50 per per mensem.	The Standing Committee alone can punish the Secretary or his clerks and servants and can remove the Secretary with the approval of the Corporation. No appeal against the Commissioner's orders in other cases. Dismissal of servants with salaries exceeding Rs. 300 however requires the prior approval of Standing Committee.	83 (1), 77 & 78. 83 (2) (*a*).	The Commissioner, the Standing Committee and the Corporation should have the same powers as in Bombay, but the prior approval of the Standing Committee should be made necessary for the dismissal by the Commissioner of servants on salaries exceeding Rs. 200 instead of Rs. 300 as in Bombay.
(12) 66 (2) (*c*) & 66 (3)	Power to approve finally contracts involving expenditure exceeding Rs. 2,000 and not exceeding Rs. 10,000 as also variations and discharges thereof.	Standing Committee in respect of all contracts exceeding Rs. 5,000. The Commissioner has also to report to the Standing Committee every contract made by him for sums exceeding Rs. 500 and not exceeding Rs. 5,000.	69 (*c*) (*d*) & (*e*).	The Commissioner and the Standing Committee should have the same powers as in Bombay.
(13) 68 ..	Power to call for tenders for works, etc., involving an expenditure exceeding Rs. 2,000 and to accept such tenders for amounts not exceeding Rs. 10,000.	Commissioner calls for tenders for works, etc., costing more than Rupees 3,000. He has apparently power to accept tenders only up to Rs. 5,000. The Standing Committee may authorize the Commissioner to enter into a contract without calling for tenders.	72 ..	The Commissioner and the Standing Committee should have the same powers as in Bombay.
(14) 82 ..	Power to appoint sub-committees in regard to the exercise of powers vested in it.	Standing Committee ..	49 (*g*) ..	No change is necessary.

List I.—Powers possessed by the Standing Committee in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(15) 83 (3)	Power to elect a member of the Standing Committee to preside at a meeting of the Standing Committee when the President is absent.	Standing Committee has similar power.	49 (*e*) ..	No change is necessary.
(16) 84 ..	Power to frame rules for regulating its proceedings.	Standing Committee ..	49 ..	Do.
(17) 85 (1)	Power to send a requisition for special meeting of the Standing Committe (three members of the Standing Committee can do this).	The Commissioner can send a requisition.	49 (*e*) ..	Do.
(18) 91 (3)	Power to sanction estimates for new works and special repairs prior to making provision for them in the budget.	No similar provision ..	..	Do.
(19) 92 ..	Power to approve or alter the budget prepared by the President, before submission to the Corporation.	Standing Committee prepares the budget from certain estimates and statements furnished by the Commissioner and submits it to the Corporation.	125 ..	The provisions of the Bombay Act should be adopted. But there should be power to pass also a supplemental budget, if necessary.
(20) 96 (2)	Power to pass a supplemental budget prepared by the President before submission to the Corporation.	No provision for a supplemental budget. Under section 134 the budget may be revised by Corporation on the representation of the Standing Committee, if the balance is likely to fall below one lakh.	..	The power to pass a supplemental budget should be retained.
(21) 97 (1)	(1) Power to recommend additional allotments for the sanction of Corporation and Government.	(1) Standing Committee. The approval of the Corporation is enough.	131 (1) ..	The Standing Committee and the Corporation should have the same powers as in Bombay.
	(2) Power to recommend transfer of funds or reduction of allotments.	(2) Standing Committee can make the transfer or reduction merely reporting it to the Corporation.	133 ..	Do.
(22) 112 (*b*)	Power to require the Auditors to furnish information as to the progress of their audit.	Standing Committee ..	137 (1) ..	No change is necessary.
(23) 113 ..	Power to remedy any defects or irregularities pointed out by the Auditors and report the same to the Corporation.	No corresponding provision.	..	Do.
(24) 152 (2)	Power to sanction composition of the taxes on vehicles and animals kept by a livery and stable-keeper or by any other person for sale or hire.	Standing Committee ..	185 ..	Do.
(25) 169 (2)	Power to sanction composition for a fixed sum in lieu of tolls.	No similar power	..	Do.
(26) 194 (2)	Power to fix rates of payments for supply of water.	Standing Committee ..	169 ..	Do.
(27) 205 and 211	Power to sanction the payment of compensation to persons for damage done to their property by the laying of water pipes or drains.	Commissioner	265 and 222 (3)	Do.
(28) 212.	Power to sanction the alteration, improvement or closure of drains.	Do, ...	224 ..	The Commissioner should be invested with this power as in Bombay.
(29) 215 (2)	Power to sanction the demolition, closure, alteration or reconstruction of unauthorised connections with municipal drains.	Standing Committee ..	229 ..	The Commissioner should have this power.
(30) 219 Proviso.	Power to prescribe terms on which connections may be made between house drains.	Do. ..	238 (1) ..	No change is necessary.
(31) 220 (1)	Power to sanction the draining of a group or block of buildings by a combined operation and the apportionment of the cost between the owners.	Do. ..	232-A ..	Do.
(32) 230 (1)	(1) Power to lay out and make new streets and construct bridges, with the sanction of the Corporation.	(1) Commissioner with the sanction of the Corporation.	291 (*a*) ..	Do.
	(2) Power to close permanently with the sanction of the Corporation and Government any public street or part thereof.	(2) Commissioner with the sanction of the Corporation. Government sanction not required.	289 (3) ..	The provisions of the Bombay Act should be adopted.

List I.—Powers possessed by the Standing Committee in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
	(3) Power to alter, widen, open, enlarge or otherwise improve any public street with the sanction of the Corporation.	(3) Commissioner, if cost does not exceed Rs. 5,000, Corporation above Rs. 5,000.	289 (2)	The sanction of the Standing Committee should be enough if the cost does not exceed Rs. 5,000; and that of the Corporation if the cost exceeds Rs. 5,000.
(33) 232 (2) Proviso.	Power to fix the amount payable by persons who retain lands outside the alignment of the street, which the Corporation has decided to acquire for its improvement.	Commissioner may lease lands up to one year. Standing Committee up to three years. Corporation may sell or lease for over three years.	296 (*e*) and 92	The provisions of the Bombay Act should be adopted.
(34) 232 (5) and 6.	Power to sell, lease or dispose of lands outside the alignment of streets, acquired for their improvement.	Do. do. ..	Do.	Do.
(35) 233	Power to define the general line of buildings on the sides of streets.	Commissioner for original fixing. Alterations require sanction of Corporation.	297 (1) (*a*) 297 (1) (*b*)	No change is necessary.
(36) 234	Power to permit additions to buildings within the general line of streets, if they merely add to the height of the existing buildings.	Construction of any building within the line may be permitted by the Commissioner. But the reasons for granting permission should be reported to the Standing Committee in every case.	297 (3)	The provisions of the Bombay Act should be adopted.
(37) 235 (1)	Power to require the setting back of buildings projecting beyond the general line of the street or of the adjoining buildings.	Commissioner	298 (1)	Do.
(38) 236	Power to permit buildings to be set forward to improve the line of the streets.	Commissioner; but with Standing Committee's approval he may also *require* that the building should be set forward.	300 (1)	The provisions of the Bombay Act should be adopted.
(39) 237 (1)	Power to fix the direction, alignment, width, the building line and other details connected with proposed public streets.	No corresponding provision.	..	No change is necessary.
(40) 238 (2)	Power to determine whether any particular street should be watered instead of or in addition to others.	Commissioner	336	The Commissioner should be invested with this power as in Bombay.
(41) 239 (1) (*b*)	Power to determine the height of hedges bordering on any public street.	The height is prescribed in the Act itself.	383 (1) (*c*)	The Commissioner should be invested with this power.
(42) 242 (2)	Power to approve the level, width, alignment, building line and other particulars of private streets.	Standing Committee ..	303 (1)	No change is necessary.
(43) 242 (3)	Power to sanction the opening of private street and to disapprove of it under certain conditions.	No power to disapprove the opening of a street generally. The Standing Committee can only disapprove the level, direction, width or means of drainage.	302 & 303	Do.
(44) 244 (1)	Power to permit the President to require the alteration or demolition of a private street opened without sanction or in contravention of the terms of sanction.	Commissioner	304 (2) & (3)	The Commissioner should have power to order the alteration or demolition of the street in such a case.
(45) 261 (1)	Power to recommend the issue of a notice of the intention of the Corporation to impose restrictions in regard to the future construction of buildings in particular streets and localities.	No corresponding provision.	..	No change is necessary.
(46) 261 (3)	Power to consider and report on objections to notices under the above clause.	Do.	..	Do.
(47) 261 (1) (*a*) (ii)	Power to approve the elevation and frontage of masonry buildings in streets in respect of which a declaration has been issued under this section.	Do.	..	Do.
(48) 261 (1) (*c*)	Power to grant special permission for the construction of shops, warehouses or huts in streets and localities in respect of which a declaration has been issued under this section.	Do.	..	Do.

List I.—Powers possessed by the Standing Committee in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(49) 269 (1)	Power to hear and dispose of an appeal against the order of the President refusing to approve a building site for a masonry building or permit the construction or reconstruction of a masonry building.	No corresponding provision.	..	No change is necessary.
(50) 270 (1)	Power to dispose of applications for approval of building sites or for permission to construct or reconstruct buildings on the failure of the President to do so.	Do.	..	Do.
(51) 275 (4) & (5)	Power to hear and dispose of appeals against the order of the President requiring alterations in buildings constructed in contravention of approved plans or of any of the provisions of the Act or By-laws.	Do.	..	Do.
(52) 281 (1) & (2).	Power to hear and dispose of appeals against the order of the President refusing permission to construct or reconstruct huts.	Do.	..	Do.
(53) 282 (1)	Power to dispose of applications for permission to construct or reconstruct huts on the failure of the President to do so.	Do.	..	Do.
(54) 286 (2)	Power to determine whether any addition or alteration is a necessary repair not affecting the position or dimensions of a building.	Do.	..	Do.
(55) 287 (3)	Power to hear and dispose of an appeal against an order of the President requiring the alteration or demolition of a building unlawfully commenced, carried on or completed.	Do.	..	Do.
(56) 294.	Power to fix the periodical fee to be charged for the removal of rubbish and offensive matter from business premises.	Presumbly covered by the special rates of Halalkhor tax fixed in respect of such premises by the standing Committee.	172 (1) & 140 (1).	Do.
(57) 298.	Power to sanction the arrangements for the removal of offensive matter and sewage in cases not provided for by the notice under section 294.	Apparently the Commissioner in regard to offensive matter. In regard to sewage also the Commissioner can take similar action if generally authorised by the Corporation.	365 .. 246 (1).	Do.
(58) 310 (2)	Power to declare the amount of superficial and cubic space necessary for each occupant of a building or room for purposes of determining overcrowding in dwelling-houses.	This is definitely laid down in the Act itself.	379-A (4) & (5).	Do.
(59) 329 (1)	Power to determine the rate of fees to be levied for the use of public wash-houses provided by the Corporation.	Standing Committee ..	397 (2).	Do.
(60) 337 (2)	Power to fix the rate of rents and fees to be charged for the use of public markets and stalls therein and to sanction the lease of the stallages, rents and fees for a year.	Do. ..	407 ..	Do.
(61) 348 (1)	Power to suspend the license for a private market in default of the execution of improvements thereto suggested by the President.	Do. ..	403 (2) (*d*)	Do.
(62) 349.	Power to sanction regulations for markets, bazaars, slaughter-houses and places where the sacrifice of animals is permitted.	Do. ..	406 ..	Do.
(63) 351.	Power to sanction the prohibition of the sale or exposure for sale of any articles in or on any public street.	No similar provision ..	..	Do.
(64) 365.	Power to sanction the provision and maintenance of conveyances for the free carriage of persons suffering from any dangerous disease.	Corporation	429 ..	Do.
(65) 368 (1)	Power to sanction the provision of places and appliances for disinfection of conveyances, clothing, bedding and other articles.	Commissioner	427 (1) ..	The Commissioner should be invested with this power as in Bombay.
	Power to fix the charges for such disinfection.	Standing Committee ..	427 (1) ..	No change is necessary.
(66) 375 (2)	Power to sanction the employment of additional Registrars of Births and Deaths.	No similar provision ..	..	This provision is unnecessary and should be omitted.
(67) 386	Power to sanction the closure of burial and burning grounds for which there is no owner or person having control.	Do. ..	..	No change is necessary.

List I.—Powers possessed by the Standing Committee in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(68) 392 (1)	Power to consent to the closure, with the sanction of Government, of a registered or licensed burial or burning ground.	No such power. But the Commissioner's opinion and that of the Corporation should be submitted to Government who have power to close a burial or burning ground.	438 (2) ..	
(69) 427 (1) (*a*) (*i*)	Power to hear and dispose of appeals against—			
	(*a*) the action of the President in carrying a water-supply pipe through any property (section 204);	No such power	..	
	(*b*) the order of the President in respect of application for permission to empty a house drain into a municipal drain (section 214);	Do.	..	
	(*c*) the order of the President enforcing the construction of house drains (section 218);	Do.	..	
	(*d*) the order of the President requiring the provision or alterations of latrines attached to buildings (section 224);	There is no appeal; but the order of the Commissioner should be previously approved by the Standing Committee [section 248 (1)].	..	
	(*e*) the order of the President requiring the provision of latrines and urinals for labourers (section 225);	No similar provision ..	..	
	(*f*) the order of the President requiring the provision of latrines and urinals for markets, cart-stands and cattle-stands (section 226);	Do. ..	..	
	(*g*) the order of the President prescribing precautions in respect of buildings, etc., which are in a ruinous state or are dangerous to people (section 256);	Do. ..	..	
	(*h*) the order of the President requiring the cleansing of an insanitary private tank or well used for drinking purposes (section 301);	Do. ..	..	No change is necessary.
	(*i*) the order of the President requiring the cleansing, fencing, repairing, etc., of private tanks or wells, or for the drainage or removal of stagnant water from premises (section 302). Similar orders in regard to any stagnant pool, ditch, pit, drain or cesspool (section 303);	Do. ..	..	
	(*j*) the action of the President regarding the cleansing, draining or filling up of public wells or receptacles of stagnant water (section 304);	Do. ..	..	
	(*k*) the order of the President regarding improvements to insanitary buildings (section 308);	Do. ..	..	
	(*l*) the order of the President in respect of applications for licenses for livery or hack-stable, horse-lines, veterinary infirmary, cart-stand, cattle-shed or any yard in which sheep or goats or cattle are kept for profit (section 314);	Do. ..	..	
	(*m*) the order of the President requiring improvements to stables, cattle-sheds and cow-houses (section 315);	Do. ..	..	
	(*n*) the order of the President directing the discontinuance of the use of a building as stable, cattle-shed or cow-house (section 316);	Do. ..	..	
	(*o*) the order of the President in respect of applications for license to import timber or firewood (section 327);	Do. ..	..	

List I.—Powers possessed by the Standing Committee in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
	Power to hear and dispose of appeals against—*cont.*			
(70) 427 (1) (*a*) (*ii*).	(*p*) the order of the President under any by-law prescribing the manner in which house-drains and privies are to be connected with municipal drains [section 409 (9)];	No similar provision ..	..	No change is necessary.
	(*q*) the order of the President under any by-law specifying the materials to be used in the construction of drains [section 409 (10)];	Do. .	..	
	(*r*) the order of the President under any by-law regarding the construction, maintenance, control and cleansing of drains, privies, urinals and all drainage works [section 409 (11)];	Do ..	..	
(71) 427 (1) (*b*).	(*s*) the order of the President refusing to permit the construction of a building over a public drain (section 216);	Do. ..	..	
	(*t*) the order of the President refusing to permit the erection of any machinery or steam-boiler by the use of which smoke is produced or danger is likely to arise to the inhabitants of the neighbourhood (section 324);	Do. ..	..	
(72) 427 (1) (*c*).	(*u*) the order of the President refusing to grant a license for the use of a place for any offensive or dangerous trade (section 322);	Do.	..	
	(*v*) the order of the President refusing license for the storage of timber, firewood or other combustible material (section 325);	Do.	..	
	(*w*) the order of the President refusing license for a bake-house or a manufactory of ice or aerated waters (section 328);	Do.	..	
	(*x*) the order of the President refusing license for a slaughter-house (section 332);	Do.	..	
	(*y*) the order of the President refusing license for a private market [section 344 (2)];	Do.	..	
(73) 427 (1) (*d*).	(*z*) the order of the President suspending or revoking a license [section 426 (3)].	No such general provision; but the cancellation or suspension of a license for a private market should be first approved by the Standing Committee, section 403 (2) (*d*).	..	
(74) 441 (4)	Power to hear and dispose of appeals against the amount of compensation paid by the President for entry on land adjacent to municipal works and for any damage resulting from such entry.	No special provision. But under the general provisions of section 501, the payment of any compensation requires the approval of the Standing Committee.	..	
(75) 445 ..	Power to sanction the payment of compensation to persons sustaining damage by reason of the exercise of any of the powers under the Municipal Act.	Standing Committee ..	501 ..	
(76) 457 (6)	Power to sanction the payment from municipal funds of the costs, etc., of a suit against a municipal officer or servant.	Do.	527 (3) ..	
(77) 458 (*e*)	Power to direct the President to take legal advice.	Do.	517 (1) (*k*)	
	(The Corporation has also similar power)..	(The Corporation has also similar power.)	..	
(78) Schedule XI.	Power to determine the line of the face of the building where it is not parallel to the line of the street.	No similar provision ..	..	
(79) Schedule XII, proviso (*a*) to Rule 15.	Power to determine the amount of open space to be left in cases where the adoption of the prescribed open space in the rear of the building is not possible.	No similar provision. But the Corporation may provide for such matter when framing by-laws regarding the provision of open space under section 461 (*d*).	..	

List I.—Powers possessed by the Standing Committee in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(80) Schedule XII 17 (1).	Power to prescribe particulars to be furnished with applications for approval of building sites.	Commissioner	338 and 340.	This may be left to the Commissioner as in Bombay.
(81) Schedule XII 17 (2) (*e*).	Power to prescribe the details to be shown in the site plan.	. ..	..	The Commissioner may be invested with this power.
(82) Schedule XII 18 (1).	Power to prescribe particulars to be furnished with applications for permission to construct or reconstruct masonry buildings.	....	..	Do.
(83) Schedule XII 30 (3).	Power to prescribe the particulars to be furnished in the site plan sent with an application for permission to construct or reconstruct a hut.	....	..	Do.

LIST II.—Powers possessed by the Corporation of Madras.

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(1) 8 (2).	Power to elect the members of the Standing Committee.	Eight by the Corporation and four by Government.	43 ..	No change is necessary.
(2) 9 (2) & 12 (4).	Power to recommend for the approval of Government the removal of the President, the Revenue officer, the Health officer, and the Engineer.	Corporation in the case of Commissioner. The Health officer, the Engineer and the Secretary are removeable by the Corporation itself. There are two other heads of departments, viz., assessor and collector and the chief accountant. These can be appointed and removed by the Commissioner.	54 (2) 74 (2) (*d*) & 77 (*e*), 66 (4), 79, 82 & 83.	The Government should have power to remove the Commissioner; but he should also be liable to removal on the votes of not less than two-thirds of the total number of members prescribed for the Corporation. The Health officer, the Engineer and the Revenue officer should be liable to removal by the Corporation on the same number of votes.
(3) 12 (2).	Power to *approve* of the raising by Government of the salary of the Revenue officer, the Health officer and the Engineer above the maxima prescribed in the Act.	The Corporation has sole power to fix and raise the salary subject to the minima and maxima prescribed in the Act.	74 (2) (*c*) & 79 (2).	The provisions of the Bombay Act should be adopted.
(4) 16 (1).	Power to consider periodical statements and call attention to neglect of any work or waste of money.	See sections 65 and 66 of the Bombay Act.	..	No change is necessary.
(5) 16 (2).	(1) Power of individual Commissioners to interpellate the President.	No similar provision ..	..	The power should be retained.
16 (2)	(2) Power to frame rules for the interpellation of the President to be approved by Government.	Do. ..	..	The Corporation should have power to frame rules without the sanction of Government.
(6) 30 (2)	To pass resolutions on the administration report prior to submission to Government.	The report is submitted to the Standing Committee who review it and send it to each councillor.	124 (3)	No change is necessary.
(7) 55 (*a*) proviso.	Power to restore to office Commissioners who cease to be such in consequence of their failure to attend meetings.	If the Corporation is satisfied with the cause of absence, the councillor does not vacate his seat.	17 (*b*)	The existing power should be done away with. A councillor who vacates office owing to absence from meetings should seek re-election or renomination in the ordinary way.
(8) 58 (1)	Power to determine, subject to the control of Government, the number of officers and servants to be employed.	Standing Committee in the case of Secretary's clerks and servants. In other cases, Commissioner subject to the sanction of the Standing Committee, except for appointments with emoluments exceeding Rs. 200, for which Corporation sanction is necessary. The sanction of Government is not required.	78	The provisions of the Bombay Act should be adopted subject to the modification that "Rs. 100" is substituted for "Rs. 200" in section 79 of that Act.
(9) 58 (2)	Power to determine subject to the approval of Government the salary and allowances of municipal employees.		79	
(10) 59 (1)	Power to hear and dispose of appeals against the Standing Committee's decision on the President's order of dismissal of servants drawing not less than Rs. 200 per mensem.	Dismissal by the Commissioner of officers drawing over Rs. 300 requires the prior approval of the Standing Committee.	83 (2) (*a*)	The prior approval of the Standing Committee should be required for the dismissal of servants on salaries exceeding Rs. 200. No appeal to the Corporation is necessary.
(11) 64	Power to frame rules, to be approved by Government, in respect of—			
	(*a*) the security to be furnished by municipal employees;	Standing Committee. The rules have to be confirmed by the Corporation and not by Government.	81 (1) (*a*) to (*d*) & 81 (2)	(*a*) The Standing Committee should have this power.
	(*b*) the grant of leave and leave allowance and acting allowance;			(*b*) The Standing Committee should have power to frame rules in accordance with the Civil Service Regulations.

LIST II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(11) 64—*cont.*	Power to frame rules to be approved by Government, in respect of—			
	(*c*) the grant of pensions and gratuities.	Standing Committee. The rules have to be confirmed by Government.	81 (1) (*f*) & 81 (2)	(*c*) The Standing Committee should have power to frame rules in accordance with the Civil Service Regulations.
	(*d*) The establishment and maintenance of a provident or annuity fund.	Standing Committee. The Corporation has to confirm the rules, not Government.	81 (1) (*g*) & 81 (2)	(*d*) The Standing Committee should have power to frame these rules, subject to confirmation by the Corporation as in Bombay.
(12) 66 (2) (*d*) & 66 (3).	Power to approve finally contracts involving expenditure of over Rs. 10,000 and not exceeding 1 lakh as also variations and discharges thereof.	Standing Committee approves all contracts costing over Rs. 5,000.	69 (*c*) to (*e*)	As in Bombay the Standing Committee should have full power to approve all contracts costing over Rs. 5,000.
(13) 66 (2) (*e*) & 66 (3).	Power to recommend for the approval of Government contracts involving expenditure of over 1 lakh as also variations and discharges thereof.	Do. do.		
(14) 71 (1).	Power to have access to any records of the Corporation (any Commissioner can exercise this power).	No corresponding provision.	..	No change is necessary.
(15) 74 (1).	Power to send a requisition for a special meeting (ten Commissioners can do this).	Sixteen councillors or four members of the Standing Committee.	36 (*d*) & (*h*).	Ten councillors or four members of the Standing Committee should have power to send a requisition for a special meeting.
(16) 76 (1).	Power to bring resolutions in regard to business not included in the notice of the meeting. (Any Commissioner can do this after giving notice).	Individual councillor ..	36 (*k*) ..	No change is necessary.
(17) 78 (1).	Power of Commissioners to elect a chairman for the meeting in the absence of the President.	Councillors	36 (*g*) ..	Do.
(18) 80 (2).	Power of individual Commissioners to inspect minute books.	Individual councillor ..	36 (*o*) ..	Do.
(19) 81 (1).	Power to appoint special committees for inquiring into and reporting on matters reserved for its decision.	Corporation	38 ..	Do.
(20) 88 ..	Power to contribute, with the sanction of Government, towards the expenses of any public exhibition, ceremony or entertainment in the City.	Corporation, with the sanction of Government, may contribute for any public ceremony or entertainment. Corporation may present addresses to persons of distinction without the sanction of Government.	63 (*l*) .. 63 (*j*) ..	The Corporation should have power to contribute for any public ceremony or entertainment, or to present addresses to persons of distinction, without the sanction of Government in any case.
(21) 89 (1) (*a*).	Power to contribute, with the sanction of Government, to any municipal council or local board for purposes calculated to benefit the City.	No corresponding provision.	..	No change is necessary.
(22) 94 & 96 (3).	(1) Power to accept or modify the budget or any supplemental budget subject to the approval of Government.	Corporation has full power. The approval of Government is not necessary. There is no provision for a supplemental budget. But the budget may be revised if the balance is likely to fall below one lakh (section 134).	129 ..	The Corporation should have full powers as in Bombay. It should also have power to pass a supplemental budget.
	(2) Power to refer the budget back to the Standing Committee for further consideration.			
(23) 97 ..	Power to make alteration in the budget allotments subject to the approval of Government.	Standing Committee can reduce or transfer funds from any allotment merely reporting the action to the Corporation. For additional allotments the sanction of the Corporation is necessary. The sanction of Government is not required in any case.	133 .. 131 (1) ..	The Standing Committee and the Corporation should have the same powers as in Bombay.

List II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(24) 99 & 100.	Power to raise loans with the sanction of the Local Government and the Government of India.	Government of India ..	106 & 107	No change is necessary.
(25) 103 ..	Power to determine the form of debentures with the sanction of the Government of India.	Corporation and Government.	110 (1) ..	Do.
(26) 104 (2)	Powers to determine in which of the public securities the sinking fund amount shall be invested.	Corporation	109 (*d*) ..	Do.
(27) 107 (1) & (2).	Power to consolidate loans with the sanction of the Government of India.	No similar provision ..	..	Do.
(28) 116 ..	Power to levy taxes and tolls with the approval of Government.	Corporation has full power. The approval of Government is not required.	128 (1) ..	The Corporation should have full powers as in Bombay.
(29) 117 ..	Power to exempt persons from payment of taxes, if they are unable to pay the same.	No similar provision ..	..	No change is necessary.
(30) 172 ..	Power to hear appeals against the assesement of taxes (two commissioners and President can hear appeals).	Chief Judge of the Small Cause Court.	217 (1) ..	Do.
(31) 188 ..	Power to sue persons for default of payment of tax or other dues.	Commissioner	211 ..	Do.
(32) 200 ..	Power to permit the President, with the approval of Government. to construct water-works outside the City.	Corporation. Government sanction is not required.	261 ..	Do.
(33) 202 (*a*)	Power to exercise control over the lands outside the City through which pipes and conduits run.	Commissioner	263 (1) & 265.	The Commissioner should be invested with this power.
(34) 202 (*b*)	Power to exercise control, with the sanction of Government, over any lake or reservoir outside the City, from which a supply of water to the City is derived.	No corresponding provision (probably covered by sections 388 and 389 in which case the power is vested in the Commissioner).	..	No change is necessary.
(35) 210 ..	Power to require, with the sanction of Government, railway companies to raise or lower the level of a railway line to admit of the construction of drains across it.	No similar provision ..	..	Do.
(36) 213 ..	Power to use or sell sewage or offensive matter for agricultural or other purposes.	No exactly corresponding provision; but the Commissioner can dispose of sewage, etc., in any place or manner subject to the sanction of the Corporation if the place or manner is new.	245 & 367.	Do.
(37) 230 (1) (*a*) & (*b*).	Power to sanction the laying out or making of new streets, and the construction of bridges and sub-ways.	Corporation	291 ..	Do.
230 (1) (*c*) & (*d*).	Power to turn, divert, widen, open, enlarge or otherwise improve any public street.	Commissioner if cost does not exceed Rs. 5,000. Corporation if cost exceeds Rs. 5,000.	289 (2) ..	The Standing Committee should have power to sanction the work if the cost does not exceed Rs. 5,000. The sanction of the Corporation should be required if the cost exceeds Rs. 5,000.
(38) 230 (1) (*e*) & 231.	(1) Power to close permanently, with the sanction of Government, any public street or part thereof. (2) Power to sell or lease the site of streets so closed.	Corporation. Government sanction not required. *Vide* items 56 to 58 below ..	289 (3) .. 290 & 92.	The provisions of the Bombay Act should be adopted. The Commissioner, the Standing Committee and the Corporation should have the same powers as in Bombay in regard to the sale or lease of the sites of the streets acquired by the Corporation. In other cases the powers now possessed under the Madras Act should be retained.

List II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(39) 232 (1)	Power to acquire lands and buildings for the improvement of streets. Under section 407, they may be acquired under the Land Acquisition Act.	Commissioner, if the property is acquired by agreement. But the terms, rates or prices have to be approved by the Standing Committee and the agreement has to be approved by the Corporation if the price exceeds Rs. 1,000. Standing Committee's approval is necessary if the property is to be acquired under the Land Acquisition Act.	296 (1) (*a*) & 90. Do. 296 (1) (*a*) & 91.	The Standing Committee's sanction should be enough for the acquisition if the cost does not exceed Rs. 5,000, and that of the Corporation if the cost exceeds Rs. 5,000.
(40) 232 (2)	Power to acquire, with the sanction of Government, land or building outside the proposed alignment of a street to be improved.	Do. do.	296 (1) (*b*).	
(41) 261 (1)	Power to issue a declaration, with the sanction of Government, imposing restrictions in regard to the future construction of buildings, etc., in particular streets and localities.	No similar provision ..	..	The existing provisions in the Madras Act should be retained, but the necessity for the sanction of Government should be dispensed with.
(42) 290 (1) (*c*).	Power to determine, with the sanction of Government, the means by which lamps should be lighted in the City.	Corporation. The sanction of Government is not required.	330 (*c*) ..	As in Bombay this should be left to the Corporation. The sanction of Government is unnecessary.
(43) 295 ..	Power to prescribe the rate of fees to be charged for private scavenging and cess-pool services.	Corporation fixes the general rate of the Halalkhor-tax. Standing Committee fixes special rates for particular buildings like hotels, clubs and other large premises.	140 (*b*) & 128 172 (1) & 140 (*b*)	No change is necessary.
(44) 329 (1)	Power to construct and maintain public wash-houses.	Commissioner	397 (2) ..	As in Bombay the Commissioner should have this power.
(45) 331 (1)	Power to provide, and charge fees and rents for the use of, public slaughter-houses.	The provision of a new slaughter-house requires the sanction of the Corporation. The Commissioner, with the approval of the Standing Committee, fixes the stallages, rents and fees.	399 (1) .. 407 (*a*) ..	The provisions of the Bombay Act should be adopted.
(46) 331 (2)	Power to open, with the sanction of Government, municipal slaughter-houses outside the City.	They may be opened with the sanction of Government.	399 (2) ..	No change is necessary.
(47) 337 (1)	Power to provide, with the sanction of Government, public markets.	Commissioner, when authorised by Corporation.	399 (1) ..	As in Bombay this may be left to the Corporation.
(48) 338 ..	Power to acquire or appropriate, with the sanction of Government, lands for use as markets.	Do. do.	399 (1) ..	Do.
(49) 339 ..	Power to build and maintain markets, stalls, etc., on such lands.	Do. do.	399 (1) ..	No change is necessary.
(50) 341 ..	Power to sell or close public markets and to sell or lease the sites of such markets, with the sanction of Government.	Corporation may close with the sanction of Government. But as regards disposal of site and buildings Commissioner may sanction lease for one year and Standing Committee lease for three years. The Corporation may lease for a longer term, or sell or otherwise convey the property.	400 .. 400 & 92.	The provisions of the Bombay Act should be adopted.

List II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(51) 343 ..	Power to grant license for new private markets.	Commissioner. In the case of new private markets he is guided by general decisions of the Corporation as to whether they should be allowed in the City or any specified portion of it.	402 & 403	The provisions of the Bombay Act should be adopted with the modification that the Commissioner should obtain the sanction of the Standing Committee for licensing a new private market.
(52) 344 (3)	Power to permit the President to refuse renewal of license for private markets in certain cases.			
(53) 395 ..	Power to provide burial and burning grounds with the sanction of Government.	Corporation. Government sanction is not required.	436 ..	This may be left to the Corporation as in Bombay.
(54) 404 ..	Power to construct, maintain and work, with the sanction of Government, any railway or tramway on any public street or land vested in the Corporation, and power to enter into a contract with any person for the same purpose or to lease any such railway or tramway.	Corporation, with the sanction of Government, may permit the laying of a railway or tramway; but there is no power in the Act for the Corporation itself to undertake the construction of a railway or tramway.	293 (1) ..	No change is necessary.
(55) 406 (1)	Power to acquire, rent or take on lease lands required for municipal purposes.	Corporation has general powers of acquisition of property.	87 ..	The Commissioner should have power to rent land or take it on lease for one year; the Standing Committee for three years; and the Corporation for a longer term. The sanction of the Corporation should be obtained for acquiring or purchasing land.
		Commissioner, with the approval of Standing Committee as to terms and rates, may acquire land by agreement. The agreement should be approved by the Corporation if the price exceeds Rs. 1,000.	90 (1) to (3).	
		Standing Committee's sanction is necessary for acquisition under the Land Acquisition Act.	91 (1) ..	
(56) 406 (2)	Power to rent or lease municipal property up to a period of three years.	Commissioner up to one year.	92 (*a*) ..	The provisions of the Bombay Act should be adopted.
		Standing Committee up to three years.	92 (*b*) ..	
(57) 406 (2)	Power to rent or lease municipal property beyond three years, with the sanction of Government.	Corporation. The sanction of Government is not required.	92 (*c*) ..	
(58) 406 (3)	Power to sell municipal land or building with the sanction of Government.	Do. do.	Do. ..	
(59) 409 ..	Power to frame by-laws subject to confirmation by Government—			
	(1) For the regulation of the conduct of business at the meetings of the Corporation.	Corporation. Government sanction not required.	36 ..	As in Bombay the Corporation should have power to frame by-laws in regard to this matter without the sanction of Government.
	(2) For the form in which estimates, budget, statements and returns should be drawn up.	Standing Committee in regard to budgets. Government sanction not required.	125 ..	As in Bombay the Standing Committee should have power to prescribe the forms without the sanction of Government.
	(3) For the form in which Corporation accounts should be kept.	Standing Committee. Government sanction is not required.	123 ..	
	(4) For the due performance of duties by municipal officers and servants.	The Commissioner prescribes the duties of all establishments except those under the Secretary; and the Standing Committee or the Secretary those of the Secretary's establishment.	64 (3) (*b*)	As in Bombay these matters may be left to the Commissioner and the Standing Committee.
			78 (1) (*c*)	
	(5) For the regulation of the time and mode of collecting the tolls and taxes.	No express provision regarding taxes. Tolls and town duties are collected in such manner as the Commissioner, with the approval of the Standing Committee, may direct.	213 (2) ..	

List II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(59) 409—*cont.*	Power to frame by-laws subject to confirmation by Government—*cont.*			
	(6) For the measurement of water supplied for domestic or other purposes, and the use of public tanks, wells, conduits and other places or works for water-supply, public bathing, washing and the like.	Corporation subject to confirmation by Government.	461 (*b*) ..	No change is necessary.
	(7) For (*a*) the regulation of buildings and (*b*) the laying out of streets.	(*a*) Corporation subject to confirmation by Government. (*b*) No provision.	461 (*c*) ..	(*a*) No change is necessary. (*b*) The power to frame by-laws for the laying out of streets may be left to the Corporation.
	(8) For the lighting of the City ..	No corresponding provision for making by-laws.	..	The Corporation should have power to frame these by-laws without the sanction of Government.
	(9) For the manner in which house drains and privies are to be connected with municipal drains and the procedure to be followed by owners and occupiers of premises in connecting the same.	Do. do.	..	
	(10) For the specification of the materials to be used in the construction of drains.	Do. do	..	
	(11) For the construction, maintenance, control and cleansing of drains, ventilation shafts or pipes, cesspools, privies, urinals and drainage works of every description.	Corporation subject to confirmation by Government.	461 (*a*) ..	
	(12) For the maintenance of a map of the drainage system and its inspection by the rate-payers.	No provision for making by-laws.	..	The Corporation should have power to frame these by-laws without the sanction of Government.
	(13) For the inspection, control and conservancy of places where dangerous or offensive trades are carried on.	Corporation subject to confirmation by Government.	461 (*f*)..	
	(14) For the control and supervision of slaughter-houses, and the control and supervision of butchers carrying on business in the City or at any municipal slaughter-house without the City.	Do. do.	461 (*k*), (*l*) & (*m*).	
	(15) For the regulation, inspection and control of the use of public and private markets and shops and other places therein and the control and regulation of the sanitary condition of the same.	Do. do.	461 (*k*), (*m*) & (*n*)	
	(16) For the prescribing of the method of sale of articles whether by measure, weight, tale or piece.	No corresponding provision.	..	
	(17) For the prescribing and provision of standard weights, scales and measures, and preventing the use of any others.	The power in regard to the provision of standard weights, etc., is vested in the Commissioner. By-laws for the prevention of false or defective weights, etc., may be framed by the Corporation, subject to confirmation by Government.	418 ..	No change is necessary.
			461 (*o*) ..	
	(18) For the publication of a price current.	Corporation, subject to confirmation by Government.	461 (*o*) ..	The power to frame by-laws in regard to these matters should be retained; but the confirmation of the by-laws by Government is unnecessary. The Corporation should have power to confirm them.
	(19) For (*a*) the prevention of the sale or exposure for sale of unwholesome meat, fish or provisions; and	(*a*) No provision for making by-laws. Section 414 *et seqnitur* of the Act contain provisions similar to section 353, etc., of the Madras Act.	..	
	(*b*) securing the efficient inspection and sanitary regulation of shops in which articles intended for human food or drugs are kept or sold.	(*b*) Corporation, subject to confirmation by Government.	461 (*k*) ..	

List II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(59) 409—*cont.*	Power to frame by-laws subject to confirmation by Government—*cont.*			
	(20) For the manner in which stables, cattle-sheds and cow-houses are to be constructed and connected with the municipal drains.	No specific provision for making by-laws.	..	
	(21) For the inspection of milch cattle and the prescribing and regulation of the ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairyman or milk-seller.	Corporation, subject to confirmation by Government.	461 (*g*) ..	
	(22) For enforcing the cleanliness of milk-stores and milk-shops and milk-vessels used for containing milk.	Do. do.	461 (*h*) ..	The power to frame by-laws in regard to these matters should be retained; but the confirmation of the by-laws by Government is unnecessary. The Corporation should have power to confirm them
	(23) For requiring notice to be given whenever any milch animal is affected with any contagious disease, and the prescribing of precautions to be taken for protecting milch cattle and milk against infection or contamination.	Do. do.	461 (*j*) ..	
	(24) For the prevention of dangerous diseases of men or animals.	No specific provision for making by-laws.	..	
	(25) For the regulation of lodging-houses.	Do. do.	..	
	(26) For the enforcement of compulsory vaccination.	Do. do.	..	
	(27) For the regulation of burial and burning grounds and the levy of fees for the use of such grounds as are maintained out of the municipal fund.	Corporation, subject to confirmation by Government.	461 (*p*) ..	
	(28) For the registration of births and deaths.	Do. do.	461 (*q*) ..	
	(29) For the enumeration of inhabitants of the City.	Do. do.	461 (*s*) ..	
	(30) For generally carrying out the purposes of this Act.	Do. do.	461 (*w*)..	No change is necessary.
(60) 412 (*b*)	Power to fix the time for the receipt of objections to draft by-laws, longer than the minimum period of one month.	Minimum of six weeks is fixed in the Act Corporation or Commissioner can apparently allow longer time.	465 (1) ..	Do.
(61) 426 (2)	Power to fix the rate of license fees, with the sanction of Government.	Corporation	479 (2) ..	Do. As in Bombay the Corporation should have power to fix the rate without the sanction of Government
(62) 458 ..	Power to exercise control over the President in instituting, defending, or withdrawing from legal proceedings in admitting, compromising or withdrawing any claim, and in obtaining legal advice and assistance.	The approval of the Standing Committee is necessary (1) for the withdrawal or compromise of any claim for a sum exceeding Rs. 500 against any person in respect of a penalty payable under a contract entered into by the Commissioner, (2) for admitting or compromising any claim, suit or legal proceeding against the Corporation, Commissioner or Deputy Commissioner or a municipal officer or servant, and (3) instituting, withdrawing from or compromising any suit or claim, other than a claim payable under a contract. Subject to these restrictions the Commissioner has full power in the matter of legal proceedings. He is however bound to institute and prosecute any suit which the Corporation shall determine to have instituted and prosecuted.	517 ..	The provisions of the Bombay Act should be adopted.

List II.—Powers possessed by the Corporation of Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(63) 458 (*c*)	Power to direct the President to take legal advice and assistance on any matter.	The Corporation has similar power.	517 (1) (*k*)	No change is necessary.
(64) 572.	Power to direct the demolition of any masonry building constructed on the Esplanade, without the sanction of the Local Government and the Government of India, if requested by the General Officer Commanding the Madras District so to do.	No corresponding provision.	..	Do.

LIST III.—Powers exercised by Government over the Corporation in Madras.

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(1) 3 (6).	Power to define the limits of the city ..	The limits of the Bombay City are apparently defined by Statute, viz., Bombay General Clauses Act I of 1904 [section 3 (10)]. The Bombay Municipal Act does not contain any definition.	..	No change is necessary.
(2) 3 (7) (*b*)	Power to declare what diseases are dangerous, in addition to those specified in section 3 (7) (*a*).	The Act defines "dangerous disease" as meaning cholera and any endemic, epidemic, or infectious disease by which the life of man is endangered. This seems vague.	3 (*a*)	Do.
(3) 3 (8) & (22).	Power to declare what trades are dangerous or offensive in addition to those specified in schedule II.	Schedule M specifies the trades, etc., for which licenses are necessary; and under section 394 (1) (*b*) the Commissioner may require a license to be taken for any other place used for a purpose which is, *in his opinion*, dangerous to life, health or property or likely to create a nuisance. Under section 322 (1) of the Madras Act also, the President may require a license for a place which, in his opinion, may endanger life, health or property.	Schedule M and section 394 (1) (*b*).	This power may be vested in the Corporation instead of in Government.
(4) 3 (24)	Power to declare, on the recommendation of the Standing Committee, what are populous parts of the City. [For the use made of this declaration, please see sections 145 (1), 192 (2) and 314 proviso. The rate of the water and drainage tax which can be levied in any locality, the extent to which provision should be made for water-supply in any area, and the number of animals for keeping which a license is necessary, depend on the question whether a locality is populous or non-populous.]	No corresponding provision.	..	The power should be vested in the Corporation and not in Government.
(5) 5 (2) (*c*).	Power to declare by which associations (other than the Chamber of Commerce and the Trades' Association) two of the Commissioners shall be appointed.	No corresponding provision. The Act expressly mentions the associations or bodies which can elect Commissioners.	5 (1) ..	As in Bombay the Act should specify the associations or bodies by which the two Commissioners should be appointed.
(6) 5 (3)	Power to appoint Commissioners in case the associations or bodies fail to do so.	If no councillor is elected— (1) the retiring councillor, if willing to serve, is deemed to be re-elected, failing which (2) the Corporation may appoint a councillor, and failing this (3) a fresh election is held.	34 ..	No change is necessary.
(7) 9 ..	Power to appoint the President	Government have power to appoint Commissioner.	54 ..	The Commissioner should be appointed by Government.
(8) 10 & 413	Power to prescribe rules for the grant of pension or gratuity to the Commissioner.	No corresponding provision.	..	No change is necessary.
(9) 12 (1).	Power to appoint the Revenue officer, the Health officer, the Engineer and the Special Engineer.	The Health officer and the Engineer are appointed by the Corporation, subject to confirmation by Government, for a renewable term of five years.	74 (1), 74 (2) (*a*) & 74 (3) (*g*)	The provisions of the Bombay Act should be adopted but without the limitation as to the term of appointment of the officers.
		The Government have power to appoint them if the Corporation fails to do so.	75 (2) ..	
		Pending the settlement of an appointment, the Corporation may appoint a person temporarily to fill a vacancy.	75 (3) ..	

List III.—Powers exercised by Government over the Corporation in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(9) 12 (1) —*cont.*	Power to appoint the Revenue officer, the Health officer, the Engineer and the Special Engineer.	The Bombay Act makes no reference to the Revenue officer The Assessor and Collector and the Chief Accountant are the other heads of departments under the Commissioner. They are apparently appointed by the Commissioner himself. There is no specific provision for the appointment of a Special Engineer.	66 (4), 79 & 82. ..	The provisions recommended for the appointment of the Engineer and the Health officer should apply also to the appointment of the Revenue officer. The Special Engineer should be appointed in the same way as the Engineer. The appointment of any other officers should vest in the Corporation if the salary exceeds Rs. 500 and in the Commissioner, if the salary is Rs. 500 or less.
(10) 10, 12 (2) & 413.	(1) Power to fix the salaries and allowances of the President, the Revenue officer, the Health officer, the Engineer and the Special Engineer.	Government fix the Commissioner's salary, but the approval of the Corporation is required for paying him more than Rs. 2,500.	57 ..	(1) The Government should fix the salary of the Commissioner, but the approval of the Corporation should be necessary for paying more than Rs. 2,000.
	(The consent of the Corporation is necessary for giving salary in excess of the maximum prescribed in the Act in the case of each officer, except the President.)	Corporation fixes the salaries in the case of the Health officer and the Engineer, the Act prescribing the minimum and maximum for each officer. Standing Committee apparently fixes the salary of the Assessor and Collector and the Chief Accountant.	74 (2) (*e*). 79 ..	The Corporation should fix the salaries of the Health officer, the Engineer and the Revenue officer, but the salaries of these officers should not exceed Rs. 1,250, Rs. 1,000 and Rs. 750 respectively.
	(2) Power to prescribe rules for the grant of pension and gratuity to them.	Rules for pension are sanctioned by the Standing Committee, the Corporation and the Government.	81 (1) (*f*) & (2).	(2) The provisions of the Madras Act should be retained.
(11) 12 (3)	Power to determine the contribution for leave allowances and pension in the case of officers of Government appointed as Revenue officer, Health officer, Engineer or Special Engineer.	No corresponding provision. Please see however section 81 (1) (*g*).	..	The contribution for leave allowances and pension should be made payable in accordance with the provisions of the Civil Service Regulations or other similar regulations in force at the time.
(12) 9 & 12 (4).	Power to remove the President, the Revenue officer, the Health officer, the Engineer and the Special Engineer.	The Goverment have power to remove the Commissioner; but as in Madras the Government are bound to remove the Commissioner upon a resolution by the Corporation passed by a definite number of councillors.	54 ..	The Government should have power to remove the Commissioner, but he should also be liable to removal on the votes of not less than two-thirds of the total number of members prescribed for the Corporation. The Health officer, the Engineer and the Revenue officer should be liable to removal by the Corporation on the same number of votes.

List III.—Powers exercised by Government over the Corporation in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(12) 9 & 12 (4)—*cont.*	Power to remove the President, the Revenue officer, the Health officer, the Engineer and the Special Engineer.	Corporation can remove the Health officer and the Engineer on the votes of two-thirds of the members present.	74 (2) (*d*)	No other officer on a salary exceeding Rs. 200 should be dismissed without the approval of the Standing Committee.
		The Assessor and Collector and the Chief Accountant can be removed by the Commissioner, but the approval of the Standing Committee is necessary for the removal of an officer on a pay exceeding Rs. 300.	83 ..	....
(13) 13 & 14.	Power to appoint temporarily a special Sanitary officer and fix his salary and allowances.	No corresponding provision. Please see however sections 434 and 578.	..	This power should be vested in the Corporation, instead of in Government.
(14) 15 (2)	Power to decide cases where doubt arises as to the municipal authority to which any particular function pertains.	Commissioner except in the case of the Municipal Secretary and his staff, whose duties are prescribed by the Standing Committee and the Corporation.	64 (3) (*b*). 77 (2) (*a*) & 78 (*e*).	The provisions of the Bombay Act should be adopted.
(15) 16 (2)	Power to approve rules framed by the Corporation for the interpellation of the President.	No provision for the interpellation of the Commissioner, who has no seat on the Corporation.	..	The Corporation should have power to make rules for the interpellation of the President without the approval of Government.
		But the Corporation can call for records, returns and report on any matter.	66 ..	The President and the Corporation should have power to call for records, returns and report on any matter.
(16) 24, 25 & 26.	Power to depute an officer to inspect any department or work and on receipt of his report to require the municipal authority to arrange for the proper performance of its duties, and in case of failure to appoint a person for the performance of such duties.	Government have similar power; but the power to appoint an officer to inspect is restricted. Sections 264, 518 and 519.	..	No change is necessary.
(17) 26 (1) (*c*).	Power to direct the levy or increase of the rate of any one or more of the taxes (within the limits prescribed in the Act) for paying the remuneration of an officer appointed by Government to perform any duties which a municipal authority has failed to perform, and for meeting the cost of the performance of such duties by the officer.	Under the Bombay Act the Government may direct the Bank in which the municipal fund is lodged to pay the amount, if the Corporation fails to pay it. The Act does not give the Government power to direct the levy or increase of the rate of any tax, for meeting the cost in such a case.	520 (2)..	The provisions of the Bombay Act should be adopted.
(18) 27 ..	Power to direct that the money required for meeting the expenditure mentioned in item (17) above be borrowed by way of debenture on the security of all or any of the taxes.	No corresponding provision.	..	This provision is unnecessary and may be omitted.
(19) 28 .	Power to sanction (1) projects costing one lakh of rupees or more and (2) any material change in a project so sanctioned.	Do. do.	..	Do.
(20) 29 ..	Power to call for statements, information, report and papers from the President.	Government have similar power to call for extracts of proceedings and records and statistics from the Corporation.	526	The provisions of the Bombay Act should be adopted.
(21) 34 (3)	Power to exempt a person from the disqualification for Commissionership, due to criminal conviction.	Government	16 (*b*) ..	No change is necessary.
(22) 39 ..	Power to fix the time and place for the election of Divisional Commissioners.	Commissioner	22, 23 & 28.	As in Bombay this may be left to the Commissioner.

List III.—Powers exercised by Government over the Corporation in Madras—*cont.*

Section of the Bombay Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(23) 42 ..	Power to appoint a Divisional Commissioner when no candidate at an election obtains the necessary number of votes.	In such a case, (1) the retiring Councillor if willing to serve, is deemed to be re-elected, or (2) the Corporation appoints a councillor, or (3) a fresh election is held.	34 ..	The provisions of the Bombay Act should be adopted.
(24) 53 ..	Power to appoint a Divisional Commissioner temporarily in case of vacancy until the election is held.	No corresponding provision.	..	This provision is unnecessary and may be omitted.
(25) 58 ..	Power to control the employment of temporary and permanent establishments by the Corporation and the payment of salaries and allowances to them.	The Standing Committee has full power to employ establishments and fix their salaries, subject to the sanction of the Corporation for appointments on more than Rs. 200 per mensem to be employed under the Commissioner.	78 & 79.	In this matter, the Standing Committee should have the same powers as in Bombay, subject to this modification, viz., that it should obtain the sanction of the Corporation for appointments on more than Rs. 100 per mensem to be employed under the Commissioner.
(26) 58 (3).	Power to prescribe the control to be exercised over the President in regard to the punishment of subordinate officers and servants of the Corporation.	No such power exists in Bombay. The Commissioner has power to punish the establishments under him, but the approval of the Standing Committee is necessary for the dismissal of an officer on a pay exceeding Rs. 300.	83 ..	The provisions of the Bombay Act should be adopted subject to this modification, viz., that no officer on a salary exceeding Rs. 200 shall be dismissed without approval of the Standing Committee.
		The Standing Committee has power to punish the establishment under the Secretary.	78 & 83	
(27) 60 ..	Power to grant leave to the President, the Revenue officer, the Health officer, the Engineer and the Special Engineer and to appoint some person to act in the place of the absent officer.	The consent of Sthetanding Committee is necessary for the grant of leave to the Commissioner by Government.	59 (1) (*a*)	The provisions of the Bombay Act should be adopted in regard to the grant of leave to the Commissioner and the appointment of an Acting Commissioner in his absence.
		Acting Commissioner is appointed by Government.	59 (3) ..	
		The Commissioner can sanction leave for a period not exceeding one month to the Health officer and the Engineer and appoint persons to act for them. The Standing Committee can sanction leave to those officers for a period exceeding one month. If the leave exceeds one month, the acting appointment is made by the Corporation; Government have power to disallow an acting appointment made by the Commissioner or the Corporation.	84 (1) & (2) (*b*). 85 (1) .. 85 (2) (*a*).	The provisions of the Bombay Act should be adopted and the Revenue officer should be on the same terms in this respect as the Health officer and the Engineer.
		The Commissioner can grant leave to the Assessor and Collector, the Chief Accountant and other establishments under him.	85 (2) (*b*) 84 (1).	
(28) 61 ..	Power to direct the payment of leave allowances under the Civil Service Regulations to the President, the Revenue officer, the Health officer, the Engineer and the Special Engineer.	If the Commissioner is a Government officer the leave allowances are regulated by the provisions of the Civil Service Regulations. If not, the Government fix his leave allowance. In the case of other officers, the leave allowances are paid in accordance with the regulations framed under section 81 by the Standing Committee and the Corporation.	59 (2) ..	The provisions of the Bombay Act may be adopted in regard to the grant of leave allowances to the Commissioner. In the case of other officers, the leave allowances should be paid in accordance with the provisions of the Civil Service Regulations.
(29) 62 ..	Power to fix the salary and allowances of the officers appointed to act for the President, the Revenue officer, the Health officer, the Engineer and the Special Engineer during their absence on leave.	Government fix the salary and allowances in the case of the Commissioner. In the case of other officers the remuneration to be paid is determined by the regulations framed by the Standing Committee and the Corporation under section 81 (*d*).	59 (3) ..	The salary and allowances of an Acting Commissioner may be fixed by Government as in Bombay. But in the case of other officers, the acting allowances should be regulated in accordance with the provisions of the Civil Service Regulations.

List III.—Powers exercised by Government over the Corporation in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(30) 64 ..	Power to sanction rules proposed by the Corporation in regard to the security to be furnished by municipal servants, the grant of leave, leave and acting allowances to them, and the establishment and maintenance of a provident or annuity fund.	The Corporation sanctions the rules which are framed by the Standing Committee.	81 ..	The provisions of the Bombay Act should be adopted.
(31) 66 (2) & (3), 68 (3).	Power to approve contracts or accept tenders for works, etc., involving an expenditure exceeding one lakh of rupees and to approve variation of such contracts.	Standing Committee's approval is necessary and enough for contracts involving expenditure exceeding Rs. 5,000.	69 (*e*). ..	As in Bombay the Standing Committee should have full power to approve contracts or accept tenders for works involving an expenditure of over Rs 5,000.
(32) 89 (1) (*a*).	Power to sanction the payment of contribution to any municipal council or local board for purposes calculated to benefit the City.	No provision for making such contribution.	..	This power should be vested in the Corporation instead of in Government.
(33) 89 (*b*) & (2).	Power to direct the Corporation to pay contribution to a municipal council or local board for purposes calculated to benefit the City, if the Corporation fail to show cause why such contribution should not be paid by it.	No such power	..	This provision is unnecessary and should be omitted.
(34) 90 (1).	Power to sanction—(1) the deposit of municipal funds in any Bank other than the Bank of Madras, (2) and their investment in any of the securities specified in section 20 of the Indian Trusts Act, 1882.	(1) The Municipal money should be lodged in the Bank of Bombay. Standing Committee can sanction the deposit of money in any Bank or other agency outside the City.	114 ..	No change is necessary.
		(2) Standing Committee's sanction is necessary and sufficient for the investment in public securities or for deposit for interest in the Bank of Bombay or any other Bank in the City selected by the Corporation.	122 ..	....
(35) 91 (4).	Power to fix the month in which the Standing Committee should hold a meeting to consider the budget.	No such power. The Act requires the Standing Committee to consider the estimates and proposals of the Commissioner on or after 10th November.	126 (1) ..	The provision of the Bombay Act should be adopted.
(36) 92 ..	Power to fix the date for the submission of the budget to the Corporation after approval by Standing Committee.	No such power. But the Act lays down the dates.	126 (3).	The provisions of the Bombay Act should be adopted, but subject to this modification, viz., that the budget should go to the Corporation by 31st January.
(37) 93 ..	Power to fix the month in which the Corporation should consider the budget.	This is fixed by the Act ..	127 & 128.	
(38) 95 (1).	Power to fix the date for the submission of the budget to Government.	The budget need not be submitted to Government.	128 & 129.	
(39) 95 (2) & (3).	Power to pass orders on the budget to reject, modify or add any item, and approve the budget.	The Government have no such power. The Corporation is the final authority.	Do.	The Corporation should have full powers as in Bombay. It should have also power to pass a supplemental budget.
(40) 96 ..	Power to pass similar orders as in item (39) on a supplemental budget.	The Government have no such power. The Corporation is the final authority. There is no provision for supplemental budget; but the Corporation may revise the budget if the balance is likely to fall below one lakh of rupees.	134 (1) ..	
(41) 97 (1).	(1) Power to sanction an increase of a budget allotment.	(1) Corporation can do this.	131 (1).	
	(2) Power to sanction transfer of funds or reduction of allotments.	(2) Standing Committee can do this, merely reporting its action to the Corporation. If the reduction or transfer exceeds Rs. 500, the Corporation may pass such orders as it thinks fit.	133 ..	The Standing Committee and the Corporation should have the same powers as in Bombay.

List III.—Powers exercised by Government over the Corporation in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(42) 99 & 100.	Power to sanction the raising of loans by the Corporation (the sanction of the Government of India is necessary).	Government have similar power.	106 ..	No change is necessary.
(43) 104.	Power to fix the amount of payments into sinking funds for the repayment of moneys borrowed on debentures.	Corporation	109 (*d*) ..	The Corporation should have this power as in Bombay.
(44) 107 (2)	Power to approve the terms of any consolidated loan, the form of its scrip and the rates at which exchange into it should be permitted.	No corresponding provision.	..	No change is necessary.
(45) 107 (3)	Power to extend the period for the extinction of a consolidated loan beyond the farthest date within which any of the loans consolidated would be otherwise payable.	No corresponding provision, but see section 109 (*g*)	..	Do.
(46) 109 (1)	Power (1) to attach the municipal fund, if any money borrowed from Government or interest or costs due in respect of it be not paid and (2) to appoint an officer to deal with the attached fund.	Government have similar power in regard to the Vehar Water Works Loan taken from Government.	99 ..	Do.
(47) 110 & 114.	Power to appoint two Auditors every year and to fix the remuneration to be paid to them out of the municipal fund. (No remuneration is now paid.)	The Corporation But the Government have also power to appoint an Auditor for making special audit and to fix the costs of such audit to be paid from municipal fund.	136 ..	The provision of the Bombay Act should be adopted.
			138 ..	
(48) 116 ..	Power to approve the levy of taxes and tolls.	Corporation has full power.	128 & 134 (2)	The Corporation should have full power as in Bombay.
(49) 145 (1) Proviso.	Power to exempt any local area from payment of the water and drainage tax or any part thereof.	No corresponding power. But the Act authorizes the levy of the tax only in areas in which sufficient water for supply to premises is available from municipal water-works.	141 ..	The provisions of the Bombay Act should be adopted.
(50) 148 (1)	Power to exempt any division or part of it from payment of lighting tax.	No such tax is levied ..	..	This should be left to the Corporation.
(51) 200 ..	Power to sanction the construction of water-works outside the City.	Corporation	261 ..	No change is necessary.
(52) 202 (*b*)	Power to sanction the exercise by the Corporation and its officers and servants of control over any lake or reservoir outside the city which supplies water to the town and over all lands at a distance not exceeding 1,000 yards beyond the high water level of such lake or reservoir.	No corresponding provision. But Vehar lake is vested in the Corporation (section 89) and sections 388 and 389 give control over any lake vested in the Corporation.	89 ..	Do.
(53) 210 ..	Power to sanction the proposal of the Corporation to require Railway Companies to raise or lower the level of a railway line for carrying a drain across the line.	No similar provision ..	..	Do.
(54) 230 (1) (*e*).	Power to sanction the permanent closure of any public street or part of it.	Commissioner with the sanction of the Corporation. Government sanction not required.	289 (3) ..	The provisions of the Bombay Act should be adopted,
(55) 232 (2)	Power to sanction the acquisition of land or building outside the proposed alignment of a street to be improved.	Commissioner and Standing Committee (*vide* note against items 39 and 40 of List II).	296 (1) (*a*) 90 & 91.	The provisions of the Bombay Act should be adopted subject to the following modification:— The sanction of the Standing Committee should be enough for the acquisition if the cost does not exceed Rs. 5,000, and that of the Corporation if the cost exceeds Rs. 5,000.
(56) 261 (4)	Power to confirm a declaration of the Corporation imposing restrictions in regard to the future construction of buildings, etc., in any particular streets or localities.	No similar provision ..	..	The Corporation should have power to confirm the declaration with or without modification. The sanction of Government is unnecessary.

List III.—Powers exercised by Government over the Corporation in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(57) 290 (1) (*e*).	Power to sanction proposals as to the means by which lamps should be lighted in the City.	Corporation. The sanction of Government is not required.	380 (*e*) ..	As in Bombay this should be left to the Corporation. The sanction of Government is unnecessary.
(58) 311 ..	Power to sanction the prohibition of fishing in any river or estuary in the city.	No corresponding provision.	..	This power should be vested in the Corporation, instead of in Government.
(59) 331 (2)	Power to sanction the provision of municipal slaughter-houses outside the city.	Government .. .	399 (2) ..	No change is necessary.
(60) 337 (1)	Power to sanction the provision of public markets.	Corporation	399 (1) ..	As in Bombay this may be left to the Corporation.
(61) 338 ..	Power to sanction the acquisition or appropriation of lands required for public markets.	Do.	397 (1) ..	Do.
(62) 341 ..	Power to sanction the sale or closure of public markets and the sale or lease of the sites of such markets.	Government sanction is required for the closure, but not for the disposal of the site and buildings (*vide* note against item (50) in List II).	400 400 & 92.	The provisions of the Bombay Act should be adopted.
(63) 362 ..	Power to require the Corporation—			
	(1) to construct and maintain hospitals for the treatment of infectious diseases, and (2) to contribute towards the cost of any such public hospital.	No corresponding power.	..	This provision is unnecessary and should be omitted.
(64) 374 ..	Power to declare vaccination compulsory in the city and to approve by-laws framed for the purpose by the Corporation.	No such provision. Vaccination is not one of the purposes on which municipal money may be spent.	61 & 63 ..	No change is necessary.
(65) 387 (3) (*a*).	Power to sanction the grant or refusal of a license for a new burial or burning ground.	Corporation	437 ..	This power should be vested in the Corporation instead of in Government.
(66) 391 ..	Power to issue general or special orders permitting burials in any existing vault in any place of public worship.	Government	440 (2) ..	No change is necessary.
(67) 392 (1)	Power to sanction the closure of a registered or licensed burial ground.	Do.	438 (2) ..	Do.
(68) 395 ..	Power to sanction the provision of new burial and burning grounds.	Corporation	436 ..	As in Bombay this may be left to the Corporation.
(69) 397 ..	Power to direct the taking of census of the population of the city.	Government	454 ..	No change is necessary.
(70) 398 ..	Power to approve the forms and instructions for taking census.	Do.	456 ..	No change is necessary.
(71) 403 ..	Power to prescribe the mode of obtaining returns in regard to homeless persons, travellers and others not abiding in any building at the time of census.	Do	460 ..	Do.
(72) 404 ..	Power to sanction—			
	(1) the construction, maintenance and working of any railway or tramway by the Corporation on any public street or land vested in it;	The sanction of Government is necessary for permitting any person to lay or work any railway or tramway on any public street.	293 (1) ..	Do.
	(2) the entering into a contract with any person for the said purpose by the Corporation; and	There is no power for the Corporation itself to undertake such a work.	..	
	(3) the lease of any such railway by the Corporation.	....	..	
(73) 406 (2)	Power to sanction the lease of a municipal building or land for more than three years.	Corporation. The sanction of Government is not required.	92 (*e*) ..	The provisions of the Bombay Act should be adopted.
(74) 406 (3)	Power to sanction the sale of a municipal land or building.	Do.	Do. ..	
(75) 409 ..	Power to direct the Corporation to frame by-laws for certain matters.	No such power	..	This provision is unnecessary and should be omitted.
(76) 411 ..	Power to sanction by-laws made by the Corporation.	Government	463 ..	*Vide* recommendations against item (59) in List II.
(77) 413 (1)	Power to make rules in regard to the election or appointment of Commissioners, election of members of the Standing Committee and other matters relating to the system of appointment and election.	(1) No such power. Some rules are provided in the Act itself.	6 to 47 ..	The provisions of the Bombay Act should be adopted.

List III.—Powers possessed by Government over the Corporation in Madras—*cont.*

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.	Alterations in the Madras Act recommended by the committee appointed by the Corporation.
(78) 413 (2)	Power to make rules altering, adding to or cancelling any part of the schedules containing—			
	(1) the boundaries of divisions (Schedule III);	(1) Corporation with the sanction of Government.	24 (2) ..	(1) The provisions of the Bombay Act should be adopted;
	(2) building rules (Schedules XI and XII);	(2) No similar power. There is no such schedule.		(2) & (3) The Corporation, with the sanction of Government, should have power to alter the schedules.
	(3) Forms of registers of births and deaths (Schedules XIII to XV);	(3) No such power. The forms are prescribed in Schedules N and O.	444 ..	
	(4) boundaries of the Esplanade (Schedule XVIII).	(4) No corresponding provision.	..	No change is necessary.
(79) 419 ..	Power to cancel any by-law or rule ..	Government	470 ..	Do.
(80) 425(3)	Power to extend to any specified class of municipal servants the provisions of sub-sections (1) and (2) of section 425 requiring notice before discharge of scavengers and imposing penalty on them for with-drawing without notice.	No such power	..	This provision may be omitted
(81) 426 (2)	Power to sanction license fees	Corporation	479 (2) ..	This power should be vested in the Corporation instead of in Government.
(82) 464 ..	Power to authorize municipal servants to exercise the powers of police officers.	No corresponding provision.	..	No change is necessary.
(83) 471 ..	Power to permit the construction of buildings on the Esplanade.	Do.	..	Do.

P. L. MOORE, *Acting President.*
P. TYAGARAYA CHETTI.
T. RANGACHARI.
R. F. R. FORMBY.
N. SUBRAHMANYAM.

Order—No. 1680 M., dated 12th October 1911.

In the first of the papers read above the Government of India request to be favoured with the views of His Excellency the Governor in Council on the proposals contained in paragraphs 864 to 870 of Chapter XX of the report of the Royal Commission upon Decentralization which relate to Presidency Corporations. So far as they concern Madras, the specific recommendations made by the Commission are—

(i) that the Bombay system of a nominated Municipal Commissioner with an elected Chairman of the Corporation should be introduced in the City of Madras;

(ii) that the Presidency Corporation should have as full powers as the corresponding authority in Bombay; and

(iii) that where it is considered expedient that hospitals and educational institutions should be controlled by Government, the Corporation should not contribute thereto except as a matter of voluntary agreement.

2. The Corporation of Madras, whose remarks were invited on these recommendations, proposes—

(i) that the Bombay system of a nominated Commissioner and a President elected by the Corporation from among its own members should be adopted,

(ii) that as a necessary consequence a secretary with a separate office establishment should be appointed to work under the elected President,

(iii) that the powers of the Standing Committee, the Corporation and the Government should be re-arranged and revised in the manner shown in column 5 of the schedule appended to the report of the committee appointed to consider the matter, so as—

(*a*) to exempt the Corporation from the control of Government substantially to the same extent as in Bombay,

(*b*) to emancipate the Commissioner as in Bombay from the control of the Corporation and the Standing Committee, and

(*c*) to re-adjust powers between the Corporation and the Standing Committee in order to bring the system into accord with that obtaining in Bombay,

(iv) that the constitution of the Corporation and the Standing Committee should be modified so as to become more representative of the rate-payers, and

(v) that the existing Madras City Municipal Act, 1904, should be amended and consolidated with a view to remove the many defects which, in the opinion of the Corporation, it contains.

3. His Excellency the Governor in Council has carefully considered the proposals of the Royal Commission and the recommendations of the Corporation of Madras. While agreeing generally as to the expedience of adopting the Bombay system of a nominated Municipal Commissioner and an elected President with a separate secretariat and emancipating the Corporation as far as possible from the control of Government, he is unable wholly to accept the views of the Corporation in regard to the extent of control which should be exercised over the Commissioner by the Corporation and the Standing Committee. The position taken up by the Corporation is open to objection in more than one respect, notably as to the desire of the Corporation to provide for the continuance of appeals against the orders of the President (the future Commissioner) under the general section 427 of the Madras City Municipal Act, 1904, and other sections providing for special appeals, such, for instance, as section 172 which relates to appeals against assessments, a matter dealt with in Bombay by judicial functionaries. Simultaneously with the relaxation of their control over the Corporation, the Government think that arrangements should be made to place the Municipal Commissioner in a position substantially as strong as that which he occupies in Bombay. Of the specific powers possessed by the Local Government in Madras, which the Government of Bombay do not exercise in respect of the Bombay Corporation, they consider that it will be necessary to retain in their hands a few more than the Corporation deems requisite, but the remainder may be either abandoned or transferred to the Corporation, the Standing Committee or the Municipal Commissioner.

4. The re-adjustment of the respective powers of the Corporation and the Standing Committee will necessarily come under examination in detail if and when the Act is amended; and care will then be taken to assign to the Standing Committee as much power as possible, the main function of the Corporation being the settlement of general questions of policy.

5. The re-constitution of the Standing Committee and the Corporation on a more representative basis will receive scrutiny at the same time, but the Government are doubtful as to the expedience of expanding the elective element any further until experience has been gained of the manner in which the Corporation and the Standing Committee make use of the wider powers which it is proposed to confer on them.

6. The amendment and consolidation of the Madras City Municipal Act, 1904, will become necessary when the preliminary lines of the revision required have been settled in consultation with the Government of India. In the meantime the Corporation will be requested to schedule the defects which it had in view when characterizing that enactment as "highly defective" in its resolution of the 13th December 1910.

7. The Government accept the principle that municipal contributions towards Government hospitals, schools and colleges should continue to be of a voluntary nature.

8. The Government of India will now be addressed.

(True Extract.)

L. Davidson,
Ag. Secretary to Government.

To the President, Corporation of Madras.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT

No. 1681 M.

From

THE HON'BLE MR. L. DAVIDSON, I.C.S.,
Acting Secretary to the Government of Madras,
Local and Municipal Department.

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
DEPARTMENT OF EDUCATION—MUNICIPALITIES.

Dated Ootacamund, the 12th October 1911.

SIR,

In reply to Sir Harold Stuart's letter No. 126, dated 17th July 1909 (Home Department—Municipalities), I am directed to furnish the views of His Excellency the Governor in Council on the proposals relative to Presidency municipalities contained in paragraphs 864 to 870 of chapter XX of the report of the Royal Commission upon Decentralization.

2. In the first instance I am to express the regret of His Excellency in Council at the delay which has occurred. The recommendations of the Commission, though briefly stated incidentally involved a detailed examination of the large number of specific powers possessed by the Local Government in Madras which the Government of Bombay do not exercise in respect of the Bombay Corporation. It was also necessary to collate and scrutinize the respective functions of the Corporation, Standing Committee and Commissioner (or President) under the Bombay and Madras Acts in order to ascertain the consequences which would ensue from the adoption of the Bombay system. The views of the Corporation of Madras were then invited not only upon the specific recommendations of the Royal Commission, but also upon the amendments in the law which would be required by the re-adjustment of the powers and duties of the Commissioner, the Standing Committee and the Corporation. The subject was thus of considerable complexity and involved many issues, a critical examination of which was a work of time.

3. I am now to set out and examine the recommendations of the Royal Commission.

Paragraphs 864 *to* 866 of the report merely describe the system of administration prevailing in the different Presidency municipalities, special reference being made to the full discretion allowed in Calcutta and Bombay, particularly with regard to—

(*a*) the exemption from budget control;
(*b*) the freedom to regulate taxation within the provisions of the law; and
(*c*) the power of appointing the entire municipal staff except the engineer and the health officer.

Paragraph 867 contrasts the stringent control exercised in Madras, notably in relation to—

(i) the budget and deviations therefrom (sections 94—97 of the Madras City Municipal Act, 1904);
(ii) the levy of taxes (section 116);

(iii) the exemption of local areas from rates and taxes (sections 145 to 148);

(iv) the construction of water-works (section 200); and

(v) the acquisition of land for street improvements (section 232).

Stress is laid upon complaints said to have been made regarding these restrictions by witnesses examined before the Commission, but reliance appears to have been placed upon the evidence of only five witnesses. Of these, again, only three had any personal knowledge of the conditions of the Madras City and their evidence goes to show that the complaints referred to by the Commission related solely to trivial matters, especially petty interferences with the budget proposals in regard to the emoluments of menial servants. There is probably no present grievance on this subject owing to the procedure which, for some time past, has been adopted of restricting criticism and interference to matters of greater importance.

The Commission, however, mainly on the strength of these complaints, subscribe in *paragraph* 867 to the general proposition that the Madras Corporation should have as full powers as the Bombay city.

Paragraph 868 of the report emphasizes the necessity for reserving to Government power to require or provide for the efficient discharge of any service which may be grossly neglected. The relevant sections of the Madras Act are sections 24 to 27. In Bombay similar provisions are to be found in sections 518 to 520 of the local Act. These, however, it may be observed, do not cover vaccination, which in Bombay is an optional function of the Corporation.

Paragraph 869 commends the Bombay system of an elected Chairman and nominated Commissioner, making special reference to the evidence of Sir Herbert Risley. The deposition of this witness, it is worthy of note, lays particular stress on the independence of the Municipal Commissioner in Bombay, who "gets his "budget and his well-defined powers, which he exercises on the whole without "interference from his Corporation in matters of detail."

Paragraph 870, while admitting that the liabilities of a Presidency Corporation as to educational and medical charges must depend on local circumstances, enunciates the principle that only voluntary contributions from municipal funds should be accepted in support of hospitals and educational institutions controlled by Government.

4. The Corporation of Madras, whose opinion was invited on the recommendations of the Royal Commission and is embodied in the enclosure to this letter, viz., G.O. No. 1680 M., dated 12th October 1911, advocates—

I. The adoption of the Bombay system of a nominated Municipal Commissioner and an elected Chairman or President of the Corporation with a separate secretariat;

II. The re-arrangement of the powers now exercised under the Madras City Municipal Act by the Government, the Corporation, the Standing Committee and the President so as—

(i) to emancipate the Corporation from the control of Government substantially to the same extent as in Bombay;

(ii) to emancipate the Commissioner as in Bombay from the control of the Corporation and the Standing Committee; and

(iii) to re-adjust powers between the Corporation and the Standing Committee in order to bring the system into accord with that obtaining in Bombay.

III. Certain modifications in the constitution of the Standing Committee and the Corporation designed with a view to increase the elective representation thereon, and

IV. The consolidation of the Act as recommended in general terms.

5. His Excellency the Governor in Council does not consider it necessary to trouble the Government of India with any categorical exposition of his views on the proposals of the Corporation under heads II (ii) and (iii), III and IV, relating as they do to topics which at this stage it would be premature to examine in detail. He will for the present confine himself to a few general observations.

In the first place, as it appears to him, the measures advocated for the emancipation of the President (the future Commissioner) from control do not go far enough. The Corporation desires to retain in its hands larger powers than are now possessed by the corresponding authority in Bombay, and the attitude taken up is open to exception in more than one respect, notably with regard to the proposal to provide for the continuance of appeals against the orders of the President (the future Commissioner) under the general section 427 and various other sections providing for special appeals, such, for instance, as section 172 which relates to appeals against assessments, a matter dealt with in Bombay only by judicial functionaries.

Secondly, the re-adjustment of the respective powers of the Corporation and the Standing Committee will necessarily come under examination if and when the Act is amended and it will suffice to state that care will then be taken to assign to the Standing Committee as much power as possible, the main function of the Corporation being to settle general questions of policy.

Thirdly, with reference to the proposals made for the modification of the constitution of the Standing Committee and the Corporation, His Excellency the Governor in Council entertains grave doubt as to the expedience of expanding the elective element until experience has been gained of the manner in which the Corporation and the Standing Committee make use of the wider powers which it is proposed to confer upon them.

Fourthly and lastly, the amendment and consolidation of the Madras City Municipal Act, 1904, will of course eventually become necessary, but this is not the time to undertake that task. The Corporation will, however, be requested to schedule the defects which it had in view when characterizing the present enactment as "highly defective"; and they will be listed for scrutiny at the proper season together with other points which have from time to time been brought to the notice of Government.

6. These preliminary remarks narrow the issues requiring detailed discussion to the following questions:—

(i) Whether it is expedient to apply to Madras the Bombay system of (*a*) an elected Chairman presiding over the deliberations of the Corporation and assisted by a special secretariat under his own control, and (*b*) a nominated Municipal Commissioner as chief of the executive and invested with extensive statutory powers;

(ii) whether or not the Corporation of Madras should have as full powers as the Bombay Corporation now possesses;

(iii) whether concurrence should be expressed in the principle enunciated by the Royal Commission in paragraph 870 of the report, namely, that only voluntary contributions from municipal funds should be accepted in support of hospitals and dispensaries controlled by Government.

7. With reference to the first of these questions I am to state that His Excellency the Governor in Council agrees with the Corporation as to the advisability of introducing the Bombay system into Madras, whatever difference of opinion there may be in regard to the extent of control which should be exercised over the Commissioner by the Corporation and the Standing Committee.

8. As regards the next main issue, namely, whether or not the Corporation should have as full powers as the corresponding authority in Bombay, His Excellency in Council has no objection to the general emancipation of the Corporation from Government control, provided always that the Municipal Commissioner is placed in a position substantially as strong as he occupies in Bombay, but this condition is indispensable and every relaxation of control recommended in the following paragraphs of this letter must be read as subject to that qualification.

An examination of the provisions of the Madras and Bombay Acts shows that the Government of Madras at present possess numerous powers which are not reserved to the Local Government in the case of the Bombay city. These functions may conveniently be divided into two main categories, namely,—

(i) powers which His Excellency the Governor in Council considers it necessary to retain, and

(ii) powers which he is willing to relinquish with or without qualification.

Paragraphs 9 and 10 *infra* examine the various items which make up these categories and set out in detail the grounds on which His Excellency in Council advocates the retention or surrender of control.

The distribution of surrendered powers among the Corporation, the Standing Committee and the Commissioner is matter for settlement in connection with the amendment and re-enactment of the existing Municipal Act and need not now be examined.

9. The following clauses catalogue and discuss the powers which His Excellency in Council desires to retain in his own hands, the asterisks affixed to certain items indicating that the Corporation assents to the proposed continuance of Government control:—

* (*a*) *Section* 3 (6) *of the Madras City Municipal Act*, 1904—*Power to notify the limits of the city.*—The Bombay Act does not define the boundaries of the city of Bombay, but sub-section (10) of section 3 of the Bombay General Clauses Act, 1904, describes it as the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature. The Bombay Government have thus virtually the same power as the Madras Government in regard to the notification of the city boundaries, since the original civil jurisdiction of the High Court cannot be altered without their approval.

* (*b*) *Section* 3 (7) (*b*)—*Power to notify what diseases are "dangerous".*—The Corporation rightly considers it wiser to retain the elasticity of the existing provision as a safeguard against the contingency of new diseases, *e.g.*, sleeping sickness. Under section 3 (*aa*) of the Bombay Act disputes might conceivably arise as to whether the disease in issue endangered life.

(*c*) *Section* 3 (24)—*Power to declare what parts of the city are "populous".*—This definition has a bearing on—

(i) the fixation of the rate of the water and drainage tax [section 145 (1)];

(ii) the provision of water stand-pipes [section 192 (2)]; and

(iii) the licensing of cattle-sheds [proviso to section 314].

Owing to the great variations in the density of population in different parts of Madras it has apparently been thought necessary to provide for the differential treatment of populous and non-populous areas in respect of the three matters mentioned. The Corporation requests that the power to declare portions of the city to be "populous" and "non-populous" may be vested in itself. To this request His Excellency the Governor in Council cannot accede, for in his opinion there are grave objections to giving the Corporation authority to exempt particular areas from taxation and the declaration that a defined area is non-populous connotes its partial exemption from the taxation levied in the other portions of the city. Whether the distinction between populous and non-populous areas should itself be retained is another question, on which His Excellency in Council does not consider it necessary to express a final opinion at this stage. The provision of stand-pipes and the licensing of cattle-sheds in sparsely populated tracts are however minor matters which may well be left to the discretion of the Corporation.

(*d*) *Section* 5 (2) (*c*)—*Power to notify associations competent to elect members of the Corporation.*—The Corporation proposes that the associations should be specified in the Act itself instead of being named by Government. It would, however, clearly be inconvenient by statutory provision to limit the associations eligible to return Commissioners since new and influential bodies might at any time come into existence and associations once representative might cease to be so at some later date. It is, therefore, desirable to provide for the contingency of material changes in the status of such bodies and for that reason to retain in the hands of Government the power conferred on them by this section. In order, however, to make further provision for selective nomination, His Excellency the Governor in Council would prefer to increase the number of seats assigned to notified associations by transferring to that category two of the seats now reserved for representatives of the Chamber of Commerce and the Trades Association. He would, at the same time, delete the word "other" from sub-head (*c*) of sub-section (2) of section 5.

(*e*) *Sections* 13 *and* 14—*Power to appoint a special sanitary officer and fix his pay.*—This provision is much less drastic than section 434 of the Bombay Act, but as at present advised His Excellency in Council does not deem it necessary that he should be invested with powers, as in Bombay, to "take special measures" and "prescribe temporary regulations" on the outbreak of any dangerous disease. It will suffice if in that contingency or in the event of unusual mortality he retains the power to appoint a special sanitary officer to investigate and advise. He is not prepared to transfer this function to the Corporation; it is primarily intended for emergencies and cases where there is reason to apprehend that the Corporation has failed to make adequate provision for the public health.

(*f*) & (*g*) *Sections* 26 (1) (*c*) *and* 27—*Powers to enhance taxes up to the maximum rates and to direct the raising of loans in order to provide funds for the execution of work transferred to special officers owing to the serious default of the municipal authorities.*—In the case of section 26 (1) (*c*) the Corporation proposes the adoption of section 520 of the Bombay Act under which, when it becomes necessary for Government to appoint an officer to perform any duties which the municipal authorities have not discharged, the remuneration of such officer and the cost of the works which he carries out shall be defrayed from municipal funds and in the event of the failure of the Corporation to meet these expenses the Government can themselves direct the bank in which the municipal fund is lodged to pay the amount in issue. In regard to section 27 the Corporation considers it unnecessary that power should be reserved to Government to direct the raising of loans in order to provide the funds required for the execution of work neglected by the municipal authorities. His Excellency the Governor in Council regards sections 26 (1) (*c*) and 27 of the Madras Act as an indispensable concomitant of his right to intervene when the Corporation makes serious default in the performance of its administrative functions, and he cannot consent to any modification of the existing position, which, he observes, corresponds to the arrangement sanctioned in Calcutta by section 24 of the Calcutta Municipal Act, 1899.

(*h*) *Section* 28—*Power to approve of projects costing more than a specified amount.*—The Corporation advocates the entire abolition of this provision, thus going further than Sir Herbert Risley, who, in his evidence before the Royal Commission, merely recommended the enhancement of the present monetary limit, but not its complete abrogation. Projects of such magnitude as the general drainage scheme and the distributary arrangements for the water-supply, which are now being worked out, should, in the opinion of His Excellency the Governor in Council, be compulsorily subject to superior expert scrutiny. In the case of Provincial works the powers of the Local Government in regard to sanction are limited by paragraph 1925 of the Public Works Department Code, and a similar restriction is clearly expedient in the case of important municipal projects. His Excellency in Council would, however, be prepared to raise, from one to two and a half lakhs, the monetary limit within which the Corporation can sanction the execution of works without any external control. He would, at the same time, dispense with any reference to Government in respect to minor variations in estimates once sanctioned.

(*i*) *Section* 58 (1) & (2)—*Power to control the employment and emoluments of permanent and temporary servants.*—While unable to accede to the request of the Corporation that the Government should divest themselves of this power of control, His Excellency in Council considers that it will suffice to retain the right to veto the creation of appointments carrying salaries of Rs. 250 and upwards *per mensem*.

(*j*) *Section* 60—*Power to grant leave to the Commissioner.*—The Corporation proposes on the analogy of section 59 (1) (*a*) of the Bombay Act to prescribe the "consent" of the Standing Committee as a condition of the grant of leave to the Commissioner. There is no objection to the Standing Committee being "consulted" in the matter, but the ultimate decision as to the grant of leave must remain in the hands of Government in order to prevent the possibility of the Committee's misusing its power for the purpose of harassing a Commissioner with whom relations are strained.

* (*k*) *Section* 90 (1)—*Power to sanction the deposit of the Corporation funds in any bank other than the Bank of Madras or to invest the same in securities.*—There

does not appear sufficient reason to introduce the Bombay system under which the Standing Committee can, under section 114 of the local Act, authorize the deposit of the municipal fund with any bank or agency outside Bombay City.

(*l*) & (*m*) *Sections* 110 *and* 114—*Powers to appoint auditors and to determine their remuneration.*—The Corporation desires as in Bombay to have the power of appointing its own auditors. The local conditions are, however, radically different. There is a far wider choice of chartered accountants in Bombay and the proportion of capable business-men on the Corporation and Standing Committee is normally higher than in Madras, where the need for a stringent audit by an independent agency is consequently greater. His Excellency the Governor in Council is therefore unwilling to relax the financial control secured by sections 110 and 114 of the Madras Act and to rely solely on occasional audits such as are allowed by section 138 of the Bombay Act. Such special audits would not serve as an effectual *preventive* of laxity and confusion in the keeping of accounts, for they would seldom be directed unless there was reason to believe that the arrangements made by the Corporation had proved inadequate—in other words, *after* the accounts had fallen into disorder.

(*n*) *Section* 116—*Power to approve taxation.*—In Bombay under section 128 (1) of the local Act the Corporation itself determines every year in connection with the annual budget the taxes and their rates and the articles on which the town duties are to be imposed. The Corporation of Madras desires similar powers, but His Excellency the Governor in Council is not prepared to accede to this request. He regards it as essential that his specific approval should be required for the levy of any one of the taxes and tolls specified in section 115 of the Madras Act. He would, however, be willing to prescribe in the Act itself minimum and maximum rates of taxation and to leave it to the Corporation to fix without reference to higher authority the particular rates within such limits at which the taxes should be levied in each year.

* (*o*) & (*p*) *Sections* 200 *and* 202 (*b*)—*Powers to sanction the construction of water-works outside the city and the exercise, by the Corporation, of statutory powers of control in respect of such works.*—The Corporation itself does not consider any change in the existing provision necessary and it is clearly undesirable to allow a municipal authority to exercise statutory powers over areas outside its control without the previous permission of Government.

* (*q*) *Section* 210—*Power to compel a railway company to raise or lower its lines for the passage of trains.*—The intervention of Government is requisite in order to prevent the possibility of acrimonious controversy between the Corporation and railway companies. A superior and impartial authority should decide disputes in matters of this kind.

* (*r*) *Section* 374—*Power to declare vaccination compulsory and to approve by-laws on the subject.*—Vaccination having been compulsory throughout the city since 1884 might safely be declared so in a substantive section of the Act, but by-laws on such a subject should certainly not be promulgated without the approval of Government.

* (*s*) *Section* 404—*Power to sanction the construction or lease of railway lines.*—This is obviously a matter for control by Government.

(*t*) & (*u*) *Section* 406 (2) & (3)—*Power to sanction the lease and sale of land vesting in the Corporation.*—While there is no objection to the Corporation's dealing at its pleasure with immovable property which it has acquired by purchase or gift, the case of land vesting in the Corporation under the Act and held in trust for municipal purposes needs different treatment. At present under section 406 (3) all sales of such land and under section 406 (2) leases for terms beyond three years require the sanction of Government. As the Corporation occupies the position of a trustee, it is necessary that sales should continue to be subject to Government sanction, but on the analogy of section 36 of the Indian Trusts Act, 1882, the period of lease permissible without reference to higher authority may be extended to 21 years. The reason for the differential treatment of immovable property acquired by purchase or gift and vested land such as the public streets (*vide* section 228) lies in the legal proposition that such vesting is limited in nature and that the land, if no longer required for the purpose for which it originally vested in the Corporation, reverts to Government, who alone have the power to dispose of it.

(*v*) *Sections* 409 and 411—*Powers in respect of by-laws.*—Under section 409 the Local Government have power to direct that the Corporation shall make by-laws for carrying out the purposes of the Act, and under section 411 no by-law, whether made in pursuance of such a direction or on the initiative of the Corporation, is valid unless and until it has been sanctioned by the Local Government. The Corporation proposes (i) to abrogate the directory powers of Government altogether and (ii) to dispense with the sanction of Government in regard to by-laws dealing with all subjects except a few items of special importance. To the first proposition His Excellency the Governor in Council assents, but the extent to which Government control can safely be relaxed in regard to the approval of by-laws is matter for detailed consideration if and when amending legislation is undertaken. It would be premature at this stage to examine the numerous issues raised by the Corporation.

(*w*) *Section* 413—*Power to make rules—*

(i) regarding the manner of election or appointment of Commissioners;
(ii) regarding the manner of election of the Standing Committee; and
(iii) modifying the schedules relating to—

(a) the boundaries of divisions,
(b) the building rules,
(c) the forms of registers of births and deaths, and
*(d) * the boundaries of the Esplanade.*

As regards the election of Commissioners and members of the Standing Committee, the Corporation wishes that "the provisions of the Bombay Act should "be adopted," but does not appear to have devoted sufficient consideration to the point in issue. Sections 5 and 8 of the Madras enactment contain the substantive law on the subject and no rules under section 413 can over-ride those provisions. It is obviously desirable *either* (*a*) to provide in the Act itself for the settlement of questions of procedure at elections, *or* (*b*) to relegate this matter to rules under the Act. The latter plan has the advantage of greater elasticity, and rules of the character required should clearly be framed by some external authority. The only possible authority is the Local Government, which must, therefore, retain its rule-making powers unless and until the Act is so amended as to regulate in detail the procedure at elections.

The Corporation is similarly anxious to invoke the Bombay law with reference to the revision of divisional boundaries, but apparently does not appreciate the fact that there is no substantial difference between the Bombay and Madras provisions bearing on this question. Under section 24 (2) of the Bombay Act the sanction of the Local Government is a necessary preliminary to any alteration in boundaries, though the initiative rests with the Corporation. In Madras the Local Government may take the initiative by framing a draft rule under section 413 (2), but before the modification can be confirmed, the Corporation must be consulted under section 414 (*a*). In these circumstances His Excellency the Governor in Council sees no reason to give up the rule-making powers which he now possesses in regard to this matter.

Nor can he accede to the request of the Corporation for power to modify the building rules and the registers of vital statistics. These are matters of such importance either to the general public or for sanitary and statistical purposes that they cannot properly be left in the hands of the Corporation. The same view of the case, it may be observed, is taken in Bombay, where the building rules are embodied in substantive sections of the local Act (Chapter XII) and the form of the registers of vital statistics is similarly settled (section 444).

The boundaries of the Esplanade, which adjoins Fort St. George, have been fixed on military grounds, and the Corporation itself does not desire any change in the present procedure, which rightly reserves to the Local Government the power to modify the existing limits.

(*x*) *Section* 425 (3)—*Power to penalize municipal servants for withdrawing from service without notice.*—The Corporation considers that this provision may be omitted. Under sub-section (2) of section 425 municipal scavengers are always liable to penalty if they withdraw from service without notice, and under sub-section (3)

the Local Government has authority to extend similar penalties to other classes of servants. This reserve of power might be invaluable in emergencies and should not lightly be given up.

* (*y*) *Section* 464—*Power to invest municipal servants with police powers.*—The grant of police powers to municipal servants is obviously a matter for the discretion of Government.

* (*z*) *Section* 471—*Power to permit the construction of buildings on the Esplanade.*—The Esplanade is under the control of the Military Department and with reference to the instructions of the Government of India in their letter No. 1113 M.W., dated 15th April 1902, power was expressly taken to prescribe the sanction of the Local Government and the Government of India as an antecedent to the construction of any buildings thereon.

10. The powers which it is considered may be abolished or transferred are summarized and briefly examined in the following clauses, which set out such qualifications as it is deemed necessary to attach to the proposed abolition or transfer :—

(1) *Section* 3 (8) & (22)—*Powers to declare what trades are dangerous and what are offensive.*—The Corporation is anxious that these powers should be transferred to itself. His Excellency in Council does not desire to retain them, but would prefer that they should vest in the Commissioner, who is less likely than the Corporation to be amenable to pressure from interested traders.

(2) *Section* 10—*Power to fix the salary of the President (Commissioner) without reference to the Corporation.*—Under this section the Local Government now have absolute discretion to fix the salary and allowances of the "President". Section 57 of the Bombay Act makes the assent of the Corporation necessary if it is proposed to fix the emoluments of the Commissioner at a sum exceeding Rs. 2,500 *per mensem*. The Corporation of Madras desires the introduction of a similar restriction, but would fix the limit at Rs. 2,000. His Excellency the Governor in Council does not demur to this proposal.

(3) *Section* 12 (1)—*Power to appoint the revenue officer, the health officer and the engineer.*—The Corporation suggests that as in Bombay (section 74) these appointments should merely be subject to confirmation by Government. His Excellency the Governor in Council accepts this suggestion. The same arrangement should, he considers, apply to the case of all officers in receipt of a salary of Rs. 1,000 *per mensem* or upwards.

(4) *Sections* 12 (2) *and* 413 (1)—*Power to fix the emoluments of the same officers and to frame rules regarding their pensionary claims.*—The Corporation asks for power itself to fix the salaries of these officers subject to defined *maxima* and proposes to retain the existing rules as to pensions and gratuities. His Excellency in Council considers that *minima* as well as *maxima* should be prescribed, but is ready to give the Corporation full liberty to fix salaries within the prescribed limits. Pensions and gratuities are now regulated by the Civil Service Regulations, which may suitably continue to be applied without formal confirmation by Government.

(5) *Section* 12 (4)—*Power to remove the same officers.*—The Corporation proposes to eliminate all intervention on the part of Government and to retain its own power subject to the modification that the number of votes required to carry a resolution directing the removal of any such officer shall be reduced from 28 to two-thirds of the strength of the Corporation or 24. His Excellency in Council accepts this suggestion.

(6) *Section* 15 (2)—*Power to decide questions of doubt as to the authority to exercise any particular function.*—The Corporation recommends the adoption of the provisions of the Bombay Act [section 64 (3) (*b*)], under which this power is vested in the Commissioner except in the case of the municipal secretary and his staff, whose duties are prescribed by the Standing Committee and the Corporation. So far as the executive is concerned, the Commissioner should certainly be the final authority. The respective functions of the Corporation, the Standing Committee and the Commissioner should be explicitly defined in the Act itself.

(7) *Section* 16 (2)—*Power to approve rules for the interpellation of the President.*—The Corporation asks for this power, but does not appear sufficiently to have considered the change in the status of the "President" which is involved

by the adoption of the Bombay system of an elected Chairman and nominated official Commissioner. Necessary corollaries of that measure are the enactment of substantive provisions corresponding to section 66 of the Bombay Act and the entire abolition of the power of interpellation. There is no object in interpellating the Chairman, and the Commissioner must be adequately protected from continual harassment by vexatious questions regarding the *minutiæ* of executive work. Individual members ought not to have the power of interrogation, but subject to the safeguards provided in the Bombay Act the Corporation should be in a position to require the Commissioner to produce records and furnish returns and reports.

(8) *Section* 39—*Power to fix the time and place of elections.*—This may well be left to the Commissioner as in Bombay under section 25 of the local Act.

(9) *Section* 42—*Power to appoint Commissioners (i.e., members of the Corporation) in default of election.*—Under section 34 of the Bombay Act, if an election fails, the retiring councillor is deemed to be re-elected when willing to serve, or failing this arrangement the Corporation may itself make an appointment to the vacancy. The same system is desired by the Madras Corporation, and His Excellency the Governor in Council does not demur to its introduction.

(10) *Section* 53—*Power to appoint temporary Commissioners.*—The Corporation considers that this provision may be omitted. His Excellency in Council would prefer the Bombay plan of holding triennial general elections in January and February [section 22 (1)] in advance of the compulsory retirement of existing members on the 1st April following (section 7). Where elections are thus made before the vacancies occur, there is no need for any provision corresponding to section 53 of the Madras Act. Failing the introduction of the Bombay system, some expedient is necessary to provide in exceptional cases that a quorum shall be available, and the simplest method would seem to be the enactment of a proviso empowering Government to over-ride section 56 and authorize the temporary continuance in office of members whose three-year term has expired.

(11) *Section* 58 (3)—*Power to control the punishment of municipal servants.*—His Excellency the Governor in Council does not desire to retain any control over the disciplinary powers of the chief of the executive.

(12) *Sections* 60 *and* 62—*Power to grant leave to the engineer and the revenue and health officers and to appoint acting incumbents.*—The Corporation proposes to introduce the Bombay system, under which (i) the Commissioner can himself grant leave for periods not exceeding one month and the Standing Committee for longer periods (section 84), (ii) the authority granting the leave has general power to appoint the substitute subject to approval by the Corporation in the case of absences exceeding one month and with a reservation empowering Government in the same case to disallow the acting appointment (section 85), and (iii) the remuneration to be paid to acting incumbents is determined by regulations framed by the Standing Committee and the Corporation [section 81 (1) (*d*)]. His Excellency the Governor in Council accepts this proposal so far as regards the authority empowered to grant leave but considers that the period of leave and the amount of leave and acting allowances should be determined by the Civil Service Regulations.

(13) *Section* 64—*Power to make rules in regard to the security, leave and acting allowances of municipal servants and thet esablishment of provident funds.*—In Bombay the Local Government intervenes only in regard to pensions and gratuities [section 81 (1) (*f*) and (2)]. His Excellency in Council does not consider it necessary to insist on further control in Madras, where there is at present no provident fund, but in his opinion leave and leave allowances should be regulated by the Civil Service Regulations.

(14) *Sections* 65 (2) & 12 (3)—*Power to fix pensionary contributions payable on account of Government servants lent to the Corporation.*—In this case the Corporation itself accepts the application of the Civil Service Regulations or other rules for the time being in force and express provision may be made accordingly when the Act is amended.

(15) *Section* 66 (2) (*e*)—*Power to approve of contracts exceeding one lakh of rupees.*—In item (*h*) of paragraph 9 *supra* it has been proposed to retain control over estimates for works costing more than 2½ lakhs. If the settlement of

contracts vests in the Standing Committee as proposed by the Corporation, the sanction of Government may be dispensed with whatever the amount of the contract, provided that care is taken to ensure the constitution of the Standing Committee on a sound basis.

(16) & (17) *Section* 89 (1) (*a*) & (*b*) & (2)—*Powers to sanction voluntary, or to direct compulsory, contributions towards expenditure incurred by a local body and likely to benefit residents in Madras city.*—These powers were newly introduced by the amending Act of 1904 and have not yet been exercised. If the contribution is voluntary, no sanction is necessary, and if it is compulsory, the intervention of Government will be regarded as vexatious interference. There are no corresponding provisions in Bombay or Calcutta, and His Excellency the Governor in Council agrees with the Corporation that such powers of control are not required in Madras.

(18) *to* (20) *Sections* 91 (4), 92, 93, 95 (1), 95 (2) *and* 97 (1)—*Budget control, viz., the following powers :—*

(i) *Power to fix—*

(*a*) *the month for the scrutiny of the budget by the Standing Committee,*
(*b*) *the date for its submission to the Corporation,*
(*c*) *the month for its scrutiny by the Corporation, and*
(*d*) *the date of its submission to Government,*

(ii) *Power to modify the budget ; and*
(iii) *Power to approve subsequent alterations in the budget.*

All these powers go together. Their relinquishment involves an important change in policy, but His Excellency in Council considers that the time has come to allow the Corporation, as in Bombay and Calcutta, to manage its own finances. The sole restrictions upon which he deemed it necessary to insist are—

(*a*) that there shall be a minimum balance prescribed by law ;
(*b*) that the payment of all loan charges shall be obligatory ;
(*c*) that the Director of Public Instruction, the Sanitary Commissioner and the Surgeon-General shall be consulted with regard to the provision to be entered in the budget for the services in which they are interested ;
(*d*) that a copy of the budget shall be submitted to Government by a fixed date not later than the 31st March in each year so as to provide an opportunity of tendering advice.

(21) & (22) *Sections* 104 *and* 107)—*Powers in respect of the re-payment of loans.*—The Local Government now has power to fix the sinking fund payments on account of debenture loans and the Government of India may prescribe the terms of consolidated loans including special extensions of the period of re-payment in the latter case. In the Bombay Act section 107 reserves complete control in respect of Government loans, while section 109 (*c*) authorizes the Local Government with the sanction of the Government of India to determine the period of other loans. These restrictions, as it appears to the Governor in Council, provide all the control reasonably necessary. There is no reason why the Corporation should not settle with the lender all other terms relating to private loans. It should, however, be made plain that there must be no variation in the terms of private loans already contracted and that it is competent to the Government of India to prescribe the season of the year at which new private loans may be floated.

(23) *Section* 145 (1)—*Power to exempt local areas from water and drainage tax.*—The Corporation proposes the adoption of the Bombay system of levying water-tax only in respect of premises which are or can be served by the water-supply system. The financial consequences of such a measure have, however, not been examined, and in view of the indirect benefits derived from a partial system of water-supply or drainage in areas not directly commanded by it His Excelleney the Governor in Council would prefer altogether to abolish differential rates and local exemptions.

(24) *Section* 148 (1)—*Power to make local exemptions from the lighting tax.*—This power of control may safely be surrendered. The Corporation is unlikely to disregard considerations of equity so far as to grant exemptions in

favour of areas which are benefited by the lighting arrangements in force. The case is different from that of the water and drainage tax, where the inhabitants of a ward which is neither drained nor supplied with water nevertheless derive indirect advantages from the grant of such facilities to adjoining wards and where financial considerations may make it necessary for the whole community to contribute towards the cost of partial schemes.

(25) *Section* 230 (1) (*c*)—*Power permanently to close streets.*—This power, which is exercised by the Corporations in Bombay [section 289 (3)] and Calcutta (section 354), and by *mufassal* municipalities in this Presidency [section 158 (1)], is not likely to be misused by the Corporation of Madras and may be surrendered.

(26) *Section* 232 (2)—*Power to improve streets by acquiring properties outside the regular alignment.*—If such acquisitions cannot be arranged by private negotiation the sanction of Government will be requisite in order to put in force the Land Acquisition Act, 1894. This special procedure has been commended to the Corporation for general adoption, but need not be enforced as an invariable rule. If recourse is not had to it, there is no sufficient reason to prescribe the sanction of Government, which may accordingly be dispensed with.

(27) *Section* 261 (4)—*Power to sanction the prescription of certain classes of buildings in streets.*—Sub-sections (2) and (3) of this section provide for the presentation and consideration of objections, and the probabilities are that the rules laid down by the Corporation will err on the side of weakness rather than strength. On this ground Government control may be waived.

(28) *Section* 290 (1) (*c*)—*Power to approve the means of lighting.*—The agency by which the public streets shall be lighted is a matter for municipal control. Plenty of pressure will be put upon the Corporation to adopt efficient means, and the only risk is that general funds may be diverted for the upkeep of lighting in lieu of recourse to the levy or enhancement of the special lighting tax. This, however, is the financial aspect of the question, and if it be decided to give up control over the budget, Government intervention should not be retained in this special case. If the lighting arrangements became wholly inadequate, interference would be permissible under sections 24 to 27. Government control may therefore be dispensed with.

(29) *Section* 311—*Power to prohibit fishing in rivers and estuaries.*—So far as sections 270 and 388 (*d*) of the Bombay Act provide corresponding powers, they vest in the Commissioner. In Madras the Government have recently prohibited fishing in the Cooum at the instance of the Corporation and it is improbable that any serious controversy will arise in the future in regard to the further exercise of these prohibitory powers, which may therefore be transferred to the Corporation.

(30) *Section* 337—*Power to sanction the provision of public markets.*—This power finds no place in the Bombay (section 399) or Calcutta (section 477) Acts, nor in the Madras District Municipalities Act, and there is no reason to limit the initiative of the Corporation of Madras.

(31) *Section* 338—*Power to sanction the acquisition or appropriation of land for public markets.*—It is similarly unnecessary to insist upon Government control in this case, though if recourse be had to the Land Acquisition Act, 1894, Government sanction will *ipso facto* be requisite.

(32) *Section* 362—*Power to compel the Corporation to construct or contribute towards hospitals for infectious diseases.*—In the Bombay Act sections 421 to 434 embody provisions for the prevention of dangerous diseases, of which the most important is the plenary power given by section 434 to the Commissioner but exercisable only with the sanction of Government. The maintenance of hospitals is not a municipal charge in Bombay, but finds place in Schedule IV-B of the Madras Act ; it would therefore be open to Government to exercise their general powers of intervention under sections 25 to 27, if there were serious default in regard to the provision of hospitals for the treatment of infectious diseases. The special power provided by section 362 may be relinquished.

(33) *Section* 387 (3) (*a*)—*Power to sanction or refuse licenses for new burial-grounds.*—The Bombay Act (section 437) leaves the initiative to the Commissioner but prescribes the approval of the Corporation. The same plan may be followed

in Madras, if supplemented by a section corresponding to section 439 of the Bombay Act requiring Government approval for the unusual course of re-opening a closed burial-ground.

(34) *Section* 395—*Power to sanction the provision of burial-grounds within or without the city.*—This matter may be left to the discretion of the Corporation. There is no need for Government to retain any powers of control.

(35) *Section* 426 (2)—*Power to sanction the rates of license fees.*—In Bombay and Calcutta the Corporation is the sanctioning authority, and in *mufassal* municipalities in this Presidency the power to fix license fees has, except in a few specified cases, recently been delegated to Collectors. His Excellency the Governor in Council seldom has occasion to modify the proposals of the Corporation of Madras in this respect and sees no necessity for the retention of the present power of control.

11. A minor point raised by the Corporation relates to section 88 of the local enactment which prescribes the previous sanction of Government for any contribution from municipal funds towards the expenses of any public exhibition, ceremony or entertainment in the city of Madras. A similar restriction is to be found in section 63 (*l*) of the Bombay Act, but His Excellency in Council agrees with the Corporation that in such matters Government control is unnecessary and may be dispensed with.

12. It now remains only to consider the third and last recommendation of the Royal Commission, viz., that *where hospitals and educational institutions are controlled by Government, the Corporation should contribute thereto only as a matter of voluntary agreement.* His Excellency the Governor in Council accepts the soundness of the principle that control and payment should go hand in hand upon which this recommendation is based. At present the Corporation of Madras makes no contribution in aid of educational institutions maintained by Government, but it pays a lump sum of Rs. 20,000, fixed by Government in 1880, in consideration of the benefits accruing to the residents of Madras from the large head-quarter hospitals maintained by Government. The propriety of waiving this contribution was recently considered with the result that its continuance was confirmed. The Corporation does not offer any remarks on this recommendation, and is apparently willing to continue the contribution.

13. In conclusion, I am to request the favour of an early expression of the views of the Government of India on the matters in issue in order that steps may be taken to amend the existing law so as to permit of the introduction of the measures of decentralization considered expedient.

I have the honour to be,

Sir,

Your most obedient servant,

L. DAVIDSON,
Ag. Secretary to Government.

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O. Nos. 1680–81 M., DATED 12TH OCTOBER 1911.

[SUBJECT.—*Recommendations of the Royal Commission on Decentralization relating to the Presidency municipalities.*]

From Sir Harold Stuart, I.C.S., K.C.V.O., C.S.I., Secretary to the Government of India, Home Department, dated 17th July 1909, *No.* 126.

The Government of India request to be favoured with the views of this Government on the proposals of the Royal Commission on Decentralization relating to the Presidency municipalities. Paragraphs 864 to 870 of the report deal with this subject. The specific recommendations of the Commission are as follows :—

(i) That the Bombay system of a nominated official Commissioner, with an elected Chairman of the Corporation should be introduced in the place of a nominated official Chairman ;

(ii) that all the Presidency Corporations should have as full powers as the Bombay City now possesses ; and

(iii) that where it is considered expedient that hospitals and educational institutions should be controlled by Government, the municipality should not contribute thereto except as a matter of voluntary agreement.

2. Taking the first recommendation, it is submitted that in the City of Bombay, the elected Chairman of the Corporation is the presiding member and the official mouthpiece of the Corporation, while the entire executive administration is vested in a full-time official (the Commissioner) who has no seat on the Corporation and no vote at its meetings and is subject to the general control of the Corporation and of the Standing Committee. The suggestion to extend the system to other Presidency municipalities was taken from the following evidence of Sir Herbert Risley before the Commission :—

Vide Questions 34781—34784 on page 113 of Vol. VIII of the Minutes of Evidence (Bombay).

Question 45719 on page 176 of Vol. X of the Minutes of Evidence [Witnesses serving directly under the Government of India].

"The Bombay system is infinitely the best. I wished to introduce it when "the Calcutta Act was amended in 1898, but the Lieutenant-Governor took a different "view. I wanted to draft an Act on those lines for Calcutta ; I wanted to have a "large deliberative body of Commissioners who would discuss general principles and "large schemes, which would elect their own President, with what they call in "Bombay a Standing Committee, which would be an executive body of 12 or 15, "with a Municipal Commissioner as the general administrator. The Municipal "Commissioner, if I remember right, gets his budget and has well-defined powers, "which he exercises on the whole without interference from the Corporation in "matters of detail."

3. In commending the Bombay system, the Royal Commission observe that the Bombay method, while keeping the executive power in the hands of an experienced official, provides a dignified post as a reward for, and an incentive to, public spirit and interest in municipal affairs. The Commission also recommend the introduction of the same system in the case of district municipalities with a population of 100,000 and upwards.

Paragraph 869 on page 285 of Vol. I
,, 848 ,, ,, 280 of ,,

4. Even under the Madras system the entire executive power * is in the hands of the nominated official—the President—section 20 of the Madras City Municipal Act. The only difference is in respect of the head of the deliberative body. In Bombay it is vested in a member of the Corporation chosen by them, while in Madras it is in the President himself. There does not seem to be any great objection to the adoption of the Bombay system in Madras. The Commissioner in Bombay is not bound by the provisions of the Act to be present at the meetings of the Corporation, though Mr. Sheppard, the present Commissioner of Bombay, admitted before the Commission that he was usually present. If the Bombay system is adopted, a separate Secretary as in Bombay will perhaps be necessary to have the custody of all papers and documents connected with the proceedings of the Corporation and the Standing Committee. In Bombay, the pay of the Secretary is between Rs. 700 to Rs. 1,200—section 77 of the Act.

* Subject to the sanction of the Corporation or the Standing Committee as the case may be whenever it is expressly so directed in the Act, and to all other restrictions, limitations and conditions imposed therein.

P. T. THARYAN—14-3-10.

Section 37 of the Bombay Act.

L. DAVIDSON—5-6-11.

Question 34782–83 on page 113 of Vol. VIII.

Yes.

L. DAVIDSON—5-6-11.

5. As regards the recommendation that the Presidency Corporations should have as full powers as the Bombay Corporation, the Commission point out that the control exercised over the Corporation in Madras is far more stringent than in other Presidency towns, that its budget and any deviation therefrom require Government sanction, as also the levy of municipal taxes, the exemption of areas from water, drainage or lighting taxes, the construction of water-works and the acquisition of land for streets and the like and that complaints have been made as to these restrictions.

Paragraph 867 on page 285 of Vol. I.

6. In examining this proposal in relation to the Corporation of Madras, it appears to be necessary to compare the powers vested in Government under the Bombay City Municipal Act, 1888, and under the Madras City Municipal Act, 1904, to see in what respects excessive control is exercised in Madras. This has been done. It is observed that, while there are a large number of powers which the Government possess over the Corporation in Madras, with no corresponding powers in the Bombay Act, there are still some powers of Government in the latter Act, which in Madras are not exercised by that authority. A separate list of these latter powers is kept in the file. It will be seen therefrom that most of the powers are peculiar to the system of municipal administration in that city and can have no application to Madras. The list of the powers of Government in the Madras Act which have no counterpart in Bombay will be given below and each item will be examined to see whether the power referred to therein can safely be surrendered.

7. The following is the list of powers possessed by the Government in Madras which the Bombay Government have not reserved to themselves in regard to Bombay :—

No.	Section.	
		Preliminary.
(1)	3 (6)	Power to notify the limits of the city.
(2)	3 (7) (*b*)	Power to notify what diseases are dangerous diseases.
(3)	3 (8)	Power to declare what trades are dangerous.
(4)	3 (22)	Power to declare what trades are offensive.
(5)	3 (24)	Power to declare what are populous parts of the city.
		Constitution and general control.
(6)	5 (2) (*c*)	Power to notify associations other than the Chamber of Commerce and the Trades Association that should elect two of the Commissioners.
(7)	39	Power to fix the time and place of elections.
(8)	42	Power to appoint Commissioners in default of elections.
(9)	53	Power to appoint temporary Commissioners.
(10)	26 (1) (*c*)	Power to raise taxes up to the maximum rates to pay the remuneration of officers appointed to perform duties not performed by the municipal authority.

No.	Section.	
		Constitution and general control—cont.
(11)	27	Power to direct the raising of loans to provide funds for carrying out works neglected by municipal authorities.
(12)	89 (1) (*a*)	Power to sanction contribution towards expenditure incurred by a local body but likely to benefit the inhabitants of the city.
(13)	89 (1) (*b*)	Power to call on the Corporation why it should not contribute towards expenses incurred by a local body likely to benefit the city.
(14)	89 (2)	Power to direct the payment of contribution referred to above.
(15)	90 (1)	Power to sanction the deposit of Corporation funds in any bank other than the Bank of Madras or to invest the same in securities.
(16)	110	Power to appoint auditors.
(17)	114	Power to determine remuneration to auditors.
(18)	230 (1) (*c*)	Power to close a street or part of it permanently.
(19)	261 (4)	Power to sanction the prescribing of certain classes of buildings in specified streets.
		* *Establishment.*
(20)	12 (1)	Power to appoint the revenue officer, the health officer, and the Engineer.
(21)	12 (2) & 413	Power to fix their salaries and allowances and frame rules to regulate their pensions, etc.
(22)	12 (4)	Power to remove the Revenue Officer, the Engineer and the Health Officer.
(23)	60 & 62	Power to grant leave to the Revenue Officer, the Health Officer and the Engineer, appoint acting incumbents and fix their salaries and allowances.
(24)	13 & 14	Power to appoint a Special Sanitary Officer and fix his pay.
(25)	15 (2)	Power to decide questions of doubt as to the authority to exercise any particular function.
(26)	58 (1) & (2)	Power to control the employment of permanent and temporary servants and the payment of salaries and allowances to them.
(27)	58 (3)	Power to control the punishment of municipal servants.
(28)	12 (3) & 65 (2)	Power to determine the pensionary contributions payable on account of Government servants lent for employment.
(29)	425 (3)	Power to apply to other classes of municipal servants subsections (1) and (2) imposing a penalty on scavengers for withdrawing without notice.
		Budget.
(30)	91 (4)	Power to fix the month of the budget meeting of the Standing Committee.
(31)	92	Power to fix the date for the submission of the budget to the Corporation.
(32)	93	Power to fix the month of the budget meeting of the Corporation.
(33)	95 (1)	Power to fix the date of submission of the budget to Government.
(34)	95 (2)	Power to modify the budget.
(35)	97 (1)	Power to approve of alterations in the sanctioned budget or make rules for the alterations of sanctioned budget.
		Taxes and fees.
(36)	116	Power to approve the rate of taxes to be levied in each official year.
(37)	145 (1)	Power to exempt any local area from the payment of water and drainage tax.
(38)	148 (1)	Power to exempt any division or part from the payment of the lighting tax.
(39)	426 (2)	Power to sanction fees for licenses.

* The powers in regard to the President are omitted from this list as they go with the proposal to have an elected non-official Chairman.

No.	Section.	
		Loans.
(40)	104	Power to fix the amount of payments into sinking fund for the repayment of money borrowed on debentures.
(41)	107 (2)	Power to fix the terms, the form, scrip and terms of exchange of consolidated loans.
(42)	107 (3)	Power to extend period of repayment of consolidated loan to date beyond the farthest of the loans consolidated.
		Public works.
(43)	28	Power to approve of projects costing over a lakh of rupees and of modifications in them after approval.
(44)	66 (2) (*e*)	Power to approve of contracts involving expenditure of over one lakh of rupees.
(45)	200	Power to sanction the construction of water-works, etc., without the limits of the city.
(46)	202 (*b*)	Power to sanction the exercise by the Corporation of its powers under the Act over lakes or reservoirs supplying water to the town situated beyond the limits of the city.
(47)	210	Power to require on the application of the Corporation, a Railway Company to raise or lower its line for the passage of drains.
(48)	232 (2)	Power to sanction the acquisition of any land (and building) outside the alignment of the street for the improvement of streets.
		Rules and By-laws.
(49)	16 (2)	Power to approve rules for the interpellation of the President.
(50)	64	Power to sanction rules for fixing the amount of security to be furnished by municipal servants, for granting leave and leave allowance and acting allowance and for establishing and maintaining Provident funds.
(51)	374	Power to declare vaccination compulsory and to approve by-laws relating to vaccination.
(52)	409	Power to direct the Corporation to frame by-laws.
(53)	413	Power to make rules for the Corporation.
		Medical and Sanitation, etc.
(54)	311	Power to sanction the prohibition of fishing in any river or estuary.
(55)	362	Power to require the Corporation to construct hospitals for the treatment of infectious diseases or to contribute towards the cost of such public hospitals.
(56)	387 (3) (*a*)	Power to sanction the grant or refusal of a license for new burial-grounds.
(57)	395	Power to sanction the provision of burial-grounds within or without the city.
		Other Items.
(58)	290 (1) (*c*)	Power to approve of the means of lighting.
(59)	337	Power to sanction the provision of public markets.
(60)	338	Power to sanction the acquisition or appropriation of lands for public markets.
(61)	404	Power to sanction the construction or lease of railways in or outside the city.
(62)	406 (2)	Power to sanction leases of lands for over three years.
(63)	406 (3)	Power to sanction the sale of municipal land.
(64)	464	Power to empower municipal servants to exercise the powers of police officers.
(65)	471	Power to permit the construction of buildings on the Esplanade.

8. The surrender of all the powers in the above list will completely remove the effective control which is now being exercised over the Corporation. There is no doubt power in the Madras Act for the interference of Government when municipal matters are grossly mismanaged. The Government in Bombay relies on only

Vide sections 24 to 27 of the Madras Act.

similar power in that Act (section 518) for the control of the Corporation. The Royal Commission is apparently of opinion that this power is a sufficient safeguard for a Presidency Corporation. The recommendations of the Royal Commission in respect of district municipalities are almost identical with those now made in regard to Presidency Corporations. In dealing with the former, the Secretary * and the Honourable Member considered that the complete surrender of outside control contemplated by the Commission would be too far-reaching and hazardous. But a distinction should be made between district municipalities and Presidency Corporations especially as in the case of the latter, there is a standing instance of the Corporation of Bombay actually carrying on its work without this strict outside control and apparently yet with no reproach of inefficiency or incapacity. Whatever may be the view taken in regard to the surrender of the powers relating to other matters, the relinquishment of the control over taxation and establishment seems to require serious consideration in the case of Madras. With the numerous schemes for the improvement of the City in progress and in contemplation, the necessity for expanding the resources of the Corporation is becoming more and more pressing. In view of the large extent to which the Government are helping the Corporation in financing the schemes by way of loans and grants, it is necessary to watch that the Corporation realizes its responsibilities in the matter and husbands its resources with the greatest care possible. Freedom in respect of taxation involves power to reduce the rates of the taxes. Judging from the usual tendency of the local bodies in this matter, it would obviously be undesirable to relax the control in this respect to any the slightest extent. Similarly, in the matter of establishments, the Corporation, it is submitted, should not be given a free hand The fact that till lately the Government had to largely revise the proposals of the Corporation in the matter is an indication of the absence of judicious exercise of its powers. Where possible, the Government themselves have recognized the advisability of giving larger powers to the Corporation in the matter of establishments. Perhaps a gradual further extension of these powers would be sufficient, but a wholesale relaxation of control in this matter seems rather risky All the powers noted in the foregoing paragraph are dealt with below *seriatim*, in the order of the sections :—

* Mr. W. Francis.

Paragraphs 5–7 on pages 5–7 of notes with letter No. 1545 M., dated 30th September 1910.

Vide G.O. No. 1394 M., dated 10th July 1907, and paragraph 8 of G.O. No. 838 M., dated 24th May 1909.

G.Os. No. 218 M., dated 17th February 1909, and No. 1058 M., dated 8th July 1909.

No. (1)—Section 3 (6).— *Power to notify the limits of the city.*

Office-note.

9. Section 3 (6) of the Madras City Municipal Act, 1904, defines " the City of Madras " as such area as may be declared by the Local Government by notification to be the City of Madras. The limits of the City were fixed by the notification in G.O. No. 1, Financial, dated 1st January 1879, and have not undergone any alteration since. The Bombay Act does not contain any definition of " the City of Bombay," but sub-section (10) of section 3 of the Bombay General Clauses Act I of 1904 defines the City of Bombay as the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature. The Calcutta Municipal Act, 1899, however, fixes the limits of the City by a schedule appended to the Act, and further gives power to the Local Government to alter the limits after preliminary publication As the power to alter municipal limits is not possessed by any of the Presidency *Corporations* in India, but is subject to foreign control of some sort or other, the question of omitting section 3 (6) of the Madras City Municipal Act need not be further considered.

Page 1708 of the Bombay Code, Vol. IV.

Schedule I to Act III of 1899 (Bengal). Section 637 of the Act.

Supplementary Office-note.

The Corporation also does not desire any change.

No change is necessary. Government virtually have the same powers in Bombay because the original civil jurisdiction of the High Court cannot be altered without its approval.

L. Davidson—4-6-11.
V. K[rishnaswami Aiyar]—11-7-11.
I agree.
J. N. A[tkinson]—21-7-11.
I agree.
M. H[ammick]—8-8-11.

No. (2)—Section 3 (7) (*b*).—*Power to notify what diseases are dangerous diseases.*

Office-note.

10. Section 3 (7) of the Madras Act, while declaring that "dangerous disease," occurring in chapter XXXII of the Act, includes cholera, plague, small-pox, diphtheria, enteric fever and typhoid fever, gives power to the Local Government to notify any other epidemic, endemic or infectious disease to be a dangerous disease for the purpose of the Act. The Bombay Act [section 3 (*aa*)] generally declares a dangerous disease to mean cholera and any endemic, epidemic or infectious disease by which the life of man is endangered. The original City Municipal Act, I of 1884, contained no definition of "dangerous disease"; but when the Act was consolidated in 1904, the definition in the Calcutta City Municipal Act, III of 1899, was adopted *verbatim*. The definition in the Bombay Act seems vague and indefinite, and in actual working may give rise to uncertainty in the minds of the people as to what would constitute a dangerous disease; while the definition in the Calcutta and Madras Acts seems to be more definite and safer. There appears to be no necessity to adopt the Bombay definition.

Section 3 (12) of that Act.

Supplementary Office-note.

The Corporation also will retain the existing provision in the Madras Act.

There is no need for change. It is wiser to retain the elastic provision of the Madras Act against the contingency of new diseases, *e.g.*, sleeping sickness. Under the Bombay Act disputes might conceivably arise as to whether the disease in issue endangered life.

L. Davidson—4-6-11.
V. K[rishnaswami Aiyar]—16-7-11.
I agree.
J. N. A[tkinson]—21-7-11.
I agree.
M. H[ammick]—8-8-11.

No. (3)—Section 3 (8).—*Power to declare what trades are dangerous.*

No. (4)—Section 3 (22).—*Power to declare what trades are offensive.*

Office-note.

11. The powers of Government under these sections are peculiar to Madras alone. The Acts of all the three Corporations specify in separate schedules what are offensive and dangerous trades; and power is given to the President or other corresponding authority to require licenses for the use of places for other purposes which in his opinion are dangerous to life, health or property. In the Calcutta and Bombay Acts this power of the President is extended also to purposes which are likely to create a nuisance. The powers of Government under this heading were introduced in the Madras Act when it was consolidated in 1904; and no special reasons are given in the Statement of Objects and Reasons of the Bill or in the discussions in the Council. So far the Government have in Madras issued only three * notifications declaring certain trades to be *offensive*, but no notification has yet been issued declaring any trade to be *dangerous*, as the Act itself gives power to the President to make such declaration. In a specific case which came up to Government as to whether a notification regarding a dangerous trade should be issued by the President or by the Local Government, the Government preferred to have the declaration made by the President. It does not appear to be a matter of great moment that power in this regard should be retained by Government. If the President is given power to declare other trades not specified in the schedule as causing nuisance, as in Bombay and Calcutta, his powers will then be complete and references to Government in the matter will consequently become needless.

Vide schedule II and section 322 of the Madras Act.

Vide schedule M and section 394 of the Bombay Act.

Vide schedule XVIII and section 466 of the Calcutta Act.

Definitions (8) and (9) in the Bill as drafted—*vide* paragraph 2 of Statement of Objects and Reasons.

* In G.O. No. 2423 M., dated 4th December 1907.
In G.O. No. 493 M., dated 23rd March 1908.
G.O. No. 1934 M., dated 20th November 1908.

Vide section 322 (1).

Vide G.O. No. 750 M., dated 8th April 1907.

Supplementary Office-note.

The Corporation proposes to retain this power to itself instead of with Government. It is however observed that as the Act already gives the power to the *President* to declare what are *dangerous trades*, the grant of a similar power to the *Corporation* may not conduce to the smooth working of the Act. If the Government give up the power, it should naturally go to the President and not to the Corporation as in the other Presidencies. As it is, the Corporation has no voice in the matter at all, and the President's powers are defective. What is required is only to increase the powers of the latter to make them complete. The Corporation's proposal in this matter does not seem acceptable. If the Bombay system is adopted in other respects it should apparently be adopted in this respect also and the Corporation's proposal disallowed.

Government need not retain this power, but it should go to the President. He is as good a judge of what is offensive as of what is dangerous, and less likely than the Corporation to be amenable to pressure from interested traders.

L. Davidson—4-6-11.
V. K[rishnaswami Aiyar]—16-7-11.
J. N. A[tkinson]—23-7-11.
I agree.
M. H[ammick]—8-8-11.

No. (5)—Section 3 (24).—*Power to declare what are populous parts of the City.*

Office-note.

12. This provision is peculiar to the Madras City, apparently on account of the scattered nature of the habitations therein as compared with the other cities. The Madras Act makes a distinction between populous and non-populous areas in respect of the fixing of the rate of the water and drainage tax, of the provision of water-supply and of the number of animals to be kept in premises. Of these the determination of the rate of the water and drainage tax appears to be the chief purpose for which the distinction has been created. The final power to declare populous

Section 145 (1) of the Act.
„ 192 (2) „
Proviso to section 314 of the Act.

parts has apparently been retained in the hands of Government, as the powers to totally exempt local areas from payment of the water and drainage tax is also reserved to Government. If the latter power is taken away from Government, the power to declare populous parts may also be surrendered with it. The former question is dealt with in paragraphs 95 to 97 *infra*.

Vide section 145 (1) of the Act.

Page 41 below.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation requests that this power may be vested in itself. As observed above, the exemption of local areas from the water and drainage tax is the chief object for which this power rests with Government. The Corporation proposes to adopt the Bombay system in respect of the exemption from water and drainage tax, by which the tax is imposed only in respect of premises which are supplied from municipal water-works or situated in a portion of the city in which sufficient water for supply to premises is available from the municipal water-works. It is pointed out that the declaration, as to what are populous parts, is also used to determine under section 192 (2) the extent to which provision should be made for water-supply and in fixing the number of animals to be kept in any premises—proviso to section 314. The latter two are minor matters in regard to which no control need be exercised by Government. As the Corporation wants to adopt the Bombay system in respect of the levy of the water and drainage tax, the use of the declaration as to populous parts becomes very restricted. The power may *then* be given to the Corporation itself as desired.

As I have noted below at page 41, there are obvious and grave objections to giving the Corporation power to exempt particular areas from taxation, and these apply with equal force to the power of declaring a defined area to be non-populous in so far as such declaration carries with it partial exemption from the taxation levied elsewhere (section 145 (1) proviso).

Yes.
V. K[RISHNASWAMI AIYAR]—16-7-11.
J. N. A[TKINSON]—21-7-11.
I agree.
M. H[AMMICK]—8-8-11.

The number of standpipes (section 192 (2)) necessary in sparsely populated tracts and the licensing of cattle sheds (proviso to section 314) are matters which may well be left to the discretion of the Corporation.

The list of rules and orders having the force of law shows that Government have exercised its powers under this section, declaring certain portions of the city to be populous in a notification published at page 377 of the Gazette of 1905 [Part I-A].

I have noted at page 116 *infra*.
V. K[RISHNASWAMI AIYAR]—16-7-11.

See paragraph 734 at page 420 of Volume I of the Madras Corporation Code.

L. DAVIDSON—4-6-11.

L.D.

No. (6)—SECTION 5 (2) (*c*).—*Power to notify associations that should elect two Commissioners.*

OFFICE-NOTE.

13. Section 5 (2) of the Madras City Municipal Act, while assigning three seats each for the Chamber of Commerce and the Madras Trades Association, declares that two other Commissioners may be appointed by such other associations as the Local Government may, by notification, direct. The Bombay and Calcutta Municipal Acts definitely lay down the institutions who should return Commissioners. The system of institutional Commissioners was introduced in Madras only in 1904. Though in the Bill to consolidate the Act, the institutions for appointing the two Commissioners in question had been definitely named, during the discussions in Council, however, it was resolved that the power should be left to Government to choose associations in order to give greater elasticity to the law and in order to enable the grant of the privilege to such other associations that might in future spring up. The Port Trust Board and the Madras and Southern Mahratta Railway Company are now the two institutions that have now been nominated by Government.

Vide Section 5 (1) of the Bombay Act and Section 8 (2) of the Calcutta Municipal Act.

Cf. Section 8 of the old Act, I of 1884.

Cf. paragraph 5 of note on page 5 of notes with G.O. No. 85, Legislative, dated 21st September 1904.

Pages 126—132 of the Discussions in Council on 13th April 1904.

Vide Notification III on page 5 of G.O. No. 1722-A M., dated 5th October 1904.

14. It is, however, observed that beyond the change in the Presidentship of the Corporation, the Royal Commission does not seem to propose any alteration in the constitution of the Presidency municipalities. If so, the present proposal need not be further considered. Moreover such a power is not possessed by the Bombay Corporation. The existing provision may therefore continue.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation proposes that the associations should be specified in the Act itself, without being named by Government. The reason for this proposal is not given. As stated above, it does not affect the power of the Corporation whether the Act itself specifies the associations or the Local Government retain the power. There seems, however, to be no great objection to have the associations definitely named in the Act itself, as the system of institutional commissioners has been in force sufficiently long to enable the determination of what associations require representation and as if any associations spring up in future the question of providing for their representation may be left for consideration at the subsequent amendment of the Act. Further the Corporation desires a modification of the constitution of the Corporation so as to make it more representative of the rate-payers. The present question will come up for consideration when that suggestion comes to be taken up.

The important bodies to be represented on the Corporation are named in clauses (*a*) and (*b*) of sub-section (2). The other bodies to be represented may have to be varied from time to time, for instance, the native Chamber of Commerce asked the other day for representation. It is inconveinent to amend the Act every time a change has to be made in these bodies and it is therefore better if clause (*c*) is left as it is.

G.O. No. 106, Marine, dated 22nd March 1911.

The supplementary office-note puts the main argument correctly, namely. that it is inconvenient to limit the associations returning commissioners by statutory provision as new and influential bodies may at any time come into existence, and bodies once representative may cease to be so.

L. DAVIDSON—4-6-11.

I agree with the main argument. But I would reduce the representation under (*a*) aud (*b*) to two and increase it under (*c*) to four. I would strike out the word "other" in "such other associations" so that Government may, if they choose, give under clause (*c*) one more representative to the Chamber of Commerce or the trades association. The only difference will be that they won't be *entitled* to three seats as now. My impression is that the representatives of these bodies have not taken much interest in the affairs of the Corporation. Moreover, the trades association is not important enough to have three seats. Further, by increasing the number of representatives under (*c*) to four we may give one seat to the Senate as in Bombay and one to the honorary Presidency Magistrates as to the Justices of the Peace in Bombay or to the Native Chamber of Commerce which recently asked for a seat. Anyhow it is desirable to have a larger reserve under (*c*) for the selection of suitable bodies. I don't think the Port Trust and the Railway Company will ever cease to have a representative.

V. K[RISHNASWAMI AIYAR]—16-7-11.

I see no objection to my Honourable Colleague's suggestion.

M. H[ammick]--8-8-11.

No. (20)—Section 12 (1).—*Power to appoint the Revenue Officer, the Health Officer and the Engineer.*

Office-note.

15. Under the Madras Act the power to appoint the three officers mentioned is entirely vested in the Government. The Corporation has no voice in the matter.

Vide section 12 (1).

16. In the Bombay Municipal Act [section 74 (1)] mention is made of only the Executive Engineer and the Executive Health Officer. These two officers are first appointed by the Corporation and the appointments are then confirmed by the Government. The appointments are only for a renewable term of five years. Where the Corporation fails to appoint an officer within four months, power is given to the Government (section 65) to fill the appointment. The officer in Bombay doing the duties of the Revenue Officer in Madras is appointed by the Commissioner himself.

Section 74 (3) (*g*), proviso.

Section 74 (3) (*f*), proviso.

Sections 79 and 82 of the Bombay Act.

17. In Madras the appointments of the Engineer and the Revenue Officer have been in the hands of Government, ever since Act I of 1884; but the appointment of Health Officer was at the disposal of the President originally under that Act. On the representation of the President, however, of the difficulties in procuring suitable persons for the office, this appointment also was taken over by Government during the amendment of the Act in 1892. The questions for consideration are—

Sections 37 and 39 of Act I of 1884 before its amendment.

But before that they were Vice-Presidents appointed by Government with seats on the commission—section 6 of Act V of 1878.

P. T. Tharyan—20-3-10.

Vide section 44 of Act I of 1884 before amendment.

Vide paragraph 6 of his letter on page 1 of G.O. No. 1240 M., dated 1st November 1888.

Section 17 of Act II of 1892.

(1) Whether in the case of the Health Officer and the Engineer, the initial appointment should be left to the Corporation as in the case of Bombay, *i.e.*, the present sole power of appointment of Government being converted into one of final confirmation as in Bombay; and

(2) Whether in the case of the Revenue Officer the power should be surrendered.

18. As regards the first question, Madras is the only Corporation in which the initiative in the appointments of the Health Officer and the Engineer is not taken by the Corporation. In Calcutta also [section 63 (1)] the appointments are made in the first instance by the Corporation. The object of prescribing the approval of Government in respect of these appointments is apparently that technical qualifications are required for the incumbents of these offices and that the Government, possessing as they do the advice of officers of superior qualifications in those branches, will be able to help the Corporation in deciding on the merits of the candidates selected. In Madras, the Corporation does not seem to have grumbled till now about the exercise of full powers in this respect by Government. Even when the Corporation applied recently for some control over the appointments of municipal servants, it excluded from their request the special appointments of the Engineer and the Health Officer. It is however observed that the recent orders of the Government of India that the post of Health Officer of the Corporation should not be included in the cadre of the Indian Medical Service, and the difficulty experienced on the last occasion in sparing an

Vide their resolution on page 8 of G.O. No. 838 M., dated 24th May 1909.

G.O. No. 639, Public, dated 26th August 1909.

officer from the Public Works Department for an appointment as Engineer, point out that public service cannot in future be relied upon for supplying these officers to the Corporation. The selection has obviously to be made from persons outside the service. The only question is whether such a large body as the Corporation can properly deal with the selection of an officer; but such a thing *is* done in the other Presidency Corporations apparently with no disadvantage. The Honourable Member was also in favour of giving some voice in these matters to the Corporation. In these circumstances, it is for consideration whether the initiative in making these appointments may be left to the Corporation.

Page 38 of the notes with G.O. No. 838 M., dated 24th May 1909.

19. In respect of the second question regarding the appointment of Revenue Officer, it is observed that the filling up of this appointment is less difficult than that of either the Health Officer or the Engineer. Till recently there has not been a gradation of appointments in municipal service bearing a reasonable relativity to each other, so that the highest post in the Revenue Department may be filled by persons from the lower scale. With the creation of the post of the Assistant Revenue Officer, there may not be so much difficulty as till now in finding a qualified person to the post of the Revenue Officer from among the Corporation staff itself. If, however, no suitable candidate can be found among the lower ranks of the Corporation staff, the Corporation will have only to fall back upon the public service. In the present state of the field of selection and in view of the fact that the expansion of the resources of the Corporation depends largely upon the capacity of the officer holding the post, it may not be desirable to surrender entirely the power of appointments of the Revenue Officer to the Corporation or the President. The difficulties that were recently experienced in regard to the appointment of the Assistant Revenue Officer will obviously emphasise the need for the retention of some power at least in the matter with Government. If approved, as in the case of Health Officer and Engineer, the initiative may be left to the Corporation, the final approval being reserved to Government.

Sanctioned in paragraph 4 of G.O. No. 838 M., dated 24th May 1909.

Supplementary Office-note.

The Corporation proposes to introduce the Bombay system as regards the appointment of Health Officer and the Engineer and to adopt the same arrangement as regards the Revenue Officer and the Special Engineer. While in Bombay the appointments are renewable after a term of five years, in Madras it is proposed to do away with this restriction and make the appointments once for all as at present. As already observed, it may perhaps be advisable to give some voice to the Corporation in the matter of the appointment of these officers, *viz.*, the Engineer, the Health Officer and the Revenue Officer. The proposal to apply the same principle to the Special Engineer may also be accepted. When the proposal to appoint a Special Engineer was first made, it was thought desirable to give the Corporation a voice in the selection, though it was subsequently decided to leave the matter to the Secretary of State. So long as the ultimate approval of the appointments rests with Government there seems to be no serious objection to the acceptance of the recommendation of the Corporation.

Paragraph 16 *supra*.

Paragraph 3 of G.O. No. 1019 M., dated 13th May 1907, and Despatch No. 1, dated 30th July 1907.

Also G.O. No. 2038 M., dated 3rd October 1907.

As regards the proposal to remove the limitation of five years placed on the term of these appointments in Bombay, it is submitted that so far as the Corporation is concerned there seems to be no objection to it, as, under section 12 (4) of the Act, the Corporation has power to remove any of these officers if their continuance is deemed undesirable. It is separately proposed by the Corporation to do away with the power now possessed by

Under section 12 (4) the votes of 28 commissioners out of 36 will be required for removal. This is different from refusal to re-engage. If the Bombay system is adopted it should be adopted in its entirety.

P. T. Tharyan—5-3-11.

Government to remove these officers. If that proposal is approved, the Government can take no action against such officers even when they are convinced of the desirability of taking such a course. They can only act through the Corporation. In Bombay the five years' renewable term obviously serves a good purpose in this direction. If the Government consider that the continuance of an officer is undesirable, they can then exercise the power of veto when proposals to renew his term come up to them for approval. But according to the modified provision now suggested by the Corporation, the Government will have no hold on the officers, when once the appointments are approved. But the question is, should Government have such power apart from that possessed by the Corporation. On the other hand, the existence of such a provision may not render the place attractive, and there may be difficulty in finding suitable candidates for the posts. It is not known how the system works in Bombay. In these circumstances it is for consideration whether the condition as to the renewable term of appointment should be omitted as proposed by the Corporation.

The Corporation does not seem to be very consistent. No *partial* adoption of the Bombay system should be permitted.

P. T. Tharyan—5-3-11.

The four appointments in issue, *viz.*, the Health Officer, the Revenue Officer, the Engineer and the Special Engineer are of prime importance and Government *approval* is essential. I see no objection to leaving the *initiative* to the Corporation, but look on the Bombay plan of a four-year term [section 74 (2) (*a*)] as open to grave objection. The insecurity of tenure which this condition implies is bound to keep good men from applying for these appointments.

[It is for consideration whether it would not perhaps be wiser to prescribe Government approval for appointments to all posts carrying a salary of, say, Rupees 1,000 and upwards. The need for a second Special Engineer or some other highly-paid expert might conceivably arise in the future, and some measure of Government control over the selection might be expedient.]

L. Davidson—5-6-11.

I agree. In addition to the appointments named, others carrying a salary of Rs. 1,000 and upwards may be filled up by the Corporation subject to approval of Government.

V. K[rishnaswami Aiyar]—16-7-11.

I agree with my Honourable Colleague.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (21)—Section 12 (2) and 413.—*Power to fix the salaries and allowances of the Revenue Officer, the Health Officer and the Engineer and frame rules regulating their pension, etc.*

Office-note.

20. The power to fix the salaries of these officers is left with Government; but the Act provides that the salary of the Revenue Officer shall not, without the consent of the Corporation, be more than Rs. 700 per mensem and that of the Engineer and the Health Officer more than Rs 1,000. The previous enactments in Madras fixed both minimum and maximum salaries and left no discretion to raise the salary above the maximum. The consolidation Act of 1904 brought the Act to the present form.

Vide section 37 of the 1884 Act.

21. Under the Bombay Act [section 74 (2) (*c*)] the power to fix the salary of the Health Officer and the Engineer is left with the Corporation, maximum and minimum salaries being prescribed in the Act. The Calcutta Act [section 63 (1) (*b*)] leaves the power to fix the salary of these officers with the Corporation.

22. The power to fix the salaries and allowances for officers should, it is submitted, naturally go with the power to appoint them, especially as the emoluments may vary with the qualifications and prior services of the officers selected. Should the power to appoint be left with the Government, as at present, the power to fix the salary and allowances may also be with Government. Should however, it be considered necessary to delegate the power to the Corporation either entirely or in the initial stage alone, the power to fix the salaries may be transferred to the Corporation with the minimum and maximum salaries fixed.

23. The power to frame rules for the grant of pensions or gratuity to these officers also follows the power to appoint. In the case of the Madras Corporation, the rules of the Civil Service Regulations as regards pension have been adopted in their entirety in all cases and no separate rules have been framed in respect of these special appointments. Thus, even if officers from the public service are transferred to the Corporation service, there will be no difficulty in the adjustment of pension, as similar rules are in force in both services.

G.O. No. 1302 M., dated 3rd August 1908.

Supplementary Office-note.

The Corporation proposes that the power to fix the salaries of the Health Officer, the Engineer and the Revenue Officer should be vested in itself subject to the maximum of Rs. 1,250, Rs. 1,000 and Rs. 750, respectively. As above, the power to fix the salaries of appointments should go to the authority exercising the patronage. There seems therefore to be no objection in the Corporation's exercising the power, as the initiative in appointing persons is to be given to it. It was previously found that the existence of a rigid maximum was very inconvenient. Elasticity in the matter was found to be essential. The present system of Government's raising the salary above a maximum only with the consent of the Corporation may perhaps be interchanged; and it may be provided that the Corporation should not raise it above a limit without the approval of Government. This provision, though not in accordance with that in Bombay, seems desirable in view of the past experience here in this matter. Further, the present Revenue Officer's salary was recently fixed at Rs. 800 (or Rs. 50 more than the maximum proposed by the Corporation) with the consent of the Corporation; and it was possible to do so only owing to the existence of the elastic provision; otherwise his services and experience would have been lost to the Corporation. The rigid maximum does not prove inconvenient in Bombay apparently because of the limitation of five years' renewable term. As this is proposed to be done away with in Madras and as continuity in service is aimed at, there must be some provision in the Act to be availed of on rare occasions when it is considered necessary to go beyond the maximum perhaps to retain a man in service. The provision of the special sanction of Government in such cases seems to be the best.

G.O. No. 1 M., dated 3rd January 1911.

Submitted that if the Bombay system is adopted *it* should be adopted in its entirety.

P. T. Tharyan—5-3-11.

As regards the rules for pensions and gratuities the Corporation is of the opinion that the existing rules should be retained. The difference between the provisions of the Acts in Madras and Bombay in this respect is that while in the former case the rules are made by the Governor in Council, the opinion of the Corporation being obtained, in Bombay the rules are framed by the Standing Committee in the first instance and subsequently approved by the Corporation and Government. In Bombay there are no separate rules for the special appointments referred to here, but the general rules for all establishments are made applicable here also. As either in the first instance or in the end, the consideration of the rules by the Corporation and by Government are enjoined in both cases, there seems to be no objection to the retention of the Madras rules.

Cf. sections 413 and 414.

Section 81 (1) (*f*) and (2) of the Bombay Act.

But why adopt the Bombay system half and half?

P. T. Tharyan—5-3-11.

I would accept the Bombay plan *in toto*, *i.e.*, fix statutory minima and maxima for the pay and let the rules for pensions and gratuities be drawn up by the Standing Committee and confirmed by Government.

L. Davidson—4-6-11.

I agree about the statutory maxima and minima as to pay. I would give the Corporation full liberty within those limits.

The existing rules may continue as to pensions and gratuities as desired by the Corporation. I think it is good to have well-defined rules like the Civil Service Regulations which are now applied.

V. K[RISHNASWAMI AIYAR]—16-7-11.

I agree with my Honourable Colleague.

J. N. A[TKINSON]—23-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (22)—SECTION 12 (4).—*Power to remove the Revenue Officer, the Engineer and the Health Officer.*

OFFICE-NOTE.

24. The Madras Act gives this power to the Local Government absolutely and provides that the officers shall be removed if the removal is recommended by a resolution supported by 28 Commissioners.

25. The Bombay Act [section 74 (2) (*d*)] gives the power entirely to the Corporation who can remove an officer on the votes of not less than two-thirds of the members present at a meeting. The Government have no power to direct the removal of the officers as in Madras.

26. Here again the power to remove will naturally follow the power to appoint. In Madras, besides the power to remove which the Government possess, the safeguard is also provided for the *Corporation* to take action where the officer proves himself to be obnoxious. There seems to be no reason to interfere in the present case, unless the power to appoint is altered.

27. The Calcutta Act (section 70) though authorizing the Corporation to remove the Health Officer or the Engineer, requires the approval of the Local Government for any action taken against them.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation proposes to do away with the power of Government to remove these officers, retaining its own powers in the matter. As the power to appoint will, in the first instance, be with the Corporation, this power may also be with that body. The Government will then have no power to themselves to take action against any misbehaving officer and will have only to appeal to the good sense of the Corporation to deal with him; or they should rely on the general powers vested in them under section 25 of the Act when any of the duties are not properly performed. The responsibility of the Corporation to supervise the work of its officers will then be greater.

Another point to be noted in this connection is that the Corporation proposes to introduce a change in the total number of Commissioners whose vote for the removal of an officer will be operative. The Madras Act fixes the number as 28, while the Bombay Act fixes a proportion of two-thirds to the total number. The Corporation proposes to adopt the Bombay proportion. Applying this proportion to the present strength of the Corporation, 24 members should vote for the removal of an officer against 28 as fixed in the Act. There are 20 elected Divisional Commissioners and eight institutional Commissioners besides 8 others nominated by Government. It is for consideration whether the change proposed may be approved.

Here, again, either the Bombay system should be adopted in its entirety or the Madras system should continue.

P. T. THARYAN—12-3-11.

If these officers do their duty, they will incur unpopularity and require protection against cabals. I do not think they should be liable to removal without the approval of Government. It would perhaps offend the susceptibilities of the Corporation less, if the power of Government to intervene were styled a *veto*, and an

order of the Corporation directing the discharge or dismissal of one of these officers did not take effect until after, say, one month or two months, within which period the veto of Government might be exercised.

L. DAVIDSON—4-6-11.

I don't see what is gained by this roundabout method. I think the Government and the Corporation should have the power to remove. I would modify section 9 (2) by saying three-fourths of the members present at a meeting instead of as in Bombay "two-thirds of the members present at a meeting." Three-fourths is the proportion for a special resolution under the Companies Act.

V. K[RISHNASWAMI AIYAR]—16-7-11.

The quorum for a special meeting in Madras is 10, three-fourths of that would make it possible to dismiss these officers by a *snap* partisan vote. I am willing to accept the Corporation's proposal, *i.e.*, surrender Government's power of dismissal, and allow Corporation to dismiss by the vote of two-thirds of the prescribed number of councillors.

J. N. A[TKINSON]—22-7-11.

I agree with Mr. Atkinson. We must make the majority one of the whole commission not of a meeting.

M. H[AMMICK]—8-8-11.

No. (24)—SECTIONS 13 & 14.—*Power to appoint a Special Sanitary Officer and fix his pay.*

OFFICE-NOTE.

28. Section 13 lays down that the Local Government may, in the event of any unusual mortality or the prevalence of any dangerous disease within the city, appoint temporarily a Special Sanitary Officer for investigating the causes thereof and advising as to the measures to be taken for the abatement or removal of such mortality or disease; and section 14 gives power to the Local Government to fix the salary and allowances of the officer, the maximum to be paid from municipal funds on account of the appointment being fixed at Rs. 500 *per mensem*. This provision has been in the Madras Act ever since the enactment of 1884.

Sections 41 and 42 of Act I of 1884.

29. There is no provision in the Bombay Act corresponding to this. Section 434 of the Bombay Act, however, provides that if, on the outbreak of any dangerous disease, the Commissioner thinks that the ordinary provisions are insufficient for the purpose, he may, with the sanction of Government, take such special measures and prescribe such temporary regulations as he may deem necessary. This relates to the execution of measures, while the provision in the Madras Act above referred to relates only to investigation and prescription of measures.

30. The Calcutta Act (section 525) also is almost similar to the Bombay Act in this respect.

31. The provision in the Madras Act which gives full power to Government independent of the Corporation is apparently intended to be resorted to in extreme cases when the ordinary advisors of the Corporation and the Government have not been able to render sufficient help in the matter. The absence of any provision to consult the Corporation in the matter is obviously due to the emergency involved therein. It seems advisable to retain this power with Government. If the Corporation desires to take action under this section, it can always move the Government.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation, however, considers that the power to appoint the Special Sanitary Officer should be vested in itself instead of in Government. As pointed out above, in view of the fact that prompt action is contemplated herein, it may not be advisable to vest the power in a corporate body. Even in Bombay, in regard to the provisions of section 434 of that Act, the Commissioner and the Government have

been named as the authorities who could take action and not the Corporation. There seems to be no reason why such a power to meet a case of emergency should be given to the Corporation so as to render the practical application of it difficult.

It is necessary to make special provision for the contingency had in view by section 13. The Bombay section (434) meets the case adequately and is, I submit, preferable to the plan the Madras Corporation suggests.

L. Davidson—4-6-11.

The Bombay section 434 is more drastic Bombay as the gate of India requires special power to deal with emergencies.

I think our present sections 13 and 14 are enough. They have not been found inadequate. Ours cover unusual mortality also.

V. K[rishnaswami Aiyar]—16-7-11.

I agree with my Honourable Colleague.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (25)—Section 15 (2).—*Power to decide questions of doubt as to the authority to exercise any particular function.*

Office-note.

32. In the original Act I of 1884 (section 40) it was laid down that in case of difference of opinion between the President and the Vice-Presidents as to the performance of any duty, the opinion of the former should prevail. This provision was repealed by Madras Act II of 1892. The present provision which requires that questions of doubt as to the municipal authority to which any particular function pertains, shall be referred to the Local Government for final decision, was imported from the Calcutta Act [section 13 (2)] when the Madras Act was consolidated in 1904.

The expression "Municipal authorities" in section 15 apparently refers to "the Corporation" (sections 4 to 7) "The Standing Committee" (section 8) and "Executive officers" (sections 9 to 14) *cf.* section 5 of the Calcutta Act. Any doubt regarding any of these authorities to which any particular function pertains should apparently be decided by Government.

P. T. Tharyan—20-3-10.

Vide section 2.

33. In Bombay [section 64 (3) (*b*)] the power to prescribe the duties of all municipal officers and servants, other than the Secretary and his staff, is absolutely vested in the Commissioner; and no reference to the Government is provided in that Act. There seems to be no objection to the adoption of that procedure here also.

Supplementary Office-note.

The Corporation says that the provisions of the Bombay Act should be adopted. Apparently the Corporation also has taken the expression "municipal authorities" to mean municipal servants and not the three functionaries, viz., the Corporation, the Standing Committee and the Executive. In that view, the application of the Bombay provisions may be accepted; if otherwise the power should be with Government as suggested in the Registrar's note above. The section may perhaps be made general enough to cover both cases.

So far as the municipal staff is concerned, the Bombay section [64 (3) (*b*)] is appropriate and may be adopted. As to the respective functions of the Corporation, the Standing Committee and the Executive, the Act itself * ought to be sufficiently explicit. I doubt the need for section 15 (2) of the Madras Act.

L. Davidson.

* *Cf.* Bombay Act, Section 64 (1), (2) and (3).

L. Davidson—4-6-11.

I agree.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (49)—Section 16 (2).—*Power to approve rules for the interpellation of the President.*

Office-note.

34. This section provides that every Commissioner shall have the right to interpellate the President on matters connected with the municipal administration, subject to such rules as may, from time to time, be framed by the Corporation with the approval of the Governor in Council.

35. This provision was introduced when the Act was last consolidated at the meeting of the Legislative Council on the analogy of the similar provisions contained in the District * Municipalities Act.

Vide pages 142 to 145 of the Proceedings of the Council, dated 14th April 1904.

* Section 250 (1) (*m*).

36. The Bombay Act contains no provisions at all for the interpellation of the Commissioner apparently because he has no seat on the Corporation. The power is, however, given to the Corporation as a body to call for information, statistics and statements from the Commissioner (section 66 of the Bombay Act). The Commissioner may refuse to comply even with this call for information, if he considers that such compliance will be prejudicial to the interests of the Corporation, in which case the information should be furnished to a small Committee consisting of the President of the Corporation, the Chairman of the Standing Committee and a Commissioner elected for the purpose who should be engaged to keep the matter secret.

Section 66 (3).

37. From the Proceedings of the Legislative Council and especially from the speech of the Hon'ble Mr. Govindaraghava Aiyar, it will be seen that the approval of Government to the rules was proposed so as to provide a guarantee that the power of interpellation was not abused to the detriment of the ordinary work of the executive. In the rules framed in Madras in G.O. No. 545 M., dated 11th March 1905, the President is empowered to disallow any question without giving any reason therefor, if he thinks that it cannot be answered consistently with public interests. There has been no complaint as to the power of Government in the matter; nor has there been any proposal even to modify the rules. It does not seem desirable to remove this power altogether from the Madras Act as the practice has been in force for a long time and the express provision in the Act has been introduced only to give the practice a legal sanction. If the power to interpellate is retained, it seems desirable that the power to approve the rules should be left to Government in order to prevent the alterations of the rules to provide for any undue interference with the President.

Vide pages 5 and 6 of the Proceedings of the Council, dated 14th April 1904.

If, however, the Bombay system of an elected Chairman and an official nominated Commissioner is introduced, there will be no possibility of interpellation.

Supplementary Office-note.

The Corporation considers that it "should have power to make rules for the "interpellation of the President without the approval of Government" and that "the President and the Corporation should have power to call for records, returns "and report on any matter". Taking the first question, it is not clear how interpellations of the President will be useful, when he himself is one of the deliberative body as the other members of the Corporation. The entire executive authority will be vested in the Commissioner; and interpellations will naturally relate to practical matters of administration. The President of the Corporation will have no information on such matters. If information is needed he should only obtain it from the

Commissioner and furnish it to the members. There will therefore be no object in interpellating the President of the Corporation. It is apparently with the object of making this interpellation possible that the Corporation proposes in the next case to give power to the President individually to call for returns, records and reports from the Commissioner. This power is not existent in Bombay. Only the Corporation as a body has the power to call for them there. Further the Corporation also proposes to retain the provisions under section 71 (1) of the Madras City Municipal Act, which gives the power—a power which has no counterpart in the Bombay Act—to the individual Commissioners to have access to any records of the Corporation. If this is allowed the circuitous interpellation proposed will not be so much needed. It may however be observed that in both the cases of interpellation and of inspection of municipal records there is no *real control* over the Commissioner involved, though such privileges to the members may cause trouble and inconvenience to him. In these circumstances it is for consideration whether the power to interpellate the President of the Corporation (not the Commissioner) should be retained as proposed. If this is allowed it naturally follows that the President should have power to call for returns and records from the Commissioner. Presumably the Corporation will agree to provisions similar to those contained in sub-section (3) of section 66 of the Bombay Act being introduced in Madras also. This sub-section provides for cases in which the Commissioner may refuse to comply with requisitions, if he considers that such compliance will be prejudicial to the interests of the public and how in such cases the Corporation should further act.

Section 66 of the Bombay Act.

Probably annoyance also.

P. T. Tharyan—12-3-11.

Submitted that in this and other cases the introduction of changes should not be one-sided. If the Bombay system is adopted it should be done in its entirety—not half and half.

P. T. Tharyan—12-3-11.

If interpellations are allowed, the next question is whether Government should retain the power to approve the rules for the purpose. As observed above it may be desirable not to surrender this power.

I am inclined to think the Corporation confuses the President, the Commissioner and the Chairman. If the Bombay system be introduced, interpellation of the Chairman is useless, and interpellation of the Commissioner inappropriate and undesirable. He does not sit with the Corporation (unless he chooses) and the proper way of getting information from him is that indicated in section 66 of the Bombay Act—not interpellations which lends itself to harassment and vexation. The Bombay plan should be adopted in its entirety.

L. Davidson—4-6-11.

I quite agree.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (10)—Section 26 (1) (*c*).—*Power to raise taxes up to the maximum rate to pay the remuneration of officers appointed to perform duties not performed by the municipal authority.*

Office-note.

38. Section 26 of the Madras City Municipal Act provides that where it becomes necessary for Government to appoint an officer to carry out any of the duties, which the municipal authority has not performed or has performed in an imperfect, inefficient or unsuitable manner or for the performance of which the municipal authority has not made adequate financial provision, the remuneration of such officer and the cost incurred by him in the performance of the duties entrusted to him shall be defrayed from municipal funds, any one or more of the taxes being, if necessary, levied or increased within the maximum prescribed. The Bombay Act, while containing similar provisions for the intervention of Government, merely provides that

Section 520 of the Bombay Act.

the Corporation shall cause to be paid to Government such sum of money as may from time to time be required and that, in the case of non-compliance of the Corporation with the order for payment the Government can themselves direct the Bank in which the municipal fund is lodged to pay the amount. The attachment of a tax is however allowed in Bombay only in respect of the failure of the Corporation to repay the [Vehar] water-works loan.

Section 99 of the Bombay Act.

39. The provisions in the Madras Act, which have been in existence even in the earlier Act of 1884, are, however similar to those of the Calcutta Act. The principle of intervention and of the recovery of the cost from the municipal funds having been conceded, it seems immaterial how the recovery is effected. The Madras and Calcutta Acts only provide a safeguard to meet cases where the Corporation has no funds to its credit in the Bank or declines to levy the taxes and thus keep itself in funds. The provisions in the Madras Act seem necessary and may be retained.

Vide section 65 of the City Act, I of 1884. Section 24 of the Calcutta Municipal Act.

Supplementary Office-note.

The Corporation proposes the adoption of the provisions in the Bombay Act in this respect. As pointed out above, the power given to Government by section 25 of the Act to take action in case of default on the part of the Corporation, may be ineffectual if the Corporation has no funds in the Bank. It may be asked what will be the case if a similar thing happens in Bombay, where the power to attach taxes is not given for such purposes; but it has to be observed that it is not likely that occasion would have arisen yet in any of these Corporations for resorting to these provisions and that these are provisions, the necessity for which could be justified only by contemplating the worst cases. There seems to be no harm in retaining the existing provision. There is sufficient safeguard provided in the Act to prevent Government from rushing to take action under these provisions.

But this will be a very extreme case.

P. T. Tharyan—5-3-11.

The office-note puts the case correctly. Both this section and section 27 of the Madras Act are required to meet an extreme contingency. That contingency will not arise unless the municipal administration sinks to a very low level. If it does, it is surely better (as in Madras and Calcutta) to let Government have power to raise the funds required to bring the administration up to standard, than (as in Bombay) to make no provision for the case in which the municipal exchequer is exhausted. I would not give up these powers; they are the logical consequence of the right to intervene and provide for the administration when the Corporation makes default.

L. Davidson—5-6-11.

I agree.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—22-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (11)—Section 27.—*Power to direct the raising of loans to provide funds for carrying out works neglected by the municipal authorities.*

Office-note.

40. The Calcutta and Madras Acts are at one in this point, though the Bombay Act does not authorize this course. The note in the foregoing paragraph will govern this case also. The fact that the sanction of the Government of India under section 99 will be necessary for raising the loan in question, will be an additional safeguard so far as the Corporation is concerned.

Vide section 24 (3) of the Calcutta Municipal Act.

Supplementary Office-note.

The Corporation considers this provision unnecessary and proposes that it ma be omitted. As stated in the note under the previous item, there seems to be no harm in retaining this provision, which is intended to provide for only extreme cases.

Quite so. (*Vide* my note on the previous page).

L. Davidson—5-6-11.

Yes.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—22-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (43)—Section 28.—*Power to approve of projects costing over a lakh of rupees and of modifications in them after approval.*

Office-note.

41. This section provides that when any project is framed by the Corporation for the execution of any work or series of works the entire estimated cost of which amounts to one lakh of rupees or more, the work shall not be commenced until the project has been sanctioned by the Local Government notwithstanding that the cost may be included in the budget estimate as finally adopted. This section was introduced when the Act was consolidated in 1904 and its provisions are exactly similar to those of section 20 of the Calcutta Municipal Act, 1899. The old Madras Acts contained no such restrictions; but general control in this matter could even then be exercised through the power to alter budget estimates framed by the Corporation.

42. The Bombay Act imposes no restriction on the powers of the Corporation to undertake works.

43. The necessity for the provision in Madras is amply justified by the fact that the new drainage scheme of the city which was designed by the Corporation Engineer owing to want of scrutiny by experts has been found to be a failure so far as it has been carried out. The Corporation cannot command the services of officers of the capacity of the Chief Engineer, Public Works Department, the Sanitary Engineer and the Sanitary Commissioner. When a scheme is submitted for the approval of Government, it is scrutinized by all or any of these officers and the benefit derived by the Corporation thereby is immense. Further, the Sanitary Board rules have not been made applicable to the Madras Corporation. The benefit of the Sanitary Board's advice is also secured to the Corporation when the scheme is submitted for the sanction of Government. Since the introduction of the provision in the Act, the Government have had no occasion to reject any scheme proposed by the Corporation. The selection of works by the Corporation is never questioned. The exercise of this power by the Government is not also resented. As the minimum limit of one lakh is high enough for the Corporation to carry out several works without the control of Government, there will be very few cases that will have to come up to Government. In these circumstances it seems desirable to retain this power, as in Calcutta. Even in the case of Government works higher sanction is required in some cases, paragraph 1925 of the Public Works Code, Volume II, namely, for works costing Rs. 12,50,000 including provision for establishment and tools and plant and Rs. 10,00,000 without that provision.

Vide paragraph 2 of G.O. No. 1671 M., dated 17th September 1906.

Vide the office-note, dated 29th May 1906, on page 1 of the notes with G.O. No. 1671 M., dated 17th September 1906.

Vide pages 2 and 3 of the notes with G.O. No. 236 M., dated 19th February 1909, and rule 10 of the Sanitary Board rules on page 5 of G.O. No. 1081 L., dated 2nd September 1903.

Supplementary Office-note.

The Corporation considers that this provision is unnecessary and may be omitted. As pointed out above, the sanction of Government in this matter is really beneficial to the Corporation. Under this rule, the Corporation has had the estimates for the Tondiarpet drainage works, the water-supply improvement scheme, the Corporation office building, and the Rayapeta and small-pox hospital buildings scrutinized by the Public Works Department and but for this provision, the estimates for the three latter would not have come up to Government. It is not understood why the Corporation should consider this provision unnecessary.

Sir Herbert Risley in his evidence before the Commission recommended the enhancement of the present monetary limit, but not its complete abolition. The latter course, it is submitted, is not expedient. Projects of such magnitude as the general drainage scheme and the distributary arrangements for the water-supply ought to be compulsorily subject to superior scrutiny. The office points out that under the Public Works Department Code the Local Government itself is liable to supervision in such cases; *a fortiori* should the Corporation be under control. The monetary limit might be raised to $2\frac{1}{2}$ or even 5 lakhs, but not, it is submitted, altogether abolished. I do not believe the present Corporation really wishes to act without superior advice in regard to projects of great magnitude. It merely resents being compelled to take advice.

Minor variations in estimates once sanctioned by Government need not however come up for approval.

L. Davidson—9-6-11.

I agree with the Secretary. I agree to the limit being raised to $2\frac{1}{2}$ lakhs.

V. K[rishnaswami Aiyar]—16-7-11.

I agree.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (7)—Section 39.—*Power to fix the time and place of elections.*

Office-note.

44. This power is being exercised by Government in Madras since the introduction of the Municipal Act of 1884; and generally, the draft notifications, as submitted by the President in this regard, undergo little alteration by Government. The object of retaining this power with Government is not clear. In Bombay the notification is issued by the Commissioner himself, though in Calcutta the Local Government fixes the date for general * elections. There seems to be no object in requiring the submission of notifications fixing dates and place of election for the approval of Government. The President may himself have the notification published in the Gazette. Even in the case of the district municipalities, the power of fixing the date of election is left to the chairmen of municipalities.

Cf. section 10 of Act I of 1884.

Vide page 5 of G.O. No. 790 M., dated 11th May 1908.

Section 25 of that Act.

Section 53 (1) of the Calcutta Municipal Act.

* Dates for casual elections are fixed by the Chairman himself.

Vide rule 16 (i) on page 5 of G.O. No. 725 M., dated 11th April 1904.

Supplementary Office-note.

The Corporation proposes that as in Bombay, the power may be left to the President himself. As suggested above, this may be approved.

This power may certainly be given up. The President is quite competent to exercise it.

L. Davidson—5-6-11.

Yes, it should be with the Commissioner.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (8)—Section 42.—*Power to appoint Commissioners in default of election.*

Office-note.

45. Section 42 of the Madras Act lays down that if at any election no candidate obtains the required number of votes, the Local Government may appoint for such division any person qualified for election. Section 34 of the Bombay Act, however, provides that in such a case, the retiring councillor should be deemed re-elected, if willing to serve, or that the Corporation may appoint a duly qualified person to fill the vacancy, failing which another day will be appointed for holding a fresh election. The provision in Madras is the same as that of Calcutta [section 59 (1) of the Calcutta Municipal Act, 1889]. If the Bombay system is to be adopted, the retiring Commissioner should be first offered the seat before the Corporation proceeds to appoint one. There seems to be no serious objection to the adoption of the Bombay system in Madras, especially as there seems to have been no occasion, at any rate in recent years, in which elections resulted in a fiasco in Madras.

———

Supplementary Office-note.

The Corporation proposes the adoption of the Bombay system. The offering of the appointment to the retiring Commissioner is new; while the alternative proposal to have a member elected by the Corporation itself is of the nature of the appointment of aldermen. This Government have themselves suggested * the introduction of the latter system in the case of the district municipalities in connection with the reference from the Government of India on the recommendation of the Decentralization Commission. The Bombay system is simpler and there is no objection to the adoption of this course.

* Paragraph 7 on page 5 of letter No. 1545 M., dated 30th September 1910.

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I agree that the Bombay plan is simpler and may be adopted.

L. Davidson—5-6-11.

I would leave it to the Corporation to fill up the seat. This is analogous to our proposal about aldermen The Corporation may offer the seat to the retiring man if it chooses.

V. K[rishnaswami Aiyar]—16-7-11.

The Corporation itself asks for the Bombay plan. I would agree to that; though I have no objection to my Honourable Colleague's proposal.

J. N. A[tkinson]—23-7-11.

I agree with Mr. Atkinson.

M. H[ammick]—8-8-11.

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No. (9)—Section 53.—*Power to appoint temporary Commissioners.*

Office-note.

46. Section 53 of the Madras City Municipal Act lays down that if there is no elected Commissioner for a division, the Local Government may appoint a Commissioner to hold office for such division until the election for the same has taken place. No corresponding provision exists in the Bombay Act. This temporary provision in the Madras Act is apparently intended to meet cases where a number of vacancies by efflux of time or otherwise occurs simultaneously and important business, which cannot wait till the elections are over, has to be transacted in the meanwhile. The necessity for this provision does not exist in Bombay, as the Act there requires the election of councillors before the vacancies actually arise and as a set of new councillors enter upon their duties on a fixed date immediately the old councillors vacate as a body. The provision in the Madras Act, which is made to meet a case of special contingency, which is not likely to happen in Bombay, may, it is submitted, continue. The section authorizes only a temporary measure. It does not appear that the provisions of this section have yet been availed of.

Vide sections 22 (1) and 6 (2) of the Bombay Act.

47. In this connection it may also be necessary to examine the power under the rules for the election of Commissioners printed in G.O. No. 595 M., dated 29th March 1906, under which the name of the successful candidate should be submitted to Government for publication in the *Fort St. George Gazette*. The Bombay Act, as also the Calcutta Act, authorize the Commissioner and the Chairman, respectively, to publish the result of elections; and the questions relating to elections do not go up to Government in those cities. Even in Madras, there is no power reserved to Government either in the Act or in the Election rules for interference in elections. The decision of the President in the first instance or that of the Presidency Magistrate on appeals is final in regard to the eligibility of voters and candidates. Under such circumstances there seems to be no purpose in sending up the report of elections to Government. The publication may be made by the President himself.

Rule 17 on page 4 of the Government Order.

Section 32 of the Bombay Act; Sections 55 and 58 (2), Calcutta Municipal Act.

Sections 49 and 50 of the Madras Act.

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Supplementary Office-note.

The Corporation considers that this provision is unnecessary and may be omitted. It is not likely that the Corporation examined the purpose for which the provision was inserted in the Madras Act and how the absence of it in the Bombay Act does not affect matters there. The adoption of the Bombay system in regard to the appointment of Commissioners permanently on failures of election may alter this question. When *permanent* vacancies can be filled up without reference to Government either by the reappointment of the retiring Commissioner or by the election of a Commissioner by the Corporation itself, the idea that *temporary* vacancies should be filled up by *Government* does not apparently prove palatable to the Corporation. On the other hand so long as the present system of electing Commissioners only after the vacancies actually arise continues, there should obviously be some provision to face the contingency of the absence of Commissioners at any important time. Even should the Bombay system in regard to permanent vacancies be adopted in these cases also, there should be some authority to decide whether recourse should be had to the measure; and Government appear to be best fitted for the purpose. If the Bombay system of appointing Commissioners before vacancies arise is not imported in Madras, the existing provision in section 53 may continue, or if nomination by Government is considered objectionable, Government may be given power to declare in such cases that the outgoing Commissioners may continue in office until election is formally held, notwithstanding the provisions of section 56 of the Act.

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The concluding sentence of the supplementary office-note provides the best solution for the difficulty. In Bombay general elections are held triennially in January or February [section 22 (1)] and members retire on the 1st April (section 7). If this system be adopted, section 53 of the Madras Act becomes unnecessary. Otherwise so as to ensure the quorum necessary to provide for business being carried on, Government should have power in emergencies to override section 56 of the Madras Act and to authorize the temporary continuance in office of members whose three year term has expired. This power might, indeed, safely be transferred to the Corporation itself.

A

[This arrangement will probably suffice to secure a quorum, though it will be of no effect if the vacancy is due to death or absence from India or the outgoing member is unable or unwilling to serve any longer.]

B

L. Davidson—5-6-11.

I agree to the suggestion at **A**. I am against the Corporation extending its own life. I don't think we need provide for the possible cases at **B**. If section 53 has never hitherto been put in force we need not provide for the contingencies at **B**. **A** is sufficient.

V. K[rishnaswami Aiyar—]16-7-11.

I prefer the Bombay system of holding a general election previous to the occurrence of the vacancies. But if this system be not adopted, I would accept my Honourable Colleague's proposal.

J. N. A[tkinson]—25–7–11.

I prefer the Bombay system.

M. H[ammick] – 8–8–11.

No. (26)—Section 58 (1) & (2).—*Power to control the employment of permanent and temporary servants and the payment of salaries and allowances to them.*

Office-note.

48. Under this section, the sanction of Government is requisite for the employment of all establishments and revision thereof and for the scale of salaries and allowances to them and alterations therein. Thus, the Corporation cannot, under the Act, create even a small appointment, permanent or temporary, nor increase the salary of any appointment without coming up to Government. In the old Act this power was exercised by Government through the budget; but during the consolidation of the Act in 1904, the power has been expressly provided in the Act.

Cf. sections 44 and 88 of Act I of 1884.

49. In Bombay, besides the special appointments mentioned in the Act itself, the establishments are divided into two classes—those attached to the Secretary and those intended for general purposes and under the control of the Commissioner. All clerks and servants immediately subordinate to the Secretary are sanctioned by the Standing Committee [section 78 (1)]. The other establishments under the Commissioner are also sanctioned by the Standing Committee, but subject to the proviso that creation of appointments, the aggregate emoluments of which exceed rupees two hundred per month should be subject to the sanction of the Corporation (section 79). The Government possess no power in Bombay in regard to the municipal establishment. The Calcutta Act (sections 64 and 65) also contains similar provisions regarding the creation of appointments.

Vide sections 78 and 79 of the Bombay Act.

Section 79 (2) of the Bombay Act.

50. The control over the Corporation in Madras in the matter of the establishments is thus excessive. The Corporation also recently resented the interference of Government in petty establishment proposals; but it was pointed out to the Corporation in G.O. No. 1394 M., dated 10th July 1907, that it had been a tendency on its part to overhaul its entire establishment every year and to propose numerous petty increases, that there must be some finality in the matter of establishments, that the pay of the post should not be frequently raised from time to time on purely personal grounds and that it was not right that the tax-payer should pay more than the market value of the service. It has, however, since been recognized that it is necessary to relax the control; and in G.Os., No. 218 M., dated 17th February 1909, and No. 1058 M., dated 8th July 1909, the Corporation has been authorized to employ on its own authority temporary establishments when the salary in any individual case does not exceed Rs. 50 and the period of employment does not exceed six months, and to similarly employ establishments shown in statement II-C, who are paid on muster-roll and are not entitled to pension. But the entire power to sanction *permanent* regular establishments remains with Government unaltered. Even in respect of district municipalities, the Royal Commission recommended the grant of full powers to councils to employ their establishments. Mr. Taylor suggested that sanction may be accorded up to the limit of Rs. 25. Any sudden relaxation and the grant of absolute powers to the Corporation in the matter may not be advisable. Even in making *recommendations* for revision of establishments, the Government have not observed a judicious use of its power on the part of the Corporation. The power to sanction establishments up to a certain limit may perhaps be tried in the first instance. Should it be subsequently found that the Corporation has made good use of its powers, the further extension of the

Paragraphs 2 and 3 on page 2 of G.O. No. 1394 M., dated 10th July 1907.

powers may then be considered. In the case of the Corporation, the limit may perhaps be placed at Rs. 75 or Rs. 100. If the former limit is adopted, there will be 28 appointments having a maximum salary of Rs 75 and upwards which will have to come up to Government for sanction, and, if the latter is approved, there will be 21 appointments which will require such sanction.

Supplementary Office-note.

The Corporation is of the opinion that in this matter the Standing Committee should have the same powers as in Bombay, subject to the modification that it should obtain the sanction of the Corporation for appointments on more than Rs. 100 *per mensem* to be employed under the Commissioner. This proposal will entirely abolish the control of Government in the matter of establishments. Since the above printed note was written, the Government have, in the case of district municipalities, expressed the opinion that they would be prepared to allow Councils as much freedom as possible in the matter of appointments subject to certain limitations as to the number of appointments on each grade of pay for each class of municipality and to similar restrictions as those now existing in regard to the appointments requiring technical qualifications, *e.g.*, hospital subordinates, sanitary inspectors, etc. No model scale can obviously be prepared for the Corporation; and the policy of Government in regard to these appointments has also changed, cases of disallowance of the Corporation's proposals being very rare. It is for consideration whether the Standing Committee and the Corporation should be given unrestricted power as proposed, or whether any limitation at least in the shape of a percentage to the total income should be placed on the expenditure on establishment under each section not to be transgressed without the approval of Government. Even this can be only more or less arbitrary but may act as a check on any extravagance.

Vide the end of paragraph 19 on page 12 of letter No. 1545 M., dated 30th September 1910.

Cf. paragraph 4 of the notes with G.O. No. 252 M., dated 14th February 1911.

As regards the internal arrangements between the Standing Committee and the Corporation in this matter, the Corporation proposes to reduce the maximum up to which the Standing Committee can, on its own authority, sanction appointments from Rs. 200 in Bombay and Calcutta to Rs. 100. This, in view of the nature of the appointments in Madras, does not seem to be objectionable.

Government control in regard to the creation of establishments, permanent or temporary, may, I think, be given up. Section 58 of the Madras Act permits Government to *control*, but does not prescribe the *sanction* of Government, a distinction which has perhaps not been fully grasped in practice.

The internal arrangements as between the Corporation and Standing Committee do not call for immediate decision, but the proposal made by the Corporation seems sensible.

L. Davidson—5–6–11.

I would reserve the control (as distinguished from sanction) of Government as regards the creation of appointments carrying salaries of Rs. 250 and upwards *per mensem*.

V. K[rishnaswami Aiyar]—16–7–11.

"Control" means, I suppose, "the right to veto." I am prepared to accept my Honourable Colleague's proposal: there must be some limit to the Corporation's power of creating appointments.

J. N. A[tkinson]—23–7–11.

I am much inclined to let the Corporation have all the powers given in Bombay. But for the present I accept the proposal of my Honourable Colleagues.

M. H[ammick]—8–8–11.

No. (27)—Section 58 (3).—*Power to control the punishment of municipal servants.*

Office-note.

51. Section 58 (3) of the Madras Act lays down that the President may, subject to such control as may be prescribed by the Local Government, fine, suspend, reduce or dismiss any Municipal officer or servant appointed by him. No control has yet been prescribed by Government in this matter. The Act before consolidation in 1904 contained no provision for the control of Government, but left the matter entirely to the President. No reasons were given when the Act was consolidated for the addition of this provision.

But under section 59, servants on not less than Rs. 50 may appeal to the Standing Committee against orders of dismissal and servants on not less than Rs. 200 to the Corporation a second time—*vide* section 44 of the old Act.

P. T. Tharyan—20-3-10.

52. The Bombay (section 83) and Calcutta (section 70) Acts leave the power to punish entirely in the hands of the authority that appoints the servant.

53. It is for consideration whether the words "subject to such control as may be prescribed by the Local Government" may be omitted from section 58 (3) of the Madras Act, as absolute power in this respect has hitherto been exercised by the President without any complaint and no reasons seem to exist for their retention.

Section 59 seems sufficient.

P. T. Tharyan—20-3-10.

Supplementary Office-note.

The Corporation considers that the provisions of the Bombay Act should be adopted. This leaves the power entirely in the Commissioner as regards the establishment under him, subject to the limitation that the approval of the Standing Committee is necessary for the dismissal of an officer with pay exceeding Rs. 300. As regards the establishment under the Secretary, the power vests in the Standing Committee. The Corporation proposes only this modification in the above, *viz.*, that the minimum pay of the officer whose dismissal requires the approval of the Standing Committee should be Rs. 200 against Rs 300 in Bombay. In connection with appeals provided under section 59, the Corporation separately proposes to omit altogether any appeals against the Commissioner's (President's) orders either to the Standing Committee or the Corporation. Except in the matter of dismissal of municipal servants under him drawing over Rs. 200, the Commissioner will have thus absolute power to punish his subordinates. This removal of the power to appeal may not perhaps be altogether desirable; but that question will be considered elsewhere under the Corporation's and the Standing Committee's powers. In any case, there may not be any necessity for the retention of the powers under Government in the matter.

This power may be given up by Government. Control is requisite only in regard to the removal or suspension of the four superior officers (section 12 (4)—item 22 at pages 14 and 15 *supra*).

L. Davidson—5-6-11.

I agree.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (23)—Sections 60 & 62.—*Power to grant leave to the Revenue Officer, the Health Officer and the Engineer, appoint acting incumbents and fix their salaries and allowances.*

Office-note.

54. The entire power in this regard is given to the Local Government.

55. In Bombay (section 84) the Commissioner himself can grant leave to the Engineer and the Health Officer for a period not exceeding one month and the Standing Committee for longer periods. The authority who grants the leave is given general power to appoint acting incumbents, provided that where the leave of absence exceeds one month the appointment should be made by the Corporation, with power to Government to disallow such appointments (section 85).

56. Perhaps the power to grant leave of absence to these officers may be given to the President or to the Standing Committee where leave is required for short periods not exceeding one month and where separate acting appointments are not necessary. In other cases the power may remain as it is. The provision in this regard should also be modified if the power to appoint is altered, the principle being followed that the authority to appoint should have the power to grant leave and appoint substitutes and the authority to fix the salaries in the case of the original appointments should have the power to fix the leave and acting allowances.

Supplementary Office-note.

The Corporation proposes to introduce the Bombay provisions in Madras as regards the grant of leave to the Engineer, the Health Officer and the Revenue Officer. There seems to be no great objection in acceding to the wishes of the Corporation, if the other provisions regarding appointment and the fixing of the pay of these officers are adopted.

The grant of acting allowances to the officers appointed to act in Madras are now fixed by Government, while in Bombay the remuneration is determined by regulations framed by the Standing Committee and the Corporation. The Corporation now proposes to adopt the provisions of the Civil Service Regulations generally for this purpose. These rules have already been adopted by the Corporation in respect of other appointments.

Section 62.

Section 81 (*d*) of the Bombay Act.

G.O. No. 1302 M., dated 3rd August 1908.

The adoption of these rules in the case of the higher appointments now in question may leave the matter of fixing the emoluments to the discretion of the officer exercising the power to a certain extent, especially when new persons not already in service are appointed to the acting posts. The exact rules in this respect in Bombay are not known. The proposal may however, it is submitted, be approved. Under it the Civil Service Regulations will take the place of the regulations framed by the Standing Committee and the Corporation in Bombay.

The Bombay system may be adopted *in extenso* [sections 85 and 81 (1) (*d*).] As regards the fixation of acting allowances, the Corporation is unlikely to go below the scale contemplated by the Civil Service Regulations and if in a long arrangement it were proposed to assign inadequate emoluments, the pay would not attract a capable substitute and by vetoing the proposal to appoint an inferior person the Government would indirectly be in a position to secure enhancement of the allowances.

L. Davidson—5-6-11.

Government alone should deal with the Commissioner's leave. Otherwise I would follow the Bombay system as regards the authority to be empowered to grant leave of absence. But the provisions as to leave and as to leave and acting allowances should be those of the Civil Service Regulations.

But see paragraph 22 (*j*) of Secretary's note on which Honourable Members have approved of the Standing Committee's being consulted.

L. Davidson—25-9-11.

V. K[rishnaswami Aiyar]—16-7-11.

I agree with my Honourable Colleague.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (50)—Section 64.—*Power to sanction rules for fixing the amount of security to be furnished by municipal servants, for granting leave and leave allowance and acting allowance and for establishing and maintaining Provident funds.*

Office-note.

57. This section deals with the framing of rules—

(1) for fixing the amount and nature of security to be furnished by municipal servants,

(2) for regulating the grant of leave of absence, leave allowances and acting allowances,

(3) for regulating the grant of pensions and gratuities, and

(4) for establishing and maintaining a Provident or Annuity fund.

The rules framed by the Corporation in Madras in respect of the above matters will have to be previously sanctioned by Government.

58. In Bombay [section 81 (*f*)], however, only the rules under (3) above relating to pensions and gratuities will have to go up to Government for confirmation, the Corporation being itself competent to finally pass the rules in the other cases.

59. The Calcutta Act (section 73) also gives full power to the Corporation to make the rules without reference to Government; but it is provided that the Corporation's resolution in the matter should be supported by not less than two-thirds of the Commissioners voting.

60. It is observed that both in Bombay and Calcutta the power to sanction ordinary establishment of the Corporation rests solely with the Standing Committee and the Corporation, which explains the vesting of the power to make these rules in the Corporation also.

61. In Madras, no formal rules have yet been framed to regulate the security to be furnished by municipal servants. The amounts of these securities are determined in connection with the fixing of the salaries of the appointments. Under the old Acts there was no special provision for regulating the securities of municipal servants. Then, as now, the matter should have been regulated otherwise.

62. Rules regulating the grant of leave and allowances were framed only recently and sanctioned by Government in G.O. No. 1302 M., dated 3rd August 1908.

63. Under the Act before its consolidation in 1904, the Commissioners had themselves the power to frame rules in this behalf without reference to Government. The reason as to why the provision regarding sanction of Government has been introduced is not apparent.

Proviso to section 47 of the Act of 1884.

64. As regards the establishment of Provident fund, this provision was also introduced in 1904. The Corporation has not decided to establish a scheme for its servants, as service under the Corporation is already pensionable—G.O. No. 1661 M., dated 9th August 1907. It is not also likely that the Corporation will establish one even in the near future. The rules for the establishment of a Provident fund scheme are much more important than those in regard to leave and leave allowances. It appears to be desirable to retain the power with Government as regards them; while, if necessary, the power in respect of the other two matters (*vizt.*, rules for securities and leave and leave allowances) may be surrendered. The Madras District Municipalities Act [section 43 (ii)] gives absolute power in the matter of securities to the municipal councils themselves.

Supplementary Office-note.

The Corporation considers that the provisions of the Bombay Act should be adopted. This means that the power of Government in regard to the rules regulating securities to be furnished by municipal servants, their leave allowances and acting allowances and the establishment of provident fund should be surrendered. As observed above there seems to be no objection to this course so far as security and leave rules are concerned. As regards the rules regulating provident or annuity fund, it seems desirable to retain the power with Government, though there is no prospect of the provisions in this respect being put in operation.

I do not think that in any of these cases it is necessary to go beyond the Bombay provisions. The Corporation accepts the intervention of Government in regard to pensions, gratuities and compassionate allowances as under clause (*f*) of section 81 (1) of the Bombay Act [*cf.* also section 81 (2)].

L. Davidson—5-6-11.

I agree, but the rules as to leave and leave allowances should be those of the Civil Service Regulations.

V. K[rishnaswami Aiyar]—16-7-11.

I agree.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (28)—Sections 12 (3) & 65 (2).—*Power to determine by rules the pensionary contributions payable on account of Government servants lent for employment.*

Office-note.

65. This provision seems essential. When the Corporation applies for the services of a Government officer or when the Government themselves depute an officer for service under the Corporation, the Government should have the power to levy the contribution from the Corporation. So also when an officer of the Corporation is taken into Government service he should not lose his service under the Corporation.

66. In the Bombay Act there does not seem to be any specific provision on these points.

67. Apparently the payment of the contribution in the case of officers transferred to the Corporation is secured there by means of a stipulation in the order sanctioning the loan of the services of the officer. The Calcutta Act (section 69) contains, however, specific provision as in Madras.

Supplementary Office-note.

The Corporation observes that the leave allowances and pensionary contribution should be regulated by the provisions of the Civil Service Regulations or other rules in force at the time. There seems to be no objection to the substitution of the rules of the Civil Service Regulations for the orders of Government in the sections in question. In effect there is no material difference between the existing and proposed provisions, especially as Government apply only the Civil Service Regulations in such matters.

I do not think statutory power is necessary in a case which can be settled otherwise. Government can impose the conditions it thinks proper by the simple expedient of refusing to lend its servants on other terms. The Corporation does not demur to this arrangement.

L. Davidson—4-6-11.

I don't think we need leave the matter to special arrangement in each case: we may state explicitly that the matter should be regulated by the Civil Service Regulations.

V. K[rishnaswami Aiyar]—16-7-11.

I agree with my Honourable Colleague. The Civil Service Regulations do apply, and can't be departed from.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (44)—Section 66 (2) (*e*).—*Power to approve of contracts involving expenditure of over one lakh of rupees.*

Office-note.

68. This section provides that contracts involving an expenditure exceeding Rs. 2,000 and not exceeding Rs. 10,000 should be previously approved by the Standing Committee, that those between Rs. 10,000 and one lakh, by the Corporation and that those above one lakh by the Local Government. This again was imported in 1904 from the Calcutta Municipal Act—section 86 (2). The older Madras Act only required (section 51 of the Madras City Municipal Act, 1884), that contracts involving an outlay exceeding Rs. 2,000 should be made with the previous consent of the Standing Committee.

69. The Bombay Act [section 69 (*e*)], contains provisions which are nearly similar to those in the old Madras Act. It gives power to the Commissioner to make contracts up to the limit of Rs. 5,000, contracts above that amount requiring the approval of only the Standing Committee.

70. It does not appear that any abuse of power by the President and the Standing Committee was complained of when the entire power of giving contracts rested with them for the long time the old Act was in operation. After the Consolidation Act came into force only eight * cases have come up to Government for sanction and in only one case did the Government find the necessity to disapprove of the proposal of the Corporation for the disposition of the contract, *viz.*, the proposal to give the contract for the construction of water-supply filter-beds to the Indian Siegwart Beam Company. The giving up of this power by Government may not perhaps be of great moment, especially as the Corporation was itself exercising it previously with no serious results. If it is decided to abandon this power, it is for consideration whether it should rest finally with the Standing Committee as in Bombay and in the old days in Madras itself or should go before the Corporation. It may perhaps be better in Madras to raise the Standing Committee's limit to say Rs. 20,000 and to require that all contracts above that limit should go before the Corporation, though in the Bombay Corporation with its seventy-two members such a course may not be advisable.

It seems enough to retain the power to approve works costing more than one lakh.

1884 to 1904.

* *Vide* G.Os. Nos. 494 M., dated 23rd March 1908; 1495 M., dated 7th September 1908; 1502 M., dated 8th September 1908; 2072 M., dated 11th December 1908; 949 M., 17th June 1909; 1539 M., dated 14th September 1909; 1657 M., dated 4th October 1909; and 1988 M., dated 4th December 1909.

Vide G.O. No. 653 M., dated 23rd April 1909.

In this case the action of the Government was fully justified, I believe, by results.
M. H[ammick].

Supplementary Office-note.

The Corporation considers that as in Bombay the Standing Committee should have full power to approve contracts or accept tenders for works involving an expenditure of over Rs. 5,000. One of the members of the Sub-Committee, Mr. T. Rangachariyar, objected in his minute of dissent to giving the Standing Committee as at present constituted the power to sanction all contracts. He pointed out that in the Standing Committee of Bombay the proportion of elected Commissioners was larger and that unless the same proportion was introduced here, he would give the Standing Committee power to sanction contracts only up to Rs. 10,000, contracts over that amount going up to the Corporation. The Corporation approves the recommendation of the Sub-Committee that all contracts over Rs. 5,000 should be approved by the Standing Committee finally, but at the same time requests Government to reconstitute the Standing Committee so as to make it more representative of the rate-payers. It thus seems to be the intention that the devolution of higher

powers on the Standing Committee and its reconstitution should go simultaneously. The latter point is for separate consideration. In any case the Corporation is not for giving any power to Government in the matter of contracts. It is for consideration whether it should be surrendered. The Government had recently to overrule the Corporation in respect of its proposal to vary the terms of a contract; but in that case the Government agreed with the Standing Committee that the contract should be cancelled. As pointed out above, however, the Government need not perhaps insist on retaining this power.

G.O. No. 86 M., dated 16th January 1911.

I agree that the power of settling contracts may be given up. A sensibly constituted Standing Committee ought not to go seriously wrong.

How that Committee should be constituted is matter for separate consideration. The point now in issue is the limitation of Government control.

L. Davidson—5-6-11.

Yes.

V. K[rishnaswami Aiyar]—16-7-11.

I agree.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (12)—Section 89 (1) (*a*).—*Power to sanction contribution towards expenditure incurred by a local body but likely to benefit the inhabitants of the city.*

No. (13)—Section 89 (1) (*b*).—*Power to call on the Corporation why it should not contribute towards expenses incurred by a local body likely to benefit the city.*

No. (14)—Section 89 (2).—*Power to direct the payment of contribution referred to above.*

Office-note.

71. The older Madras enactments did not contain these provisions. These were introduced during the consolidation of the Act in 1904 on the analogy of the provisions in the Madras District Municipalities Act, 1884 (section 114).

Vide clause 85 on page 4 of Statements of Objects and Reasons.

72. The Bombay Act does not specifically refer to making of contributions to other local bodies. Apparently the Corporation there is free to make such contributions, if it considers necessary, without any reference to Government.

73. The Calcutta Act however merely authorizes the Corporation to make contributions to the neighbouring municipalities for expenditure on sanitary purposes; but no sanction of Government is prescribed even there.

Section 14 (2) (*x*) of the Calcutta Municipal Act.

74. The first point for consideration is whether the sanction of Government may be dispensed with in Madras for payment of the contribution. The Madras Corporation is at present paying a contribution only to the District Board of Chingleput and that for the maintenance of the Sembiam dispensary. The annual contribution now amounts to Rs. 780. Subject only to the control of budget provision, the Corporation has power to make any contribution to any of the institutions *within* the City, which carry out purposes, which, in the ordinary course, should be undertaken by the Corporation. There seems to be no objection to permit the Corporation to make contributions to *outside* bodies also for benefits derived by the inhabitants of the City. If this is approved, the words "with the previous sanction of Government" in section 89 (1) (*a*) will have to be omitted.

75. The next point for consideration is whether Government should retain any power to direct the payment of contribution to any local body for similar objects. There have been no occasions till now in which Government had to avail themselves of this power. Even the contribution to the Sembiam dispensary seems to have been arranged by the Corporation itself, without reference to Government, the matter having come to the notice of Government only in connection with the budget. It may perhaps be left to the good sense of the Corporation to pay such contribution to the local body which incurs expenditure for the benefit of the City as it likes. The safeguard in the present Act is intended to be used in cases where the Corporation declines to contribute.

G.O. No. 492 M., dated 23rd March 1901.

Supplementary Office-note.

The Corporation also suggests that the power to sanction contributions under section 89 (1) (*a*) may be vested in itself instead of in Government. The entry "no change is necessary" against item 21 on page 13 of the current is apparently a mistake.

The Corporation considers that the other provisions are unnecessary and should be omitted. It is for consideration whether the provisions may be deleted.

These powers are new and, I submit, not essential. The first may be transferred to the Corporation. The other two then lapse.

L. Davidson—5-6-11.

Yes, we may agree with the Corporation.

V. K[rishnaswami Aiyar]—16-7-11.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (15)—Section 90 (1).—*Power to sanction the deposit of the Corporation funds in any bank other than the Bank of Madras or to invest the same in securities.*

Office-Note.

76. This point will be divided into two parts—first relating to the current deposit of municipal funds, and the second to the investment of surplus money. As regards the first, section 90 (1) of the Madras Act lays down that all moneys received by the Corporation shall be lodged in the Bank of Madras or with the sanction of Government in any other bank. The Bombay Act (section 112) requires that all moneys should be lodged in the Bank of Bombay. It however permits (section 114) the depositing of the municipal fund with any Bank or agency *outside* Bombay when convenient; but in this case the approval of the Standing Committee is necessary. The Calcutta Act (sections 111 and 113) also contain similar provisions as the Bombay Act, with the only difference that the approval of the Corporation is also considered necessary for the deposit of municipal funds in the Bank outside the City. Thus in both Calcutta and Bombay, the Corporation cannot deposit its current revenues in any Bank *within* the city other than the Presidency Bank. The provisions in the Madras Act, which permit the deposit of current revenues even outside the Presidency Bank, are not therefore more restrictive than those of Bombay. The present provisions in the Madras Act in this respect do not thus seem to need revision. In Madras, there may not be any necessity, nor do there seem to be any facilities, for opening accounts with a banking agency outside the city, as in Bombay or Calcutta. Even should such a contingency arise, the existing Act can be used to permit such transactions, though the sanction of *Government* will be necessary.

77. As regards the other point, *viz.*, the investment of surplus money, the Madras Act [section 90 (1)] provides that with the sanction of Government, municipal moneys can be invested in any of the securities specified in section 20 of the Indian Trusts Act. This section authorizes the investment of trust money in Government securities, in guaranteed railway or municipal debentures, and in

Act II of 1882.

mortgage of immovable property. The Bombay Act (section 122) similarly authorizes the investment of surplus money in the Bank of Bombay or in public securities and when such deposits cannot be favourably made, the money may be deposited at interest in any bank or banks in the City of Bombay. But in the latter case the approval of the Standing Committee and the Corporation is necessary. The sanction of Government is not required there. The provisions of the Calcutta Act (section 119) are similar to those of Bombay. In Madras, the Act, before its consolidation in 1904, was silent on the question of investments; and since then there does not seem to have been any case in which sanction had to be given for investing municipal money. Two questions will apparently be considered, if proposals for investment come up before Government—first, the expediency of the investment with reference to the financial position of the Corporation, and second, the soundness of the security proposed for investment. In regard to the first question, if the general financial control over the Corporation is relaxed, as proposed by the Royal Commission, the approval of Government would apparently be unnecessary to the question whether it will be expedient to make an investment of municipal money at a particular time. In respect of the other point, whether the investment will be sound, there will apparently be no objection to the investment of municipal money in Government securities and in guaranteed railway or municipal debentures. It is only in regard to the investment in mortgage of immovable property that care and circumspection may be necessary. The Calcutta and Bombay Acts do not authorize such investments at all. If the provision relating to the investment in the mortgage of immovable property is removed altogether as in the other Presidency Corporations, there may not, it is submitted, be any objection to the removal of Government control in the matter of investments.

Section 122 (2) of the Bombay Act.

Cf. section 60 of Act I of 1884.

Supplementary Office-note.

The Corporation itself does not consider that any change in the existing provisions is necessary. The sections may therefore be retained.

The Bombay provisions may be adopted *in extenso*. So far as investments of current revenue in banks outside of Bombay are concerned, *the initiative rests with the Commissioner* *. As to investments, the definition of public securities in section 3 (*o*) excludes mortgages of immovable property.

* Section 114.

L. Davidson—5-6-11.

I think we may accept the view of the Corporation that there is no need for a change. Bombay is a commercial province with outside banks in Ahmedabad, Karachi and Surat. We have no need to allow the Corporation to invest outside Madras. But if such a course is ever desirable Government sanction should be required.

V. K[rishnaswami Aiyar]—16-7-11.

I think they have a lot of money invested now.

M. H[ammick].

I agree with my Honourable Colleague. It is difficult to see how the Corporation would ever have spare cash for investment.

J. N. A[tkinson]—24-7 11.

I agree.

M. H[ammick]—8-8-11.

I used the word "investment" as meaning locking up funds permanently, or for long periods; not the mere temporary conversion of cash into bank deposits, Government pro-notes, etc.

J. N. A[tkinson]—2-10-11.

No. (30)—Section 91 (4).—*Power to fix the month of the budget meeting of the Standing Committee.*

No. (31)—Section 92.—*Power to fix the date for the submission of the budget to the Corporation.*

No. (32)—Section 93.—*Power to fix the month of the budget meeting of the Corporation.*

No. (33)—Section 95 (1).—*Power to fix the date of submission of the budget to Government.*

No. (34)—Section 95 (2).—*Power to modify the budget.*

No. (35)—Section 97 (1).—*Power to approve of alterations in the sanctioned budget or make rules for the alterations of sanction budget.*

Office-note.

78. The first four powers depend only on the fifth. If the last power of control over the budget is removed, the other powers will naturally have to be surrendered. It is therefore enough if the last alone is considered. Section 95 (2) of the Act lays down that the Local Government shall pass such orders on the budget as they think fit and may reject or modify all or any of the items entered therein or add any item thereto not inconsistent with the provisions of the Act or involving the raising of a loan; and under sub-section (3) the Corporation is required to abide by the budget as approved by the Government. Section 96 also provides for the preparation of a supplemental budget and for its approval by Government.

79. Sections 125 to 129 of the City of Bombay Municipal Act deal with the preparation of budget estimate. The duty of framing the budget in Bombay primarily rests with the Standing Committee; and the Corporation is the final authority for passing the budget. No copy of the budget is sent to Government even for information. It is, however, laid down in the Act that the budget *should* provide for all payments an account of loans and for a cash closing balance of not less than one lakh of rupees. The budget also determines the rates at which municipal taxes should be levied and the articles on which town duties should be imposed. Even in respect of this matter the sanction of Government is not required.

Section 126 (1).

Section 129.

Section 128 (1).

80. The Calcutta Act is similar to the Bombay Act in this matter—sections 120 to 125 of the Calcutta Municipal Act, 1899.

81. In Madras the budget has till lately been the occasion for considering revision of establishments and these proposals themselves made the budget very cumbrous. Till 1904, the budget was the only means for Government to control the establishment through, but by the Consolidation Act of 1904, specific power has been provided for the purpose. Again by G.O. No. 1391 M., dated 9th July 1907, the Corporation has been asked to submit all proposals for the revision of establishment in advance of the budget not later than the 15th of October. The budget is thus no longer used for the purpose of controlling the establishment. Nor is it now made the occasion for overhauling the establishment as in previous years. The reviews of budgets are confined only to broad principles of finance—paragraph 2 of G.O. No. 1394 M., dated 10th July 1907. No minimum balance was till 1906 either prescribed or enforced. In G.O. No. 872 M., dated 8th May 1906, a minimum balance of 5 per cent. of the receipts under the general funds has been fixed. On receipt of the budget estimate, the Sanitary Commissioner, the Director of Public Instruction and the Surgeon-General are consulted by Government as to the adequacy or otherwise of the provision under the respective heads relating to sanitation, education

Section 58 of Act III of 1904.

In practice, however, some establishment proposals still come up with the budget.

P. T. Tharyan—20-3-10.

Vide pages 1 and 2 of the notes with G.O. No. 872 M., dated 8th May 1906.

and medical charges. Even this system was introduced only from 1906. In considering the budget, the Government now see whether the minimum balance has been provided, whether sufficient allotments have been made under the various service heads, whether the necessary provision has been made for payments on account of loans, whether the new loans which the Corporation proposes to raise are within the limits allowed by the Act, and whether the general financial stability of the Corporation is maintained. The interference of the Government with the budgets has of late become of a very limited extent as all important matters, such as alterations in the rates of taxes, raising of loans, determining the contributions by Government and revision of establishments are considered separately from the budget, in advance or subsequently. It is for consideration whether, as in Bombay and Calcutta, the Corporation may be left to pass its own budget. In connection with the recommendation of the Decentralization Commission in regard to district municipalities, the Secretary (Mr. Francis) has proposed that in the case of first-grade municipalities, budgets might merely be submitted to Government for information who would go through them much as at present and make a note of any defects for use in case a council continued to do badly and needed degradation. If this proposal is approved, there will be stronger reason for leaving the *Corporation* free to frame its own budget, subject to the condition that provision is in any case made therein for a fixed minimum balance and for payments on account of loans.

Please see paragraph 58 on pages 28 and 29 of the notes with letter No. 1545 M., dated 30th September 1910.

82. Under section 97 (1) of the Madras City Municipal Act, 1904, the increase, reduction or transfer of allotments in the sanctioned budget have to be made only with the sanction of Government or in conformity with the rules framed by them for the purpose, provided that the total expenditure in the sanctioned budget is not exceeded. The Government have not yet framed any rules regulating the alterations in the budget grants. These changes are brought before Government once for all in connection with the revised estimate submitted with the budget estimate for the ensuing year. Should the grants in the revised estimate be also further exceeded, a separate list of them is submitted to Government for formal approval after the close of the year.

Cf. G.O. No. 1609 M., dated 25th September 1908.

83. In Bombay, the Corporation is permitted to make alterations in the budget grants provided that the minimum cash balance is not touched—section 131 (1). The Calcutta Act also contains similar provision in the matter—section 126 (1) of the Calcutta Municipal Act, 1899.

84. If the final control over the budget now exercised by Government in Madras is eventually surrendered, the power to alter the budget grants may also be left to the Corporation, subject to the same stipulation as in the other two cities that the minimum balance is not interfered with.

Supplementary Office-note.

The Corporation considers that it should have as full powers in the matter as the Bombay Corporation has, *i.e.*, the necessity for the approval of Government to the budget should be avoided and the final power should be left to itself. The Corporation does not say specifically whether it agrees to provide for an absolute minimum balance as in Bombay if that system were adopted. Apparently it does agree. It is for consideration whether the framing of the budget may be left to the Corporation itself. If so, the next question is whether the 5 per cent. balance now prescribed by executive order should be retained and incorporated in the Act, instead of the fixed sum of one lakh in Bombay. In regard to district municipalities, it has since been decided by this Government that alterations in the budget estimates, other than corrections of clerical errors, should not be made without previous reference to municipal councils.

G.O., No. 872 M., dated 8th May 1906.

If the control over budget is given up there should apparently be some provision for a copy of the budget to be sent up to Government and for Government to ask the Corporation to reconsider any point which may strike them as improper.

P. T. Tharyan—12-3-11.

Paragraph 15 on page 9 of letter No. 1545 M., dated 30th September 1910.

As regards allotments and transfers of funds the Corporation proposes to adopt the Bombay system. There the Corporation can itself sanction subsequent allotments, without touching the minimum balance; and the Standing Committee can sanction transfers of funds reporting its action to the Corporation. The Corporation there can pass any orders as it thinks fit on the transfer of funds of over Rs. 500. With the surrender of control over the budget, there seems to be no objection to approve the Corporation's present proposals in this regard also.

I think the time has come for giving up budget *control* and would adopt the Bombay system substantially in its entirety, merely requiring that a copy of the budget shall be submitted to Government so as to give them an opportunity of tendering advice. There must be a minimum balance prescribed by law and a specific direction compelling provision for the repayment of loans. As to the rates at which taxes should be levied, some measure of Government control alone seems expedient. This topic is separately dealt with below at page 38 *infra*.

L. DAVIDSON—5-6-11.

I agree that we may give up budget control and provide for a copy being sent for the information of Government. I would require the standing committee to consult the Director of Public Instruction, the Sanitary Commissioner and the Surgeon-General with regard to the special departments on the draft budget. We may fix a minimum balance as in Bombay and require provision as to re-payment of loans.

V. K[RISHNASWAMI AIYAR]—16-7-11.

I agree.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (40)—SECTION 104.—*Power to fix the amount of payments into sinking fund for the repayment of money borrowed on debentures.*

No. (41)—SECTION 107 (2).—*Power to fix the terms, the form, scrip and terms of exchange of consolidated loans.*

No. (42)—SECTION 107 (3).—*Power to extend period of repayment of consolidated loan to date beyond the farthest of the loans consolidated.*

OFFICE-NOTE.

85. The Madras City Act specifically grants the power to the Local Government in respect of the above matters, while in Bombay [section 109 (*d*) of the Bombay Act] the Corporation is given the option of maintaining the sinking fund or repaying the loans by annual instalments and the power to fix the amounts for such payment. As even under the Bombay Act, as in Madras, no loan can be raised by the Corporation without the sanction of the Local Government and the Government of India, the terms of repayment in respect of loans will naturally have to be determined along with the sanction to raise the loans, and will therefore be subject to the same outside control as the raising of the loan itself. The provisions of the Madras Act do not thus really circumscribe the powers of the Corporation in any greater degree than in Bombay. No special notice need therefore be taken of these provisions.

Vide sections 107 and 109 (*c*) of the Bombay Act.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation however says that it should have the same power as in Bombay as regards the fixing of the amount of payments into the sinking fund on account of money borrowed on debentures (section 104) but in other respects the Corporation desires no change in the existing provisions. As pointed out above, no special power is exercised by Government under the section in question, and by the mention of the Corporation in section 109 (*d*) of the Bombay City Municipal Act, no specific absolute power is granted to the Bombay Corporation. The amount of payments

to the sinking fund being one of the main conditions of sanction for a loan, these will naturally be determined by the Government of India, while sanctioning the loan. There seems therefore to be no point in considering the Corporation's proposals.

New Government loans in Bombay are adequately secured by section 107, while section 109 (*c*) allows the Government of India to prescribe the period of repayment in the case of private loans. I see no reason why the Corporation should not settle with the lender all other terms relating to private loans. There can be no change in regard to the loans already contracted.

L. DAVIDSON—5-6-11.

I agree with the Secretary.

V. K[RISHNASWAMI AIYAR]—16-7-11.

Should there not be some power reserved to Government to prescribe the time when the Corporation may float a private loan? The Finance Department regard it as essential that there should be no competition between local bodies and Government themselves when borrowing. Otherwise, I agree.

J. N. A[TKINSON]—24-7-11.

I agree. The Government of India in sanctioning the loan makes it a condition, if it likes, that it should be floated or not floated at certain periods of the year.

M. H[AMMICK]—8-8-11.

No. (16)—SECTION 110.—*Power to appoint auditors.*

No. (17)—SECTION 114.—*Power to determine remuneration to auditors.*

OFFICE-NOTE.

86. Section 110 of the Madras Act provides that the Local Government shall before the end of every financial year appoint two persons to be auditors of the municipal accounts and to maintain and keep a continuous audit of the same during the financial year next following. In pursuance of this section, the Accountant-General and the Chief Superintendent in charge of outside audit are now being appointed every year to be auditors; and an establishment under them is permanently working in the municipal office and conducting a concurrent audit. Section 114 of the Act requires the Corporation to pay to the auditors such remuneration as the Local Government may determine. Till 1907–1908, a lump contribution of Rs. 3,000 *per annum* was being paid by the Corporation on account of the audit. In G.O. No. 90, Financial, dated 11th February 1908, the Government, in waiving several contributions levied from local bodies for services rendered to them, relieved the Corporation also of the payment of the contribution of Rs. 3,000. Thus the audit of the accounts of the Madras Corporation is being conducted at the instance of Government without any expenditure to the Corporation.

Cf. G.O. No. 211 M., dated 8th February 1908.

Page 52 of the Administration Report for 1906–1907.

87. The Bombay Act (section 136) also lays down a concurrent audit; but the auditors for each year are to be appointed by the *Corporation* and not by *Government*. The Act authorizes the payment of a remuneration to the auditors not exceeding Rs. 10,000 *per annum*. The Bombay Act (section 138), however, provides that the Governor in Council may at any time appoint an auditor for making special audit and reporting thereon to Government, the cost of such audit being chargeable to the municipal funds.

Section 136 (3).

88. The Calcutta Act (section 143) is, however, similar to the Madras Act in leaving the appointment of auditors in the hands of Government.

89. The adoption of the Bombay system of leaving the appointment of auditors to the Corporation will naturally involve the payment of remuneration to auditors which the Corporation is at present relieved of. This proposal will not therefore, be

beneficial to the Corporation. Further, the Corporation is not likely to secure any better set of auditors or a more independent class of them. The retention of the power of appointing auditors by Government which will only be advantageous to the Corporation is not likely to be considered as a curtailment of its privileges. The power given to Government under the Bombay Act to appoint special auditors at any time takes away a large portion of the objection which may perhaps exist to the retention of the original power of appointing auditors with Government in Madras. There seems, in these circumstances, to be no objection to the existing provisions of the Madras Act being retained, especially so long as the Corporation secures an audit without any cost to it.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation considers that the provisions of the Bombay Act (sections 136 and 138) should be adopted in Madras. As pointed out above, the objection to the adoption of this course is mainly on the ground that the Corporation may then have to pay for the audit, unless the Government choose to continue the present assistance free even under altered conditions. The Government have been till now appointing the Accountant-General and a subordinate officer of his as the auditors and there have been till now no complaints against the nomination of these officers. There seems to be no great point in the Corporation's electing to have the nomination in its own hands. But as it is prepared to meet the inconvenience above referred to, the Government need not perhaps object. They will still have the power to direct any special audit when they deem it necessary, as the Corporation has decided to adopt the provisions of section 138 of the Bombay Act in this respect.

Cf. G.O. No. 211 M., dated 8th February 1908.

Vide section 24.

The Bombay system may be adopted. If the Corporation does not appoint auditors of recognized standing, Government can always direct a special audit at the cost of municipal funds under section 138.

L. DAVIDSON—5-6-11.

I am averse to a change in the provisions as to audit. To leave it to the Corporation is to introduce laxity, and the possibility of a special audit at the instance of Government may be a late remedy. The municipal office in Madras is not in a model condition. Without a stringent audit corruption would cause much confusion in the accounts. Bombay is a commercial centre with large number of business men who could, as members of the standing committee, be trusted to exercise an efficient control.

I quite agree. Audit is the one point on which we should insist on the utmost strictness.

M. H[AMMICK].

V. K[RISHNASWAMI AIYAR]—16-7-11.

I agree with my Honourable Colleague. Audit to be of any use must be by auditors not amenable to influence. If the Bombay system be introduced, the auditors must be chartered accountants.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (36)—SECTION 116.—*Power to approve the rate of taxes to be levied in each official year.*

OFFICE-NOTE.

90. Under section 116 of the Madras Act, the sanction of Government is necessary for the levy of any tax or toll. The Corporation submits every year in advance of the budget a list of the taxes and tolls and the rates at which they are to be levied; and this list is approved by Government.

Cf. G.O. No. 285 M., dated 19th February 1908.

91. In Bombay [section 128 (1)] the Corporation itself determines every year in connection with the budget the taxes and their rates and the articles on which the town duties are to be imposed. Under section 134 (2) of that Act, the Corporation there has also power to have recourse to supplementary taxation in the course of the year, if found necessary. The Calcutta Act [sections 124 (1) and 127 (2)] also contains provisions similar to the Bombay Act.

92. In Madras all the taxes are levied at the maximum rates provided in the Act, except the lighting tax which is levied at $1\frac{1}{4}$ per cent. against the maximum of 2 per cent. The accounts relating to this tax are, however, kept separately under section 148 (3); and as there is at present a * surplus in this fund, no necessity has yet arisen for raising the rate of this tax. The question of surrender of this power is one of the most important portions of the recommendations of the Commission. The several important schemes of improvements to the city, which the Corporation has now on hand, and the large assistance which the Government are rendering them by way of grants and loans on account of those schemes, stand prominently against the Commission's recommendation. The financing of the entire water-supply and drainage schemes has not yet been determined. It may be possible that taxation may have to be raised; and unless the Government have the upperhand in the matter, it may not be possible to bring round the Corporation to give effect to the enhancement. Recently, when the rate of the water and drainage tax was specially raised in the Consolidation Act of 1904, the Corporation had to be forced to give effect to the enhancement in a particular year against the wishes of the Corporation—G.Os. No. 872 M., dated 8th May 1906, and No. 1128 M., dated 22nd June 1906. Further, power in regard to taxation implies power to reduce the rates; and in view of the fact that reduction will be popular it may not be unreasonable to surmise that it may be carried to an undesirable extent so as to handicap the administration.

Section 148 and paragraph 45 of the report for 1908-1909.

* Rupees 20,648 in 1908-1909—*vide* page 86 of the report volume for 1908–1909.

93. In regard to a similar recommendation in respect of the district municipalities, it has been suggested by the Secretary (Mr. Francis) that the recommendation was too far reaching and dangerous to be adopted. On the other hand, these powers are for a long time being exercised by the Corporations of Calcutta and Bombay and there does not seem to have been any complaint made before the Royal Commission as to any misuse of such power.

Paragraph 40 of the note on page 23 of the notes with letter No. 1545 M., dated 30th September 1910.

94. If it is considered inadvisable to grant the entire control over taxation to the Corporation, it may be considered whether some power should be retained for Government to interfere and insist on the enhancement of taxation when, in their opinion, such interference is called for by persistent maladministration. There is no specific provision in the existing Act to interfere in such manner. The enhancement of taxation, if considered necessary, is effected only through the budget—please see the Advocate-General's opinion on page 3 of G.O. No. 883 M., dated 9th May 1906. If the control over the budget is to be surrendered, the question of the desirability of introducing a special provision in the City Act empowering Government to enhance taxation in extraordinary cases may perhaps be considered—*Cf.* section 49 of the Madras District Municipalities Act. It is, however, observed that neither the Bombay nor the Calcutta Act contains any such provision.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation proposes that it should be given full power as in Bombay. This is the most important and vital point of difference between the Bombay and Madras Acts. On the question of relieving district municipalities from control in the matter of taxation, this Government have since expressed themselves very strongly against it. Please see paragraph 13 of the letter to the Government of India, No. 1545 M., dated 30th September 1910, in which the *pros* and *cons* of the question are fully dealt with. What applies to the district municipalities will apply

equally to the City Corporation. The present Act (section 116) gives only power to approve of the rates of taxation proposed by the Corporation. As all the taxes, except the lighting tax, are now levied at the maximum rates, there can be no further enhancement of taxation under general funds unless the Act is amended. The present power will only therefore serve to see that the Corporation does not reduce taxation unduly. With the present pressing demands for improvement, there is no possibility of reduction of taxation for some time to come. Any enhancement of the rate of taxation can only be done by an amendment of the Act which will be undertaken when the need therefor has been actually made out. The necessity for additional taxation and the extent to which it is necessary will then be fully threshed out before the Legislative Council. After the Act has provided for increased rate of taxation, the only question which will then remain for consideration is when the enhanced taxation should be given effect to. The initiative in this matter also rests with the Corporation. Especially after the surrender of the budget control, the Government will have no power to initiate taxation, theirs being only power to *approve*. Thus, the power of Government in this respect is only a preventive against undue reduction and does not amount to any real control. It does not seem likely that the Corporation itself would, but for the reference from Government and the Royal Commission's recommendation, have proposed this measure. Two of the Commissioners who were examined as witnesses by the Royal Commission, *viz.*, Sir V. C. Desikachariyar * and Mr. Joseph Satya Nadar †, stated in the course of their evidence that the power to control taxation should be with Government. In these circumstances it is for consideration whether any change is necessary.

* Questions Nos. 5288 and 5289 on page 156 of the Madras Evidence Vol.

† Questions Nos. 6012-6015 on page 181 of the Madras Evidence Vol.

This power is one which I do not think Government can safely give up. The main risk is in regard to possible reductions of taxation. If Government *sanction* is not necessary, Government should at least reserve to itself the power to *veto* alterations in the existing rates of taxation.

A | The power to direct enhancements may be abandoned, if only for the reason that, as the office-note points out, all taxes except the lighting tax are already levied at the maximum rates.

L. Davidson—5–6–11.

Section 116 requires the approval of Government. This cannot be affected except by legislation. When legislation is introduced the question of allowing the present maximum rates will arise. If the maximum is altered, the problem will arise whether the power to direct enhancement should be abandoned. **A** is not therefore a solution.

The approval of Government for the levy of any one of the taxes and tolls specified in section 115 must continue to be required.

The rate is specified by law as regards the tax or toll mentioned in section 115, clauses (*a*), (*f*) and (*g*). There is no question of approval by Government as regards them. As regards the taxes mentioned in clauses (*b*), (*c*), (*d*) and (*e*) the maximum rate is given in the Act and as stated in the notes it has been reached in the case of (*b*), (*c*) and (*e*). This maximum may be raised by legislation to meet the needs of the future. It seems to me that instead of the rates being fixed subject to the approval of Government the Act may provide a minimum as well as a maximum and leave it to the judgment of the Corporation to alter the rates between those limits. If we have a reasonably safe minimum, I see no objection to the *amour propre* of the Corporation being gratified.

If there be anything still amiss, sections 24 to 27 and the power especially to increase a tax under section 26 are a sufficient reserve.

V. K[rishnaswami Aiyar]—16–7–11.

If and when legislation is undertaken I agree that the Act might be amended on the lines proposed by my Honourable colleague. Meanwhile things must of necessity remain as they are.

J. N. A[tkinson]—23–7–11.

I am inclined to think that, in the city, the fear that the Commissioners will reduce taxation is exaggerated. They cannot do so without reducing the present benefits (small enough as they are) derived from Municipal Government, and I don't think they can do that.

I would be ready to adopt my Honourable colleague's proposal.

M. H[ammick]—8–8–11.

No. (37)—Section 145 (1).—*Power to exempt any local area from the payment of water and drainage tax.*

Office-note.

95. The second proviso to sub-section (1) of section 145 of the Act lays down that the local Government may exempt any local area in the city from the payment of the water and drainage tax or any part thereof.

96. The Bombay Act does not contain any such provision. It is not apparently required there, as the principle on which the water-tax is levied is itself different. The tax is imposed only in respect of premises which are supplied from municipal water-works directly or situated in a portion of the city in which the Commissioner has given public notice that sufficient water from municipal water-works is available (section 141 of the Bombay Act) for such supply. There is thus no necessity in Bombay for specially exempting any portion of the city from the operation of the tax. The Calcutta Act does not also contain such provision.

97. Even in Madras it does not appear that the proviso has yet been put in operation, and no notification seems to have been issued exempting any portion of the city, though the provision has been in existence even in the Act of 1884.

Proviso to section 138 of the old Act, 1884.

Another proviso to the same sub-section lays down that a lower rate of taxation ($4\frac{1}{2}$ per cent.) should be levied on buildings and lands in non-populous parts which are not within 150 yards of a standpipe or municipal water-supply. Probably this concession is considered sufficient; and obviously there is no portion of the city which is not connected with the municipal water-works system. In these circumstances it is for consideration whether this power should not be delegated to the Corporation itself, if not entirely removed.

Supplementary Office-note.

The Corporation proposes that the provisions of the Bombay Act should be adopted. This proposal changes the principle of taxation altogether and the effect of the change may be even a reduction in the total realization from the tax. Several houses, which are now situated in non-populous parts and not within 150 yards of a standpipe, will then be exempt from taxation, and even in populous parts there should be a waiving of the taxation in view of the present paucity of water-supply. Several parts of the city, like Mylapore, Tondiarpet and other places, are absolutely not benefited by the present municipal supply and will thus be liable to exemption. Perhaps after the completion of the contemplated improvements to the water-supply the effect of this new provision may not prejudicially affect the proceeds from the tax. It will, however, be some years before the present distributary system is thoroughly overhauled. What we are immediately concerned with is the surrender of the power of Government to grant the exemption As pointed out above, the surrender of this power is not of much importance and may be approved. The importation of other provisions of the Bombay Act relating to the principle of the imposition of the water and drainage tax is a different matter for separate consideration when the amendment of the Act is taken up.

The question of the introduction of the Bombay system of restricting the water-tax to premises which are or can be served by the municipal water-supply is a matter which cannot be profitably discussed without at least approximate data as to the probable financial effect of such a measure in the present and in the near future. It is, however, one thing to provide for exemption by statutory provision (as in Bombay) or to give the local Government powers of exemption (as in Madras) and

quite another to assign discretion in such a matter to a Corporation composed of Commissioners of whom a large proportion owe their position to the votes of rate-payers naturally desirous of securing exemption from taxation. Such discretionary power should not, I think, be conferred on the Corporation, but there is no objection to its being given up by the local Government. Not only has Government not exercised the power as yet; but it may never decide to do so on the principle (which has been followed in more than one mufassal municipality) that the common weal and lack of funds make it necessary and equitable for all to pay water-tax, since even those who do not get water themselves derive indirect benefit from the improved health of their neighbours.

L. Davidson—4–6–11.

I don't see that there is any need for differential rates or for the exemption of any area. Even if the latter power be retained, I would not give it to the Corporation.

V. K[rishnaswami Aiyar]—16–7–11.

I have noted on the Secretary's note, page 116 *infra* that the power to differentiate rates should be retained. The power to exempt local areas is unnecessary either in the hands of Government or of the Corporation.

J. N. A[tkinson]—23–7–11.

I agree with the Hon'ble Mr. Krishnaswami. I have noted that in any case the Government must retain the power if it has to be retained at all. But I don't think we need have any provision for "exempting."

M. H[ammick]—8–8–11.

No. (38)—Section 148 (1).—*Power to exempt any division or part for the payment of the lighting tax.*

Office-note.

98. As in the case of the exemption from the payment of the water and drainage tax, the power to exempt portions of the city from payment of the lighting tax has not been hitherto acted upon, though the provision has been in existence since the Act of 1884. Even if the provision is considered necessary, the Corporation may as well be competent to decide as to the exemption. It is for consideration whether this power may also be surrendered.

Section 148 of the 1884 Act.

Supplementary Office-note.

The Corporation is also anxious to have the power left to itself. No such tax is levied in Bombay and there is therefore no necessity for a similar provision in that Act.

This power may, I think, be surrendered. There is no question of ward A's deriving indirect benefits from the lighting of ward B, as in the case of the water and drainage tax where sanitary questions are involved and the possible dissemination of contagious diseases is a factor.

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—16–7–11.

I agree.

J. N. A[tkinson]—24–7–11.

I don't suppose there is any part of the town where lighting tax is not imposed, though perhaps a differential rate for streets lit with electric light might be defenced. I should be inclined to take away the power of exemption altogether.

M. H[ammick]—8–8–11.

No. (45)—Section 200.—*Power to sanction the construction of water-works, etc., withot the limits of the city.*

Office-note.

99. This section provides that the President may, with the consent of the Corporation and the sanction of the local Government, construct filtering tanks, reservoirs, engines, conduits, etc., without the limits of the city for bringing water into the same.

100. The corresponding section of the Bombay Municipal Act (section 261) provides that the Commissioners under the authority of the Corporation may construct and maintain water-works either within or without the city. No restriction is expressly imposed on this power by the Act. It is, however, observed that the Vehar water-works which is the principal source of supply to the city is regulated by separate provisions of the Bombay Act. Under section 89 of that Act the water-works and the lake are vested in the Corporation.

101. It seems highly desirable to retain the specific provision in the Madras Act above referred to. The Corporation should not be allowed to have unrestricted powers over areas outside the city limits. The provision of previous sanction of Government for the purpose seems essential.

The point is that, if works outside the city are sanctioned, the Corporation and its officer and servants can exercise for the purposes of the works all their powers within the city throughout the line of country through which pipes or conduits run—section 202.

Supplementary Office-note.

The Corporation itself does not consider any change necessary.

As the office-note points out, section 200 must be read with section 202, the powers conferred by which clearly cannot be exercised without the approval of Government.

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—16–7–11.

M. H[ammick]—8–8–11.

No. (46)—Section 202 (*b*).—*Power to sanction the exercise by the Corporation of its powers under the Act over lakes or reservoirs supplying water to the town situated beyond the limits of the city.*

Office-note.

102. This section, while authorizing the Corporation, its officers and servants to exercise throughout the line of country through which pipes and conduits run from the water-works situated beyond the limits of the city all the powers which they may exercise under the Act within the city, requires that the sanction of the Government should be obtained for the exercise of like powers over the lake or reservoir from which supply to the city is derived. The preliminary portion of the section lays down in addition that the project also should have been approved by Government. The object of this section is to make it possible for the Corporation to control the source of water-supply to the city and to prevent the contamination of the water. The sections of the Act relating to this matter (sections 319 and 311) do not specifically cover the tanks and reservoirs outside the city. Hence the necessity for section 202 (*b*) quoted above.

103. In the Bombay Act, though there is no section corresponding to section 202 (*b*) of the Madras Act, section 388 (corresponding to section 319 of the Madras Act) is very wide and applies to all places vesting in the Corporation, among which the Vehar water-works are included. The difference is that in Madras the sanction of Government is required, while in Bombay no separate sanction is needed.

104. It seems superfluous that when once the sanction of Government is obtained to carry water from the tank or reservoir outside the limits of the city, separate sanction should again be obtained to apply the provisions of the Act to the tank and reservoir.

105. It is however observed that there will not be many occasions in which the sanction should be solicited and obtained. So far as Madras is concerned, sanction has already been given in G.O. No. 2608, Financial, dated 11th November 1884, to the exercise of the powers over the Red Hills tank and no further sanction will for a long time be needed in the matter as it is not likely that there is to be any other source of water-supply to the city. It is therefore immaterial hereafter whether the power to Government is there in the Act or not.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation also does not desire any change.

Government sanction is clearly necessary for the exercise of municipal powers outside municipal limits.

L. DAVIDSON—5–6–11.

I agree.

V. K[RISHNASWAMI AIYAR]—16–7–11.

I agree.

M H[AMMICK]—8–8–11.

No. (47)—SECTION 210.—*Power to require on the application of the Corporation a Railway Company to raise or lower its line for the passage of drains.*

OFFICE-NOTE.

106. This section lays down that if the Corporation conduct any drain or connected works across a line of railway, it may, with the sanction of Government and at the cost of municipal fund, require the owners of such line to raise or lower the level thereof.

107. In the Bombay Act, there is no such special provision as regards railway lines. Section 222 (1) of that Act gives the Commissioner very wide and general powers to carry "municipal drains through, across or under any street or any place "laid out as or intended for a street", "through or under any land whatsoever "within the City;" and sub-section (3) provides a safeguard that as little damage as can be shall be done and that compensation shall be paid by the Commissioner to any person sustaining damage thereby. It is doubtful whether the carrying of a drain under a railway line and altering its level thereby can be brought under this general power, especially as the Railway Company is protected by section 126 (*b*) of the Indian Railways Act against the removal, loosening or displacement of any rail, sleeper or other matter belonging to it. Apparently the power to require the alteration of the level of the rail for passing the drain is secured in Bombay as a stipulation to the grant of permission for laying down the railway under section 293 of the Bombay City Municipal Act.

108. In Madras no sanction has hitherto been given for altering the level of rails to admit of the passage of drains though this provision has been in existence even in the older enactments. Either there are very few drains running below the line or they run without creating a necessity for altering the level. The regular sewerage system is being introduced only now, and the necessity for such references may arise hereafter. In such cases the intervention of Government is provided by the Act, so as apparently to avoid any direct conflict between the Corporation and the Railway authorities. It does not seem advisable to dispense with that. It will prevent the urging of any unreasonable proposals by the Corporation on the Railway and safeguard the interests of both.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation also considers that no change is necessary in the existing provisions.

Government intervention is certainly desirable in order to prevent acrimonious controversy between the Corporation and the Railway Company.

L. DAVIDSON—5–6–11.

I agree.

V. K[RISHNASWAMI AIYAR]—16–7–11.

M. H[AMMICK]—8–8–11.

No. (18)—SECTION 230 (1) (*c*).—*Power to close a street or part of it permanently.*

OFFICE-NOTE.

109. Section 230 (1) (*c*) of the Madras Act provides that the Standing Committee may, with the sanction of the Corporation and of the Local Government, permanently close any public street or part thereof.

Act I of 1884.

The Act before consolidation (section 234) made the sanction of Government requisite for making new streets, bridges and tunnels or for improving them, as well as for closing public streets. The Select Committee that sat on the Bill to consolidate the Act in 1904 recommended that the sanction of Government might be retained only in respect of the permanent closing of streets, such sanction being unnecessary in regard to other matters, and this recommendation was accepted.

Paragraph 35, page 5, of the Select Committee's Report.

110. Under the Bombay Act [section 289 (3)] the sanction of the *Corporation* is sufficient for closing the whole or part of a public street permanently. The Calcutta Act (section 354) is similar to the Bombay Act in this respect.

111. Under the existing Act in Madras, the Corporation can without further sanction *open* new streets. The reason for requiring the sanction for *closing* an existing street is apparently that interests of private persons may be affected by the action of closure. The Act provides in those cases that reasonable compensation should be paid to those persons, the final authority for determining the compensation being the Courts. If any injury to private interests is apprehended, sufficient remedy is thus provided in the Act. In respect of the question of local knowledge and exigencies, the Corporation will naturally be in a better position than the Government; and sanction will not obviously have been prescribed on this account. There does not thus seem to be any great point in retaining the power with Government in this matter. It is further observed that under the District Municipalities Act [section 158 (1)] a municipal council can, on its own motion, close a public street. When a mufassal municipal council is considered competent to close a street on its own authority, it appears to be anomalous that a City Corporation should not be trusted with this power.

Vide section 231.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation also proposes that the provisions of the Bombay Act should be adopted (*i.e.*) that the sanction of Government for closing a street or part of it should be dispensed with. It is for consideration whether it may be so done.

This is a matter which, it is submitted, may safely be left to the discretion of the Corporation. It is not likely that the power will be abused.

L. DAVIDSON—5–6–11.

I agree.

V. K[RISHNASWAMI AIYAR]—16–7–11.

J. N. A[TKINSON]—24–7–11.

I agree.

M. H[AMMICK]—8–8–11.

No. (48)—Section 232 (2).—*Power to sanction the acquisition of any land (and building) outside the alignment of the street for the improvement of streets.*

Office-note.

112. Under this section, the President, with the approval of the Corporation and the sanction of the Local Government, may acquire, in addition to land and buildings required for opening, widening, extending or improving public street, any land outside the street alignment with the buildings if any, standing thereon. The other portions of this section lay down the procedure as to how such land may be sold, leased or otherwise disposed of. The object of this section appears to be to enable the Corporation to control and regulate the construction of buildings adjoining streets where necessary. The section in the old Act of 1884 (section 235) did not require any sanction of Government for purchasing such lands for the purpose of letting them out or selling them. The new section in the Consolidation Act of 1904 was copied from section 357 of the Calcutta Municipal Act; and the sanction of Government, which the latter section contains, has thus been imported in the Madras Act.

113. The Bombay Act [section 296 (1) (*b*)] while containing similar provisions enabling the purchase of lands by the Corporation outside the regular line gives the entire power in the matter to the Commissioner.

114. In Madras, the advisability of acquiring under the Land Acquisition Act all private lands required by the Corporation so as to secure an indefeasible title to the lands has been urged on that body in G.O. No. 883 M., dated 3rd June 1909; and where the provisions of the Land Acquisition Act are to be applied, the proposal has to go up to Government. In Bombay such lands are purchased by private negotiations, or acquired under the Act. In the case of the latter, there is no difference between the procedure in Madras and Bombay in the matter. If, however, the lands are purchased by private negotiations, there will be no occasion for the matter to come up to the notice of Government at all in Bombay.

Sections 90 and 91 of the Bombay Act.

L. Davidson.

115. As a matter of fact in Madras, all proposals for acquiring lands beyond regular lines come up to Government only in connection with the application of the Act. So long as the orders in G.O. No. 883 M., dated 3rd June 1909, are in operation, the provisions of section 232 (2) are practically unnecessary and the power to Government therein referred to may perhaps be surrendered.

Under section 49 of the Land Acquisition Act lands and buildings outside the street alignment have to be acquired in addition to portions required for street purposes if the owners require it. The object of section 232 (2) of the Municipal Act seems only to be to bring the latter Act into line with the Land Acquisition Act.

Supplementary Office-note.

The Corporation considers that the provisions of the Bombay Act should be adopted subject to the modifications that the sanction of the Standing Committee should be enough for the acquisition if the cost does not exceed Rs. 5,000 and of the Corporation if it exceeds Rs. 5,000. The Corporation does not seem to have considered the point that if the acquisition is to be under the Act, it has to come up to Government in any case. So long as this is the case, the power may be surrendered as pointed out above. As regards the differentiation which the Corporation suggests from the powers in the Bombay Act, where the Standing Committee has final power to sanction irrespective of the amount, there seems to be no objection in accepting it. This power is in accordance with that proposed in respect of the general question of acquisition of lands and buildings for street improvements.

Submitted that for all compulsory acquisitions the Land Acquisition Act has to be applied and Government sanction is necessary. The sanction of Government now prescribed by section 232 (2) is thus of not much consequence and may be relinquished.

P. T. Tharyan—12–3–11.

The Bombay powers may safely be conceded. The Corporation, it may be observed, proposed to give the Standing Committee powers of sanction up to Rupees 5,000, whereas under section 90 (3) of the Bombay Act the Corporation has to approve acquisitions by private negotiation costing more than Rs. 1,000. That, however, is a matter not immediately in issue. The question is whether Government control can be given up and I would answer it in the affirmative.

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—16–7–11.

I agree.

J. N. A[tkinson]—24–7–11.

I agree.

M. H[ammick]—8–8–11.

No. (19)—Section 261 (4).—*Power to sanction the prescribing of certain classes of buildings in specified streets.*

Office-note.

116. Section 261 of the Madras Act provides that the Corporation may, subject to preliminary publication and confirmation by Local Government, declare in respect of certain specified streets or localities that continuous buildings will be allowed, or that construction of only detached buildings will be permitted, or that the elevation and construction of the frontage of masonry buildings should be, in respect of architectural features, such as the Standing Committee may consider suitable for the locality, or that the construction of shops, warehouses or huts will not be allowed without the special permission of the Standing Committee. This and other building regulations were imported for the first time in the Madras Act from the Calcutta Municipal Act at the time of the consolidation of the former Act. So far, the provisions relating to the elevation and construction of the frontage of masonry buildings, the prohibition of other than detached buildings and the prevention of the erection of huts in certain specified localities have been utilized and declarations have been issued.

Vide clause 248 on page 6 of the Statement of Objects and Reasons.

G.Os., No. 756 M., dated 11th May 1909, No. 1516 M., dated 11th September 1908, and No. 1631 M., dated 30th September 1908.

117. The Bombay Act differs very materially from the Madras Act in respect of building regulations. The provisions of the Act there are supplemented by by-laws. It is not known what the latter are. But the *Act* does not contain any provision as to the issue of such general declarations as those authorized by the Madras Act; it merely lays down rules for the regulation of the construction of particular buildings. The intervention of Government is in no case, however, prescribed in respect of this matter.

Cf. section 348 of the Bombay Act.

Cf. clauses (*d*) and (*dd*) of section 461.

118. The question now is whether the confirmation of these declarations by Government is necessary, and not whether the power to issue general declarations should be there or not.

119. The Calcutta Act from which these provisions have been imported itself prescribes the confirmation of the declarations by Government [section 367 (4)]. These declarations involve serious interference with private rights and it is necessary to exercise the greatest amount of care before the declaration is made. The power of Government in this regard may perhaps be retained.

Supplementary Office-note.

The Corporation proposes to retain to itself the final power to confirm the declaration without the further approval of Government. The Corporation considers the latter unnecessary. It is for consideration whether the Government should agree with the Corporation. It may perhaps be observed that so far, Government have had no occasion to disapprove

But please see paragraph 119 *supra*.

P. T. Tharyan—5–3–11.

or modify the proposals of the Corporation submitted for their final sanction. The Act also provides for preliminary publication and consideration of the objections by the Standing Committee and the Corporation.

Section 261 (1) and (3).

I think Government sanction may be waived in this case. The section [261 (2) and (3),] provides for the presentation and consideration of objections and all the probabilities are in favour of the restrictions proposed under this section being inadequate rather than excessive.

L. DAVIDSON—5-6-11.

I agree.

V. K[RISHNASWAMI AIYAR]—16-7-11.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (58)—SECTION 290 (1) (*c*).—*Power to approve of the means of lighting.*

OFFICE-NOTE.

120. This section lays down that the President shall cause the lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation may, with the sanction of the Local Government, determine.

121. Both the Bombay (section 330) and the Calcutta (section 422) Municipal Acts leave it to the Corporation alone to determine how the lamps ought to be lighted. The Madras Act, 1884, did not contain any such provision. During the consolidation of the Act, this new section was copied from the Calcutta Act and from the papers connected with the Act, no reason appears as to why the provision regarding the approval of Government was introduced. The introduction of electric energy or other means for the purposes of lighting will naturally entail larger outlay of Municipal funds and Government intervention might probably have been intended as a check to see that there does not take place any undue diversion of funds to that object. In connection with the recent proposal of the Corporation to itself undertake the laying out of the electric installations on certain streets of the city, the Government had to point out that if any extension of the system were contemplated, the question of financing it (namely, enhancing the rate of the lighting-tax) should be considered. If it is thought that the Corporation might itself be trusted to manage its own affairs in this matter, the power may be withdrawn.

Page 7 of the Statement of Objects and Reasons (clause 265).

G.O. No. 160 M., dated 28th January 1910.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation also considers that the sanction of Government is unnecessary and that as in Bombay this should be left to the Corporation. Consistent with the surrender of other more important powers, perhaps this power may also be surrendered.

This is surely a municipal matter. Public opinion, strong even among Indians in regard to this matter, will operate as a check against the utilization of an inadequate lighting agency. The risk is the diversion of general funds for the upkeep of lighting in lieu of recourse to enhancement of the special lighting-tax. This, however, is the financial aspect and if budget control be abandoned I do not think Government intervention should be retained in this special case, especially if the Corporation is allowed to grant local exemptions from the lighting-tax as proposed at page 42 *supra*.

L. DAVIDSON—5-6-11.

I agree.

V. K[RISHNASWAMI AIYAR]—16-7-11.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (54)—SECTION 311.—*Power to sanction the prohibition of fishing in any river or estuary.*

OFFICE-NOTE.

122. This section authorizes the President to prohibit, with the sanction of Government, fishing in any river or estuary within the city, if he considers that such fishing is likely to be dangerous to the public health. This provision was in existence even in the old Act, and it does not appear that this provision has been availed of hitherto.

Section 330 of the 1884 Act.

123. In the Bombay Act there is no separate provision in regard to fishing. Section 270 empowers the Commissioner to assign public water-supply sources for specific purposes and the use of the water for other purposes is prohibited. Under section 388 (*d*) nobody can do anything whereby the water shall in any degree be fouled or corrupted. Apparently the control as regards fishing is being exercised under these sections.

124. There does not seem to be any objection to transfer this power to the Corporation itself in Madras to be exercised over the water sources vesting in it under section 201 of the Act.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation also asks that this power should be vested in itself instead of in Government.

This power may be given up. Government have just authorized the prohibition of fishing in the Cooum on sanitary grounds.

As to who should exercise the power in future, it is not necessary at this stage to decide. Personally I prefer the Bombay plan * of vesting the discretion on the Commissioner.

* Section 270.

L. DAVIDSON—5-6-11.

I agree. We need not now settle the question as between the Commissioner and the Corporation.

V. K[RISHNASWAMI AIYAR]—16-7-11.

I agree.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (59)—SECTION 337.—*Power to sanction the provision of public markets.*

OFFICE-NOTE.

125. This section lays down that the Corporation has to obtain the sanction of Government for providing places for use as public markets. This provision was in existence even in the old Acts (section 352 of the Madras Act I of 1884). But in Bombay (section 399) and Calcutta (section 477) the Corporation is free to provide its own markets. Even under the Madras District Municipalities Act such power is not exercised by Government. The object of the control in the city is not clear. If the work is a large concern and will cost one lakh or more, the special sanction of Government for the work under section 28 will be necessary. It seems doubtful whether the sanction in respect of smaller markets should still be required. Sanction of Government is made a requisite in the case of the closure of public markets both in Madras and Bombay (section 400) and the object of this may be the protection of public interests. The same cannot be said of the opening of markets. In these circumstances it is for consideration whether this power may be waived.

Section 193-A of that Act.

Section 341.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation also suggests that this matter may, as in Bombay, be left to itself.

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There is no need for Government to retain this power.

L. DAVIDSON—5-6-11.

I agree.

V. K[RISHNASWAMI AIYAR]—17-7-11.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

———

No. (60)—SECTION 338.—*Power to sanction the acquisition or appropriation of lands for public markets.*

OFFICE-NOTE.

126. The sanction of Government is required by this section (*a*) for the acquisition of any land by purchase, lease or otherwise, (*b*) for the purchase or lease of any land used as a market, and (*c*) for the appropriation of any land vested in the Corporation for the purpose of a public market. The old Act (section 354) also contained similar provision. But in Bombay (section 399) and Calcutta (section 477), the Commissioner and the Chairman, respectively, are authorized to carry out such purchase or lease on the mere authority of the Corporation without the intervention of Government. The Madras District Municipalities Act does not also lay down such restrictions. The acquisition of land for the purpose under the Land Acquisition Act should naturally come up to Government. The private purchase or taking on lease of land or the construction of a market on land vested in the Corporation does not seem to need really the intervention of Government. It is submitted that the provision as to the sanction of Government may be removed.

Cf. section 193-A.

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SUPPLEMENTARY OFFICE-NOTE.

The Corporation also considers that the sanction of Government for this purpose may be omitted. It may be observed that in order to secure to the Corporation an indefeasible title to the land proposed to be purchased for any municipal purpose, the Corporation has been, by an executive order, asked to acquire such property under the Land Acquisition Act. If this order is followed, there will be very few cases of purchase of property by private negotiation. When cases for acquisition of land come up to Government, they can control the matter through that source. Excluding these cases, only cases of lease of lands remain to be considered. It is likely that there will be very few, if at all any, cases of lease of land for the purpose of building permanent markets thereon. In these circumstances the power of Government in this regard may perhaps be waived.

G.O. No. 883 M., dated 3rd June 1909.

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This power also may be waived by Government. Intervention is unnecessary except in cases where it is proposed to proceed under the Land Acquisition Act, 1894, and in those cases the provisions of that enactment make it compulsory to obtain the sanction of Government.

L. DAVIDSON—5-6-11.

I agree.

V. K[RISHNASWAMI AIYAR]—16-7-11.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (55)—SECTION 362.—*Power to require the Corporation to construct hospitals for the treatment of infectious diseases or to contribute towards the cost of such public hospitals.*

OFFICE-NOTE.

127. Under this section the Corporation, when and as required by the Local Government, shall construct and maintain hospitals for the treatment of infectious diseases in the city and shall contribute towards the maintenance of any such hospital such proportion of the cost as the Government may determine. This provision was not in the old Act. It was introduced at the Council during the consideration of the Bill. The Hon'ble Mr. Forbes then observed that the Corporation was getting off cheap in the matter of affording medical relief to the people of the city, as it had been contributing only Rs. 20,000 towards the maintenance of the Government hospitals, and that it was necessary that the Corporation should be asked to share a greater burden in the matter.

128. In Bombay, the maintenance of hospitals is now entirely in the hands of Government and the Corporation does not appear to pay any contribution to Government on account of it. Please compare Mr. Sheppard's evidence before the Commission (questions 34,827 and 34,828 on page 114 of volume VIII of Minutes of Evidence). The Act there does not also lay down that the provision of medical relief is either an obligatory or discretionary duty of the Corporation (*vide* sections 61 and 63 of the Act). That Act expressly provides only for the prevention and checking of the spread of dangerous diseases.

Section 61 (*g*).

129. In Madras, the maintenance of hospitals and dispensaries has been laid down as one of the purposes on which Municipal funds may be spent—schedule IV (*b*) of the Act. The Corporation is actually maintaining two * hospitals and three † dispensaries, besides paying contributions to Government and other private bodies for similar purposes. The total cost on account of this object in 1908–1909 was however only Rs. 31,834. The Corporation is also shortly to open a central small-pox hospital in the north of the city.

* The Rayapeta hospital including the isolation hospital at Kistnampet and the Raja Sir S. Ramaswami Mudaliyar's Maternity hospital.

† Georgetown dispensary, Bauliah Nayudu's dispensary and the new Chintadripet dispensary.

Paragraph 53 of the administration report for 1908–1909.

130. The power of enforcing the Corporation to open a hospital or to contribute towards the maintenance of one appears to be a little drastic and not altogether consistent with the other powers which the Corporation enjoys. Under the City Plague Regulations, No. 12, the Corporation is bound to provide for the treatment of persons suffering from plague. In the case of mufassal municipalities in Madras, however, the Government can under section 125 (1) of the District Municipalities Act call upon a municipality to provide and maintain a hospital or dispensary. But the case of the Madras city is different from that of a mufassal municipality. It is also observed that while the District Municipalities Act provides that the Council should be given an opportunity to submit its views on the subject, the City Municipal Act gives no such opportunity and gives peremptory powers to Government. Further, under the policy recommended by the Decentralization Commission, the hospitals at head-quarters should be maintained at the cost of Government. It is for consideration whether it may be left to the good sense of the Corporation to provide for the object and whether the power taken by Government may be waived.

Vide Plague Regulations, 12.

Paragraph 758, page 255 of the report, volume I.

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SUPPLEMENTARY OFFICE-NOTE.

The Corporation also considers that this provision is unnecessary and should be omitted. The Calcutta City Municipal Act does not also contain any provision such as that contained in section 362 of the Madras Act.

This special power may be given up. Sections 421 to 434 are the provisions in the Bombay Act for the prevention of the spread of dangerous diseases. Section 434, the most important, gives the Commissioner with the sanction of Government wide discretionary powers to combat outbreaks of dangerous disease. So long also as the construction of hospitals remains a municipal function (*vide* schedule IV (*b*) of the Madras Act), it would be open to the Government to intervene in the exercise of their general powers of remedying grave administrative defaults and thus to compel the provision of infectious hospitals when essentially required. I see no reason for the retention of section 362 a special power—if adequate general powers of intervention are reserved.

Cf. Bombay Act sections 518 and 520.

L. Davidson—5-6-11.

I think schedule IV (*b*) and sections 24 to 27 are enough. We have also sections 13 and 14. We may give up the power under section 362.

V. K[rishnaswami Aiyar]—16-7-11.

I agree.

J. N. A[tkinson]—24-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (51)—Section 374.—*Power to declare vaccination compulsory and to approve by-laws relating to vaccination.*

Office-note.

131. Under this section the Local Government may, by notification, declare that vaccination shall be compulsory within the city. This provision exists in the statute from the earliest Act I of 1884; and the notification declaring vaccination compulsory in the city was issued in 1884.

Vide section 378 of the 1884 Act.

Page 757 of volume II of the Local Rules and Orders—1907, edition.

132. There is no corresponding provision in the Bombay Act. The Act there leaves it to the discretion of the Corporation to provide for public vaccination (section 63) and is silent as to the details of the working in respect of vaccination. Apparently the whole of the vaccination work in the Bombay city is under the control of Government, the Corporation contributing a lump sum to Government. There can thus be no comparison with the Bombay Act in this respect.

The municipal report contains no paragraph on the subject of vaccination. The statements show a contribution as being paid.

P. T. Tharyan—21-3-10.

133. The object of taking power under the Madras Act to notify areas for compulsory vaccination is apparently to enable the exclusion of a portion of them if found necessary for some reason. The District Municipalities Act (section 133) contains exactly similar provisions. As vaccination is now compulsory throughout the city and district municipalities, without any portion being exempted, it would not have mattered much even if the Acts themselves had laid down that vaccination should be compulsory in those areas. There seems in any case to be no objection to the existing provision being retained.

Supplementary Office-note.

The Corporation also does not desire any change in the existing provisions.

Bombay presents no analogy. Vaccination having been compulsory since 1884 may be declared so by statutory provision when the Act is amended.

Government must retain power to approve by-laws.

L. Davidson—5-6-11.

I agree.

V. K[rishnaswami Aiyar]—16-7-11.

I agree.

M. H[ammick]—8-8-11.

No. (56)—Section 387 (3) (*a*).—*Power to sanction the grant or refusal of a license for new burial-grounds.*

Office-note.

134. This section authorizes the President to grant or refuse a license for opening a new burial or burning ground with the sanction of the Government.

135. In the Bombay Act (section 437) the approval of the Corporation alone is provided. The Calcutta Act [section 541 (2)] is also similar in this respect.

136. The Madras District Municipalities Act (section 236) also leaves it to the municipal council to finally approve the grant or refusal of a license.

137. The provision in the Madras City Act requiring the sanction of Government has been in existence even from the old Act V of 1878 (section 360). The object is apparently to prevent the indiscriminate use of places in the city for the disposal of the dead. The necessity for greater control in the matter is obvious, especially as when once the permission to open a graveyard is granted, its closure can be effected only under special conditions of danger or overcrowding. The question of licensing private grounds is not now to go before the Corporation. The matter rests with the President and the Government. It is for consideration whether the "Corporation" may be substituted for "Government". The Corporation employs highly-paid Sanitary officers. Further, in these matters, the Government are generally guided by the advice of their sanitary expert. In G.O. No. 501 M., dated 16th March 1906, the President has been asked to consult the Sanitary Commissioner invariably before acquiring any land for burial or burning ground. If this rule is extended to the licensing of private grounds also, the expert advice will be available to the Corporation, and will be highly helpful to it in coming to a decision. The Corporation may perhaps be expected to use its power, if granted, judiciously. The power may in any case be retained with Government to sanction the grant of licenses to reopen places which had once been closed.

Vide section 392.

Supplementary Office-note.

The Corporation also considers that the power should vest in the Corporation instead of in Government. As stated above there seems to be no harm in granting the Corporation's request. As regards the reopening of closed grounds, the Bombay Act (section 439) contains specific provision that the approval of Government should be obtained therefor; but the Madras Act is silent on the point. Perhaps the provisions regarding the opening of new burial-grounds will be made applicable to such cases. Should the Government agree to surrender their power to sanction the opening of burial-grounds, a reservation as regards the reopening of closed graves might, as suggested above, be provided.

The Bombay Act (section 437) leaves the initiative to the Commissioner, but prescribes the approval of the Corporation. This plan may be followed in Madras if supplemented by a section corresponding to section 439 of the Bombay Act requiring Government approval for the unusual and possibly dangerous step of reopening closed burial-grounds.

L. Davidson—5-6-11.

I agree. I have no objection to a provision similar to Bombay section 439 but it seems hardly necessary.

V. K[rishnaswami Aiyar]—16-7-11.

I agree with the Secretary.

J. N. A[tkinson]—24-7-11.

I agree.

M. H[ammick]—8-8-11.

Nos. (57)—Section 395.—*Power to sanction the provision of burial-grounds within or without the City.*

Office-note.

138. This section requires the sanction of Government for the provision by the Corporation, at its cost, of burial and burning grounds within or without the limits of the city.

139. In Bombay (section 436) the Corporation is itself competent to sanction the opening of such grounds within or without the city. The Calcutta Act (section 540) also follows the Bombay Act. The District Municipalities Act (section 234) is also similar in this respect of giving full power to the councils.

140. Here also the Madras City Act is carrying this provision from its older forms (section 368 of Act V of 1878).

141. It is for consideration whether, as in the other provinces and district municipalities, this power should be given to the Corporation itself. If the existing form of section 392 (1) of the Act relating to the closure of burial and burning grounds is retained, there will still be *indirect* power left to Government in the matter of the selection of grounds. A very large proportion of the new grounds to be provided will apparently be for replacing existing grounds which may have to be closed; and one of the prerequisites for the closure of a ground is that another convenient place has been provided. If, in the opinion of Government, the new ground is not suitable, they may decline to sanction the proposal to close the existing one.

Supplementary Office-note.

The Corporation also considers that as in Bombay this matter may be left to itself.

I think Government control may be given up in this case. In Bombay (section 436) the Commissioner is required "with the sanction of the Corporation [to] "provide . . . . *fit and convenient* places" for the disposal of the "dead".

To guard against the contingency of disregard of existing interests Government might perhaps reserve to itself a right of *veto*.

L. Davidson—5–6–11.

I agree. I don't know that there are any interests to be protected in providing new places for the disposal of the dead. The Corporation will take care not to render itself liable to an action. I don't think we need retain any veto.

V. K[rishnaswami Aiyar]—16–7–11.

I agree with my Honourable Colleague.

J. N. A[tkinson]—23–7–11.

I agree.

M. H[ammick]—8–8–11.

No. (61)—Section 404.—*Power to sanction the construction or lease of railways in or outside the City.*

Office-note.

142. This section was newly introduced in the Madras Act during its consolidation on the analogy of section 554 of the Calcutta Municipal Act. The Bombay Act does not contain any provision authorizing the Corporation to construct or maintain any railway line. Section 293 thereof only deals with the grant of permission to lay railways on public streets. Even in those cases, the Bombay Act lays down that the confirmation of such permission by Government is necessary. There should therefore be greater necessity for the intervention of Government where the Corporation is itself to undertake the construction and maintenance of a railway as provided in the Madras and Calcutta Acts. The present provision may therefore be left as it is.

Vide clause 376 on page 8 of the Statement of Objects and Reasons.

Supplementary Office-note.

The Corporation also does not desire any change in the existing provisions.

Government control is expedient in this case.

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—16–7–11.

M. H[ammick]—8–8–11.

No. (62)—Section 406 (2).—*Power to sanction leases of land for over three years.*

Office-note.

143. This section provides that the Corporation may rent or lease on such terms as they may think fit, any building or land vested in it, provided that no lease shall extend beyond three years without the sanction of Government.

144. In Bombay however (section 92) the intervention of Government is not provided for. The Commissioner is himself competent to lease out immoveable property for a period not exceeding one year; and he can, with the sanction of the Standing Committee, grant leases for any period not exceeding three years at a time and with the sanction of the Corporation grant leases for longer periods.

145. In Calcutta also (section 556) the Corporation is not restricted by any time limit in its powers to grant leases of its lands and buildings. During the consolidation of the Madras Act, it was proposed in the Bill first introduced into the Council to adopt the above section of the Calcutta Act in its entirety, leaving the full power to the Corporation. The Select Committee which sat on the Bill however introduced the provision as to the sanction of Government and no reasons were assigned either in the Committee's report or at the meeting of the Council.

Cf. clause 378 of the Bill and page 8 of the Statement of Objects and Reasons.

Paragraph 57 of the Select Committee's report.

146. The old Madras Act (section 137 of Madras Act I of 1884) authorized the President to let on lease for a term not exceeding three years any land belonging to the Corporation. This has apparently been taken into consideration in restricting the powers in the new Act. The Royal Commission on Decentralization proposed to grant powers to district municipal councils to grant leases of municipal property up to a period of seven years. The Honourable Member has agreed to the proposal. The Corporation may be entitled to a greater concession in this matter than a mufassal municipality. If so, it is for consideration whether the full power to grant leases for any period may be given to the Corporation. The main object of granting shorter leases is to see that the revenue develops. The Corporation may perhaps be expected to guard its own interest. Further, there is not likely to be many occasions on which such leases will be necessary. Since the consolidation of the Act in 1904, there has been only one case that has come up to Government for sanction for lease for a longer term than three years.

Vide pages 26 and 27 of the notes with letter No. 1545 M., dated 30th September 1910.

But it did not apparently do this in the case of the Wall-tax road leases. The file has gone back to Public Works Department (Railway).

P. T. Tharyan—21–3–10.

G.O. No. 778 M., dated 14th May 1909.

Supplementary Office-note.

The Corporation desires that the provisions of the Bombay Act should be adopted (*i.e.*), the Commissioner should have power to grant leases up to one year, the Standing Committee up to three years and the Corporation for longer periods. The Government have since definitely approved of the recommendation* of the Royal Commission to grant power to

* In paragraph 841—paragraph 7 of letter No. 1545 M., dated 30th September 1910.

district municipalities to lease municipal property up to seven years. In the circumstances above set forth, it may not be undesirable to allow the Madras Corporation to have unrestricted powers in the matter.

This power may be given up altogether. The Bombay section (92) leaves the initiative to the Commissioner, which is sound.

I am doubtful, with reference to the notes below, about section 406 (3) whether some reservation * should not be made in respect of lands vesting in the Corporation (*e.g.*, under section 228).

* *E.g.*, a limitation of the term to seven years.

L. DAVIDSON.

L. DAVIDSON—5-6-11

The Corporation is in the position of a trustee. Lease beyond twenty-one years may be prohibited as under section 56 of the Indian Trusts Act.

V. K[RISHNASWAMI AIYAR]—19-7-11.

I accept my Honourable Colleague's suggestion. The Corporation should not have the power to lease property "on such terms as they think fit" without limit of time.

J. N. A[TKINSON]—23-7-11.

I agree.

We discussed this point I remember in Select Committee at some length.

M. H[AMMICK]—8-8-11.

No. 63.—SECTION 406 (3).—*Power to sanction the sale of municipal land.*

OFFICE-NOTE.

147. This power is being exercised in Bombay [section 92 (*c*)] and Calcutta [section 556 (2)] solely by the Corporation.

148. There are grave objections to granting this power to the Corporation in Madras. The vesting of landed property in the Corporation are of three kinds: (1) under the Act, (2) by acquisition or purchase, and (3) by gift or transfer. In the case of the last two, the objections are not so serious as in the case of the first. It has been held that the vesting of property in the Corporation under the Act is only a limited vesting and that, if the land was no longer required for the purpose for which it originally vested, it reverted to Government, who only had the power to dispose of it. Following this ruling, every proposal to sell municipal land that comes up to Government is first examined by the Collector to see how the land vests in the Corporation. Please compare G.O. No. 579 M., dated 3rd April 1908, and the notes connected with it.—It seems therefore to be highly desirable that sale of lands by the Corporation should be controlled by Government. The Royal Commission on Decentralization did not recommend any delegation of power to the district municipalities in the matter of the alienation of immoveable property vested in them. If however any delegation of power is deemed necessary, the power to alienate lands acquired or purchased by the Corporation or made over to it absolutely by private gifts may be given to the Corporation, provided a certificate is obtained from the Collector that the land proposed for sale was acquired only by the above process.

Vide the Honourable Member's note on page 5 of the notes with G.O. No. 579 M., dated 3rd April 1908.

Paragraph 838, page 277 of the report, Vol. I.

SUPPLEMENTARY OFFICE-NOTE.

The Corporation however desires to have absolute powers in regard to the disposal of lands as the Corporation of Bombay has. For the reasons set forth above, the power in this regard should not be surrendered, especially in the case of lands "vesting" in the Corporation. It is for consideration whether the power may be withdrawn in the case of the sale of the other two classes of lands referred to above, *viz.*, those acquired or purchased or obtained by gift or transfer.

In Bombay, under section 88, land in general vests in the Corporation "in trust for the purposes of the Act". I presume therefore that sales under section 92 (*c*) would not be legal unless clearly for the purposes of the Act.

In Madras I think Government sanction should be prescribed for sales of land not acquired by the Corporation by purchase, gift or transfer. The Corporation should not be allowed permanently to alienate land which it holds in trust for specific purposes.

L. DAVIDSON—5-6-11.

I agree.

V. K[RISHNASWAMI AIYAR]—19-7-11.

I agree.

J. N. A[TKINSON]—23-7-11.

I agree.

M. H[AMMICK]—8-8-11.

No. (52)—SECTION 409.—*Power to direct the Corporation to frame by-laws.*

OFFICE-NOTE.

149. Both the Madras (section 411) and Bombay (section 463) Acts provide that by-laws framed by the Corporation can be valid only after they have been confirmed by the Government. The only excess power contained in the Madras Act is that it gives the power to initiate by-laws in the Government also. The Madras section 409 provides that the Corporation shall, if the Local Government so direct, make by-laws for the purposes mentioned in the section. This provision is peculiar to the Madras City Act and does not find place either in the Calcutta Act or in the Madras District Municipalities Act. Nor did it exist in the old Act I of 1884 also. The provision was introduced when the Act was consolidated; and in the Statement of Objects and Reasons no reason was given for its necessity, but the fact that power has been taken by Government to direct the Corporation to frame a by-law was merely stated. There seems to be no harm in retaining this power as, even after a direction from Government, the by-law will have to be framed in the first instance by the Corporation.

Clause 383 on page 9 of the Statement of Objects and Reasons.

150. Another point to be noticed in this connection is that, among the purposes for which by-laws can be framed with the approval of Government, there are some in the Madras Act, which in the Bombay Act are regulated by the Commissioner, the Standing Committee or the Corporation without reference to Government. They are given below:—

	Madras Act.	How regulated by the Bombay Act.
Section 409 (1) ..	(*a*) The regulation of the conduct of business at the Corporation meetings.	By the Corporation (section 36 of the Bombay Act).
Do. (2) ..	(*b*) The form for budget statements and returns.	Standing Committee (section 126).
Do. (3) ..	(*c*) The form of keeping Corporation accounts.	Standing Committee (section 123).
Do. (4) ..	(*d*) The due performance of duties by municipal servants and officers.	Commissioner in respect of all establishments except those under the Secretary [section 64 (3) (*b*)]. Standing Committee or the Secretary in respect of Secretary's establishment [section 78 (1) (*c*)].

	Madras Act.		How regulated by the Bombay Act.
Section 409 (5)	..	(*e*) The mode of collecting taxes and tolls.	No express provision regarding taxes. Tolls and town duties to be controlled in such manner as the Commissioner may direct with the approval of the Standing Committee [section 213 (2)].
Do. (8)	..	(*ee*) The lighting of the city.	Commissioner (section 330 of the Bombay Act).
Do. (12)	..	(*f*) The maintenance of drainage map.	*Nil.*
Do. (24)	..	(*g*) The prevention of the dangerous diseases of men or animals.	The Act gives the Commissioner complete powers (sections 421 to 433).
Do. (25)	..	(*h*) The regulation of lodging houses.	*Nil.*
Do. (26)	..	(*i*) The enforcement of compulsory vaccination.	*Nil.*

The purposes referred to in (*a*), (*d*), (*e*), (*ee*) and (*f*) may be left to be regulated by the Corporation itself as in Bombay without the intervention of Government. As it is, no by-laws are in existence in Madras regarding (*b*), (*c*), (*d*), (*e*), (*ee*) and (*f*). Item (*i*) has been dealt with separately above. The matter contained in item (*g*) is important and it seems better that Government should have some control in the matter. The regulation of lodging houses referred to in item (*h*) is not specially mentioned in the Bombay Act and it is not known how the control over such places is being exercised in Bombay. It is, however, for consideration whether the intervention of Government in this matter is necessary. As for (*b*) and (*c*) it seems necessary that there should be some settled form accepted by Government.

SUPPLEMENTARY OFFICE-NOTE.

In the first case, the Corporation does not consider that Government should have the power to direct it to make by-laws on any matter, as it is unnecessary. In view of the fact that this power is not possessed in respect of other Corporations or even in respect of district municipalities in Madras and that there was no occasion till now to resort to these compulsory provisions, it may perhaps be surrendered.

As regards the question of by-laws, the Corporation proposes to go farther than what obtains even in Bombay. Emancipation from the control of Government is sought for here to a very large extent. Of the thirty items mentioned in section 409, the Corporation proposes to retain the authority of Government to approve by-laws only in the following five cases :—

(*a*) Regarding the measurement of water supplied for domestic or other purposes and the use of public tanks, wells, conduits and other places or works for water-supply, etc.—section 409 (6) ;

(*b*) regarding the regulation of buildings—section 409 (7);

(*c*) regarding standard weights and measures—section 409 (17) ;

(*d*) regarding the enumeration of the inhabitants of the city—section 409 (29) ; and

(*e*) regarding the carrying out of the purposes of the Act—section 409 (30).

Excluding the above cases, where both the Madras and Bombay Acts prescribe the framing of by-laws and which the Corporation does not now propose to modify, the points to be dealt with under this section are divided into the following four main heads :—

(i) Items which are provided for by specific provisions in the Bombay Act and which the Corporation now proposes to adopt by means of by-laws ;

(ii) Items which are provided for by specific provisions in the Bombay Act and for which the Corporation proposes to *substitute* by-laws to be framed on its own authority ;

(iii) Items which are *not* specifically provided for in the Bombay Act and which the Corporation proposes to regulate by by-laws on its own authority ; and

(iv) Items which are regulated by by-laws approved by Government in Bombay and which the Corporation proposes to replace by by-laws passed on its own authority.

(i) Taking the first case, it is submitted that in the following five cases the Corporation proposes to adopt the Bombay system in lieu of the provision of by-laws therefor now obtaining in Madras :—

Sub-section of section 409.			By what section controlled in Bombay.	By whom is the power exercised in Bombay.
(i)	(1)	To regulate the conduct of business at Corporation meetings.	36	Corporation.
(ii)	(2)	To prescribe the form of budget statements and returns.	125	Standing Committee.
(iii)	(3)	To prescribe forms for Corporation accounts.	123	Do.
(iv)	(4)	For due performance of duties by municipal servants.	64 (3) (*b*)	Commissioner.
			78 (1) (*c*)	Standing Committee (in case of Secretary).
(v)	(5)	To regulate mode of collecting taxes and tolls.	213 (2)	Commissioner with approval of Standing Committee.

There seems to be no objection to accept the Corporation's proposals in this respect. By-laws have been framed in Madras only in respect of the first item. All the other items are now apparently controlled by executive orders of the Corporation and the Standing Committee or the President.

Pages 3 and 4 of G.O. No. 682 M., dated 23rd April 1908.

(ii) Taking the next heading, it is composed of only the following two items, and shows the cases which are provided for by specific sections in the Bombay Act and for which the Corporation proposes to *substitute* its own by-laws :—

	By what section controlled in the Bombay Act.
(*a*) Regarding the prevention of the sale of unwholesome meat, fish or provisions, section 409 (19).	414 *et seq.*
(*b*) Regarding the prevention of dangerous diseases of men or animals, section 409 (24).	421 to 433

Though sections 414 *et seq.* of the Bombay Act deal generally with the sale of unwholesome articles of food, the detailed directions given in the Madras by-laws on the subject (by-laws 168 to 177, page 13 of G.O. No. 682 M., dated 23rd April 1908), do not find a place in that Act. As against however the Madras by-laws on the other subject of preventing dangerous diseases of men or animals, the Bombay Act (section 434) gives the Commissioner power to make special sanitary regulations temporarily on occasions of the outbreak of dangerous diseases ; and section 441 (*a*) and (*b*) of that Act also covers a portion of the Madras by-laws.

There seems to be no objection to the Corporation framing by-laws for these purposes ; but the question is whether the Corporation may be allowed to pass them on its own authority.

(i) and (ii). In Bombay there are provisions in the Act. In Madras provisions have to be made by by-laws. To make the system correspond the power to make by-laws in Madras should be subject to the control of Government.

Both the sets of by-laws mainly impose duties and restrictions on the public, and some of them touch them on delicate points. It seems to be desirable that the approval of Government should be prescribed as a safeguard in these cases as at present.

P. T. THARYAN—18-3-11.

(iii). In respect of the following six points there is no corresponding provision in the Bombay Act either by means of by-laws or otherwise, but the Corporation proposes to have by-laws passed on its own authority:—

	Section.
(1) Regarding the laying out of streets	409 (7)
(2) Regarding the lighting of the city	409 (8)
(3) Regarding the maintenance of a drainage map of the city for the inspection of the rate-payers	409 (12)
(4) Regarding the laying out of the method of sale of articles whether by measure, weight, etc.	409 (16)
(5) Regarding the regulation of lodging houses	409 (25)
(6) Regarding the enforcement of compulsory vaccination ..	409 (26)

By-laws have been hitherto framed in Madras only in respect of items (1), (5) and (6). The matters referred to in items (1), (2) and (5) are apparently controlled in Bombay under general powers contained in the Act on those subjects. Item (6) has no application in Bombay and items (3) and (4) are not provided for in that Act. The question of having by-laws for these purposes may be accepted; but should the Corporation be given a free hand in making the by-laws? If other building regulations, which now require the approval of Government, are relegated to the Corporation itself, there will be no object in retaining power to approve by-laws under item (1). The two existing by-laws under this head (Nos. 23 and 24) do not seem to be of very great importance. By-laws under (2), (3) and (4) may be finally passed by the Corporation itself as proposed. But it seems desirable to require the final approval of Government in respect of items (5) and (6) regarding lodging houses and compulsory vaccination.

Cf. G.O. No. 682 M., dated 23rd April 1908.

Page 4 of G.O. No. 682 M., dated 23rd April 1908.

(iv) By-laws in the following cases, which in Bombay should be finally approved by Government, are now proposed by the Corporation to be relieved of such sanction:—

	Corresponding section in the Bombay Act authorizing the by-laws.
(*a*) Regarding house and latrine connections to municipal drains, section 409 (9)	461 (*a*)
(*b*) Regarding materials for drains, section 409 (10)	461 (*a*)
(*c*) Regarding construction, etc., of drains, pipes, privies, urinals, etc., section 409 (11)	461 (*a*)
(*d*) Regarding control over places for offensive and dangerous trades, section 409 (13)	461 (*f*)
(*e*) Regarding control over slaughter-houses, section 409 (14) ..	461 (*k*), (*l*) & (*n*)
(*f*) Regarding control over markets, section 409 (15)	461 (*k*), (*m*) & (*n*)
(*g*) Regarding publication of a price current, section 409 (18) ..	461 (*o*)
(*h*) Regarding control of shops in which articles of food or drugs are kept for sale, section 409 (19)	461 (*k*)
(*i*) Regarding control over cattle-sheds and milch cattle, section 409 (21)	461 (*g*)
(*j*) Regarding control over milk shops, milk stores, etc., section 409 (22)	461 (*h*)
(*k*) Regarding protection of milch cattle against infection, section 409 (23)	461 (*j*)
(*l*) Regarding burial and burning grounds, section 409 (27) .	461 (*p*)
(*m*) Regarding registration of births and deaths, section 409 (28)	461 (*q*)

The Corporation does not give any reason for considering why the approval of Government should be dispensed with especially when it is enjoined in Bombay. No doubt several of the items relate to matters in which the Corporation itself may be trusted to wield the final power. But this question does not now arise and is one for consideration when the Act comes to be amended. For the present purpose of the reference from the Government of India on the Royal Commission's recommendation, it need not be considered, as the existing provisions in Madras do not involve any greater control over the Corporation than those in Bombay.

Here too the Corporation is one-sided.

P. T. Tharyan—18-3-11.

I agree that the power to initiate by-laws may be given up by Government.

As to the further question whether the Corporation should have power to issue by-laws regulating certain matters on its own authority, that is a point to be considered if and when the Municipal Act is re-drafted. The Bombay law covers all classes of by-laws—the office overlooks clause (*w*) of section 461 which authorizes by-laws for "carrying out generally the provisions and intentions of the Act"; section 462 annexes a penalty to by-laws, itself a strong reason for prescribing Government sanction; section 463 requires Government confirmation in the case of every by-law; and section 470 gives Government wide powers to modify and repeal by-laws.

I.e., confirmation by Government is necessary in all cases.

J. N. A[tkinson].

The control in Madras should not be less strict; if it is desired to give the Corporation extra powers, the proper course is to incorporate them in specific provisions of the Act, not to relax the control of Government over the promulgation of by-laws.

In regard to the four categories on pages 58 and 59 of the office-note, there is no objection to adopting the Bombay provisions in class (i). By-laws falling under class (ii) involve interference with the general public and must carry penalties; they should certainly be sanctioned by Government, or incorporated as substantive provisions of the Municipal Act. Class (iii) is less simple to deal with; it is, I think, clearly expedient to provide for Government control in regard to item (4) [weights and measures] which involves interference with trade, item (5) [lodging houses] and item (6) [compulsory vaccination]. Item (1) [laying out of streets] may be left to the Corporation on the analogy of the procedure proposed with regard to section 261 (4) so also items (2) [lighting] and (3) [drainage map]. But in these cases any penalty proposed should be subject to confirmation by Government. In class (iv) I would reject altogether the proposal to dispense with control which in Bombay is considered necessary. These proposals travel beyond the scope of the present reference.

I.e., by incorporation in the Act?

J. N. A[tkinson].

But above the Secretary says Government confirmation is necessary in case of all by-laws.

J. N. A[tkinson].

L. Davidson—5-6-11.

I agree generally with the Secretary.

V. K[rishnaswami Aiyar]—19-7-11.

I don't understand the details of the Secretary's proposals. I agree that the power of initiation may be surrendered by Government. The other proposals for surrender of control involve change in the law, and may be considered when legislation is undertaken.

J. N. A[tkinson]—23-7-11.

I agree with Mr. Atkinson. We can only decide each case by going through the Bill carefully—by a Committee or in some similar way.

M. H[ammick]—8-8-11.

No. (53)—Section 413.—*Power to make rules for the Corporation.*

Office-note.

151. This section gives power to Government to make rules—

(1) to regulate the manner of election or appointment of Commissioners,

(2) to regulate the election of members of the Standing Committee,

(3) to modify or cancel schedules relating to

(*a*) boundaries of divisions,

(*b*) building rules,

(*c*) form of register of births and deaths,

(*d*) boundaries of the Esplanade.

152. The Bombay Act itself lays down definite rules as to the election of councillors. The rules for the election of members of the Standing Committee in Madras are simple ones laying down only the procedure as to how to record the votes.

Cf. sections 26 and 28 of that Act.

153. As regards the rules for altering or cancelling the boundaries of divisions, the Corporation of Bombay can also, under section 24 (2) of that Act, have the boundaries modified with the approval of the Governor in Council. The building regulations are fixed in the Bombay Act and are not open to alteration except by an amendment of the Act. The prescribing of the form for the register of births is also fixed by the Act in Bombay (section 444 and schedules N and O), but it is a minor matter. The question regarding the boundaries of the Esplanade is peculiar to the Madras Act. The boundaries would have been permanently fixed in the Act, had it not been for the fact that the Military Department did not give the exact boundaries, and it was apprehended that there might be a necessity for their alteration. Hence the necessity for the power to alter the schedule relating to this matter. Please see the Hon'ble Mr. (Sir) Forbes' speech in the Council. There seems to be no real necessity for altering the procedure in respect of any of these matters in the Madras Act.

Page 181 of the Proceedings of the Council, dated 14th April 1904.

SUPPLEMENTARY OFFICE-NOTE.

As regards (1) and (2), *viz.*, the rules for the election of Commissioners and members of the Standing Committee, the Corporation considers that "the provisions of the Bombay Act should be adopted." It is not clear what the Corporation means by this proposal. In Madras separate rules sanctioned by Government are in force in regard to Commissioners' and Standing Committee members' elections, while in Bombay sections 5 to 34 of the Act deal with the first matter and even the Act there is silent as to the method of election to be adopted in the case of the other. The principle of the election of Commissioners in Madras differs very widely from that in Bombay; and in other respects also, *e.g.*, the qualifications of electors and candidates, the preparation of lists, the nomination of candidates, the method of objections and others, there is no similarity. Further the Bombay rules contemplate a compulsory simultaneous general election. Then there are elections by Justices of the Peace and by Fellows of the University which are foreign to the Madras system. It is doubtful therefore whether the Corporation merely intends that its rules in their present form should be incorporated in the Act and should form part of it, or whether the Bombay systems should be adopted here bodily. If the former, the only objection to it is that in case any modification of the rules becomes necessary, it will necessitate the amendment of the Act. The Corporation does not apparently like that the Government should have the power to frame these rules; but including them in the Act will not give the Corporation any further liberty in the matter. If the adoption of the Bombay system was meant, it will involve very large alterations and will require separate and elaborate examination. Before the mind of the Corporation is clearly known, it is not possible to decide in any way. At any rate, even in Bombay the Corporation does not possess any absolute power to frame rules and the same case is in Madras; in the one the Act controls, and in the other, the rules.

G.Os., No. 595 M., dated 29th March 1906 and No. 572 M., dated 27th March 1906.

Section 22 (1) of the Bombay Act.
Section 5 (1) of the Bombay Act.

The Madras rules relate only to the *manner* of election or appointment of Commissioners. It will make an Act very cumbrous to put these things into it. On the other hand rules for the purpose have to be made by Government, if they are made at all.

The Corporation's suggestion in this regard may be ignored.

P. T. THARYAN—18-3-11.

As regards the rules for the election of members to the Standing Committee, the Bombay Act does not at all lay down how the election is to be held; while the Madras rules (only six in number) only lay down how the votes are to be recorded. The effect of the Corporation's recommendation, that the Bombay system should be adopted, will only be the abolition of the rules, as there is nothing peculiar in *that* Act. Here also the Corporation's proposal is not clear.

The election must be done under some rules as to the manner of recording votes, etc. The Corporation's recommendation in this case also may be ignored.

P. T. THARYAN—18-3-11.

As regards No. 3 (*a*) relating to the framing of rules revising the boundaries of the divisions, the Corporation observes that the provisions of the Bombay Act should be adopted. Section 24 (2) of that Act provides that the Corporation can have the boundaries altered with the approval of Government. Materially there seems to be no difference between the two sets of powers. Though in Madras the initiative in making the rule is vested in Government (instead of in the Corporation as in Bombay), the Corporation has to be consulted in the matter under section 414 (*a*). It will always be open to the Corporation to move the Government to take action, as has actually been done in some of the recent cases. There seems however to be no objection to adopt the Corporation's proposal.

Cf. G.Os., No. 152 M., dated 23rd January 1906 and No. 1107 M., dated 14th July 1909.

The same remark applies to the proposal of the Corporation in respect of items 3 (*b*) and 3 (*c*) regarding the alteration of the building rules and of the form of register of births and deaths. In regard to the former, the Corporation recently applied to Government to have an addition made to the building regulations which was accordingly carried out; and in respect of the latter, the Government themselves had to carry out an amendment to the form of the register of births and deaths and this was done after obtaining the consent of the Corporation thereto. As pointed out above, there is no great objection here also to the adoption of the Corporation's proposal to give it the initiative in the matter.

G.O., No. 4 M., dated 4th January 1911

G.O., No. 1850 M., dated 18th November 1910.

In the case of 3 (*d*) the Corporation considers that no change is necessary.

The Corporation's ideas on this subject are obscure and entitled to but scant consideration.

So far as items (1) and (2) in paragraph 151 of the office note, are concerned, the substantive law in regard to the election of councillors and members of the standing committee is embodied in the Act. No rules under section 413 can override those provisions and it is obviously desirable *either* (*a*) to provide in the Act itself for the settlement of questions of procedure at elections *or* (*b*) to relegate this matter to rules under the Act. Such rules should clearly be dealt with by external authority and the Local Government is the only possible authority. Unless and until the Act is amended so as to regulate the details of procedure, the power to make rules should be retained.

The same remark applies to the case of the building rules, a matter of great importance to the general public, which cannot be left entirely in the hands of the Corporation.

The form of the register of births and deaths is of such importance for sanitary and statistical purposes, that control is similarly necessary and should be provided *either* in the Act (as in Bombay) *or* preferably by an elastic rule approved by Government (as in Madras). The boundaries of divisions [item 3 (*a*)] and of the esplanade [item 3 (*b*)] must also come before Government and there is no valid objection to the exercise of this control by rules under section 413.

L. DAVIDSON—5-6-11.

I agree.

V. K[RISHNASWAMI AIYAR]—19-7-11.

J. N. A[TKINSON]—23-7-11.

I agree.

M. H[AMMICK]—8-8-11

No. (29)—Section 425 (3).—*Power to apply to other classes of municipal servants sub-sections* (1) *and* (2) *imposing a penalty on scavengers for withdrawing without notice.*

Office-note.

154. Sub-section (1) of section 425 lays down that in the absence of a written contract to the contrary, scavengers are entitled to one month's notice before discharge or to one month's wages in lieu thereof, and sub-section (2) provides that if a scavenger withdraws himself without reasonable cause and without one month's notice, he will be liable to a fine not exceeding Rs. 50 and to imprisonment extending to two months. Under sub-section (3) the Local Government may, by notification, direct the application of these provisions to any class of municipal servants whose functions intimately concern the public health or safety.

155. These provisions were introduced in the Act only during its consolidation in 1904 on the analogy of section 282-A of the District Municipalities Act and sections 438 and 584 of the Calcutta Municipal Act. Since the introduction of this section, the provisions of sub-sections (1) and (2) have been applied by notification to drain-cleaners employed by the Corporation—G.O. No. 2200 M., dated 24th December 1904.

156. The Bombay Act contains no provision requiring prior notice of withdrawal, or imposing penalty in case of default, in respect of scavengers or other menial servants of the Health department. Apparently the object is secured there by taking written agreements, or necessity for such provision has not arisen there.

157. The Calcutta Act (section 438) specifically lays down that the provisions apply to all servants who deal with sewage, offensive matter or rubbish. As this section is itself wide in its application, there is no necessity there for extending its provisions. The Corporation there is itself competent to decide to whom the section is to apply without reference to Government.

158. The provision in the Madras City Act closely follows the District Municipalities Act (section 282-A). It is for consideration whether the power of Government in notifying the classes of servants should be delegated to the Corporation. It will no doubt be better for all concerned if there should be a clear declaration as to the cases in which the provisions of the section will apply than a general statement in the Act. But by the better knowledge it may have as to the various duties of the several classes of servants, the Corporation itself may be competent to decide the question of the applicability of the section and by its status will naturally be more deserving of wielding higher powers than a mufassal council.

Supplementary Office-note.

The Corporation merely says that this provision may be omitted. This is not a power by which the Government exercises any control over the Corporation; it is only a power with the help of which the Corporation can, as necessity arises, provide itself with facilities for better administration. The object is only to protect the Corporation against any strike of work by the menial subordinates connected with conservancy and sanitation. It is not that this provision is absolutely necessary towards that end. Instead of taking separate agreements from each member of the establishment, the Corporation can have the same effect secured by a single notification issued by Government once for all for all times. It is not clear whether the Corporation means to have sub-section (1) of the section amplified by including therein permanently any other class of servants to whom it may be necessary to extend the provisions. In any case, as the Corporation does not wish to retain sub-section (3), Government need not object to it.

Penal provisions such as those embodied in sub-section (2) of section 425 cannot properly be created without the sanction of Government. There is a distinct advantage in the elasticity of the power conferred on Government by sub-section (3) and I would not give it up. It might be invaluable in the event of a sudden emergency.

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—19–7–11.

I agree. The Corporation can hardly have understood the effect of its recommendation—to omit this provision and substitute nothing in its place.

J. N. A[tkinson]—23–7–11.

I agree.

M. H[ammick]—8–8–11.

No. (39)—Section 426 (2).—*Power to sanction fees for licenses.*

Office-note.

159. Sub-section (2) of section 426 provides that for every license or permission and for every registration, a fee may be charged at such rate as may from time to time be fixed by the President with the approval of the Corporation and the sanction of the Local Government.

160. In Bombay [section 479 (2) of the Bombay Municipal Act, 1888], as in Calcutta [section 586 (2) of the Calcutta Municipal Act, 1899], the final authority for sanctioning the rates of fees for similar licenses is the Corporation, the interference of Government in the matter not being provided for.

161. The provisions of the Madras City Municipal Act are similar to those of the Madras District Municipalities Act, 1884.

Section 267 (2).

The power of Government to sanction the scale of fees in respect of District Municipalities has, except in a few specified cases, recently been delegated to Collectors. It is for consideration whether the power in respect of the city should be retained with Government. As a matter of fact, very few alterations were made by Government in the general scale of license fees submitted by the Corporation for sanction—G.O. No. 1934 M., dated 20th November 1908, and No. 642 M., dated 21st April 1909.

G.O. No. 94 M., dated 17th January 1906.

Supplementary Office-note.

The Corporation also says that this power should be vested in itself instead of in Government.

License fees are a very different matter from taxes, and may well be left, as in Bombay, to the Commissioner and the Corporation [section 479 (2)].

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—20–7–11.

J. N. A[tkinson]—24–7–11.

I agree.

M. H[ammick]—8–8–11.

No. (64)—Section 464.—*Power to empower municipal servants to exercise the powers of Police officers.*

Office-note.

162. This power is peculiar to the Madras Act. The Bombay and Calcutta Acts, while merely laying down that the police should co-operate (sections 522 and 643, respectively), do not contain any provision as to the grant of the police powers to *municipal servants*. This power was introduced into the Madras City Act during its consolidation on the analogy of section

Vide clause 434 on page 10 of the Statement of Objects and Reasons.

282 (4) of the Madras District Municipalities Act. Since the introduction of this provision there have been two cases in which Government extended the police powers to the servants of the Corporation. If police powers are to be granted to municipal servants, it can only be done by Government and the power to extend the powers cannot be given over to the Corporation.

G.Os. No. 2645 M., dated 21st December 1905, and No. 2003 M., dated 16th November 1906.

Supplementary Office-note.

The Corporation does not also propose any change in the provisions.

Police powers can only be conferred by Government. This provision cannot be altered.

L. Davidson—5–6–11.

I agree.

V. K[rishnaswami Aiyar]—20–7–11.

M. H[ammick] -8–8–11.

No. (65)—Section 471.—*Power to permit the construction of buildings on the Esplanade.*

Office-note.

163. This section provides that the permission to construct buildings on the Esplanade which is under the control of the Military Department should not be given by the Corporation until the sanction of the Local Government and the Government of India has been obtained therefor. This power was taken with reference to the specific orders of the Government of India in their letter No. 1113-M.W., dated 5th April 1902, in G.O. No. 553 M., dated 8th May 1902. This section should therefore stand.

Supplementary Office-note.

The Corporation also desires no change.

Here also the continuance of Government control is essential.

L. Davidson—5–6–11.

Yes.

V. K[rishnaswami Aiyar]—20–7–11.

M. H[ammick]—8–8–11.

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164. The third recommendation of the Royal Commission is that where it is considered expedient that hospitals and educational institutions should be controlled by Government, the municipality should not be required to contribute except as a matter of voluntary agreement. The Corporation of Madras does not at present make any contribution towards educational institutions maintained by Government; but in respect of the maintenance of hospitals a contribution of Rs. 20,000 is at present received from the Corporation. This contribution was fixed by Government so long ago as 1880 "in consideration "of the benefits arising to

Page 53 of the administration report of the Corporation for 1908–1909.

Vide pages 14 and 27 of the notes with G.O. No. 548, Financial, dated 9th December 1909.

Ibid.

The principle enunciated by the Commission may be accepted.

L. Davidson—5–6–11.

Yes.

V. K[rishnaswami Aiyar]—20–7–11.

"the native community of Madras from the out-patient department of the General "Hospital and the Women and Children's Hospital as well as other medical insti- "tutions like the Lying-in-hospital and the Eye-Infirmary maintained at the Presi- "dency by Government." Though immediately after this order the municipality requested that the contribution might be waived or materially reduced, it has without demur been paying the contribution ever since. Perhaps this may therefore be taken to be a voluntary contribution on the part of the Corporation. Further the question of waiving this contribution was recently considered at the instance of the Government of India and it was decided that, in view of the fact that the amount was only moderate in consideration of the benefits derived, the contribution may be retained. The principle enunciated by the Royal Commission may, however, be accepted.

In the notes with G.O. No. 548, Financial, dated 9th December 1909.

C. Ramanuja Chari—7–2–10.

The "chief points for consideration" I would answer thus:—

(1) Yes.

I agree.
V. K[rishnaswami Aiyar].

(2) Yes.

I agree.
V. K[rishnaswami Aiyar.]

(3) Yes except for the four chief Officers, *viz.*, Health and Revenue Officers, Engineer and Special Engineer.

I agree to Government approval.
V. K[rishnaswami Aiyar].

(4) Taxes and tolls—*No.* License fees—*Yes.*

L. Davidson—5–6–11.

I have noted.
V. K[rishnaswami] Aiyar].

The chief points for consideration are—

(1) whether Madras should like Bombay have a nominated Official Commissioner with an elected Chairman;

(2) whether the control over the budget should be surrendered;

(3) whether the power of determining the number and salaries of officers and establishments be vested in the Corporation; and

(4) whether the taxes and tolls and license fees to be levied are to be left to the determination of the Corporation.

2. In arriving at a decision on these points it has perhaps to be remembered that Madras is not so enlightened nor so rich as Bombay and that the Commissioners here are not such public-spirited men as they apparently are in Bombay.

P. T. Tharyan—21–3–10.

I cannot take this up just yet. Meanwhile please have the note printed.

L. M. Wynch—29–3–10.

The notes have been put in type and the file is resubmitted.

C. Ramanuja Chari—29–4–10.

P. T. Tharyan—29–4–10.

Demi-official—from the Hon'ble Mr. L. M. Wynch, c.i.e., I.C.S., Acting Secretary to Government, Local and Municipal Department.
To—the Hon'ble Mr. M. Hammick, c.s.i., c.i.e., I.C.S.
Dated—the 7th June 1910.

Will you very kindly read my proposed reference to the President of the Madras Corporation on the subject of the Decentralization Commission's proposals?

The office have unfortunately bottled up India's reference for nearly a year and have dealt exhaustively with the sections in the Madras Act conferring powers of control on the Local Government which the Bombay Government do not possess.

If we are to adopt the Decentralization Commission's proposals as regards the elected Chairman and the limitation of the powers of control by Government, we should, I think, also adopt the Bombay system as regards the official Commissioner and emancipate him from the control of the Standing Committee and Corporation which is much more stringent in Madras than it is in Bombay.

The Madras Corporation would no doubt gladly accept the Decentralization Commission's suggestions as regards Government control and the election of a Chairman, but the relaxation of the powers of the Standing Committee and Corporation over the official executive officer is another matter and in any reference I suggest that this should follow and ask for the views of the Corporation on this point as well.

If you agree, I propose to issue the reference at once as much time has already been lost and the Government of India are already pressing for a reply.

Meanwhile I propose to have the Madras Act and the Bombay Act closely compared as regards the powers and duties of the Corporation and the Standing Committee and the file, which is a very bulky one, will then be circulated in the ordinary course.

Demi-official—from the Hon'ble Mr. M. Hammick, c.s.i., c.i.e., I.C.S.
To—the Hon'ble Mr. L. M. Wynch, c.i.e., I.C.S., Acting Secretary to Government, Local and Municipal Department.
Dated—the 7th June 1910.

I think certainly that we must have the opinion of the Corporation on this most unsatisfactory deliverance of the Decentralization Commission. From reading their report, I should say they never troubled themselves to know what the Bombay system was. I think your reference is right enough. The Corporation must report before Government can deal with the matter.

[It is respectfully submitted that the communications from the Government of India regarding the Royal Commission's proposals in respect of district municipalities and the city were received in the office about the same time, *viz.*, in the last week of July 1909, when the office was fully engaged with the administration report work. As soon as the latter work was over, the district municipal proposals were taken up by the office first and a note was submitted by the end of September. The city municipal proposals, which entailed more detailed examination, were then put in hand; but no rapid progress could be made as the general municipal review and the Corporation review intervened. As personally directed by the Secretary, preference was given to the above periodical returns and the examination of the city proposals was resumed in December. The note was ready by the end of January.]

A | The office has kept this file for an unconscionable time and did not apparently consider it necessary that the Corporation of Madras should be consulted in the matter.

A reference to the Corporation must now be made at once.

B | The office-note is also confined to an examination of the points in which the Local Government in Madras possesses powers of control which are not found in the Bombay Act, and overlooks altogether the very material differences which exist

between the two Acts in the powers of control conferred upon the Corporation and the Standing Committee over the executive officer—the official Commissioner in Bombay and the President in Madras.

C | The statement made in paragraph 4 of the note that the only difference is in respect of the head of the deliberative body is quite misleading.

The Madras Act gives to the Corporation powers which in Bombay are exercised by the Standing Committee, *e.g.*, power to sanction contracts over Rs. 10,000.

Again the Madras Act gives the Standing Committee powers which in Bombay are vested in the official Commissioner—*vide* the chapters on *streets* in the two Acts *passim*.

In Madras the orders of the President in regard to certain matters are subject to appeal to the Standing Committee. I cannot find any corresponding provision in the Bombay Act.

Finally the President in Madras is liable to interpellation—in Bombay the Commissioner is only obliged to furnish reports and returns and statements required by the Corporation. He is not obliged to attend the meetings and cannot be interpellated apparently.

It would appear therefore that the official Commissioner in Bombay is much more independent than the President is in Madras and if, in Madras, the Corporation is to be largely freed from the control now exerciseable by Government, it would seem to be the natural corollary that the executive officer should likewise be emancipated from the control of the Corporation and the Standing Committee and given as free a hand as the Commissioner in Bombay has.

The two Acts must now be carefully compared from this point of view and a

D | statement prepared showing the powers possessed by the Corporation and Standing Committee in Madras, noting against each the section concerned in the Madras Act and the authority by whom the corresponding power is exercised in Bombay, reference being given to the sections of the Bombay Act.

Meanwhile the reference below which has been approved by the Hon'ble Mr. Hammick must be issued *at once*.

As the Government of India are pressing for an early reply, the case must now be treated as *very urgent*.

L. M. Wynch—8–6–10.

[Memo. No. 2821–1 M., dated 8th June 1910.]

A. It is regretted that it did not strike the office that the Corporation of Madras should be consulted in this matter. The main questions involved were the election of a non-official Chairman—paragraph 869 of the report of the Royal Commission on Decentralization—and the grant to the Corporation of as full powers as Bombay now possesses—paragraph 867—and it was thought that these questions should be decided without reference to the Corporation. Besides, no similar suggestion was made in respect of the file relating to the district municipal proposals.

2. **B.** It is also respectfully submitted that the recommendation of the Royal Commission refers mainly to control exercised over the Corporation, and not to the internal arrangements. It was with reference to this, that in examining the file the Corporation (comprising the Corporation, the Standing Committee and the President) was taken as a single entity, irrespective of the distribution of the powers and duties among *the three agencies*. It was thought that the latter was a subject for consideration at a later stage after the general principle involved in the recommendations of the Commission had been accepted and when the Act came to be revised.

This is the case.
L. Davidson—5–6–11.

I agree.
L. Davidson—5–6–11.

3. **C.** It is respectfully submitted that the remark in paragraph 4 of the office-note applied only to the recommendation in respect of the constitution of the Corporation with which alone paragraphs 2 to 4 are concerned. The other question of the powers of the Corporation was dealt with in the subsequent paragraphs.

4. **D.** The following statements give the powers vested in the Corporation and the Standing Committee under the Act and the corresponding authorities exercising them in Bombay. In these statements, a distinction has been made between the cases

in which these bodies exercise the final powers and those in which these bodies take only the initiative, the final powers being vested in a higher authority:—

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	I.—Powers possessed by the Corporation of Madras.		
(1) 8 (2)	Power to elect the eight members of the Standing Committee—four from Divisional Commissioners—two from Commissioners appointed by Associations, etc., and two from Commissioners appointed by Government.	Eight by the Corporation and four by Government.	43
(2) 55 (proviso)..	Power to restore to office Commissioners who cease to be such in consequence of their failure to attend meetings.	No similar provision. (But if the Corporation is satisfied with the cause of absence, the Councillor does not vacate his seat—which more or less comes to the same thing.)	17 (*b*)
(3) 59 (1) ..	Power to hear and dispose of appeals against the President's order of dismissal of servants drawing not less than Rs. 200 *per mensem*.	No similar provision. (Dismissals by the Commissioner of officers drawing over Rs. 300 require the approval of the Standing Committee).	82 (2) (*a*)
(4) 66 (2) (*d*) and 66 (3).	Power to approve finally of contracts involving expenditure of over Rs. 10,000 and not exceeding 1 lakh as also variations and discharges thereof.	Standing Committee for all contracts over Rs. 5,000.	69 (*c*) & (*e*)
(5) 81 (1) ..	Power to appoint special committees for inquiring into and reporting on matters reserved for the decision of the Corporation.	Corporation	38
(6) 104 (2) ..	Power to determine in which of the public securities the sinking fund amount shall be invested.	Do.	109 (*d*)
(7) 117	Power to exempt persons from payment of taxes, if they are unable to pay the same.	No similar provision. (But Commissioner may write off irrecoverable taxes.)	216
(8) 188	Power to sue persons for default of payment of tax or other dues.	Commissioner	211
(9) 202 (*a*) ..	Power to exercise control over the lands outside the city through which water pipes and conduits run.	Do.	263 (1) & 265
(10) 213 ..	Power to dispose of sewage or offensive matter.	Commissioner. (Alteration of existing methods requiring sanction of Corporation).	10 245 (sewage) 367 (offensive matter)
(11) 230 (1) ..	Power to sanction the opening of new streets, the diversion or improvement of existing ones and the construction of bridges.	Corporation (new streets) ..	291
(12) 232 (1) ..	Power to acquire lands and buildings for the improvement of streets.	Commissioner, if acquired by agreement.	296 (1) & 90
		Standing Committee if acquired under the Land Acquisition Act.	296 (1) & 91
		[Acquisition under the Land Acquisition Act has to go up to Government in both cases.]	
(13) 295	Power to prescribe the rate of fees to be charged for private scavenging and cesspool services.	Corporation, in respect of general rate. *	140 (*b*) * Halalkhor tax.
		Standing Committee, in respect of special rate for particular buildings like hotels, clubs, etc.	172 (1)
(14) 329 (1) ..	Power to construct public wash-houses ..	Commissioner	397 (2)
(15) 331 (1) ..	Power to charge fees and rents for the use of public slaughter-houses.	Commissioner, with the approval of Standing Committee.	407 (*a*)
(16) 339	Power to build and maintain markets on lands acquired for the purpose.	Commissioner, when authorised by Corporation.	399 (1)
(17) 343	Power to grant license for new private markets.	Commissioner (guided by general resolutions of the Corporation).	402
(18) 344 (3) ..	Power to permit the President to refuse renewal of license for private markets in certain cases.		
(19) 406 (1) ..	Power to acquire, rent or take on lease lands required for municipal purposes.	Corporation has general powers of acquisition of property.	87
		Commissioner, in cases of acquisition by agreement.	90 (1)
		Commissioner, Standing Committee and Government in case of acquisition under Land Acquisition Act.	91 (1)
(20) 406 (2) ..	Power to rent or let out on lease municipal property up to a period of three years.	Commissioner up to one year ..	92 (*a*)
		Standing Committee up to three years.	92 (*b*)
(21) 412 (*b*) ..	Power to fix the time for the receipt of objections to draft by-laws.	Minimum of six weeks fixed in the Act itself.	465 (1)
(22) 458	Power to control the institution, compromise or withdrawal of legal proceedings and the obtaining of legal advice by the President or direct the President to take such legal proceedings or legal advice. *	Commissioner himself in some cases and with the approval of the Standing Committee in certain specified cases.	517 (1)
		* Corporation	517 (1) (*b*) and 517 (2).

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	II.—Powers possessed by individual members of the Corporation.		
(1) 16 (2) ..	Power to interpellate the President (individual Commissioner).	No similar provision	....
(2) 71	Power to have access to any records of the Corporation (individual Commissioner).	No corresponding provision ..	....
(3) 74 (1) ..	Power to call a special meeting (ten Commissioners).	16 Councillors or 4 members of the Standing Committee.	36 (*d*) & (*h*)
(4) 76 (1) ..	Power to bring up resolutions in regard to extraordinary and urgent business not included in the notice of the meeting (individual Commissioner).	Individual Councillor	36 (*k*)
(5) 78 (2) ..	Power to elect a Chairman for the meeting in the absence of the President (Commissioners).	Councillors	36 (*g*)
(6) 80 (2) ..	Power to inspect minute books (individual Commissioner).	Individual Councillor	36 (*e*)
(7) 172	Power to hear appeals against the assessment of taxes (President and two Commissioners).	Chief Judge of the Small Cause Court.	217 (1)
	III.—Powers of the Corporation subject to superior control.		
(1) 9 (2) & 12 (4).	Power to recommend for the approval of Government the removal of the President, the Revenue Officer, the Health Officer and the Engineer.	Corporation in the case of Commissioner. [The others are removeable by the Corporation itself].	54 (2) 74 (2) (*d*)
(2) 13 (2) ..	Power to *approve* of the raising of the salary of the Revenue Officer, the Health Officer and the Engineer above the maximum prescribed in the Act.	Entirely by the Corporation within certain limitations.	74 (2) (*e*)
(3) 16 (2) ..	Power to frame rules for the interpellation of the President to be approved by Government.	No similar provision .. .	....
(4) 58 (1) ..	Power to determine, subject to the control of Government, the number of officers and servants necessary.	Commissioner—subject to the sanction of the Standing Committee, and in the case of appointments with emoluments exceeding Rs. 200, that of the Corporation.	79
(5) 58 (2) ..	Power to determine, subject to the approval of Government the salary and allowances of Municipal employés.		
		Standing Committee in the case of clerks and servants subordinate to the Municipal Secretary.	78
(6) 64	Power to frame rules, to be approved by Government, in respect of— (*a*) the security to be furnished by municipal employés;	Standing Committee	81 (1) (*a*) to (*d*)
	(*b*) the grant of leave and leave allowances and acting allowances;		
	(*c*) the grant of pensions and gratuities: and	Standing Committee and Government.	81 (1) (*f*)
	(*d*) the maintenance of a provident or annuity fund.	Standing Committee	81 (1) (*g*)
(7) 66 (2) (*e*) & 66 (3).	Power to recommend for the approval of Government contracts involving expenditure of over one lakh as also variations and discharges thereof	Standing Committee for all contracts costing over Rs. 5,000.	69 (*c*) & (*e*)
(8) 88	Power to contribute, with the sanction of Government, towards the expenses of any public exhibition, ceremony or entertainment in the city.	Corporation with the previous sanction of Government. (Ceremony or entertainment alone).	63 (*f*)
(9) 89 (*a*) ..	Power to contribute, with the sanction of Government, to any municipal council or local board for purposes calculated to benefit the city.	No corresponding provision ..	....
(10) 94 & 96 (3)..	Power to accept or modify the budget or any supplement thereto submitted by the Standing Committee before its submission to Government.	Corporation	129
(11) 97	Power to adopt alteration in the budget, subject to the approval of Government.	Standing Committee (reduce or transfer allotment).	133
		Corporation (Allotment from balance).	131
(12) 99 & 100 ..	Power to raise loans, with the sanction of the Local Government and the Government of India.	Corporation with sanction of Government of India.	106
(13) 103	Power to determine the form of debentures with the sanction of the Government of India.	Corporation and Government ..	110 (1)
(14) 107 (1) ..	Power to consolidate loans with the sanction of the Government of India.	No similar provision	....
(15) 116	Power to levy taxes and tolls with the approval of Government	Corporation	128 (1)
(16) 200	Power to permit the President with the approval of Government to construct water-works outside the city.	Do.	261

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	III.—Powers of the Corporation subject to superior control—cont.		
(17) 202 (*b*) ..	Power to exercise control with the sanction of Government over any lake or reservoir outside the city, but from which a supply of water to the city is derived.	Corporation—except in the case of the Vehar lake.	267
(18) 210	Power to require with the sanction of Government railway companies to raise or lower the level of a railway line to admit of the construction of drains.	No similar provision	..
(19) 230 (1) (*c*) ..	Power to close permanently with the sanction of Government any public street or part thereof.	Corporation	289 (3)
(20) 232 (2) ..	Power to acquire, with the approval of Government, lands or buildings outside the alignment of the street for the improvement thereof.	Corporation to determine (acquisition under sections 90 and 91).	296 (1) (*b*)
(21) 261 (1) ..	Power to frame with the sanction of Government regulations for the future construction of certain classes of buildings in particular streets and localities.	No similar provision	..
(22) 290 (1) (*c*) ..	Power to determine with the sanction of Government the means by which lamps should be lighted in the city.	Corporation	330 (*c*)
(23) 331 (2) ..	Power to open with the sanction of Government municipal slaughter-houses outside the city.	Corporation with the sanction of Government.	392 (2)
(24) 337 (1) ..	Power to provide with the sanction of Government public markets.	Commissioner when authorized by Corporation.	399 (1)
(25) 338	Power to acquire or appropriate with the sanction of Government lands for use as markets	Do.	399 (1)
(26) 341	Power to sell or close public markets and to sell or lease the sites of such markets, with the sanction of Government.	Closure—Commissioner with the sanction of Government. Disposal of site and buildings—Corporation.	400 400 & 92
(27) 404	Power to construct and work or permit the construction of railways with the sanction of Government.	Corporation with the sanction of Government may permit the laying of a railway; but there is no power in the Act for the Corporation itself to undertake the construction of railways.	293 (1)
(28) 406 (2) ..	Power to rent or let out on lease municipal property beyond three years, with the sanction of Government.	Corporation	92 (*c*)
(29) 406 (3) ..	Power to sell municipal land or building with the sanction of Government.	Do.	92 (*c*)
(30) 409 (1) ..	Power to frame by-laws with the sanction of Government—		
	(1) for the regulation of the conduct of business at the Corporation meetings;	Corporation (not by by-law) ..	36
	(2) for the form for budget statements and returns;	Standing Committee (not by by-law).	126
	(3) for the form of keeping the Corporation accounts;	Do.	123
	(4) for the due performance of duties by municipal servants and officers;	Commissioner in respect of all establishments except those under the Secretary. Standing Committee or the Secretary in respect of the Secretary's establishment (not by by-law).	64 (3) (*b*) 78 (1) (*c*)
	(5) for the regulation of the time and mode of collecting the tolls and taxes;	No express provision regarding taxes. Tolls and town duties to be controlled in such manner as the Commissioner may direct with the approval of the Standing Committee (not by by-law).	213 (2)
	(6) for the measurement of water supplied for domestic or other purposes and the use of public tanks, wells, conduits and other places or works for water-supply, public bathing, washing and the like;	Corporation (by-law to be confirmed by Government).	461 (*b*)
	(7) for the regulation of buildings and the laying out of new streets;	Do.	461 (*a*) & (*c*)
	(8) for the lighting of the city;	Commissioner (not by by-law) ..	330
	(9) for the manner in which house-drains and privies are to be connected with municipal drains and the procedure to be followed by owners and occupiers of premises in connecting the same;	Do. ..	228
	(10) for the specification of the materials to be used in the construction of drains;		

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	III.—Powers of the Corporation subject to superior control—cont.		
(30) 409 (1)—*cont.*	Power to frame by-laws with the sanction of Government—*cont.*		
	(11) for the construction, maintenance, control and cleansing of drains, ventilation shafts or pipes, cesspools, privies, urinals and drainage works of every description;	Corporation (by by-law to be confirmed by Government).	461 (*a*)
	(12) for the maintenance of a drainage map;	No similar provision	..
	(13) for the inspection, control and conservancy of places where dangerous or offensive trades are carried on;	Corporation (by by-law to be confirmed by Government).	461 (*f*)
	(14) for the control and supervision of slaughter-houses and the control and supervision of butchers carrying on business in the city or at any municipal slaughter-house outside the city;	Do.	461 (*k*) & (*l*
	(15) for the regulation, inspection and control of the use of public and private markets and shops and other places therein and the control and regulation of the sanitary condition of the same;	Do.	461 (*k*) *m*) & (*n*)
	(16) for the prescribing of the method of sale of articles whether by measure, weight, tale, or piece;	No similar provision	
	(17) for the prescribing and provision of standard weights, scales and measures and preventing the use of any others;	Commissioner—provision of weights, etc. (not by by-law). Prevention—Corporation (by by-law to be confirmed by Government).	418 461 (*o*)
	(18) for the publication of a price-current;	Do.	461 (*o*)
	(19) for the prevention of the sale or exposure for sale of unwholesome meat, fish or provisions and securing the efficient inspection and sanitary regulation of shops in which articles intended for human food or drugs are kept or sold;	Commissioner (not by by-law) .. Corporation (by by-law to be confirmed by Government).	414 & 415 461 (*k*)
	(20) for the manner in which stables, cattle sheds and cow-houses are to be constructed and connected with the municipal drains;	Commissioner (not by by-law) ..	394 (1) (*c*) (general provision).
	(21) for the inspection of milch-cattle and the prescription and regulation of the ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle sheds in the occupation of persons following the trade of dairyman or milk-seller;	Corporation (by by-law to be confirmed by Government).	461 (*g*)
	(22) for enforcing the cleanliness of milk stores and milk shops and milk vessels used for containing milk;	Do.	461 (*h*).
	(23) for requiring notice to be given whenever any milch-animal is affected with any contagious disease and the prescribing of precautions to be taken for protecting milch-cattle and milk against infection or contamination;	Do.	461 (*j*)
	(24) for the prevention of dangerous diseases of men or animals;	Commissioner (not by by-law) ..	General powers—421 to 433.
	(25) for the regulation of lodging houses;	No similar provision	..
	(26) for the enforcement of compulsory vaccination;	No similar provision. [In Bombay vaccination is not a compulsory municipal duty].	63 (*a*)
	(27) for the * regulation of burial and burning grounds and the levy † of fees for the use of such grounds as are maintained out of the municipal fund;	* Corporation (by by-law to be confirmed by Government). † No similar provision.	461 (*p*)
	(28) for the registration of births and deaths;	Corporation (by by-law to be confirmed by Government).	461 (*q*)
	(29) for the enumeration of the inhabitants of the city;	Do.	461 (*s*)
	(30) for generally carrying out the purposes of this Act;	Do.	461 (*w*)

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	III.—Powers of the Corporation subject to superior control—cont.		
(30A) 410 and 411.	Power to provide for penalties for breach of by-laws with the sanction of Government.	Corporation and Government ..	462 and 463
(31) 426 (2) ..	Power to fix the rate of license fees with the sanction of Government.	Corporation	479 (2)
	IV.—Powers possessed by the Standing Committee in Madras.		
(1) 3 (24) ..	Power to recommend for the approval of Government what shall be "populous parts of the city".	Peculiar to Madras	..
(2) 11 (*b*) (iii) and 12 (4).	Power to permit the President, the Revenue Officer, the Health Officer and the Engineer to hold the office of Chairman of any public institution or any other honorary office.	Corporation (in regard to Commissioner alone).	57 (2) (*b*).
(3) 17 (*a*) ..	Power to supervise the appropriation of budget grants with reference to progress report of work done and expenditure.	Apparently the Commissioner ..	No specific corresponding section in the Act.
(4) 17 (*b*) ..	Power to dispose of applications for pensions and gratuities.	The Commissioner and the Secretary in regard to the respective establishments under each.	64 (3) (*b*) and 78 (2).
(5) 17 (*d*) ..	Power to write off irrecoverable sums due to the Corporation.	Standing Committee (taxes and cost of recovering them).	216
(6) 18 (1) ..	Power to have access to all the accounts of the Corporation.	Standing Committee (for purposes of audit and scrutiny).	135 (2).
(7) 18 (1) ..	Power to require the President to furnish explanation as to the receipts and disbursements of the municipal funds.	Do.	135 (2).
(8) 18 (2) ..	Power to audit municipal accounts ..	Do.	135 (1).
(9) 19 (1) ..	Power to authorise the President to take action in anticipation of its sanction.	No similar express provision ..	..
(10) 59 (1) ..	Power to hear and dispose of appeals against the President's order of dismissal of servants drawing not less than Rs. 50 *per mensem*.	No appeal against Commissioner's orders in the matter. Dismissal of servants with salaries exceeding Rs. 300 requires prior approval of Standing Committee.	83 (2) (*a*).
(11) 66 (2) (*c*) and 66 (3).	Power to approve finally contracts involving expenditure exceeding Rs. 2,000 but not exceeding Rs. 10,000; as also variations and discharges thereof.	Standing Committee in respect of all contracts exceeding Rupees 5,000.	69 (*c*)
(12) 82	Power to appoint Sub-Committees in regard to the exercise of powers vested in the Standing Committee.	Standing Committee	49 (*g*)
(13) 84	Power to frame rules for regulating the proceedings of the Standing Committee.	Do.	49
(14) 91 (3) ..	Power to sanction estimates for works, prior to making provision for them in the budget.	No similar provision	..
(15) 112 (*b*) ..	Power to require the auditors to furnish information as to the progress of their audit.	Standing Committee	137 (1)
(16) 152 (2) ..	Power to sanction the compounding for a fixed sum in lieu of the taxes on vehicles and animals, by livery & stable keepers.	Commissioner with Standing Committee's sanction.	185
(17) 169 (2) ..	Power to sanction the compounding for a fixed sum in lieu of tolls.	No similar power	..
(18) 194 (2) ..	Power to fix rates of payments for supply of water for non-domestic purposes.	Standing Committee	169
(19) 205	Power to sanction the payment of compensation to persons for damage done to their property by the laying of pipes.	Commissioner	265 and 222 (3)
(20) 212	Power to sanction the alteration, improvement or closure of drains.	Commissioner, if municipal drain. Standing Committee, if private drain.	224 233 (1)
(21) 215 (2) ..	Power to sanction the demolition or closure of unauthorised connections with municipal drains.	Standing Committee	229
(22) 219 proviso.	Power to prescribe terms on which connections shall be made between house drains.	Do.	238 (1)
(23) 220 (1) ..	Power to sanction the draining of a group or block of buildings by a combined operation and the apportionment of the cost.	Do.	232—A
(25) 232 (2) proviso.	Power to fix the amount payable by persons who retain lands outside the alignment of the street, but which the Corporation has decided to acquire for its improvement.	Commissioner up to one year. Standing Committee up to 3 years Corporation above 3 years. (General powers).	92 (*a*), (*b*) and (*c*)
(26) 232 (5) and (6).	Power to dispose of lands outside the alignment of streets, acquired for their improvement.	Powers to lease as above; as regards sale, the Commissioner has absolute power up to the value of Rs. 500, Standing Committee up to Rs. 5,000 and the Corporation above that limit.	Do.
(27) 233	Power to define the general line of buildings on the sides of streets.	Commissioner for original fixing. Alterations require sanction of Corporation.	297 (1) (*a*) 297 (1) (*b*)

Section of the Madras Act.	Powers.	By whom exercisep in Bombay.	Section of the Bombay Act.
	IV.—Powers possessed by the Standing Committee in Madras—cont.		
(28) 234	Power to permit additions to buildings within the general line of streets.	Commissioner	297 (3)
(29) 235 (1) ..	Power to require the setting back of buildings projecting beyond the general line of the street or of the adjoining buildings.	Do.	298 (1)
(30) 236	Power to *permit* buildings to be set forward to improve the line of the streets.	StandingCommittee (may *require*.)	300 (1)
(31) 237 (1) ..	Power to fix the direction, alignment, width, the building line and other details connected with the proposed public streets.	No exactly similar provision. The sanction of the Corporation referred to in section 291 regarding the laying or making of new public streets will cover these details also.	..
(32) 238 (2) ..	Power to determine what streets shall be watered.	Commissioner	336
(33) 239 (1) (*b*) ..	Power to determine the height of hedges and fences of buildings adjoining roadway.	The height is prescribed in the Act itself.	383 (1) (*c*)
(34) 242 (2) ..	Power to approve the particulars required in connection with applications for opening of private street and disapprove of it under certain conditions.	No power to disapprove generally.	302 and 302
(35) 242 (3) ..	Power to approve the level width, alignment, building line and other particulars of private streets.	Standing Committee	303 (1)
(36) 244 (1) ..	Power to permit the President to require the alteration or demolition of a private street opened unauthorisedly or in contravention of the terms of sanction.	Commissioner	304 (2) and (3)
(37) 261 (1) (*a*) (ii).	Power to prescribe the elevation and frontage of masonry buildings in streets in respect of which a declaration of control has been issued.	No similar provision	..
(38) 261 (1) (*c*) ..	Power to permit the construction of shops, warehouses or huts in streets and localities in respect of which a declaration of control has been issued.	....	..
(39) 269 (1) ..	Power to hear and dispose of appeals against orders of the President declining to approve a building site or permit the construction or reconstruction of masonry buildings.	....	..
(40) 270 (1) ..	Power to dispose of applications for permission to construct or reconstruct buildings or to approve building sites on the failure of the President to do so.	....	..
(41) 275 (4) and (5).	Power to hear and dispose of appeals against the order of the President requiring alterations in buildings being constructed in contravention of approved plans or of the provisions of the Act and by-laws.	....	..
(42) 281 (1) and (2).	Power to hear and dispose of appeals against the order of the President refusing permission to construct or reconstruct huts.	....	..
(43) 282 (1) ..	Power to dispose of applications for permission to construct or reconstruct huts on the failure of the President to do so.	....	..
(44) 286 (2) ..	Power to determine whether any addition or alteration is a necessary repair not affecting the position or dimension of a building.	....	..
(45) 287 (3) ..	Power to hear and dispose of appeal against the order of the President requiring the alteration or demolition of a building unlawfully commenced, carried on or completed.	....	..
(46) 294	Power to fix the periodical fee to be charged for the removal of rubbish and offensive matter from business premises.	Apparently covered by special rates of Halalkhor tax to be fixed in respect of such premises. The rates should be approved by the Standing Committee as in Madras.	172 (1) 140 (*b*)
(47) 298	Power to sanction the arrangements for the removal of offensive matter and sewage.	Apparently the Commissioner, in regard to offensive matter. In regard to sewage also, the Commissioner can take similar action, if generally authorised by the Corporation.	365 246 (1)
(48) 310 (2) ..	Power to declare the amount of superficial and cubic space necessary for each occupant of a building or room for purposes of determining overcrowding in dwelling houses.	This is definitely laid down in the Act itself.	379-A (4) and (5)

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	IV.—Powers possessed by the Standing Committee in Madras—cont.		
(49) 329 (1) ..	Power to determine the rate of fees to be levied for the use of public wash-houses provided by the Corporation.	Standin g Committee	397 (2)
(50) 337 (2) ..	Power to fix the rate of rents and fees to be charged for the use of public markets and to sanction the lease of the stallages rents, etc., for a year.	Do.	407
(51) 348 (1) ..	Power to suspend the license for a private market in default of the execution of improvements thereto suggested by the President.	Do.	403 (1) (*d*)
(52) 349	Power to sanction regulations for markets, bazaars, slaughter-houses and places set apart for the sacrifice of animals.	Do. (markets and slaughter-houses).	406
(53) 351	Power to sanction the prohibition of the sale of any articles in public streets.	No similar provision	..
(54) 365	Power to sanction the provision and maintenance of conveyances for the free carriage of persons suffering from dangerous diseases.	Corporation	429
(55) 368 (1) ..	Power to sanction the provision of places and appliances for disinfection of conveyances, clothing, bedding and other articles, and to fix the charges for such disinfection.	Standing Committee	427 (*l*)
(56) 375 (2) ..	Power to sanction the employment of additional registrars of births and deaths.	No similar provision	..
(57) 386	Power to sanction the closure of burial and burning grounds for which there is no owner or person having control.	Do.	..
(58) 427 (1)(*a*) (*i*).	Power to hear and dispose of appeals against—		
	(*a*) the action of the President in carrying a water-supply pipe through any property (section 204);	Do.	..
	(*b*) the order of the President in respect of application for permission to empty house drains into municipal drains (section 214);	Do.	..
	(*c*) the order of the President enforcing the construction of house drains (section 218);	Do.	..
	(*d*) the order of the President requiring the provision or alterations of latrines attached to buildings (section 224);	No similar provision. The order of the Commissioner should however be previously approved by the Standing Committee [section 248 (1)].	..
	(*e*) the order of the President requiring the provision of latrines and urinals for labourers (section 225);	No similar provision	..
	(*f*) the order of the President requiring the provision of latrines and urinals for markets, cart-stands and cattle-stands (section 226);	Do.	..
	(*g*) the order of the President prescribing precautions in respect of buildings in a ruinous state (section 256);	Do.	..
	(*h*) the order of the President regarding the cleansing of insanitary private tank or well used for drinking purposes (section 301);	Do.	The Commissioner should issue the requisition only with the sanction of the Standing Committee.
	(*i*) the order of the President regarding the cleansing, repairing, etc., of private tanks, wells, lands, etc., with stagnant water (sections 302 and 303);	Do.	
	(*j*) the action of the President regarding the cleansing, draining or filling up of public wells (section 304);	Do.	..
	(*k*) the order of the President regarding improvements to insanitary buildings (section 308);	Do.	..
	(*l*) the order of the President in respect of applications for licenses for places in which animals are kept (section 314);	Do.	..
	(*m*) the order of the President requiring improvements to stables, cattle-sheds and cow-houses (section 315);	Do.	..
	(*n*) the order of the President directing the discontinuance of use of building as a stable, cattle-shed or cow-house (section 316);	Do.	..
	(*o*) the order of the President in espect of applications for license to improt timber or firewood (section 327)	Do.	..

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	IV.—Powers possessed by the Standing Committee in Madras—cont.		
	Power to hear and dispose of appeals against—*cont.*		
(59) 427 (1) (*a*) (*ii*)	(*p*) the order of the President prescribing the manner in which house drains and privies are to be connected with municipal drains [section 409 (9)];	No similar provision	..
	(*q*) the order of the President prescribing the materials to be used in the construction of drains [section 409 (10)];	Do.	..
	(*r*) the order of the President regarding the construction, maintenance, control and cleansing of all drainage works, privies and urinals [section 409 (11)];	Do.	..
(60) 427 (1) (*b*) ..	(*s*) the order of the President declining to permit the construction of buildings over public drains (section 216);	Do.	..
	(*t*) the order of the President declining to permit the erection of any dangerous machinery by the use of which smoke is produced (section 324);	Do.	..
(60-A) 427 (1) (*c*).	(*u*) the order of the President declining to permit the use of places for offensive or dangerous trades (section 322);	Do.	..
	(*v*) the order of the President refusing license for the storage of timber, firewood and other combustible materials (section 325);	Do.	..
	(*w*) the order of the President refusing license for a bake-house or a manufactory of ice or aerated water (section 328);	Do.	..
	(*x*) the order of the President refusing license for slaughther-house (section 332);	Do.	..
	(*y*) the order of the President refusing license for private markets [section 344 (2)];	Do.	..
(61) 427 (1) (*d*) ..	(*z*) the order of the President suspending or revoking a license, [section 426 (3)].	Do. (The cancellation or suspension of a license for a private market should be first approved by the Standing Committee).	..
(62) 441 (4) ..	Power to hear and dispose of appeals against the amount of compensation paid by the President for damage done to private property adjacent to municipal works.	No special provision. (But under the general provisions of section 501, the payment of any compensation in this case will require the prior approval of the Standing Committee).	..
(63) 445 ..	Power to sanction the payment of compensation to persons sustaining damage by reason of the exercise of any of the municipal powers.	Standing Committee	501
(64) 457 (6) ..	Power to sanction the payment from municipal funds in connection with suits against municipal officers and servants.	Do.	527 (3)
(65) 458	Power to direct the President to take legal advice.	Do.	517 (1) (*k*)
(66) schedule XI.	Power to determine the line of the face of the building where it is not parallel to the line of the street.	No similar provision	..
(67) schedule XII, rule 15, proviso (*a*).	Power to determine the amount of open space to be left in cases where the adoption of the prescribed open space in the rear of the building is not possible.	No similar provision .. .. [But the Corporation may provide for such matter when framing bylaws regarding the provision of open space under section 461 (*d*).]	..
(68) schedule XII, rule 17 (1).	Power to prescribe particulars to be furnished along with applications for approval of building sites.	Commissioner	338 & 340
(69) schedule XII, rule 17 (2).	Power to prescribe the details to be shown in the site plan.		
(70) schedule XII, rule 18 (1).	Power to prescribe particulars to be furnished along with applications for permission to construct or reconstruct masonry buildings.		
(71) schedule XII, rule 30 (3).	Power to prescribe the particulars to be furnished along with applications for permission to construct or reconstruct a hut.		

Section of the Madras Act.	Powers.	By whom exercised in Bombay.	Section of the Bombay Act.
	V.—Powers possessed by individual members of Standing Committee.		
(1) 83 (3) ..	Power to elect one of their number to preside at meetings, when the President is absent (individual members of the Committee).	Similar power	49 (*e*)
(2) 85 (1) ..	Power to call a special meeting of the Committee (three members).	No similar power	..
	VI.—Powers of Standing Committee subject to superior control.		
(1) 97 (1) ..	Power to recommend alterations in the budget for the approval of the Corporation and Government.	Standing Committee for the approval of the Corporation.	131 (1)
(2) 280 (1) ..	Power to open new streets, divert or widen existing ones and construct bridges with the sanction of the Corporation.	New street—Corporation .. Widen or improve—Commissioner, if total cost is within Rs. 5,000; otherwise, Corporation.	291 289 (2)
	Power to close permanently any public street with the sanction of the Corporation and the Government.	Corporation	289 (3)
(3) 261 (1) ..	Power to propose regulations to be approved by the Corporation and Government for the future construction of certain classes of buildings in particular streets and localities.	No similar provision	..
(4) 392 (1) ..	Power to close with the sanction of Government registered or licensed burial or burning grounds.	Commissioner with the approval of Government.	438 (2)

5. From the above, it will be seen that the powers under the following heads, which the Commissioner exercises in Bombay, are vested in the Standing Committee or the Corporation in Madras :—

Sections 188 and 458—Corporation.

Section 406 (2)—Corporation.

Section 230 (1)—Standing Committee and Corporation.

Section 244 (1)—Standing Committee.

Section 205—Standing Committee.

Section 17 (*b*)—Standing Committee.

Section 329 (1)—Corporation.

Sections 233, 234 and 235—Standing Committee.

Schedule XII—Standing Committee.

Section 202 (*a*)—Corporation.

Section 212—Standing Committee.

Section 238 (2)—Standing Committee.

By-laws—

Section 409 (1) (20)—Corporation and Government.

Section 409 (1) (10)—Corporation and Government.

Section 409 (1) (17)—Corporation and Government.

Section 409 (1) (19)—Corporation and Government.

(*a*) Taking legal proceedings in regard to non-payment of taxes and in a few other cases.

(*b*) Leasing municipal property up to one year.

(*c*) Widening streets.

(*d*) Enforcing the orders relating to private streets.

(*dd*)—Granting compensation for damage done by laying of pipes.

(*ddd*)—Disposing of applications for pensions and gratuities.

(*e*) Construction of public washhouses.

(*f*) Regulation of buildings with reference to the regular line of streets.

(*g*) Requiring information in connection with applications for licenses for construction of buildings, etc.

(*h*) Exercising control over water pipes outside the city.

(*i*) Regulating the construction and closure of municipal drains.

(*j*) Watering of streets.

(*k*) Control over the construction and draining of cattle sheds, stables, etc.

(*l*) Prescribing the materials to be used in the construction of drains.

(*m*) Prescribing standard weights and measures.

(*n*) Preventing the sale of unwholesome articles of food.

(*o*) Preventing the spread of dangerous diseases of men and animals.

By-laws—
Section 409 (1) (24)—Corporation and Government.

6. The powers in the case of the last five items, which in Bombay are absolutely vested in the Commissioner by the Act, are regulated in Madras by by-laws to be framed by the Corporation with the approval of Government. It is, however, observed that, except in the case of items (*l*) and (*m*), by-laws have actually been framed and that these by-laws give absolute power in the matter to the President and his subordinates, without retaining any power for the Standing Committee or the Corporation. The real restriction of the power of the President in Madras seems to lie in the fact that in a large number of cases appeals to the Standing Committee are allowed over the President's orders, while the Commissioner's orders in such matters are final in Bombay.

Pages 13 to 16 of G.O., No. 682 M., dated 23rd April 1908.

Cf. items 58 to 62.

It is this restriction which needs to be removed.

L. Davidson.

7. In his demi-official to the Honourable Member, dated 7th June 1910, the Secretary proposed to have a comparison made between the Madras and Bombay Acts in respect of the *duties* also of the Standing Committee and the Corporation, though in his final direction to the office to prepare the statement only the *powers* were mentioned. A list of such duties has also been made and is attached.

Section of the Madras Act.	Nature of the duty.	By whom performed in Bombay.	Section of the Bombay Act.
	Duties of the Corporation.		
(1) 16 (1) (*a*) ..	To consider all periodical statements of receipts and disbursements and all progress reports and pass resolutions thereon.	No corresponding provision ..	..
(*b*) ..	To express an opinion on all matters referred for consideration by Government.	No exactly similar provision ..	..
(*c*) ..	To call attention to any neglect in the execution of municipal work, to any waste of municipal property, to the wants of any locality and to suggest improvements.	Do. ..	..
(2) 68 (3) ..	To place before Government the specifications, conditions and estimates for a work, the tenders received and that recommended, in cases where the expenditure involved exceeds 1 lakh.	Do. .. [Contracts stop with the Standing Committee and do not go before Government.]	.. ..
(3) 70	To provide an office for the transaction of business.	Corporation	61 (*r*)
(4) 93	To consider the budget at a special meeting.	Do.	127
(5) 95 (3) ..	To abide by the budget as approved by Government.	No similar provision [Budgets do not go before Government.]	
(6) 104 (1) ..	To maintain sinking funds for the repayment of money borrowed on debentures and to pay quarterly to such funds, the amounts fixed by Government.	Corporation	109 (*d*)
(7) 192 (1) ..	To provide a supply of wholesome drinking water within the city; to cause such works to be constructed and maintained as may be necessary therefor.	Corporation	61 (*b*) 261 (*a*)
(3) ..	To make adequate provision for the supply of water being continuous and pure.		
(8) 197	To make and maintain sufficient fences and boundaries on each side of any water-supply channel of the city.	No express provision on this matter. Apparently covered by sections 261 and 262.	.. ..
(9) 208 (1) ..	To provide and maintain a sufficient system of drainage throughout the city.	Corporation	61 (*a*) & 221 (*i*)
(2) ..	To cause all public drains and other such works to be constructed and maintained so as not to be a nuisance and to construct such works as are necessary in that behalf.	Commissioner under the authority of the Corporation.	225
(10) 229	To cause public streets to be maintained and repaired at municipal cost and to defray the cost of all improvements necessary or expedient for the public safety or convenience.	Corporation .. .. .. [Obligatory so far as maintenance of streets are concerned. Discretionary as regards other measures of public safety and convenience.	.. 61 (*m*) 63 (*k*)
(11) 235 (2) ..	To pay compensation to any owner for damage done by his building or wall being set back.	Commissioner	301 (1)
(12) 248 (2) ..	To compensate persons suffering damage by the removal or alteration of obstructions in streets or overdrains constructed before 1st November 1865 or with the consent of any competent municipal authority after that date.	Do.	309 (*i*)

Section of the Madras Act.	Nature of the duty.	By whom performed in Bombay.	Section of the Bombay Act.
	Duties of the Corporation—cont.		
(13) 299	To maintain an establishment under the control of the President for removal of sewage from latrines and urinals not connected with a drain.	Corporation .. .. .. (General provision)	61 (*c*)
(14) 308 (2) ..	To pay compensation to owners of insanitary buildings to whom a notice is sent under section 308 (1) when such buildings are demolished.	Similar provision of the Bombay Act deals only with sheds or huts. Compensation is payable under the general section with the approval of the Standing Committee.	380 501
(15) 318	To set apart places for use by the public for bathing or washing animals.	Commissioner (not obligatory) ..	386.
(16) 331 (1) ..	To provide a sufficient number of places for use as municipal slaughter-houses.	Corporation	61 (*h*).
(17) 362 (*a*) ..	To construct and maintain hospitals within or without the city for the treatment of infectious diseases.	No similar provision, but Corporation should generally provide for the prevention and check of the spread of dangerous diseases.	61 (*g*).
(*b*) ..	To contribute towards the maintenance of any public hospital where infectious diseases occurring in the city are treated.	Do.	..
(18) 376 (2) ..	To print and publish a list of the name and office of every registrar of births and deaths.	..	443 (2).
(19) 377	To print and supply registers for the entry of births and deaths.	Commissioner	444.
(20) 395	To provide a sufficient number of suitable burial and burning grounds within or without the city.	Commissioner, with sanction of Corporation.	61 (*e*) & 436
(21) 409	To frame by-laws when so directed by Government.	No corresponding provision ..	..
(22) 472 (1) ..	To direct by notice, any person who has constructed any building unauthorisedly on the Esplanade to demolish such building or to cause such building to be demolished at the expense of the owner.	Do.	..
	Duties of the Standing Committee.		
(1) 17 (*c*) ..	To assist the President in acquiring and disposing of buildings and lands.	No corresponding provision. Sections 90 and 92 detail the extent to which the Standing Committee exercises control in the matter.	..
(2) 18 (2) ..	To check the monthly abstract of the receipts and disbursements for the preceding month.	Standing Committee (weekly audit).	135 (1).
(3) 68 (1) ..	To call for tenders for the execution of works or for the supply of materials or goods.	Commissioner	72 (1).
(4) 68 (2) ..	To place before the Corporation the specifications, conditions and estimates for a work, the tenders received and that recommended, in cases where the expenditure involved exceeds Rs. 10,000.	Do (Before the Standing Committee).	72 (2) & 69 (*c*).
(5) 113	To remedy defects or irregularities that may be pointed out by the auditors and report the same to the Corporation.	(Apparently the Standing Committee.)	137 (1).
(6) 237 (3) ..	To lay out public streets in areas covered by huts.	Commissioner	348 (1) (*k*) (*i*).
(7) 261 (3) ..	To consider objections in regard to declarations proposing to control the construction of buildings in certain localities and to report on them to the Corporation.	No corresponding provision ..	..
(8) 269 (3) ..	To state the grounds for rejecting appeals against the refusal of the President to approve a building site for a masonry building or to permit the construction or reconstruction of a masonry building.	Do. ..	..
(9) 270 (1) ..	To determine by written order on the request of any applicant whether approval should or should not be given to building sites and permission for the construction or reconstruction of masonry buildings, if within the period specified, the President has passed no orders on the applications for such approval or permission.	No similar provision	..
(10) 281 (3) ..	To state the grounds for rejecting appeals against the refusal of the President to permit the construction or reconstruction of a hut.	No provision for appeal to Standing Committee.	..
(11) 282	To determine by written order, on the request of any applicant, whether the construction or reconstruction of a hut should be permitted in cases where, within the period specified, the President has passed no orders on the applications for such permission.	No similar provision	..

C. Ramanuja Chari—25-7-10.

8. The Corporation's reply to Ref. No. 2821-1 M., dated 8th June 1910, has not yet been received.

P. T. Tharyan—22-8-10.

The President reported some time back that the Corporation's report would not be ready till the end of this month. Meanwhile these notes may be printed up.

L. M. Wynch—6-10-10.

From P. L. Moore, Esq., I.C.S., President, Corporation of Madras, dated 20th December 1910, No. 1234.

With his letter No. 1234, dated 20th December 1910, the President submits the views of the Corporation on the recommendations made by the Royal Commission on Decentralization. The proposals were first considered by a Committee of the Corporation. The recommendations of this Committee are detailed in a printed report and in a schedule attached to it. This schedule shows in three sections the powers possessed by the Standing Committee, the Corporation and the Government of Madras respectively and in the last column of it the disposition of these powers as recommended by the Committee is indicated. The Corporation adopts the suggestions of the Committee, and in doing so, it expresses the opinion that the constitution of the Corporation and the Standing Committee should be modified so as to make them more representative of the rate-payers, and that in view of the highly defective nature of the present Act, a consolidated and amending Municipal Act should be drafted to take its place.

2. The recommendations of the Corporation will be taken up for consideration in the following order :—

Part I.—The adoption of the Bombay system of the nominated official Commissioner and an elected President of the Corporation, with a separate Secretary.

Part II.—The rearrangement of the powers now exercised under the Madras City Municipal Act by the Government, the Corporation, the Standing Committee and the President so as—

(i) to emancipate the Corporation from the control of Government to the same extent as in Bombay,

(ii) to emancipate the President (Commissioner) as in Bombay from the control of the Corporation and the Standing Committee ; and

(iii) to readjust the powers between the Corporation and the Standing Committee, so as to bring the whole system into accord with that in Bombay.

Part III.—The modification of the constitution of the Standing Committee and the Corporation proposed by the Corporation.

Part IV.—The consolidation of the Act suggested by the Corporation.

L. Davidson.

It will be seen that parts I and II (i) alone are directly concerned with the present reference from the Government of India, while II (ii) and (iii) and III are only indirectly so and are consequential on the acceptance of the proposals in the former; but IV seems to be quite outside the scope of the present reference.

PART I.

3. Taking the first recommendation, the Corporation of Madras accepts the proposal to adopt the Bombay system of having a nominated Commissioner for executive work and a President elected by the Corporation from among the Commissioners to preside over the meetings of the Corporation, together with the creation of the appointment of a Secretary with a separate office. This question is dealt with in paragraphs 2 to 4 of the office-note on pages 1 and 2 above. As stated therein there does not seem to be any objection to the adoption of that system in Madras but with the employment of a separate establishment of Secretary and his staff additional recurring expenditure will have to be faced by the Corporation. The provisions of the Bombay Act laying down the duties of the Secretary and other matters connected with him and his establishment will have also to be imported into the Madras Act with suitable alterations.

PART II.

(i) Emancipation of the Corporation from the control of Government.

4. The list of powers possessed by the Government of Madras in excess of those reserved to the Government of Bombay in respect of the Bombay Corporation is printed on pages 2 to 4 *supra* and the question of the desirability or otherwise of surrendering each of these powers is

Parts I and II (i) *are* the only matters now in direct issue.

L. Davidson—5-6-11.

I endorse paragraph 3 of the office-note.

L. Davidson—5-6-11.

discussed in detail on pages 5 to 66. The recommendations of the Corporation in regard to each point, which are contained in the third section of the schedule, submitted by the President, are dealt with under each item in the former note. They will, however, be *summed* up below under convenient heads for facility of reference.

5. *Extra powers of Government in Madras which Corporation is willing to retain.*—In the following sixteen cases, the Corporation is prepared to allow the existing control by Government to continue:—

Serial No.	Secretary's Note.	Number in list on pages 2–4 *supra*.	Serial No. in this note.	Sections.	
(1) to (3)	The powers should be retained, subject to the right of nomination to be conferred on the Corporation in item 3.	[Item (1)]	(1)	3 (6)	Power to notify the limits of the City.
		[„ (2)]	(2)	3 (7) (*b*)	Power to notify what diseases are dangerous diseases.
		[„ (20)]	(3)	12 (1)	Power to approve the appointment of Health Officer, Revenue Officer and Engineer (Government now exercise the entire power in this matter; but Corporation is to be given the power to nominate in future).
(4)	I would let the Standing Committee frame rules for the approval of Government as in Bombay.	[„ (21)]	(4)	12 (2) & 413 (1)	Power to frame rules to regulate the grant of pensions and gratuities to the Revenue Officer, the Engineer and Health Officer.
(5)	Statutory power is unnecessary; Government can impose their own conditions when lending servants.	[„ (28)]	(5)	12 (3) & 65 (2)	Power to determine the pensionary contributions payable on account of Government servants lent or transferred for employment by the Corporation. [Corporation proposes adoption of Civil Service Regulations which are framed by Government.]
(6)	I prefer the Bombay provisions [sections 114 and 122 with (3) (*o*)].	[„ (15)]	(6)	90 (1)	Power to sanction the deposit of the Corporation funds in any bank other than the Bank of Madras or to invest the same in securities.
(7) & (8)	The Bombay sections 107 and 109) (*c*) provide all the control necessary for new loans; there must be no change as to existing loans.	[„ (41)]	(7)	107 (2)	Power to fix the terms, the form, scrip and terms of exchange of consolidated loans.
		[„ (42)]	(8)	107 (3)	Power to extend period of repayment of consolidated loan to a date beyon the farthest date of the loans consolidated
(9) to (11)	The powers should be retained.	[„ (45)]	(9)	200	Power to sanction the construction of water-works, etc., without the limits of the City.

Serial No.	Secretary's Note.	Number in list on pages 2–4 *supra*.	Serial No. in this note.	Sections.	
		[Item (46)]	(10)	202 (*b*)	Power to sanction the exercise by the Corporation of its powers under the Act over sources of the City water-supply beyond the municipal limits.
		[„ (47)]	(11)	210	Power to require a Railway Company to raise or lower its line for the passage of drains.
(12)	The Act itself should declare vaccination compulsory. Government must retain power to approve by-laws.	[„ (51)]	(12)	374	Power to declare vaccination compulsory and to approve by-laws relating to vaccination.
(13)	The powers should be retained.	[„ (61)]	(13)	404	Power to sanction the construction or lease of railways in or outside the City.
(14)	Ditto—unless the subjects in issue are adequately dealt with by substantive provisions in the Act itself.	[„ (53)]	(14)	413 (1)	Power to make rules altering (*a*) the boundaries of divisions, (*b*) building rules, (*c*) forms of registers of births and deaths, and (*d*) boundaries of the Esplanade [initiative in cases of (*a*), (*b*) and (*c*) should be with the Corporation instead of with Government].
(15)	The power must be retained.	[„ (64)]	(15)	464	Power to empower municipal servants to exercise the powers of police officers.
(16)	The power must be retained. L. Davidson—5-6-11.	[„ (65)]	(16)	471	Power to permit the construction of buildings on the Esplanade.

It does not seem desirable to surrender any of these powers; the Corporation also is in favour of the retention of Government control in respect of these points and they need not be further considered.

6. *Extra Government powers which Corporation desires to omit altogether.*—The Corporation proposes that the provisions described below may be entirely omitted from the Act as being unnecessary :—

(1)	This power should be retained.	[„ (6)]	(1)	5 (2) (*c*)	Power to notify associations which should elect two Commissioners.
(2)	Ditto.	[„ (10)]	(2)	26 (1) (*c*)	Power to raise taxes up to the maximum rates to remunerate the officers appointed to perform duties not performed by the municipal authority.
(3)	Ditto.	[„ (11)]	(3)	27	Power to direct the raising of loans to provide funds to carry out works neglected by municipal authorities.
(4)	I would raise the money limit to 2½ or 5 lakhs.	[„ (43)]	(4)	28	Power to approve of projects costing over a lakh of rupees and of modifications in them after approval.

Serial No.	Secretary's Note.	Number in list on pages 2–4 *supra*.	Serial No. in this note.	Sections.	
(5)	I prefer section 34 of the Bombay Act.	[Item (8)]	(5)	42	Power to appoint Commissioners in default of elections.
(6)	Failing the Bombay system of general election in January and February for triennial vacancies on 1st April, the Corporation should have power temporarily to extend the term of outgoing members.	[„ (9)]	(6)	53	Power to appoint temporary Commissioners.
(7)	This power may be abandoned.	[„ (13)]	(7)	89 (1) (*b*)	Power to call on the Corporation why it should not contribute towards expenses incurred by a local body likely to benefit the City.
(8)	Ditto.	[„ (14)]	(8)	89 (2)	Power to direct the payment of contribution referred to above.
(9)	Ditto.	[„ (55)]	(9)	362	Power to require the Corporation to construct hospitals for the treatment of infectious diseases or to contribute towards the cost of such public hospitals.
(10)	Ditto.	[„ (52)]	(10)	409	Power to direct the Corporation to frame by-laws.
(11)	This power should be retained. L. Davidson—5-6-11.	[„ (29)]	(11)	425 (3)	Power to apply to other classes of municipal servants sub-sections (1) and (2) of section 425 imposing a penalty on scavengers for withdrawing without notice.

Except in the case of items (2), (3) and (4), the omission of the Government control on the above points seems unobjectionable as pointed out in the detailed notes. Among the three excepted ones the first two provide for mere safeguards which may not be desirable to surrender but in surrendering which there is little or no harm. The third alone involves real control and the advisability of waiving the power in regard to it seems doubtful. If it is waived the Corporation will be the losers. The surrender of the power under items (5) and (6) depend upon the adoption of the Bombay system of elections, which the Corporation proposes to introduce in Madras.

7. *Extra powers which Corporation desires to see transferred.*—In respect of the other powers, the Corporation proposes the vesting of the final authority either in itself, the Standing Committee or the President. In considering in detail these recommendations it has been suggested that the waiving of Government control in the following 31 cases is not apparently open to any serious

objection, though it may not be possible to agree with the Corporation throughout as to the ultimate authority in whom that power should vest:—

Serial No.	Secretary's Note.	Number on pages 2–4 *supra*.	Number in this note.	Sections.	
(1)	Government may transfer this power to the Commissioner.	[Item (3)]	(1)	3 (8)	Power to declare what trades are dangerous.
(2)	Government may transfer this power to the Commissioner.	[„ (4)]	(2)	3 (22)	Power to declare what trades are offensive.
(3)	This power should be retained in so far only as it connotes partial exemption from taxation.	[„ (5)]	(3)	3 (24)	Power to declare what are populous parts of the City.
(4)	Government approval is all that is essential.	[„ (20)]	(4)	12 (1)	Power to appoint, subject to approval of Government, the Revenue Officer, the Health Officer and the Engineer.
(5)	Yes, within Statutory maxima and minima as in Bombay.	„ (21)]	(5)	12 (2)	Power to fix their salaries and allowances up to a limit to be prescribed in the Act.
(6)	Government sanction or right of veto essential.	[„ (22)]	(6)	12 (4)	Power to remove the Revenue Officer, the Engineer and the Health Officer.
(7)	Governmant may transfer this power to the Commissioner.	[„ (7)]	(7)	39	Power to fix the time and place of elections.
(8)	This power may be abandoned	[„ (26)]	(8)	58 (1) & (2)	Power to control the employment of permanent and temporary servants and the payment of salaries and allowances to them.
(9)	This power may be abandoned except as provided under serial number (6). [Removal and *suspension* of the four chief executive officers should require the assent of Government.]	[„ (27)]	(9)	58 (3)	Power to control the punishment of municipal servants.
(10)	This power may be given up in exchange for the Bombay plan where the Commissioner and Standing Committee grant leave, and acting allowances are fixed by regulations passed by the Standing Committee and Corporation, power being reserved to Government to veto acting arrangements lasting for more than one month.	[„ (23)]	(10)	60 and 62	Power to grant leave to the Revenue Officer, the Health Officer and the Engineer, to appoint acting incumbents and fix their salaries and allowances.
(11)	This power may be given up in favour of the Bombay plan where Government deals only with pensions, etc.	[„ (50)]	(11)	64	Power to sanction rules for fixing the amount of security to be furnished by municipal servants and for granting leave and leave allowance and acting allowance.

Serial No.	Secretary's Note.	Number on pages 2–4 *supra*.	Number in this note.	Sections.	
(12)	This power may go to the Standing Committee.	[Item (44)]	(12)	66 (2) (*e*)	Power to approve of contracts involving expenditure of over one lakh of rupees.
(13)	This power may go to the Corporation.	[„ (12)]	(13)	89 (1) (*a*)	Power to sanction contribution towards expenditure incurred by a local body but likely to benefit the inhabitants of the City.
(14)	This power may go to the Corporation.	[Items (30) to 34]	(14)	91 (4), 92, 93, 95 (1), 95 (2)	Power to frame and approve the budget estimate.
(15)	This power may be given up.	[Item (35)]	(15)	97 (1)	Power to approve of alterations in the sanctioned budget or make rules for the alterations of sanctioned budget.
(16) & (17)	These powers may go provided Government can order a special audit as in Bombay (section 138).	[„ (16)] [„ (17)]	(16) (17)	110 114	Power to appoint auditors. Power to determine remuneration to auditors.
(18)	Government may surrender this power, but the Corporation should not receive it.	[„ (37)]	(18)	145 (1)	Power to exempt any local area from the payment of water and drainage tax.
(19)	This power may be transferred to the Corporation.	[„ (38)]	(19)	148 (1)	Power to exempt any division or part from the payment of the lighting tax.
(20)	This power may be transferred to the Corporation.	[„ (18)]	(20)	230 (1) (*c*)	Power to close a street or part of it permanently.
(21)	This power may be transferred to the Corporation.	[„ (48)]	(21)	232 (2)	Power to sanction the acquisition of any land (and building) outside the alignment of the street for the improvement of streets.
(22)	This power may be transferred to the Corporation.	[„ (19)]	(22)	261 (4)	Power to sanction the prescribing of certain classes of buildings in specified streets.
(23)	This power may be transferred to the Corporation.	[„ (58)]	(23)	290 (1) (*c*)	Power to approve of the means of lighting.
(24)	This power may be transferred to the Corporation.	[„ (54)]	(24)	311	Power to sanction the prohibition of fishing in any river or estuary.
(25)	This power may be transferred to the Corporation.	[„ (59)]	(25)	337	Power to sanction the provision of public markets.
(26)	This power may be transferred to the Corporation (except in cases of acquisition under the Land Acquisition Act, 1894).	[„ (60)]	(26)	338	Power to sanction the acquisition or appropriation of lands for public markets.
(27)	The Bombay plan may be adopted, under which the Commissioner proposes, the Corporation approves, and Government sanction is necessary only for the re-opening of closed burial-grounds.	[„ (56)]	(27)	387 (3) (*a*)	Power to sanction the grant or refusal of a license for new burial-grounds.
(28)	This power may be given up altogether or subject to a Government veto of the site selected.	[„ (57)]	(28)	395	Power to sanction the provision of burial-grounds within or without the City.

Serial No.	Secretary's Note.	Number on pages 2–4 *supra*.	Number in this note.	Sections.	
(29)	This power may be given up, provided Government sanction is reserved for leases for more than 7 years of vested land held on trust.	[Item (62)]	(29)	496 (2)	Power to sanction leases of lands for over three years.
(30)	This power may be given up, provided Government sanction all sales of *vested* lands.	[,, (63)]	(30)	406 (3)	Power to sanction the sale of municipal lands except those vesting in the Corporation under the Act.
(31)	This power may be given up. L. Davidson—6–6–11.	[,, (39)]	(31)	426 (2)	Power to sanction fees for licenses.

Of the above, the important ones are (4), (5), (8), (12) and (14). The power to appoint the chief executive officers, except the Commissioner [item (4)], may be given to the Corporation, inasmuch as the appointments will still be subject to confirmation by Government; similarly in the matter of fixing the salaries of these officers [item (5)] the maximum limit which it is proposed to fix in the Act may act as a sufficient safeguard, but there should be some provision for exceeding that limit on special occasions. The surrender of control over establishments [item (8)] is the most important under this head. Subject to a limit as to the total cost on expenditure, the Government may perhaps consider it desirable to waive this power. The control over budgets [item (14)] is another matter, the surrender of which may remove an effective means now possessed by Government of enforcing its orders; and lastly the approval of contracts costing over a lakh of rupees is only a new power possessed by Government since 1904, but the necessity for retaining control in the matter was justified in a few recent cases. It may, however, be observed that the Corporation also does not wish to have any power to itself in the matter, but is prepared to transfer it entirely to the Standing Committee.

Cf. G.Os. No. 653 M., dated 23rd April 1909, and No. 86 M., dated 16th January 1911.

8. In the following cases, however, the recommendation of the Corporation that Government should waive their control does not seem acceptable:—

(1)	The general provision embodied in section 434 of the Bombay Act is preferable.	[Item (24)]	(1)	13 and 14	Power to appoint a special sanitary officer and fix his pay.
(2)	Section 66 of the Bombay Act makes all the provision required.	[,, (49)]	(2)	16 (2)	Power to approve rules for the interpellation of President.

Serial No.	Secretary's Note.	Number on pages 2–4 *supra*.	Number in this note.	Sections.	
(3)	This power may go to the Corporation.	,, (50)]	(3)	64	Power to sanction rules for the establishment and maintenance of provident fund.
(4)	Control is only necessary in regard to Government loans and the period of private loans. Sections 107 and 109 (*c*) of the Bombay Act provide all that is required, so long as no change is permitted in regard to loans already contracted.	[,, (40)]	(4)	104	Power to fix the amount of payments into sinking fund for debenture loans.
(5)	Government sanction or at least a right of veto is necessary.	[,, (36)]	(5)	116	Power to approve the rate of taxes to be levied in each official year.
(6)	Government sanction is necessary. L. Davidson—6–6–11.	[,, (63)]	(6)	406 (3)	Power to sanction the sale of land vesting in the Corporation under the Act.

9. The most important under this head and generally of all the powers of Government is item (4) above relating to the control of taxation. As pointed out already, the surrender of this power is of very doubtful expediency. In addition to the above, the Corporation proposes to go very much beyond the Bombay system in requiring final power to frame by-laws in matters which are regulated in Bombay by by-laws approved by Government. As pointed out, this is not a legitimate question for present consideration. Finally, the Corporation proposes to adopt the Bombay system in regard to election rules. The views of the Corporation in this matter are not clear.

The approval of by-laws must rest with Government. L. Davidson—6–6–11.

[See overleaf.]

10. Besides the above points, which deal with powers possessed by Government in Madras in excess of those in Bombay, the following additional suggestions are made by the Corporation:—

[This was originally left out, as this matter required the sanction of Government in Bombay also.]

(1) that the Corporation should be able without further sanction to contribute for any public ceremony or entertainment.

(2) that the approval of the Corporation should be obtained by Government, if the President is to be given a salary of more than Rs. 2,000; and

(3) that the consent of the Standing Committee is necessary for the grant of leave to the Commissioner.

Section No. (i) in paragraph 10. [Section 88 of Madras Act.]

Government may well give up control over such contributions. *This however goes beyond Bombay*

L. Davidson—6-6-11.

I accept paragraph 11.

V. K[rishnaswami Aiyar]—20-7-11.

I agree.

M. H[ammick].

Section No. (ii) in paragraph 10. [Section 10 of Madras Act.]

The proposal to require the approval of the Corporation if the salary of the President is raised beyond Rs. 2,000 follows the analogy of sub-section (3) of section 57 of the Bombay Act, where the limit is Rs. 2,500 [sub-section (i)]. With the enhanced powers and responsibility the Municipal Commissioner in Madras may well be a first-grade Collector. I would fix the limit at Rs. 2,500 and give the Corporation a veto for any payment above that figure.

L. Davidson—6-6-11.

Paragraph 12.—I agree with the Corporation. The revenue and expenditure administered here is much smaller. If we find it necessary to raise it the Corporation may be expected to agree.

V. K[rishnaswami Aiyar]—20-7-11.

I understand my Honourable Colleague not to accept the Secretary's proposal to raise the limit to Rs. 2,500. I agree that there is no need to raise the limit. I accept the Corporation's proposals.

J. N. A[tkinson]—23-7-11.

I agree.

M. H[ammick].

Of these, (2) and (3) are according to the existing provisions in Bombay, while (1) is in excess of the Bombay system.

11. Taking the first case, the sanction of Government is necessary in Madras (section 88) for all expenditure under this head. In Bombay a differentiation is made between contributions for public ceremonies or entertainments and expenditure incurred on presentation of addresses. The former needs Government sanction, while the Corporation is competent to incur the latter expenditure on its own authority. The Madras Corporation now proposes to do away with the sanction of Government in all matters. If a broad view of the question is taken, it seems unnecessary that Government should retain control in the matter. If the Corporation is considered competent to pay contributions on its own authority to local or other bodies and regulate expenditure in other directions, it seems anomalous that its powers in this direction should be circumscribed.

12. As regards the question of the President's salary, the present Act does not lay down any limitation. The older Madras Act (Section 36 of Madras Act I of 1884) fixed the maximum limit at Rs. 2,000; but this was found inconvenient in working, and was accordingly removed in 1904. The present proposal of the Corporation follows the system adopted in Madras in the case of the salaries of the Revenue Officer, the Health Officer and the Engineer, where the consent of the Corporation is prescribed [proviso to section 12 (2)] for increasing the maximum to more than the amounts prescribed in the Act. The Bombay Act (Section 57 of the Bombay Act) provides that the approval of the Corporation should be obtained for granting the Commissioner a salary of more than Rs. 2,500. The only objection to the course proposed is that the Corporation may object when it may be desirable to raise the salary of an existing officer or to appoint an officer who is worth more than the amount provided. On the other hand, it may be urged that the Corporation, which pays the officer, should have a voice in fixing his salary. In these circumstances, it is for consideration whether the proposal may be approved. On the whole, there does not seem to be any serious objection to its adoption.

Section No. (iii) of paragraph 10.

I disapprove entirely of the suggestion that the assent of the standing Committee should be prescribed as a necessary preliminary to the grant of leave to the President as in Bombay [section 59 (1) (*a*)]. There is no objection to the Committee's being *consulted* but Government should decide. It is easy to imagine to what abuse of the former power a spiteful majority on the Committee might resort.

L. Davidson—6-6-11.

I agree.

V. K[rishnaswami Aiyar]—20-7-11.

Paragraphs 15—31 *of the office-note.*—The whole of this is matter for separate consideration. The point on which the views of the Local Government are desired is whether Government control over the Corporation may not be made as easy as in Bombay. The distribution of powers which Government does not retain between the Corporation, the Standing Committee and the President or Commissioner is a subject which does not at present call for detailed examination. Government may well make its consent to the relinquishment of existing powers conditional on arrangement to place the Commissioner in a position substantially as strong as he occupies in Bombay, but for the present nothing more need be said. I am therefore only making a few marginal notes on this section of the case.

L. Davidson—6-6-11.

I agree.

V. K[rishnaswami Aiyar]—20-7-11.

13. In regard to the suggestion that the consent of the Standing Committee should be obtained before leave is granted to the Commissioner, it is submitted that it is doubtful whether such a system will not create any inconvenience. If it is only a question of consultation, the ultimate power to sanction leave being left to Government, there will be no serious objection; but the proposal renders the "consent" of the Standing Committee necessary. No such restriction has been in force in Madras till now. It is doubtful whether the power is necessary at all. If desirable, it may be provided that the Standing Committee should be "*consulted*" prior to the grant of the leave, the finally deciding authority being Government, in whom the absolute power of appointing him is vested.

14. If the proposals under this part are approved, the Corporation will be given very large powers, prominent among them being the initiative in the appointment of the chief executive officers of the Corporation, the absolute control over the employment of establishments, the approval of all contracts and the framing of budgets. The exercise of these powers judiciously and efficiently only depends upon the quantum of public spirit that is brought to bear upon the discharge of their duties by the Commissioners.

PART II.

(ii) Emancipation of the President from the control of the Corporation and the Standing Committee.

15. Under this head the Corporation has decided to transfer to the Commissioner (President) a large number of powers which are now exercised by itself or by the Standing Committee; but it has still left undelegated some powers which are exercised by the Commissioner in Bombay. (The most important control over the Commissioner, which is proposed to be retained, and the retention of which will constitute a marked difference between the authority of the Commissioner in Bombay and in Madras, is the power of the Standing Committee to hear and dispose of appeals against the orders of the President in certain matters). From an analysis of the schedule, submitted by the President, two statements have been prepared, one

showing the powers of the Standing Committee and the Corporation, which it is proposed to transfer to the Commissioner, and the other showing the powers, which are exercised by the Commissioner in Bombay, but which the Corporation in Madras proposes to retain as at present with itself or the Standing Committee.

16. *Power of the Standing Committee and the Corporation proposed to be transferred to the Commissioner—Powers absolute.*—Absolute power to dismiss servants under the Commissioner drawing salaries not exceeding Rs. 200.

Authority now exercising the power.		Sections.	
Standing Committee	(1)	59 (1)	
Do.	(2)	66 (2) & (3).	Power to approve finally contracts involving an expenditure exceeding Rs. 2,000, but not exceeding Rs. 5,000. (President can now approve of contracts up to Rs. 2,000).
Corporation	(3)	202 (*a*)	Power to exercise control over the lands outside the city through which pipes and conduits run.
Standing Committee	(4)	212	Power to sanction the alteration, improvement or closure of drains.
Do.	(5)	215 (2)	Power to sanction the demolition, closure, alteration or reconstruction of unauthorized connections with municipal drains.
Do.	(6)	234	Power to permit additions to buildings within the general line of streets, if they merely add to the height of existing buildings.
Do.	(7)	235 (1)	Power to require the setting back of buildings projecting beyond the general line of the street or of the adjoining buildings.
Do.	(8)	236	Power to permit buildings to be set forward to improve the line of the street.
Do.	(9)	238 (2)	Power to determine whether any particular street should be watered instead of or in addition to others.
Do.	(10)	239 (1) (*b*)	Power to determine the height of hedges bordering on any public street.
Do.	(11)	244 (1)	Power to require the alteration or demolition of a private street opened without sanction or in contravention of the terms of sanction.
Corporation	(12)	329 (1)	Power to construct and maintain public wash-houses.
Do.	(13)	344 (3)	Power to grant the renewal of licenses for private markets.

Authority now exercising the power.		Sections.	
Standing Committee	(14)	368 (1)	Power to sanction the provision of places and appliances for disinfection of conveyances, clothing, bedding and other articles.
Corporation	(15)	406 (1)	Power to rent land or take it on lease for municipal purposes for one year. (This matter is regulated in the Bombay Act with reference to valuation).
Do.	(16)	406 (2), 231 & 341.	Power to rent or lease the site of public streets, acquired by the Corporation, or public markets after closure as also other sites, up to one year.
Corporation with Government sanction.	(17)	409 (4)	Power to prescribe the duties of all municipal servants under the Commissioner.
		Schedule.	
Standing Committee	(18)	XII, 17 (1)	Power to prescribe particulars to be furnished with applications for approval of building sites.
Do.	(19)	XII, 17 (2) (*e*)	Power to prescribe the details to be shown in the site plan.
Do.	(20)	XII, 18 (1)	Power to prescribe the particulars to be furnished with applications for permission to construct or reconstruct masonry buildings.
Do.	(21)	XII, 30 (3)	Power to prescribe the particulars to be furnished in the site plan sent with an application for permission to construct or reconstruct a hut.
		Sections.	*Powers—subject to superior control.*
Corporation and Government.	(22)	58	Power to determine the number, salary and allowances of municipal employés (other than those under the Secretary) with the sanction of the Standing Committee if emoluments do not exceed Rs. 100 and of Corporation if they exceed Rs. 100.
Do.	(23)	230 (1)	Power to close permanently with the sanction of the Corporation any public street or part thereof.
[No provision]	(24)	236	Power to require with the approval of the Standing Committee buildings to be set forward to improve the line of the streets.
Corporation	(25)	331 (1)	Power to fix the stallage, rents and fees of public slaughter-houses with the sanction of the Standing Committee.
Do.	(26)	343	Power to license new private markets with the sanction of the Standing Committee.
Corporation and Government.	(27)	409 (5)	Power to determine the time and mode of collecting tolls with the approval of the Standing Committee.

There is no objection to *enhancing* the President's powers as proposed, but I demur to the restriction of his powers of dismissal which is contemplated by requiring the previous approval of the Standing Committee in the case of servants drawing more than Rs. 200. The right of appeal is all that is required. The Corporation wisely propose to limit this by raising the President's absolute powers of dismissal to a pay limit of Rs. 200.

L. Davidson—6–6–11.

Fining, reduction and suspension are not specially provided for.

P. T. Tharyan—19–3–11.

Section 58 (3).

Section 59.

17. There seems to be no objection to the transfer of powers proposed above. Of the absolute powers most are powers which are now exercised by the Standing Committee, only items (3), (12), (13), (15), (16) and (17) being those now reserved to the Corporation. The two important powers that will now be given to the President will be those of (*a*) dismissal of municipal servants on salaries not exceeding Rs. 200 and (*b*) approval of contracts up to Rs. 5,000. As regards the first, the President has now power to dismiss, subject to any control that may be prescribed by the Local Government, any municipal servant, except those appointed by Government. An appeal is, however, allowed to the Standing Committee in the case of persons in receipt of a salary of not less than Rs. 50 *per mensem*, a second appeal to the Corporation being allowed in the case of persons drawing not less than Rs. 200. According to the Corporation's present recommendations, appeals either to the Standing Committee or the Corporation will be dispensed with in respect of dismissal of servants by the President up to Rs. 200. In the case of servants on salaries above that limit the prior approval of the Standing Committee has been substituted for the present system of appeals. Thus the limit of absolute power to dismiss without any chance of revision by higher authority has been raised from Rs. 50 to Rs. 200. The deprival of the privilege of appeal against the President's orders of dismissal is no doubt not very desirable. But the system has already been recognized and is actually now in force and the Corporation's recommendation only raises the limit. The same system is in force in Bombay up to the limit of Rs. 300. The proposal may be allowed. The recommendation in regard to the other point, *viz.*, to increase the present power of the President to approve contracts from Rs. 2,000 to Rs. 5,000 may also be accepted. The Commissioner in Bombay exercises * similar power.

Section 83 (2) (*a*).

* Section 69 (*c*).

[A report has also to be sent to the Standing Committee of all contracts of over Rs. 500.]

18. Another point that calls for notice in this connection is that the powers indicated in items (5) and (10) above go beyond those conferred on the Commissioner in Bombay. The power to order the demolition, closure, alteration or reconstruction of unauthorized connections with municipal drains [section 215 (2)] is both in Bombay † and Madras now exercised by the Commissioner (President)

Objection need not be raised to items (5) and (10).

L. Davidson—6–6–11.

† Section 229.

Section 239 (1) (*b*).

only with the approval of the Standing Committee. The Corporation now proposes to remove the approval of the Standing Committee altogether and this goes beyond the provision in Bombay. In the other case, *viz.*, the determination of the height of hedges bordering on any public street, the power is now in Madras vested in the Standing Committee [Section 239 (1) (b)]; but in Bombay the Act itself lays down the height of the hedges [section 383 (1) (c)]. The proposal to leave the matter entirely to the President is also beyond what obtains in Bombay. In both these cases, however, there seems to be no great harm in vesting the President with the authority in question. The proposals of the Corporation in this regard may also be accepted. In other respects the Corporation's recommendations follow the Bombay Act and may be accepted.

19. The next point for consideration is whether the Corporation has invested its President with all the powers with which he should be. The following is the list of powers possessed by the Commissioner in Bombay, which the Corporation chooses to retain in its hands or in those of the Standing Committee :—

Authority who is to exercise the power.		Sections.	
Standing Committee	(1)	17 (*b*)	Power to dispose of applications for pensions or gratuities.
Corporation	(2)	188	Power to sue persons for default of payment of taxes or other dues.
Standing Committee	(3)	205 and 211	Power to sanction the payment of compensation to persons for damage done to their property by the laying of water pipes or drains.
Standing Committee and Corporation.	(4)	230 (1)	Power to lay out and make new streets and construct bridges with the sanction of the Corporation.
Standing Committee	(5)	230 (1).	Power to alter, widen, open, enlarge or otherwise improve any public street, if the cost does not exceed Rs. 5,000.
Do.	(6)	233	Power to define, in the first instance, the general line of buildings on the sides of streets.
Do.	(7)	298	Power to sanction arrangements for the removal of offensive matter or sewage from places other than business premises.
Do.	(8)	427 (1).	Appeals against President's orders under sections 204, 214, 216, 218, 225, 226, 256, 301, 302, 303, 304, 308, 314, 315, 316, 322, 324, 325, 327, 328, 332, 344 (2), 409 (9), 409 (10), 409 (11).

[Sections 224 and 426 (3) have been left out as in Bombay the Commissioner has to obtain the approval of the Standing Committee for such matters.]

All the above powers, except item (2) are now exercised by the Standing Committee in Madras, the power in the case of the excepted item being exercised by the Corporation. It has now to be considered why these powers should not be transferred to the Commissioner.

20. (1) *Power to dispose of applications for pensions or gratuities.*—The grant of pensions or gratuities to municipal subordinates is regulated by rules framed under section 64 (*c*) of the Madras City Municipal Act, 1904. The rules now in force have made the provisions of the Civil Service Regulations in this matter applicable to the Corporation servants, and the present recommendations of the Corporation are also to the same effect. No doubt the rules in the Civil Service Regulations leave some scope for the exercise of discretion in the grant of pensions mainly in the matter of condonations or deficiency or other drawbacks in service and reduction of the amount for bad record, etc. In other respects the rules themselves govern fully the cases of pensions and gratuities. There seems to be no serious objection as to why the discretion above referred to should not be exercised by the President, who has considerable powers in respect of the subordinates Further, in Government service, the power to grant pensions has been within certain limits delegated to heads of departments. In the rule for the grant of leave, leave and acting allowances and pensions, issued under G.O. No. 1302 M., dated 3rd August 1908, it has been laid down that the President should take the place of the head of the department for purposes of the Civil Service Regulations. It seems therefore to be appropriate also that the President, should have such power. It is for consideration whether this power may be deemed to be one to be ultimately transferred to the President.

G.O. No. 1302 M., dated 3rd August 1908.

I would give this power to the President subject perhaps to approval of the Standing Committee in the case of proposals to reduce pensions awarded to employés whose pay exceeds Rs. 200.

L. Davidson—6–6–11.

G.O. No. 581, Pension, dated 29th October 1909.

Within a certain limit say up to Rs. 50 the power may be transferred to the President.

P. T. Tharyan—19–3–11.

21. (2) *Power to sue persons for default of payment of taxes or other dues.*—Section 188 of the Madras Act empowers the "Corporation" to sue any person liable to pay any tax or payment due to the Corporation. It is, however, understood that in practice the President himself exercises this power without consulting the Corporation. Apparently this is done under the general power given under section 451 of the Act, which authorizes the *President* to prosecute any

This power may safely go to the President.

L. Davidson—6–6–11.

person for the breach of any of the provisions of the Act or of any by-law, rule or order made thereunder. It will thus be seen that there is no object in the Corporation's proposing to retain nominally the word "Corporation" in section 188. It may safely be altered into "President".

22. (3) *Power to sanction the payment of compensation to persons for damage done to their property by the laying of water-pipes or drains.*—The above power is under sections 205 and 211 exercised by the Standing Committee in Madras, while in Bombay the Commissioner himself is competent to pass the compensation [sections 265 and 222 (3)]. In the matter of payment of compensations, the Madras Act is very varied. Some powers are given to the Corporation, some to the Standing Committee and some to the President as shown below:—

Corporation (*a*).—Sections 230 (2), 231 (1) for injury done to persons by closure of streets,

(*b*) Section 235 (2) for damage done by the setting back of projecting buildings or walls beyond the line of streets,

(*c*) Section 248 (2) for damage done by the removal of long standing or authorized encroachments or obstructions.

(*d*) Section 308 (2) for the demolition of insanitary buildings.

President (*e*).—Section 368 (3) for the destruction of articles likely to retain infection.

(*f*) Section 441 (3) for damage done by the entry on any land adjoining any municipal works.

Standing Committee (*g*).—Section 445 for any case not expressly provided for in the Act.

23. From the above it will be seen that the authority to sanction compensation has been fixed more or less with reference to the amount likely to be involved therein. In Bombay, however, the power to fix the amount of compensation does not go to the Corporation at all. In the case of (*b*), (*c*) and (*e*) [sections 301, 309 (2) and 427 (4) respectively], the Commissioner himself can grant the compensation in Bombay, while in the other cases he can do so only with the sanction of the Standing Committee under the general power provided in section 501 of that Act. In Madras the President is now given in the matter only a minor

Paragraphs 22 *and* 23.—The President should have wider powers as in Bombay.

L. Davidson—6–6–11.

power. With the grant of additional powers now proposed to the President, it may not be inconsistent to grant him the power to pay compensation for damages done in the laying of water-pipes and drains. The power to carry pipes through any street or place or under any building or cellar or vault is itself given under section 204 to the President and the payment of compensation for any damage done in that connection may also be given over to the President, who will have greater opportunities of determining definitely the extent of damage, and who, being generally a person unconnected with local interests, may be expected to deal fairly with such cases. It may also be considered whether the payment of compensation in connection with (*b*) and (*c*) above may also be transferred to the President from the Corporation.

I endorse the view stated in this paragraph.

L. Davidson—6-6-11.

24. (4) *Power to lay out and make new streets and construct bridges with the sanction of the Corporation.*—Both under section 230 (1) of the Madras Act and section 291 (*a*) of the Bombay Act, the ultimate power in this matter is vested in the Corporation; but the difference is only in respect of the initiating authority. In Bombay it is the Commissioner, and in Madras the Standing Committee. Even in the latter case, it is apparently the President that is taking action, as the Standing Committee is only a deliberative body. There is no objection to the transfer of this power to the President, so long as the Corporation retains the final power of sanction. The object of the Corporation in proposing to retain the initiative power in the Standing Committee, as at present, is not clear.

If the power allowed in Bombay is really wider, which seems doubtful, the same plan may be followed in Madras.

L. Davidson—6-6-11.

25. (5) *Power to alter, widen, open, enlarge or otherwise improve any public street if the cost does not exceed Rs.* 5,000.—Under the section—section 230 (1) (*d*)—as it at present stands, the Standing Committee undertakes this work with the sanction of the Corporation. In Bombay, however, [section 289 (2)] the Commissioner himself can do it, obtaining the sanction of the Corporation only if the cost exceeds Rs. 5,000. The Corporation now proposes that the sanction of the Standing Committee should be prescribed, if the cost does not exceed Rs 5,000 and that of the Corporation should be obtained, if the cost exceeds that limit. For works of the above description costing more than Rs. 5,000, there will be no difference between the provisions in Bombay and

that proposed for Madras; but below that limit the Commissioner in Bombay has unrestricted powers, except through the budget if at all while the sanction of the Standing Committee is prescribed in Madras. It is not known what rules are in force in Bombay on the subject of passing estimates for works. In Madras under section 91 (3) prior to making provision in the budget for new works and special repairs the estimates therefor should be sanctioned by the Standing Committee. This power the Corporation proposes to retain. Should this be allowed, there will be no object in giving absolute power to the President in the matter in question. The Corporation's proposal in this regard does not therefore seem open to much objection.

The Madras plan is more logical than that followed in Bombay, but the case requires detailed comparison and examination.

L. Davidson—6-6-11.

26. (6) *Power to define in the first instance the general line of buildings on sides of streets.*—Section 233 of the Madras City Municipal Act gives this power to the Standing Committee and prescribes a special procedure of preliminary publication for objections and of subsequent confirmation. The Corporation desires no change in this provision. Section 297 (1) of the Bombay Act however makes a differenee between the original fixing of the line and its subsequent alteration. In the case of the laying out of the line in the first instance, the Commissioner is given absolute power, but when an alteration of it is sought to be made, the sanction of the Corporation should be obtained therefor, which could be accorded only after preliminary publication and consideration of objections thereto. The reason for this difference in Bombay is not clear. The prescribing of the line in the first instance seems to be as much important as its alteration. As in Madras, preliminary publication and consideration of objections are prescribed even for original fixing of the line, it seems to be better to retain the entire power in the matter with the Standing Committee as proposed.

Section 297 (1) (*a*).

Section 297 (1) (*b*).

A matter which may well be left to the Commissioner.

L. Davidson—5-6-11.

27. (7) *Power to sanction arrangements for the removal of offensive matter or sewage from places other than business premises.*—Section 298 of the Madras Act which deals with this case authorizes the President, with the sanction of the Standing Committee, to prescribe—

(*a*) the hours within which offensive matter and sewage may be removed;

(*b*) the kind of cart or other receptacle in which it may be removed; and

(*c*) the route by which such carts or other receptacles shall be taken.

The Corporation proposes to make no change in this provision. In the Bombay Act (section 365) absolute power in regard to the arrangements for the removal of refuse and offensive matter is vested in the Commissioner. With regard to sewage, however, he can take similar action only if authorized by the Corporation in that behalf—section 246 (1). This authorization does not apparently amount to any thing more than a general approval to the whole plan; and the details of the working are apparently left to the Commissioner in this matter also. From the nature of the arrangements described in section 298 of the Madras Act (abstracted above), it does not at all seem necessary that the approval of the Standing Committee is necessary for them. The President himself may be trusted to look to these details properly.

28. (8) *Appeals against President's orders in certain matters.*—Section 427 (1) of the Madras City Municipal Act provides that an appeal shall lie to the Standing Committee against the orders of the President specified therein and sub-section (2) states that the decision of the Standing Committee on such appeal shall be final. It is here that real control is exercised over the powers of the President in Madras. The Commissioner in Bombay is not circumscribed by any such provision for appeal against his orders, which are themselves final. The cases in which appeal in Madras is allowed are detailed below :—

(1) Section 427 (1) (*a*) (i).

Power to hear and dispose of appeals against—

[Also section 427 (1) (*b*).]

(*a*) the action of the President in carrying a water-supply pipe through any property (section 204);

(*b*) the order of the President in respect of application for permission to empty a house drain into a municipal drain (section 214);

(*c*) the order of the President enforcing the construction of house-drains (section 218);

(*d*) the order of the President requiring the provision of latrines and urinals for labourers (section 225);

(*e*) the order of the President requiring the provision of latrines and urinals for markets, cart-stands and cattle-stands (section 226);

(*f*) the order of the President prescribing precautions in respect of and the disposal of buildings, etc., which are in a ruinous state or are dangerous to people (section 256);

(*g*) the order of the President requiring the cleansing, closing or fencing of an insanitary private tank or well used for drinking purposes (section 301);

(*h*) the order of the President requiring the cleansing, repairing or filling up of private tanks or wells or for the drainage or removal of stagnant water from the premises (section 302);

(*i*) similar orders in regard to stagnant pool, ditch, pit, drain or cesspool (section 303);

(*j*) the action of the President regarding the cleansing, draining or filling up of public wells or receptacles of stagnant water (section 304);

(*k*) the order of the President regarding improvements to insanitary buildings (section 308);

[Also section 427 (i) (*c*).]

(*l*) the order of the President in respect of applications for licenses for livery or hack stable, horse-lines, veterinary infirmary, cart-stand, cattle-shed or any yard in which sheep or goats or cattle are kept for profit (section 314);

(*m*) the order of the President requiring the proper maintenance of stables, cattle-sheds and cow-houses (section 315);

(*n*) the order of the President directing the discontinuance of the use of a building as stable, cattle-shed or cow-house (section 316);

(*o*) the order of the President in respect of applications for license to import timber or firewood (section 327);

(2) Section 427 (1) (*a*) (ii).

(*p*) the order of the President under any by-law prescribing the manner in which house-drains and privies are to be connected with municipal drains [section 409 (9)];

(*q*) the order of the President under any by-law specifying the materials to be used in the construction of drains [section 409 (10)];

(*r*) the order of the President under any by-law regarding the construction, maintenance, control and cleansing of

drains, ventilation shafts or pipes, cesspools, privies, urinals and all drainage works [section 409 (11)];

(3) Section 427 (1) (*b*).

(*s*) the order of the President refusing to permit the construction of a building over a public drain (section 216);

(4) Section 427 (1) (*c*).

(*t*) the order of the President refusing to permit the erection of any machinery or steam-boiler by the use of which smoke is produced or danger is likely to arise to the inhabitants of the neighbourhood (section 324);

(*u*) the order of the President refusing to grant a license for the use of a place for any offensive or dangerous trade (section 322);

(*v*) the order of the President refusing license for the storage of timber, firewood or other combustible material (section 325);

(*w*) the order of the President refusing license for a bake-house or a manufactory of ice or aerated waters (section 328);

(*x*) the order of the President refusing license for a slaughter-house (section 332);

(*y*) the order of the President refusing license for a private market [section 344 (2).]

29. It is submitted in the first instance that this section providing appeals was introduced in the Madras Act when it was consolidated in 1904 on the analogy of similar provisions in sections 327, 468, 485 and 586 (4) of the Calcutta Municipal Act. By doing so, in several cases, in respect of which no appeals or sanction of higher authority was provided in the older enactments, the provision for appeals came to be inserted. For example, the President's powers in respect of the following matters, as provided for in the Madras City Municipal Act, 1884, were absolute and not subject to any appeal to the Standing Committee or Corporation:—

Vide paragraph 64 of the Select Committee's report.

Items above.	Sections of the Madras City Municipal Act, 1884
(*b*)	260
(*d*)	281
(*e*)	282
(*f*)	298 & 301
(*g*)	302
(*h*), (*i*) & (*j*)	326
(*k*)	322
(*o*)	341
(*s*)	261
(*x*)	346

Paragraphs 28 *and* 29.—This is the most objectionable part of the Corporation's proposals. These abundant appeals provide undesirable scope for interference in executive matters which will go far to weaken the Commissioner's authority. When the Act is amended, each item will require detailed scrutiny.

L. Davidson—6-6-11.

Paragraph 64.

The Corporation s proposal to take to itself a share in the municipal patronage has nothing to do with the matter now under consideration and runs counter to sound policy.

L. Davidson—6-6-11.

Only in the cases of the President's orders in respect of applications for licenses for [item (*l*)] livery, hack-stables, etc., (*t*) and (*u*) offensive and dangerous trades, (*v*) storage of timber and (*w*) bake-house or ice or aerated water manufactories were appeals to the Standing Committee allowed. Please see sections 332 and 342 of the Madras City Municipal Act, 1884. In the case of orders regarding the licenses for private markets [item (*y*)], section 362 of the old Act itself prescribed the prior approval of the Standing Committee, while for issuing orders for removal of insanitary buildings (*k*), the prior sanction of Government was rendered necessary by section 323. Thus the Consolidation Act made the very wide change which now exists. The Select Committee on the Bill, which introduced this section, did not give any reason why such comprehensive control over the President's action was necessary. Nor was there any useful discussion in the Legislative Council on the point. Though on general grounds the existence of a right to appeal against the President's orders may be salutary, it seems needless that his power should be circumscribed in several of the minor matters with which the list above given abounds. Absolute power in respect of all the items, except where demolition of buildings is involved in the order of the President—items (*f*) and (*k*)—where closing of tanks or wells is involved in the orders—items (*g*), (*h*) and (*i*)—and item (*y*) regarding the licensing of private markets may perhaps be considered desirable. If, however, it is deemed that the system of appeals should be extended, the licensing of offensive and dangerous trades, storage of timber, bake-house or manufactory of ice or aerated water and slaughter-houses may also be included. In any case, the provision of appeals in cases of orders enforcing ordinary sanitary regulations seems unnecessary.

30. Before leaving this subject of the emancipation of the President, one other recommendation of the Corporation has to be considered. This is in regard to the appointment of subordinates. The Corporation proposes that it should have power to make appointments to posts carrying a salary exceeding Rs. 500. This recommendation is at variance with the existing provisions of both the Madras and Bombay Acts, under which all appointments excepting the chief

executive appointments mentioned in the Acts, are vested in the President (Commissioner). It is significant that when the contemplated policy for the future is to divest the Corporation of executive functions as much as possible and to centralize them in the Commissioner (President), the Corporation should now propose to appropriate to itself some of the powers already possessed by the President. While it is anxious to relieve itself from the control of Government to as large an extent as possible, the Corporation should naturally be expected to treat the President likewise, transferring to him more of its powers or at least by not interfering with his own. The Corporation has for some time past been evincing a desire to reserve to itself the patronage in the matter to some extent. In connection with the recent proposals for the reorganization of the Revenue Department, the Corporation, while disowning all responsibility for the past mismanagement owing to their being given no voice in the matter of appointing or dismissing subordinates, suggested that the prior approval of the Standing Committee should be obtained by the President for all appointments exceeding Rs. 50 and not exceeding Rs. 150, that of the Corporation for appointments carrying salaries exceeding Rs. 150 and not exceeding Rs 250, and that of the Corporation and Government for appointments to posts to which a salary exceeding Rs. 250 was attached. The Hon'ble Mr. (now Sir) M. Hammick thought a voice in making the appointments would give the Commissioners more interest in the working of the Corporation and accordingly considered that appointments with salaries of Rs. 150 might be left to be approved by the Standing Committee. The Hon'ble Mr. Forbes however observed, and His Excellency agreed with him, that it was "impossible to leave the appointment of "employés to any authority but the "executive, *i.e.*, the President"; but that the Corporation can assent to the regulations which shall guide the President in selecting men. In paragraph 16 of G.O. No. 838 M., dated 24th May 1909, the Government accordingly informed the Corporation that it was not advisable that such a large encroachment should be made on the authority of the President as was suggested and that the question of amending the Act so as to give the Commissioners more direct control over the staff would be deferred.

L. Davidson.

Pages 8 and 9 of G.O. No. 838 M., dated 24th May 1909.

Paragraph 19 of his note on pages 35 and 36 of the notes with G.O. No. 838 M., dated 24th May 1909.

Vide the marginal notes to the above.

There are now in Madras under the permanent scale only two appointments carrying a maximum salary of Rs. 500 and above, besides the chief executive appointments mentioned in the Act, and these are the First Assistant Engineer and the First Assistant Health Officer. Under the temporary scale, there are three appointments in the Special Works section, *viz.*, the two Special Assistant Engineers in the water works and drainage sections and the additional Assistant for the Tondiarpet drainage wroks. It seems on the whole to be unnecessary to curtail the President's powers in this regard, as otherwise it may not be consistent with the other powers which it is proposed to confer on the President.

Quite.
L. Davidson—6-6-11.

31. To sum up, the President's powers in Madras would very nearly be equal to those of the Commissioner in Bombay.

(1) if the following powers in addition to those which the Corporation has consented to transfer to the President, are also delegated to him :—

(*a*) power to dispose of applications for pensions and gratuities,

(*b*) power to sanction payment of compensation to private persons for damage done to property by carrying water-pipes or drains,

(*c*) power to sanction arrangements for the removal of offensive matter or sewage ;

(2) if the number of cases in which appeals against President's orders are admissible is reduced ; and

(3) if no encroachment is made on the President's powers of making appointments as suggested.

All this would require careful consideration at the time of the revision of the Act.
V. K[rishnaswami Aiyar]—20-7-11.

L. Davidson.

PART II.

(iii) Re-adjustment of powers between the Corporation and the Standing Committee.

Paragraphs 32-35.—These internal arrangements require no detailed examination at present. Speaking generally, the more power goes to the Standing Committee the better.
L. Davidson—6-6-11.

32. There is not much difference between the powers exercised by these bodies in Madras and Bombay. The Corporation has decided to set right the few cases of differences in the powers and to transfer to the Standing Committee certain powers which are now possessed by the Corporation absolutely or subject to superior control. From an examination of the schedule submitted by the President, the following list showing the

powers which the Corporation has resolved to delegate to the Standing Committee has been compiled :—

Powers transferred to the Standing Committee.

Powers now exercised by the Corporation.

	Sections.	
(1)	230 (1)	Power to alter, widen, open, enlarge or otherwise improve any public street, if the cost does not exceed Rs. 5,000.
(2)	231, 341 and 406 (2)	Power to lease the site of public streets acquired by the Corporation, or public markets after closure as also other sites up to three years.
(3)	331 (1)	Power to fix the rents and fees for the use of public slaughter-houses.
(4)	343	Power to sanction the grant of license to new private markets.
(5)	406 (1)	Power to rent land or take it on lease for municipal purposes for a period not exceeding three years. (This matter is regulated in the Bombay Act with reference to valuation).
(6)	458	Power to control legal proceedings instituted by the President in certain specified cases.

Powers now exercised by the Corporation and Government.

(7)	66 (2) and (3)	Power to approve of all contracts involving an expenditure of over Rupees 10,000 (Standing Committee can now approve of contracts up to Rs. 10,000).
(8)	97 (1)	Power to finally sanction transfers of funds.
(9)	232 (2)	Power to sanction acquisition of lands and buildings for the improvement of street, if cost does not exceed Rs. 5,000.
(10)	409 (2) and (3)	Power to prescribe forms for budget estimates, statements, returns and generally for accounts.
(11)	409 (4)	Power to prescribe the duties of the municipal secretary.
(12)	409 (5)	Power to regulate the time and mode of collecting tolls.

33. There seems to be no objection to the transfer of the Corporation's powers to the Standing Committee described in the first section of the above list (powers now exercised by the Corporation). In respect of the latter section (powers now exercised by the Corporation and Government) it has been noted under Part II (i) that the authority of Government in the matter may be waived without any grave inconvenience in all those cases. The devolution of those powers to the Standing Committee does not also seem objectionable. It has however to be noted in passing that the power described in item (9) above is in excess of that possessed by the Standing Committee in Bombay. The approval of the *Corporation* has to be obtained there if the cost of the acquisition of lands and buildings for the improvement of streets exceeds Rs. 1,000; but it is now proposed to fix the limit for the Corporation in Madras at Rs. 5,000, leaving the Standing Committee to sanction all cases within that limit. This may be accepted.

I agree generally.
L. Davidson—6–6–11.

Sections 296 (1) (*a*) and 90 of the Bombay Act.

34. The only case in which it appears that the powers still retained by the Corporation may advantageously be transferred to the Standing Committee is the case of payment of compensation for damages done to private persons or property by municipal authorities. This matter is not dealt with in the schedule submitted by the President, as apparently the wording of the Act in those cases gives the provisions more the form of a "duty" than of a "power". But when the functions of the several authorities are taken into consideration, the provisions come more or less under the category of "power". In that view, the matter is proposed to be considered here. *This subject has already been referred to under Part II (ii).* As observed, the question of payment of compensation does not at all come up before the Corporation in Bombay. In Madras, the *Corporation* retains power in the following four cases :—

	Sections.	
(1)	230 (2) and 231 (1)	Power to compensate for injury done to persons by the closure of streets.
(2)	235 (2)	Power to compensate for damage done by the setting back of projecting buildings or walls beyond the line of streets.
(3)	248 (2)	Power to compensate for damage done by the removal of longstanding or authorized encroachments or obstructions.
(4)	308 (2)	Power to compensate for the demolition of insanitary buildings.

35. Sections 301 and 309 (2) of the Bombay Act leave the question of paying compensation to the Commissioner in the second and third cases, while in the first and fourth cases, there is no specific provision and the matter is apparently governed by section 501 of that Act, which gives general power to the Standing Committee to pay compensation in

all cases not specially provided for in the Act. It has been suggested for consideration in Part II (ii) of this note whether the powers under the second and third items may not be delegated to the President as in Bombay. If that is not approved, the power may be vested in the Standing Committee, as also in the case of the first and the last items. There seems to be some appropriateness in the Standing Committee's dealing with the cases, as it is given general power under section 445 of the Madras Act to deal with all unspecified cases. If this is also approved, the powers of the Standing Committee in Bombay and Madras will be brought more or less on the same level.

Paragraphs 34 *and* 35.—As I have noted on page 97 *supra*, the Commissioner should have wider powers as in Bombay, but the subject is one calling for detailed examination and this is not the proper time for that.

L. DAVIDSON—9-6-11.

PART III.

MODIFICATION OF THE CONSTITUTION OF THE STANDING COMMITTEE AND THE CORPORATION.

36. The object of the modification suggested is to render the constitution more representative of the rate-payers. The Corporation, before the Act was consolidated in 1904, consisted of 32 Commissioners, of which three-fourths or 24 were elected by divisional voters, eight being nominated by Government. In 1904, the total number was raised to 36, but the number elected by the voters in the divisions was reduced from 24 to 20. Of the remaining, 16, eight are appointed by institutions, *e.g.*, the Chamber of Commerce (3) and Trades Association (3), other institutions (2), and eight are nominated by Government. The object of introducing institutional Commissioners was to give the right of representation to communities and institutions which had an equal stake in the city and to have on the Corporation more business men. This measure of reducing the number of elected Commissioners was very strongly opposed by the non-official councillors in the Legislative Council; but the proposal was eventually carried. Similarly in regard to the Standing Committee, though the total number, *vizt.*, eight, remains the same, the nature of its constitution has since charged. Before 1904, the seven members of the Standing Committee, excluding the President were elected by the Commissioners from among themselves without any restriction; but by the Consolidation Act, of the eight

Section 6 of the 1884 Act, " 8 "

Section 67 of Act I of 1884.

Section 8 (2) of Act III of 1904.

Paragraphs 36 *and* 37.—The Corporation does not make the modification of its constitution an antecedent condition to the grant of extended powers, as Mr. T. Ranga Chari does in the case of the Standing Committee. This recommendation is distinct from the scope of the present reference and need not be considered unless and until the Act is amended and consolidated. I would inform the Corporation accordingly. The resolution requires an acknowledgment.

Whether a further introduction of the elective element is expedient is open to grave doubt. Personally I would deprecate any change until experience has been gained of the way in which the Corporation and Standing Committee make use of the wider powers proposed on the Bombay analogy.

L. DAVIDSON—6-6-11.

It is not necessary to deal with this now.

V. K[RISHNASWAMI AIYAR]—20-7-11.

The Corporation apparently wants the number of divisional Commissioners to be raised.

P. T. THARYAN—19-3-11.

Section 5 of the City Act, 1904.

Section 67 of the Madras Act, 1884, and section 8 of the Madras Act, 1904.

members, four are to be from divisional Commissioners, two from the institutional Commissioners and the remaining two from the nominated Commissioners. It is to this apportionment that the Corporation apparently now objects. Even to this there was an objection in the Legislative Council at the time of the passing of the Act.

37. It may be noted here that one of the members of the Sub-Committee of the Corporation that considered these proposals, *vizt.*, Mr. T. Ranga Chariyar, wrote a minute of dissent pointing out that the constitution of the Standing Committee was not the same as in Bombay, the proportion of elected Commissioners being larger there and that unless the same proportion could be maintained here he would not consent to the power to approve and accept all contracts being vested in the Standing Committee. The Corporation's recommendation in this regard is, however, quite independent and is not made a condition of the other proposals. In Bombay, the constitution of the Standing Committee is different. It consists of 12 members, eight appointed by the Corporation and four by Government. The selection of the councillors is not restricted to any particular classes of them. The Corporation in Madras is apparently averse to the four of the eight seats being reserved for institutional and nominated Commissioners. The constitution of the Corporation and the Standing Committee is, as stated already, not immediately connected with the present reference. The whole question will come up for consideration when the revision of the Act in consequence of the Decentralization Commission's proposals is taken up. It seems only necessary to note the Corporation's request in the meanwhile.

Section 43 of the Bombay Act.

But the strength of the Corporation in Bombay is 72, of whom 36 are elected at ward elections (section 5 of the Bombay Act) against 36 and 20 respectively in Madras.

P. T. THARYAN—19-3-11.

PART IV.

CONSOLIDATION OF THE ACT.

38. The Corporation merely says that the present Act is highly defective and should be consolidated. It does not, however, specify or indicate even roughly in what respects the Act is deemed defective. When the revision of the Act is undertaken with reference to the recommendations of the Decentralization Commission, the Corporation may be asked to state in what other matters amendment is desirable. In the meanwhile, no action seems necessary on the

Corporation's suggestion. It has also to be noticed in this connection that there are several provisions in the Madras Act, which has no counterpart in the Bombay enactment, *e.g.*—

Scrutiny of the appropriation of budget grants.

Prior sanction to estimates for new works before budget provision.

Supplemental budget.

Building regulations.

Prohibition of sale of articles in streets.

Employment of additional registrars of births and deaths.

Closure of ownerless burial or burning grounds.

Building line in streets.

Councillors' access to Corporation records.

Exemption from payment of tax.

39. The Corporation proposes to retain all these powers, except that regarding the employment of additional registrars. A few other suggestions are also made by the Corporation, *e.g.*, to abolish the system of reinstating Commissioners who vacate their seats owing to absence from meetings, to provide that Government should call for statistics only from the Corporation and not from the President. All these will have to be considered when the general amendment is put in hand.

C. Ramanuja Chari—27-2-11.

It is submitted that a large portion of these voluminous and exhaustive notes is taken up with details which are not required in order to answer the reference from the Government of India. The substance of this reference is given on page 1 *supra* and is almost entirely to the effect—

(i) whether the Bombay system of a nominated official Commissioner with an elected Chairman may be introduced in the place of a nominated official President in Madras, and

(ii) whether the Madras Corporation may be given as full powers as the Bombay City now possesses.

The Corporation is naturally in favour of these proposals and the Government may agree. The Corporation is however anxious at the same time to have in several respects larger powers than those now possessed by the Bombay City. These should *not*, it is submitted, be granted. It will be a very great advance in local self-Government to give the Madras Corporation the Bombay powers: further advance can be thought of only after it shows that it deserves the confidence that it is now proposed to place in it.

L. Davidson.

2. The Corporation's recommendations are made under three heads:—

(1) List I.—Powers possessed by the Standing Committee.

(2) List II.—Powers possessed by the Corporation of Madras.

(3) List III.—Powers exercised by Government over the Corporation of Madras.

3. The Government are now mainly concerned with the recommendations under the third head. These are dealt with on pages 5 to 66 and 82 to 91 *supra*. As already observed, the Government should, it is submitted, transfer to the Corporation only so much of their powers as is necessary to bring Madras on a par with Bombay and not more.

L. Davidson.

4. The Corporation's recommendations under the other two heads are dealt with on pages 92 to 108 *supra*. Here, too, it is submitted that the President—future Official Commissioner—should have as much powers as the Commissioner possesses in Bombay. The readjustment of powers between the Corporation and the Standing Committee may be left for consideration when the Act comes to be revised.

L. Davidson.

5. The questions raised by the Corporation regarding the constitution of the Corporation and Standing Committee and the consolidation of the Act may also be left for future consideration.

P. T. Tharyan—20-3-11.

Please print the manuscript notes. I cannot possibly take this up until the meeting of the 4th April is over, so there will be a convenient interval in which to print really relevant matter.

L. Davidson—21-3-11.

Printed and re-submitted.

P. T. Tharyan—12-4-11.

1680-81 M.—29

Paragraphs 38 *and* 39.—No doubt consolidation is desirable, but this is not the time to undertake that laborious task. The Corporation may be invited at leisure to indicate the serious defects they had in view when passing the resolution.

L. Davidson—6-6-11.

The items mentioned in paragraph 39 call for no detailed examination until the general amendment of the Act is taken up.

L. Davidson—6-6-11.

I agree.

V. K[rishnaswami Aiyar]—20-7-11.

The letter from the Government of India to which it is necessary to send a reply was received in July 1909. The reasons why the matter has taken nearly two years to come up for final orders are as follows.

In the first instance the case was detained in the Secretariat until the end of March 1910 for the purpose of preparing a note covering 164 paragraphs and dealing in detail with the three specific recommendations made by the Commission, *viz.*—

(i) that the Bombay system of a nominated official commissioner with an elected chairman of the Corporation should be introduced in the place of a nominated official chairman;

(ii) that the Presidency Corporation should have as full powers as the Bombay City now possesses; and

(iii) that where it is considered expedient that hospitals and educational institutions should be controlled by Government, the municipality should not contribute thereto except as a matter of voluntary agreement.

The voluminous nature of the note was due to the detailed examination of 65 specific powers possessed by the Local Government in Madras which the Government of Bombay do not exercise in respect of the Bombay Corporation.

2. Within a week of its receipt the Secretary directed that the note should be printed, and this process coupled with the move of Government to the hills occupied a month, for the file reached Mr. Wynch again on or about the 30th April 1910. On the 7th June he placed before the Honourable Member in charge a draft reference to the President of the Madras Corporation desiring an expression of the views of that body not only as to the specific recommendations made by the Commission, but also in regard to the consequential amendments which would be required in order to adjust the powers and duties of the Corporation and the Standing Committee so as to bring the whole system into accord with that obtaining in Bombay. In this reference, which issued on the 8th June, it was pointed out that in order to give effect to the recommendations of the Commission it would be necessary to re-enact the Madras City Municipal Act, 1904, so as to provide for the assignment to the President and to the Standing Committee of the larger powers enjoyed by the Commissioner and Standing Committee in Bombay. Immediately after the memorandum issued, the office, under Mr. Wynch's instructions, drew up a series of statements detailing the powers possessed by the Corporation and the Standing Committee under the Madras Act, and the corresponding authorities exercising such powers in Bombay. This was submitted on the 22nd August, and on the 6th of October Mr. Wynch ordered that the statements should be printed.

3. The reply of the Corporation to the memorandum of the 8th June was embodied in a letter from the President dated 20th December 1910, which with its enclosures covers nearly 25 pages of print including a series of schedules dealing in detail with the powers possessed by the Standing Committee, the Corporation and the Government under the various sections of the Madras City Municipal Act, 1904, each item being compared with the corresponding provision in the Bombay Municipal Act.

4. Arriving as this communication did at a very busy season of the year when the scrutiny of budgets was in full swing, the examination of the file necessarily took time. The manuscript notes reached the Registrar in the end of February and myself on the 21st March. Legislative Council work was at its height and the manuscript was voluminous. I accordingly issued instructions to print the additional notes and arrange the file so as to bring together in regard to each point in issue—

(*a*) the original note put before Mr. Wynch in March 1910; and

(*b*) the supplemental additions thereto necessitated by the subsequent expression of the views of the Corporation.

5. In addition to these consolidated notes the office dealt with other matters newly brought forward by the Corporation and the general position which that body assumed. The latter topic came under four sub-heads, namely—

I. The adoption of the Bombay system of the nominated official commissioner and an elected President of the Corporation with a separate Secretariat.

II. The re-arrangement of the powers now exercised under the Madras City Municipal Act by the Government, the Corporation, the Standing Committee and the President so as—

(i) to emancipate the Corporation from the control of Government to the same extent as in Bombay.

(ii) to emancipate the President as in Bombay from the control of the Corporation and the Standing Committee; and

(iii) to re-adjust powers between the Corporation and the Standing Committee so as to bring the whole system into accord with that obtaining in Bombay.

III. Certain modifications in the constitution of the Standing Committee and the Corporation proposed by the Corporation with a view to increase the elective representation thereon.

IV. The consolidation of the Act as recommended in general terms by the Corporation.

6. The final printed note reached me on the 14th April after my arrival in Ootacamund, but the pressure of work connected with the Legislative Council meeting of the 15th May prevented me from seriously attacking the file until this week (1st June 1911). It will be remembered that after the Easter holidays the Deputy Secretary was not available to render any of the assistance which was so invaluable when legislative work pressed in Madras.

7. Having thus dealt with the delay in the presentation of the case, I come to its merits. What is desired is an expression of opinion as to the recommendations of the Royal Commission in paragraphs 864 to 870 of its report.

8. *Paragraphs* 864 *to* 866 merely describe the system of administration prevailing in the different presidency municipalities, special reference being made to the full discretion allowed in Calcutta and Bombay, particularly with regard to—

(*a*) the freedom from budget control;

(*b*) the freedom to regulate taxation within the provisions of the law; and

(*c*) the power of appointing the entire municipal staff except the engineer and health officer.

9. *Paragraph* 867 contrasts the stringent control exercised in Madras, notably in relation to—

(i) the budget and deviations therefrom (sections 94–97 of the Madras City Municipal Act, 1904);

(ii) the levy of taxes (section 116);

(iii) the exemption of local areas from rates and taxes (sections 145 to 148);

(iv) the construction of water-works (section 200); and

(v) the acquisition of land for street improvements (section 232).

10. Stress is laid upon complaints said to have been made regarding these restrictions by witnesses examined before the Commission. The original references show that reliance was placed upon the evidence of only five witnesses. One of these was a Poona Mussalman, Mr. Rafi-ud-din Ahmad, who merely urged in general terms the grant of extended powers to presidency municipalities. Another was Sir Herbert Risley, who confined himself to—

(*a*) a commendation of the Bombay system as compared with the Calcutta plan and a reference to his unsuccessful endeavour to induce the Lieutenant-Governor of Bengal to adopt the same view; and

(*b*) the specific recommendation to relax the Madras provision * requiring Government sanction for projects costing over one lakh so as to give the Corporation power to authorize works up to a higher limit.

* Section 28 of the Madras City Municipal Act, 1904.

11. The remaining three witnesses alone possessed personal knowledge of the Madras conditions, being all members of the Corporation. The first, Mr. C. J. Higgs, took exception merely to the excessive control exercised by Government "in regard to "petty details, particularly in regard to the establishment of the Corporation and in its "minor budget proposals."

12. The second, Sir V. C. Desikachari, raised substantially the same points. He admitted the need for Government sanction in regard to—

(*a*) the levy of rates and taxes;
(*b*) the consideration of the budget as a whole; and
(*c*) matters involving questions of principle;

but demurred to undesirable interference with mere details. He went so far as to allow that the desirability of constructing a new road or other public work involved a question of principle justifying the interference of Government, and while taking objection to criticisms of petty increases in the pay of peons, conceded that Government intervention would certainly be called for if the increase proposed were utterly foolish, *e.g.*, to such a rate as Rs. 40 *per mensem*.

13. The remaining witness, Mr. Joseph Satya Nadar, similarly demurred to excessive interference with the budget and in the matter of appointments. In his view Government intervention ought to be restricted to matters with which Government are directly concerned either because they affect the general policy of Government or because the Act prescribes the approval and sanction of Government. Questionable items in the budget, in his opinion, should merely be pointed out to the Corporation in order that it might amend the budget itself. At one stage of his examination the witness demurred to Government sanction being required for the levy of taxes, the construction of water-works, the acquisition of land for street improvements, construction of buildings, cleansing of public markets and so on. But further on his deposition made it plain that he conceded the necessity for Government scrutiny of the budget as a whole and of proposals to levy, alter and abolish taxes.

14. So far, therefore, as the local witnesses are concerned, it would seem that the complaints referred to by the Commissioners related solely to trivial matters, especially petty interferences with the budget proposals in regard to the emoluments of menial servants. There is probably no present grievance on this subject owing to the procedure which for some time past has been adopted of restricting criticism and interference to matters of greater importance.

The Commissioners, however, mainly on the strength of these complaints commit themselves in paragraph 867 to the sweeping proposition that the Madras Corporation should have as full powers as Bombay City.

15. *Paragraph* 868 of the report emphasizes the necessity of reserving to Government power to require or provide for an efficient discharge of any service which may be grossly neglected. The relevant sections of the Madras Act are sections 24 to 27. In Bombay similar provisions are to be found in sections 518 to 520 of the local Act. These, however, it may be observed, do not cover vaccination, which in Bombay is an optional function of the Corporation.

16. *Paragraph* 869 commends the Bombay system of an elected chairman and nominated commissioner, making special reference to the evidence of Sir Herbert Risley. The deposition of this witness, it is worthy of note, lays special stress on the independence of the Municipal Commissioner in Bombay, who "gets his budget and "his well-defined powers, which he exercises on the whole without interference from "his Corporation in matters of detail."

17. *Paragraph* 870, while admitting that the liabilities of a Presidency Corporation as to educational and medical charges must depend on local circumstances, enunciates the principle that only voluntary contributions from municipal funds should be accepted in support of hospitals and educational institutions controlled by Government.

18. The office notes, as I have said above, examine and discuss in extreme detail the various differences between the Bombay and the Madras Acts, and the Corporation has adopted a similar minute treatment, though the report of the Standing Committee which has been endorsed by the Corporation does not as a rule give reasons for recommendations. To follow the same plan would virtually involve the settlement of the lines of a Bill providing for the complete reconstitution of the system of administration prevailing in Madras. This would be a work of great labour and is, I submit, at this stage unnecessary. All that is required for the purposes of a reply to the Government of India is a statement in general terms of the views of the Governor

in Council. There is no need to trouble the Supreme Government with detailed examination of the question whether the Corporation or the Standing Committee should exercise powers of control under the various sections of the Act which regulate their respective functions. Nor is it necessary to consider the proposals of the Corporation that it should in certain respects be given larger powers than are now possessed by the Corporation of Bombay. The detailed discussion of the propriety of consolidating the present Act and remedying the defects to which the Corporation alludes in general terms is equally premature. These are all matters for consideration when the Act is next taken up for amendment whether with reference to the decision which may be arrived at on the main issue of the introduction of the Bombay system or because legislation is deemed necessary on other grounds.

19. Pursuing therefore the broader treatment of the case, it is convenient first to take up the major question of *the relative merits of*—

(*a*) *the Madras system of a nominated President combining in himself the functions of chairman and chief executive officer; and*

(*b*) *the Bombay plan of an elected chairman presiding over the deliberations of the Corporation with a special Secretariat under his orders, and a nominated Municipal Commissioner as chief of the executive possessing extensive statutory powers.*

I agree that we may adopt the Bombay plan. The reason given by the Commission in paragraph 869 is to my mind convincing. The Commissioner must then have a right to attend the meetings of the Corporation and of the Standing Committee and to speak but he will not have a vote.

V. K[RISHNASWAMI AIYAR]—11-7-11.

I agree.

M. H[AMMICK].

The Corporation agree to the Bombay plan, and Government may, it is submitted, concur with them on the main issue, whatever difference of opinion there may be in regard to the extent of control which should be exercised over the Commissioner by the Corporation and Standing Committee. The views of the Corporation in regard to this point are open to grave exception in more than one respect, notably as to their desire to provide for the continuance of appeals against the orders of the President under the general section 427 and various other sections providing for specific appeals, including section 172 relating to appeals against assessment which in Bombay are dealt with by judicial functionaries only.

20. The next main issue is *whether or not the Corporation should have as full powers as the Bombay City now possesses.* Pages 2 to 4 comprise a list of 65 powers possessed by the Government of Madras which the Bombay Government have not reserved to themselves in the case of Bombay City. These items are arranged under the following main heads:—

(1) Preliminary.
(2) Constitution and general control.
(3) Establishment.
(4) Budget.
(5) Taxes and fees.
(6) Loans.
(7) Public works.
(8) Rules and by-laws.
(9) Medical and sanitation.
(10) Other items.

In the following pages (5—66) these 65 powers are arranged according to the numerical order of the corresponding sections in the Madras City Municipal Act, 1904, and the notes discuss each item in detail. I have recorded my own views under each head.

Reference may perhaps be made to the various summaries, namely—

(*a*) a category of 16 powers which the Madras Corporation is willing that Government should retain (pages 83 and 84);

(*b*) a category of 11 powers which the Corporation desires altogether to abolish without proposing their transfer to itself (pages 84 and 85); and

(*c*) the powers now exercised by the Government which the Corporation desires should be transferred to itself, the Standing Committee or the Commissioner (pages 86—89).

The notes split up the last category (*c*) into three sets :—

(1) Pages 86—88. Thirty-one powers the transfer of which in the opinion of the office is not open to serious objection ;

(2) Pages 88—89. Six powers to the transfer of which exception is taken ; and

(3) Three further powers relating to heads not previously dealt with, namely, (i) contributions to public ceremonies and entertainments, (ii) the salary, and (iii) the leave of the President-Commissioner; the first of these is a power of control possessed by the Bombay Government.

My views, which are not in all cases in accordance with those expressed in the office note, have been entered opposite these summaries.

21. As the policy generally commended is assimilation to the law obtaining in the City of Bombay, I propose first to catalogue (under letters of the alphabet) the exceptions which it is suggested should be made, and then to indicate (by serial numbers) the powers of control which it is thought might be abandoned.

22. The following are the exceptions referred to and constitute the powers which it is deemed necessary to retain. They have been arranged according to the order of the sections in the Madras City Municipal Act, 1904, and the asterisks affixed to certain items indicate that the Corporation assents to the proposed continuance of Government control :—

* (*a*) Section 3 (6)—*Power to notify the limits of the city.*

I agree.

J. N. A[tkinson]—20–7–11.

* (*b*) Section 3 (7) (*b*)—*Power to notify what diseases are dangerous.*—The elasticity of this provision is preferable to the corresponding section in the Bombay Act [section 3-A (*a*)].

I do not see the need for a declaration by Government. The Government can only declare on the recommendation of the Standing Committee. I would, if necessary, specify in section 145 (1) itself the criterion for differential rates. I am rather inclined to think that there need be no differential rates at all. Government have the power under the proviso to exempt any area. This seems sufficient. I doubt whether even that need be retained.

V. K[rishnaswami Aiyar]—11–7–11.

I think the power to differentiate rates is necessary in Madras on account of the great variations in density of population. I agree that power under section 3 (24) should not be conferred on the Corporation; nor the Bombay system be introduced. For elasticity's sake I would not embody the differential criterion in the act.

J. N. A[tkinson]—21–7–11.

We cannot, I think, give the Corporation the power to reduce taxations in particular areas, unless we make this power entirely dependant on the fact whether or not water is supplied or not. The new water-supply may be expected to give water to all parts of the city and I am inclined to think that the Bombay system will then be sufficient. If we do retain this distinction between populous and other parts I think Government should retain its present powers.

M. H[ammick]—8–8–11.

(*c*) Section 3 (24)—*Power to declare what parts of the city are "populous".*—This definition has a bearing on—

(i) the fixation of the rate of the water and drainage tax [section 145 (1)] ;

(ii) the provision of water stand-pipes [section 192 (2)] ; and

(iii) the licensing of cattle sheds [proviso to section 314].

The two latter points are matters which may well be left to the discretion of the Corporation, but differential rates of taxation require, it is submitted, the sanction of Government unless the differential criterion is embodied in the Act itself.

Yes. But I would increase the seats under (*c*) to four and at the same time reduce (*a*) and (*b*) to two each.

V. K[rishnaswami Aiyar]—16–7–11.

I agree.

J. N. A[tkinson]—21–7–11.

M. H[ammick]—8–8–11.

(*d*) Section 5 (2) (*c*)—*Power to notify associations competent to elect members of the Corporation.*—It is desirable to provide for the contingency of material changes in the status of associations and, for that reason, Government should retain selected powers.

(*e*) Section 10—*Power to raise the salary of the President-Commissioner above Rs.* 2,000 *per mensem.*—The proposal of the Corporation follows the analogy of section 57 of the Bombay Act where the ordinary limit is Rs. 2,500, but sub-section (3) provides for enhancement to a sum not exceeding Rs. 3,000 "with the approval of the Corporation", if the Commissioner has served for three years. In order to provide for the appointment or retention of a first-grade Collector the limit proposed by the Corporation should, it is submitted, be raised to Rs. 2,500. With the enhanced powers which it is proposed to assign to the Commissioner, the services of a senior officer might often be required.

I have noted at page 90 *supra.*

J. N. A[tkinson]—23–7–11.

(*f*) Section 12 (4)—*Power to remove the engineer and the revenue and health officers.*—It is separately proposed that the nomination of these officers should vest in the Corporation, their final appointment being subject to the approval of Government. If they do their duty, they will incur unpopularity and will require protection against cabals and, for that reason, should not be liable to removal without the sanction of Government.

I would retain the present power fixing a three-fourths majority of the meeting for a valid removal.

V. K[rishnaswami Aiyar]—16–7–11.

I have noted at page 15 *supra.*

J. N. A[tkinson]—22–7–11.

(*g*) Section 26 (1) (*c*)—
(*h*) Section 27—
Powers to enhance taxation and to raise loans in order to provide funds for the execution of work transferred to special officers owing to the serious default of the municipal authorities.—This power is the logical sequel of the right of Government to intervene when the Corporation makes default.

Yes.

V. K[rishnaswami Aiyar]—16–7–11.

I agree.

J. N. A[tkinson]—22–7–11.

M. H[ammick].

(*i*) Section 28—*Power to approve projects costing more than a specified amount.*—The limit fixed in the section is one lakh and might, it is submitted, be raised to 2½ lakhs or perhaps even to five lakhs, but control of some description is necessary. The Local Government itself cannot sanction from Provincial funds estimates exceeding the limits specified in paragraph 1925 † of the Public Works Code. Minor variations in estimates once sanctioned need not, however, come up for approval.

Yes. 2½ lakhs.

V. K[rishnaswami Aiyar]—16–7–11.

J. N. A[tkinson]—23–7–11.

M. H[ammick]—8–8–11.

† 10 or 12½ lakhs.

(*j*) Section 60—*Power to grant leave to the Commissioner.*—The Corporation proposes to prescribe the consent of the Standing Committee to the grant of leave to the Commissioner on the analogy of section 59 (1) (*a*) of the Bombay Act. There is no objection to the Committee's being consulted, but Government, it is submitted, should decide. Otherwise, a spiteful majority on the Committee might utilize its power in order to harass the Commissioner.

I agree as to the leave of the Commissioner.

V. K[rishnaswami Aiyar]—16–7–11.

I agree.

J. N. A[tkinson]—23–7–11.

I agree.

M. H[ammick].

(*k*) Section 116—*Power to approve rates of taxation.*—The sanction of Government should be prescribed in order to prevent weak reductions in taxation. But it is unnecessary to retain the power to order enhancement which is now exercised indirectly through the agency of budget control. The only tax which has not yet reached the maximum, it may be observed, is the lighting tax.

I have noted at page 40 *supra*.
J. N. A[tkinson]—23-7-11.
I have noted.
M. H[ammick].

(*l*) Section 145 (1)—*Power to exempt local areas from water and drainage tax.*—Discretionary powers in regard to the levy of taxation should not be entrusted to a body composed of members of whom a large proportion owe their position to the votes of rate-payers. Nor is it desirable, without very careful examination of the financial consequences, to introduce the Bombay system of levying water-tax only in respect of premises which are or can be served by the water-supply system.

See page 42 *supra*.
J. N. A[tkinson]—23-7-11.
I have noted
M. H[ammick]—8-8-11

*(*m*) Section 200—
*(*n*) Section 202 (*b*)— } *Powers to sanction the construction of water-works outside the city and to exercise statutory powers of control in respect of such works*—Municipal powers clearly cannot be exercised outside municipal limits without the permission of Government.

*(*o*) Section 210—*Power to compel a railway company to raise or lower its lines for the passage of drains.*—It is expedient that a superior and impartial authority should decide disputes as to such matters.

*(*p*) Section 374—*Power to declare vaccination compulsory and to approve by-laws on the subject.*—Vaccination having been compulsory throughout the city since 1884 might safely be declared so in a substantive section of the Act, but by-laws on such a subject should certainly not be promulgated without the approval of Government.

(*q*) Section 395—*Powers in regard to the provision of burial-grounds.*—While this matter may in general be left to the discretion of the Corporation, it would seem expedient that Government should reserve to itself the right to veto the opening of new burial-grounds. Popular feeling is often exercised in regard to their situation and existing interests do not always receive proper consideration at the hands of municipal bodies.

*(*r*) Section 404—*Power to sanction the construction or lease of railway lines.*—Obviously a subject for control by Government.

I have noted at pages 56 and 57 *supra*.
J. N. A[tkinson]—23-7-11.
M. H[ammick]—8-8-11.

(*s*) Section 406 (2)—
(*t*) Section 406 (3)— } *Powers to sanction the lease and sale of land vesting in the Corporation.*—While there is no objection to the Corporation's dealing at its pleasure with immoveable property which it has acquired by purchase or gift, the case of land vesting in it under the Act and held in trust for the purposes of the Act requires different treatment. At present under section 406 (3) all sales of land require the sanction of Government, and under section 406 (2) leases beyond three years require similar sanction. I would extend the period of three years to seven, but retain the powers of sanction in respect of outright sales The reason for the differential treatment of vested lands such as the public streets (see section 228) lies in the legal proposition that such vesting is limited in nature and that the land, if no longer required for the purpose for which it originally vested in the Corporation, reverts to Government, who alone have the power to dispose of it.

(*u*) Sections 409 and 411—*Powers in respect of by-laws.*—Under this section the Local Government has the power to direct the Corporation to frame by-laws, a power which may, it is submitted, safely be abandoned. It is necessary, however, as in Bombay (section 463 of the Bombay

I have noted at page 61 *supra*.
J. N. A[tkinson]—23-7-11.
M. H[ammick]—8-8-11.

Act), to require the approval of Government in respect of all by-laws. Reference is made to this point, which is strictly speaking not germane to the question in issue, because the Corporation has expressly requested exemption from Government interference.

(*v*) Section 413—*Power to make rules—*

(i) *regarding the manner of election or appointment of commissioners ;*
(ii) *regarding the manner of election of the Standing Committee ; and*
(iii) *modifying the schedules relating to—*
(*a*) *the boundaries of divisions,*
(*b*) *the building rules,*
(*c*) *the forms of registers of births and deaths, and*
* (*d*) *the boundaries of the Esplanade.*

It is desirable that questions of procedure in regard to the constitution of the Corporation or the Standing Committee should be settled by some external authority, if detailed rules are not embodied in the Act itself, as is the case in Bombay so far as regards the election of councillors. The boundaries of divisions cannot be altered in Bombay without the sanction of the Local Government [section 24 (2)] and the building rules are there embodied in substantive sections of the Act (Chapter XII), while the form of the register of vital statistics, a matter of more than municipal importance, is similarly settled (section 444). The boundaries of the Esplanade cannot be altered without regard to military considerations.

(*w*) Section 425 (3)—*Power to penalize municipal servants for withdrawing from service without notice.*—Under the section scavengers are always liable to such a penalty and the Local Government has authority to impose it upon other classes of servants. This reserve of power might be invaluable in emergencies and should not lightly be given up.

*(*x*) Section 464—*Power to invest municipal servants with police powers.*—Obviously a matter for the discretion of Government.

*(*y*) Section 471—*Power to permit building on the Esplanade.*—For military reasons this power must be retained.

23. Following again the order of the sections in the Municipal Act, the powers which it is suggested Government may abandon in whole or in part are shown below :—

I have noted.
V. K[rishnaswami Aiyar]—20-7-11.

(1) Section 3 (8)—
(2) Section 3 (22)— } *Powers to declare what trades are* (i) *dangerous and* (ii) *offensive.*—The intervention of Government is not essential.

(3) Section 12 (1)—*Power to appoint the engineer and the revenue and health officers.*—So long as these appointments are subject, as in Bombay [section 74 (1)] and Calcutta [section 63 (1)] to the confirmation of Government, it is submitted that the nomination may be left in the hands of the Corporation. The same arrangement might be made generally applicable to officers in receipt of a salary of Rs. 1,000 *per mensem* or upwards ; if so, it would cover the case of the special engineer which is now provided for in the second proviso to sub-section (2) of section 12.

(4) Sections 12 (2) and 413—*Power to fix the emoluments of the same officers and to frame rules regarding their pensionary claims.*—I would replace this power by the Bombay plan of fixing statutory maxima and minima for the pay of these officers and leaving the pensionary rules to be framed by the Standing Committee subject to confirmation by Government. The Corporation desires extended authority in the matter, and with the limitations suggested it is submitted that no harm is likely to arise. The important points are that Government should approve nominations to these posts and removals therefrom and that the emoluments attached thereto should be on a reasonable scale.

(5) Sections 13 and 14—*Power to appoint a special sanitary officer and to fix his pay.*—It is proposed to replace this specific power by the general provision embodied in section 434 of the Bombay Act, which gives the Commissioner authority with the sanction of Government to take special measures of all kinds on the outbreak of any dangerous disease. In the exercise of these powers he could presumably appoint a special investigating officer.

(6) Section 15 (2)—*Power to decide questions as to the authority competent to exercise particular functions.*—So far as the executive is concerned, the Commissioner should be the final authority. As to the respective functions of the Corporation, the Standing Committee and the Commissioner, these, it is submitted, should be explicitly defined in the Act itself.

(7) Section 16 (2)—*Power to approve rules for the interpellation of the President.*—If the Bombay system of an elected Chairman and nominated official Commissioner be adopted, substantive provisions corresponding to section 66 of the Bombay Act must be accepted as a corollary. There is no point in interpellating the Chairman, and the Commissioner must be adequately protected from continual harassment by vexatious questions regarding the *minutiæ* of executive work. Individual members ought not to have the power of interrogation, but subject to the safeguards provided in the Bombay Act the Corporation should be in a position to require the Commissioner to produce records and furnish returns and reports.

(8) Section 39—*Power to fix the time and place of elections.*—This may well be left to the Commissioner as in Bombay.

(9) Section 42—*Power to appoint Commissioners* in default of election.*—The Bombay plan, which the Corporation itself advocates, is commended. Under this if an election fails, the retiring councillor is deemed to be re-elected if willing to serve, or failing this arrangement the Corporation may itself make an appointment to the vacancy.

(10) Section 53—*Power to appoint temporary Commissioners*.*—Assuming the object of this special power to be to provide for a quorum in the event of a number of vacancies occurring simultaneously, the simplest plan would be to empower Government to over-ride section 56 and authorize the temporary continuance in office of the outgoing members pending the result of the elections. The alternative—there is much to be said for it—is the adoption of the Bombay system of general elections held triennially in January or February [section 22 (1)] with compulsory retirement on the 1st of April (section 7).

(11) Section 58 (1) & (2)—*Power to control the employment and emoluments of permanent and temporary servants.*—This item raises a very important question of general policy. In the past it has been the custom for Government to exercise detailed control over the municipal establishments. It is submitted that this should now be entirely given up as a corollary to the introduction of the Bombay system of an official Commissioner on whom the initiative will rest in regard to all matters of staff and *personnel*, except as regards the few higher members of the establishment such as the engineer and the revenue and health officers. Section 58 of the Act only provides for "control" by Government, but in practice Government sanction has been insisted upon except as regards certain classes of temporary establishments where powers have been delegated to the Corporation.

G.Os. No. 218 M., dated 17th February 1909 and No. 1058 M., dated 8th July 1909.

(12) Section 58 (3)—*Power to control punishment of municipal servants.*—This power may similarly be given up except in the case of the few superior officers.

(13) Sections 60 and 62—*Power to grant leave to the engineer and the revenue and health officers and to appoint acting incumbents.*—I would adopt the Bombay system, under which the Commissioner can himself grant leave for periods not exceeding one month and the Standing Committee for longer periods, while the authority granting the leave has general power to appoint the substitute subject to approval by the Corporation in the case of absences exceeding one month and with a reservation empowering Government in such cases to disallow the acting appointments. As regards the fixation of acting allowances the Corporation is unlikely to go below the scale contemplated by the Civil Service Regulations, and if such a course were proposed in any long arrangement, Government could indirectly enforce the grant of adequate remuneration by refusing to approve the appointment of the presumably inferior person nominated by the Corporation.

Cf. sections 84 and 85 of Bombay Act.

* *I.e.*, Members of the Corporation.

(14) Section 64—*Power to make rules in regard to the security, leave and acting allowances of municipal servants and the establishment of provident funds.*—In Bombay Government intervenes only in regard to matter of pensions and gratuities [section 81 (1) (*f*) and (2)]. It does not seem necessary to insist on further control in Madras; there is at present no provident fund.

(15) Sections 65 (2) and 12 (3)—*Power to fix pensionary contributions payable on account of Government servants lent to the Corporation.*—Statutory powers are unnecessary in this case since the existing rules can be enforced as a condition of the loan of services. The Corporation itself accepts the application of the Civil Service Regulations or the rules for the time being in force.

(16) Section 66 (2) (*e*)—*Power to approve of contracts exceeding one lakh of rupees.*—In item (*h*) of paragraph 22 *supra* it has been proposed to retain control over estimates for works costing more than $2\frac{1}{2}$ or 5 lakhs. If the settlement of contracts vests in the Standing Committee as proposed by the Corporation, it is submitted that the sanction of Government may be dispensed with whatever the amount of the contract, provided always that care is taken to ensure the constitution of the Standing Committee on a sound basis. If this is thought too dangerous a relaxation of control, Government might reserve to itself a right of veto in respect of contracts exceeding $2\frac{1}{2}$ or 5 lakhs according to the limit suggested in the case of sanction for works.

(17) Section 89—*Power to sanction voluntary or compulsory contributions towards expenditure incurred by a local body and likely to benefit residents in Madras City.*—These powers were newly introduced by the amending Act of 1904 and have not yet been exercised. If the contribution is voluntary, no sanction is necessary, and if it be compulsory, the intervention of Government will be regarded as vexatious interference. There are no corresponding provisions in Bombay or Calcutta.

(18) Section 90 (1)—*Power to sanction the investment of Corporation funds or their deposit in banks other than the Bank of Madras.*—I would adopt the Bombay provisions (sections 112 and 114) *in extenso*. Under the law there obtaining the initiative rests with the Commissioner if it is proposed to deposit current revenue in any bank other than the Bank of Bombay, and investments are limited by the definition of public securities in section 3 (*o*) so as to exclude mortgages of immoveable property.

(19) Sections 91 (4), 92, 93, 95 (1), 95 (2) and 97 (1)—*Budget control, viz., the following powers:*—

(i) *Power to fix*—

(*a*) *the month for the scrutiny of the budget by the Standing Committee,*
(*b*) *the date for its submission to the Corporation,*
(*c*) *the month for its scrutiny by the Corporation, and*
(*d*) *the date of its submission to Government;*

(ii) *Power to modify the budget; and*

(iii) *Power to approve subsequent alterations in the budget.*

All these powers go together. Their relinquishment involves a very important change in policy, but it is submitted that the time has come to allow the Corporation, as in Bombay and Calcutta, to manage its own finances. The sole restrictions upon which I would insist are—

(*a*) that there should be a minimum balance prescribed by law;
(*b*) a specific direction compelling payment of all loan charges;
(*c*) a reservation of Government control in respect of the levy of taxes [*vide* paragraph 22 (*k*) *supra*]; and
(*d*) the rule that a copy of the budget shall be submitted to Government by a fixed date not later than the 31st March in each year so as to give them an opportunity of tendering advice.

For further control I would rely upon the general powers of intervention reserved to Government by sections 24 to 27 of the Madras Act, just as in Bombay. Interference in the last resort is permissible under Chapter XX of the City of Bombay Municipal Act, 1888.

(20) Sections 104, 107 (2) and 107 (3)—*Powers in respect of the re-payment of loans.*—The Local Government has now power to fix the sinking fund payments on account of debenture loans and the terms of consolidated loans including special

extensions of the period of re-payment in the latter case. In the Bombay Act section 107 reserves complete control in respect of Government loans, while section 109 (*c*) authorizes the Local Government with the sanction of the Government of India to determine the period of other loans. It is submitted that these restrictions are all that is necessary. There is no reason why the Corporation should not settle with the lender all other terms relating to private loans. It should, however, be made plain that there must be no variation in the terms of private loans already contracted.

(21) Sections 110 and 114—*Power to appoint auditors and to determine their remuneration*.—Here also I would follow the Bombay plan, under which the Corporation makes its own arrangements for audit (section 136), but the Local Government has power, whenever it wishes, to direct a special audit at the cost of municipal funds (section 138). The power reserved to Government can always be exercised if the Corporation appoints auditors of doubtful standing or there are special reasons for scrutiny.

(22) Section 148 (1)—*Power to make local exemptions from the lighting tax.*—This power may, it is submitted, be surrendered, since the Corporation is hardly likely to disregard considerations of equity so far as to grant exemptions in favour of areas which derive benefit from the lighting arrangements. The case is different from that of the water and drainage tax, where it may fairly be said that the inhabitants of a ward which is neither drained nor supplied with water nevertheless derive indirect benefits from the grant of such facilities to adjoining wards, and where financial considerations may make it necessary for the whole community to contribute towards the cost of partial schemes conferring indirect as well as direct benefits.

(23) Section 230 (1) (*c*)—*Power permanently to close streets.*—This power, which is exercised by the Corporations in Bombay [section 289 (3)] and Calcutta (section 354), and by *mufassal* municipalities in this Presidency [section 158 (1)], it is submitted, is not likely to be abused by the Corporation of Madras.

(24) Section 232 (2)—*Power to improve streets by acquiring properties outside the regular alignment.*—If such acquisitions cannot be arranged by private negotiations, the sanction of Government will be requisite in order to put in force the Land Acquisition Act, 1894. This special procedure has been commended to the Corporation for general adoption, but, it is submitted, need not be enforced as an invariable rule. If recourse is not had to it, there seems no sufficient reason to prescribe the sanction of Government.

G.O. No. 883 M., dated 3rd June 1911.

(25) Section 261 (4)—*Power to sanction the prescription of certain classes of buildings in streets.*—Sub-sections (2) and (3) of this section provide for the presentation and consideration of objections, and the probabilities are that the rules laid down by the Corporation will err on the side of weakness rather than strength. It is submitted that on this ground Government control may be waived.

(26) Section 290 (1) (*c*)—*Power to approve the means of lighting.*—The agency by which the public streets shall be lighted is surely a matter for municipal control. Plenty of pressure will be put upon the Corporation to adopt efficient means, and the only risk is that general funds may be diverted for the upkeep of lighting in lieu of recourse to the enhancement of the special lighting tax. This, however, is the financial aspect of the question, and if it be decided to give up control over the budget, Government intervention should not be retained in this special case. If the lighting became wholly inadequate, interference would be permissible under sections 24 to 27.

(27) Section 311—*Power to prohibit fishing in rivers and estuaries.*—So far as there are corresponding powers in the Bombay Act they vest in the Commissioner [section 270, see also under section 388 (*d*)]. In Madras Government have recently prohibited fishing in the Cooum at the instance of the Corporation, and it is not likely that any serious controversy will arise in the future in regard to the further exercise of these prohibitory powers.

G.O. No. 754 M., dated 13th May 1911.

(28) Section 337—*Power to sanction the provision of public markets.*—This power finds no place in the Bombay (section 399) or Calcutta (section 477) Acts, nor in the Madras District Municipalities Act, and there appears no reason to limit the initiative of the Corporation of Madras.

(29) Section 338—*Power to sanction the acquisition or appropriation of land for public markets.*—It is similarly unnecessary to insist upon Government control in this case, though if recourse be had to the Land Acquisition Act, 1894, Government sanction will *ipso facto* be requisite.

(30) Section 362—*Power to compel the Corporation to construct or contribute towards infectious hospitals.*—In the Bombay Act sections 421 to 434 embody provisions for the prevention of dangerous diseases of which the most important is the plenary power given by section 434 to the Commissioner but exercisable only with the sanction of Government. It has been suggested in item (5) *supra* that the Commissioner should be given similar authority in Madras. The maintenance of hospitals is not a municipal charge in Bombay, but finds place in Schedule IV-B of the Madras Act; it would therefore be open to Government to exercise their general powers of intervention under sections 25 to 27, if there were serious default in regard to the provision of infectious hospitals. The special power provided by section 362 may be relinquished.

(31) Section 387 (3) (*a*)—*Power to sanction or refuse licenses for new burial-grounds.*—The Bombay Act (section 437) leaves the initiative to the Commissioner but prescribes the approval of the Corporation. The same plan may be followed in Madras, if supplemented by a section corresponding to section 439 of the Bombay Act requiring Government approval for the unusual course of re-opening a closed burial-ground.

(32) Section 426 (2)—*Power to sanction the rates of license fees.*—In Bombay and Calcutta the Corporation is the sanctioning authority, and in *mufassal* municipalities in this Presidency the power to fix license fees has, except in a few specified cases, recently been delegated to Collectors. Government seldom modify the proposals of the Corporation of Madras in this respect, and it is submitted that powers of control may safely be given up.

24. *The emancipation of the President from the control of the Corporation and the Standing Committee*, which is dealt with in pages 91 to 105 of the office note, is not a matter requiring detailed examination at this stage. I have recorded remarks against many of the items set out in the notes, but for the purposes of the reply to the Government of India it is submitted that it will suffice to say that the relaxation of control proposed is subject to the important condition that arrangements should be made to place the Commissioner in a position substantially as strong as he occupies in Bombay. As indicated in paragraph 19 *supra*, the views of the Corporation in this respect are open to serious exception. The office note catalogues twenty-seven powers which the Corporation are willing to transfer to the Commissioner, and eight powers exercised in Bombay which the Corporation desires to retain. Pages 95 to 103 deal with the most important of the latter items, namely, the question of appellate control by the Standing Committee in regard to executive matters. At pages 103 and 105 will be found an examination of a proposal which appears particularly open to objection, namely, that the collective Corporation should exercise a measure of control over the higher patronage.

I do not think we need say more than that the relaxation of Government control is subject to the condition that the Commissioner shall be substantially in a position as strong as in Bombay. I do not propose to note in detail.

V. K[rishnaswami Aiyar]—20–7–11.

I agree.

J. N. A[tkinson]—24–7–11.

I agree.

M. H[ammick]—8–8–11.

25. Pages 105 to 108 deal with the topic of *re-adjustment of the respective powers of the Corporation and the Standing Committee*. These also are internal arrangements which need not now be discussed. It will suffice to say that the subject will necessarily come under examination if and when the Act is amended and that care will then be taken to assign to the Standing Committee as much power as possible, the main function of the Corporation being to settle general questions of policy.

We need not deal with this now.

V. K[rishnaswami Aiyar]—20–7–11.

J. N. A[tkinson]—24–7–11.

M. H[ammick]—8–8–11.

26. Pages 108 and 109 of the office note relate to the third main recommendation of the Corporation, namely, *that the constitution of the Standing Committee and the Corporation should be modified so as to make it more representative of the rate-payers*. This also is not a matter directly germane to the subject under discussion and may be dismissed with the remark that, while the constitution of the controlling municipal bodies will necessarily come under examination in connection with the amendment of the Act, the Government are very doubtful as to the expedience of expanding the elective element until experience has been gained of the manner in which the Corporation and the Standing Committee make use of the wider powers which it is proposed to confer upon them.

Nor with this.

V. K[RISHNASWAMI AIYAR]—20-7-11.

J. N. A[TKINSON]—24-7-11.

M. H[AMMICK]—8-8-11.

27. Pages 109 and 110 of the office note deal with the fourth main recommendation of the Corporation, namely, *that the City Municipal Act should be revised and consolidated in order to remove existing serious defects*. Amendment and consolidation will doubtless be necessary, but this is not the time to undertake that laborious task. The Corporation may be requested to schedule the defects which it had in view when passing this resolution, and they may be listed together with other points which have been brought to the notice of Government for scrutiny at the proper season.

Nor this.

V. K[RISHNASWAMI AIYAR]—20-7-11.

J. N. A[TKINSON]—24-7-11.

We of course must legislate and shall have to draft a new Act.

M. H[AMMICK]—8-8-11.

28. It now remains only to consider the third and last recommendation of the Royal Commission on Decentralization, namely, that, *where hospitals and educational institutions are controlled by Government, the Corporation should contribute thereto only as a matter of voluntary agreement*. This recommendation is based upon the principle that control and payment should go hand in hand. It is pointed out at page 66 of the office note that no contributions from the Corporation are now received in aid of educational institution maintained by Government and that the only medical contribution is a lump sum of Rs. 20,000 fixed in 1880 in consideration of the benefits accruing to the native community of Madras from the large head-quarter hospitals maintained by Government. The propriety of waiving this contribution was recently considered with the result that its continuance was confirmed—*vide* notes in G.O. No. 548, Financial, dated 9th December 1909. It is submitted, however, that this decision need not prevent Government from subscribing to the principle enunciated by the Royal Commission. The Corporation is at present content to continue the contribution and, if at any time in the future it should without reasonable grounds refuse to do so, it would be open to Government to effect a corresponding retrenchment from the liberal Provincial grants which the Corporation receives.

I agree.

V. K[RISHNASWAMI AIYAR]—20-7-11.

J. N. A[TKINSON]—24-7-11.

I agree.

M. H[AMMICK]—8-8-11.

29. This note has been printed in the same way as that relating to the subject of decentralization in the case of rural boards. The right-hand page is intended for the remarks of Honourable Members and blank pages have been provided at the end. If it is necessary to use the latter, it is requested that cross-references may be made to the page or paragraph and, if necessary, also to the serial number. For the purpose of drafting the reply to the Government of India it will be assumed that Honourable Members accept the opinion of the Secretary where they do not dissent from it.

L. DAVIDSON—14-6-11.

I regret I have detained this much too long. I waited for books on Local Government in other countries but to no purpose. It was useless to delay the file any longer. I have gone through the Madras and Bombay Acts and read the proceedings in Council when the Bombay Act was passed. I am in substantial agreement with the Secretary. I accept the Bombay system of official commissioner and elected president

for the reason given by the Commission. I am also willing that Government sho give up many of their present powers under the Act. Some are of trifling importan Others the Corporation may be trusted with. The rest are needless when the Commis sioner's hands are strengthened.

I have not noted on the distribution of powers between the Commissioner, the Standing Committee and the Corporation as matters which need not be dealt with on the present reference.

V. K[RISHNASWAMI AIYAR]—20-7-11.

I have noted above. We seem so far to be all in agreement and a letter may go to India without delay.

We shall have to wait for their sanction I suppose and then have to draft a Bill and it will perhaps be well to put somebody on special duty to do that. It should not be difficult on these notes.

M. H[AMMICK]—8-8-11.

There is no need for me to note in detail at this stage. The draft will follow the opinions in the notes. In the few instances where they are not unanimous the opinion of the majority will be taken. The draft letter to India should be circulated before issue.

A. L[AWLEY]—10-8-11.

The Registrar will please prepare a draft. This may follow the lines of my note *as closely as may be*, though with reference to Honourable Members' notes it may be necessary to transfer items from the *lettered* category (paragraph 22) to the *numbered* list (paragraph 23). The municipal report season being just over it should be possible to take this up at once. Much writing work will be saved by taking a spare proof of my note (and the office-note), cutting out the relevant extracts, and making alterations and additions in manuscript with reference to Honourable Members' orders. If this plan can conveniently be adopted, I should like to see the manuscripts sent to the press, as well as the proof: I shall want the draft in proof broad margin with two spare copies.

Paragraphs 1 to 7 may be cut down to a brief explanation of delay. Paragraphs 8 and 9 will do almost verbatim. Paragraphs 10 to 14 admit of material curtailment. Paragraphs 15 to 17 will be required, and paragraph 18 must be somewhat recast, reference being made not to the office-note but to what the Corporation has proposed (see paragraph 5). The scheme of treatment should then be set out, and paragraphs 19 to 28 will follow, and the wind up may be a general summary of the briefest possible description and a request for an early expression of the views of the Government of India; so that we may get on with the necessary legislation.

Let me know with the weekly arrear list what progress is being made with the draft.

A copy of the Government Order will go to India, also to the Corporation, which should be informed of the general attitude of Government, very briefly, and invited to make suggestions as to defects requiring attention when legislation is put on hand.

L. DAVIDSON—12-8-11.

A draft Government Order and a draft letter to the Government of India are submitted for approval.

2. With reference to paragraph 4 of the draft order it is submitted that the Corporation discussed the re-arrangement of the powers of the Corporation, the Standing Committee and the President at the special request of Government in paragraph 4 of Memorandum No. 2821-1 M., dated 8th June 1910. To say now, that this discussion was premature may, therefore, seem to be rather awkward. It is therefore simply stated in the draft that this re-arrangement of the powers will come under examination, if and when the act is amended.

P. T. THARYAN—8-9-11.

I have amended the drafts. Please submit revised proof, carefully corrected, as soon as possible. Please let the press know that the case is urgent. The draft must issue before Government moves to Madras and circulation may take some time. It should begin not later than Monday next (October 2nd, 1911).

L. DAVIDSON—25–9–11.

A revised proof cross-referenced to the pages of the notes as directed is submitted. Two spare copies are also placed in the file.

2. In paragraph 10 (3), (4) and (14) the "daggers" have been omitted as the Government propose to retain control in a modified form. A dagger mark is thus necessary only in paragraph 10 (21). A slight alteration of the second sentence of paragraph 10 seems necessary.

P. T. THARYAN—29–9–11.

Please circulate the draft as corrected and examine a spare copy in order to make certain that no other department of the Secretariat should see. I do not think other departments are concerned except perhaps the Financial department which is remotely interested in paragraph 10 (21).

L. DAVIDSON—30–9–11.

I have made a few verbal changes and some slight additions.

V. K[RISHNASWAMI AIYAR]—1–10–11.

I accept the draft with Mr. Krishnaswami Aiyar's amendments.

J. N. A[TKINSON]—2–10–11.

I accept the draft.

M. H[AMMICK]—3–10–11.
A. L[AWLEY]—5–10–11.

Please inform the Revenue and Financial Departments that the main file has returned from circulation approved and enquire if they have any criticisms or suggestions to make. Meanwhile let the press carry out the minor alterations required.

L. DAVIDSON—7–10–11.

The file on the subject is separately under circulation. With reference to the Secretary's office-note on that case, it is submitted that paragraphs 9 (*h*), 9 (*q*) and 9 (*s*) of the draft below relate to matters with which the Public Works Department have some concern, though the proposals made therein are not such as to require the acceptance of that department. The same remarks apply to paragraphs 9 (*t*), (*u*) and (*w*) which in places refer to matters concerning the Revenue Department. It seems, however, desirable to obtain the acceptance of the Financial Department to paragraph 10 (21) and (22).

K. A. GANAPATI AIYAR—3–10–11.

The Revenue Department had better see paragraph 9 (*t*) (*u*) and (*w*) and the Financial Department paragraph 10 (21) and (22).

L. DAVIDSON—4–10–11.

To the Revenue Department.
To the Financial Department.

REVENUE DEPARTMENT.

No remarks are called for on paragraph 9 (*t*) (*u*) an[d] [(*w*)] of the letter. The file may be passed on to Financial after perusal.

K.R.—5–10–11.
G.P.V.—5–10–11.

It is presumed that the power proposed to be given to the [Collector] in paragraph 9 (*t*) of the draft letter is intended to be exercised only in relation to deal with lands acquired by purchase or gift *at its pleasure* will not a[ffect] Government's right to assess the lands after such disposal in [any] any way, the instructions issued in G.O. No. 1691, Revenue, dated 6th June [1]911 in accordance with the Board's Standing order 24–13 (iii) and 24–14. [Please see also]

R. SATAGOPA AIYANGAR—6–10–11.

These rules will not be affected.

J. T. GWYNN—[7–10–11.]

To the Financial Department.

A. G. CARDEW—7–[10–11.]

FINANCIAL DEPARTM[ENT.]

Paragraph 10 (21) *and* (22) *of draft letter.*—This may, it is submitted, be accepted in the Financial Department.

V. GOPALAKRISHNAN—11–10–11.

C. REILLY—11–10–11.
H. A. STUART—11–10–11.

To the Local and Municipal Department.

LOCAL AND MUNICIPAL DEPARTMENT.

Issue at once.

L. DAVIDSON—12–10–11.

[G.O. Nos. 1680–81 M., dated 12th October 1911.]