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OF INDIA**

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ABSTRACT OF THE PROCEEDINGS

Council of the Governor-General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

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1868.

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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 10th January 1868.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, *presiding*.

His Excellency the Commander-in-Chief, G. C. S. I., K. C. B.

The Right Hon'ble W. N. Massey.

~~The Hon'ble Major-General Sir H. M. Durand, G. C. S. I.~~

The Hon'ble Sir W. Muir, K. C. S. I.

The Hon'ble E. L. Brandreth.

The Hon'ble M. J. Shaw Stewart.

The Hon'ble J. Skinner.

The Hon'ble Steuart Gladstone.

The Hon'ble Khwájá 'Abd-ul-ghani.

The Hon'ble F. R. Cockerell.

The Hon'ble MR. COCKERELL took the oath of allegiance, and the oath that he would faithfully discharge the duties of his office.

PEPPER DUTY (COCHIN) BILL.

The Right Hon'ble MR. MASSEY introduced the Bill to amend Act No. III of 1861 (to provide for the collection of duty of customs on pepper exported by sea from the British port of Cochin), and moved that it be referred to a Select Committee with instructions to report in a week. He said he need not trouble the Council with a repetition of the statement which he had made at the last meeting when moving for leave to introduce the Bill. It was simply a Bill to aid the Native States of Travancore and Cochin in collecting a duty of Customs on pepper exported from their territories, and to prevent the British port of Cochin from being made the means of frustrating the arrangements of those States in the collection of the duty. He apprehended no objection to the principle of the Bill.

The Motion was put and agreed to.

MUNICIPAL COMMITTEES' (N. W. P.) BILL.

The Hon'ble MR. BRANDRETH introduced the Bill to make better provision for the appointment of Municipal Committees in towns in the North-Western

Provinces and for other purposes, and moved that it be referred to a Select Committee with instructions to report in four weeks. He said that this Bill was brought forward at the request of the Lieutenant Governor of the North-Western Provinces. A draft Bill was received from the Government of those Provinces, containing all the matters for which legislation was suggested. These matters had in a few respects been re-arranged in this Bill, and some alterations had been made in the wording of the draft received from the North-Western Provinces; but the draft had not been altered in any material points. He had endeavoured virtually to lay before the Council, in this Bill, all the provisions which the Lieutenant-Governor desired to have enacted. It seemed to him, considering the high quarter from which these provisions had been recommended to their attention, and that he had personally but a very limited acquaintance with the North-Western Provinces, that he ought not, on his own responsibility, to make any alterations in the proposals of the Lieutenant Governor before the Bill was introduced, but rather wait to see whether any amendments would be suggested in Council or by the Select Committee to which he trusted the Bill would be referred.

In the draft received from the North-Western Provinces, the word municipality, meaning any place to which the provisions of the Bill might be extended, was spoken of also as applying either to a town or to a tract of country. He was not quite sure whether the Lieutenant Governor did not intend that he should be empowered to describe circles wherever he pleased, designate them as municipalities, subject them to the provisions of the Bill, and thus raise additional funds over every part of the country, for police, sanitary or other municipal purposes. From other parts of the draft, however, and on the whole, he had concluded that all the Lieutenant Governor wanted was that the Bill should apply only to towns and to such adjacent places as, for the sake of laying down a suitable boundary, it might be advisable to include within the limits of the towns. The Panjáb Act applied only to towns, and Mr. BRANDRETH remembered that, when the Panjáb Bill was introduced, His Excellency (the President) stated that he would not approve of it if it were to apply to villages, as he was opposed to any extra cesses being levied on the land. He might mention, however, that both the Bengal Municipal Improvement Act, and also, he believed, the Madras Act, apparently applied to any inhabited tract of country, including villages as well as towns. In the fourth section of the Bill, railway-station, village, building or land were the only places specially mentioned, which might be included for the purposes of the Act within the limits of a town. No special allusion had been made to military cantonments, but if there was any intention, in the North-Western Provinces, of raising funds by

means of an octroi, it was almost indispensable for the proper working of such a tax that all trading interests in the same immediate neighbourhood should be placed on the same footing, and that, wherever there was a cantonment with a large bazar near to a town, the tax should be extended to the cantonment as well as to the town, otherwise the town might be injured by some portion of its trade being diverted to the cantonment; nor, even if no octroi was levied, did there seem any reason why the non-military residents of a cantonment, which was often a place of much trade and with more shops and larger bazars than any town in the neighbourhood, should be exempt from the same kind of municipal taxation for sanitary and other purposes as other populous places were subjected to. If the Government desired to exempt the military residents of a cantonment and mustered camp-followers from direct municipal taxation, this might perhaps be done, either by specially exempting military residents, on the ground of the contribution which was at present made, he believed, by the Government to the cantonment-funds for roads, police and other purposes, or by the Government itself, instead of making any direct grant, paying the amount of any municipal taxation that might fall under any general rules on military residents or on military buildings. No attempt, however, had as yet been made in the Bill to dispose of any of these matters.

The Bill had been framed in a great measure on the model of Act No. XV of 1867 (the Panjáb Municipal Act.) That Act had been so recently passed by the Council, that he might doubtless consider that such of the provisions of this Bill as were in accordance therewith would not be objected to. He thought therefore that it would be sufficient if, on this occasion, he confined his further remarks on the Bill to the two or three principal points on which it differed from the Panjáb Act. The fifth section provided that all Municipal Committees hitherto appointed under the orders of the Lieutenant Governor, should be deemed Municipal Committees under this Bill, and that Act No. XXVI of 1850 (to enable improvements to be made in towns) should cease to have effect in the towns into which it had been introduced. The Panjáb Bill, when he introduced it, contained a section worded to the same effect, but that section had been altered in Committee. The Committee declared that Municipal Committees appointed under Act No. XXVI of 1850 should not be deemed Committees under the Panjáb Act, unless it was expressly extended to them by the Lieutenant Governor. The cause of the alteration was, he believed, that it was supposed that existing Committees enjoyed rather more independence than they would do under the new Act, and that it was not advisable to interfere with them when they had worked well hitherto; therefore it was determined that none of their existing privileges should be disturbed unless by the express order of the Lieutenant Governor in each case.

By the thirteenth section of the present Bill, a very important power, which was not contemplated in the Panjáb Act, was conferred on Committees, the power of borrowing money for public works on debentures. The power was properly restricted by the previous sanction of the Lieutenant Governor being made requisite for its exercise, but still it was a power that appeared very liable to abuse; there was the difficulty of obtaining good professional advice in regard to all the works that might be recommended by zealous district officers and obsequious Committees. Without such advice, money might be wasted, debts accumulated, and extra taxation rendered necessary, without any benefit whatever in return having been derived by the municipalities. Perhaps it might be advisable to limit the amount of the money to be borrowed to two or three years' expected surplus of the municipal income, after paying for police, sanitary and all other fixed establishments, and to provide for all debts being paid off within given periods.

The only other point he thought he need mention was that the operation of this Bill was not limited to five years, as was the case with the Panjáb Act. The Council seemed to be of opinion, with regard to that Act, that as no restriction was placed either upon the kind or amount of taxation, it was certainly desirable that the question of municipal government should be re-considered after five years' further experience. Probably some suggestions in regard to this Bill, after it had been published, would be received from the North-Western Provinces, and any amendments that were considered necessary could be made by the Select Committee to which he had moved that this Bill be referred.

The Hon'ble Mr. SHAW STEWART would not at present attempt to express an opinion whether it was right to extend to the North-Western Provinces a measure which last year was extended as an experiment to the Panjáb. He would only refer to two points, in which this Bill left the model of the Panjáb Act, and which would, he trusted, be carefully weighed by the Select Committee to which the Bill was to be referred. The first of these was in section 5. The Select Committee to which the Panjáb Bill of last year was referred recommended, and the Council adopted their recommendation, that those towns which had already obtained municipal constitutions under the old Municipal Act of 1850 should not, except for special reasons, be affected by the new law. The present Bill proposed to override all such municipalities in the North-Western Provinces, and virtually to repeal Act No. XXVI of 1850. The Hon'ble mover had not shown any reason for this difference between the Panjáb law of last session and this Bill; and he thought it was

a difference of very great importance. When he considered the voluntary nature of the proceeding by which a town accepted municipal self-government, he doubted if they had any right, by an arbitrary law and without in any way consulting the inhabitants, to deprive them of whatever advantages they had obtained for themselves by working under the old law, and impose on them the compulsory arrangements that were now proposed for those towns which had refused to undertake the burden of self-government. He trusted the Select Committee and the Council would give this point their careful consideration.

The other point was that sections 23 and 26 of the Bill would confer on the Municipal Committees appointed under this Bill distinct magisterial powers in certain cases. In the municipal law of 1856, and in all other municipal systems based on it, so far as he was aware, no such provision occurred, and he thought the Select Committee would have to consider whether cause was shown for deviating from the principle that had hitherto guided legislation on this subject.

The Hon'ble SIR H. M. DURAND said :—" I have some remarks to offer upon this Bill, which is one which presents to my mind many very doubtful points.

"The first fact which strikes the attention is the very great and unusual power which the Bill confers on the Committees; I mean the Municipal Committees which the Bill creates. The fact is of the more importance as, from the substitution of the compulsory for the voluntary principle hitherto in force in the North-Western Provinces, the effect of the Bill will be practically to entrust these extraordinary and exceptional powers to the officers charged with the civil administration of the country. From the constitution of the Committees it is clear that, although the official members are not to be more than one-third of the non-official members, yet, that the motive power will rest with the official members, and the non-official members be usually ciphers. The Magistrate of the district and the Commissioner will be every thing; and as, even under the existing or the voluntary system, we know how entirely the working of Committees passes practically into the hands of an active and zealous Magistrate, we may be quite certain that under the compulsory system this will inevitably be still more the case. Under such circumstances I think it incumbent on this Council to weigh carefully the enormous power with which they are investing, nominally, the Municipal Committees, practically, the civil functionaries of the Government.

" I will proceed to note some of the sections which a cursory perusal has led me to mark, and will take them in the order in which they present themselves in the Bill, rather than in that order which their intrinsic import-

and warrants. Indeed, I must ask the Council to excuse me for the way in which I shall touch on the various subjects, for I have only had the opportunity of giving the Bill a single perusal this morning, and have not had the time to order, as I could have wished with a view of addressing myself to this Council, the various subjects which, if this Bill passes to a Committee, demand most careful consideration. Asking pardon, therefore, for taking up the sections I have marked without reference to their relative importance, I would invite attention to the great powers conferred by the 10th section on the Committee for purposes of taxation, and in the 11th section on the Lieutenant Governor for the collection of such taxes; for their confirmation or their repeal. Then, passing on to sections 20 and 21, I would still further call for serious attention to the unlimited authority conveyed to the Committee by section 20, and the dictatorial powers it is in their discretion to entrust to one of themselves,—always bearing in mind that, by the constitution of the Committees, the motor force and influence is in the hands of the official members, the Commissioner, Magistrate, &c.

“Allied with this subject are the provisions of sections 23 and 24. The Hon’ble Mr. Shaw Stewart has anticipated me in some of the remarks that I should otherwise have offered on these sections, and, as at present advised, I concur generally with the observations which my Hon’ble friend let fall. I shall now content myself with expressing the hope that all these provisions will be carefully scrutinized in Committee.

“Section 27 confers on the Lieutenant Governor authority to suspend or limit all or any of the powers of the Committee, and to cancel any of the proceedings or rules of any Committee. Very ample power, certainly; but neither in this section nor in any other part of this Bill do I find the remotest allusion to the Government of India. The Bill in a word ignores the control of the Governor General in Council altogether. I think this a mistake, for when deputing such extraordinary financial and other powers, I am of opinion that they should not be made legally independent of superior authority.

“In section 29, on the custody and disbursement of municipal funds, the concluding clause appears to me very loosely drawn. Strict responsibility should be laid on some one person for the issue of cheques or orders for payments from the municipal funds, such cheques or orders being countersigned by others of the Commission. In the responsibility for cash payments there should be no shifting, changeable responsibility. However, this is a point of detail that can be dealt with in Committee.

“ So likewise the maximum laid down for the strength of the municipal police. This maximum of one man to thirty houses may be based on statistical grounds of some kind or other, but it is far from clear upon what grounds, if any, such a provision enters into the body of this Bill, and it will need examination.

“ According to the provisions of this Bill, the power of borrowing on debentures is entrusted to the Committees, under the control of the Lieutenant Governor, to whom an annual balance-sheet is to be submitted. For the information of the public, these annual statements ought to be published, so that the precise condition of the separate municipal funds, and their obligations, may be easily ascertainable, so that the public, whenever invited to take up municipal debentures, may have the means of knowing precisely what they are about.

“ But besides this, which is due to the public, the Local Government should be bound annually to furnish the Government of India with an abstract of the balance-sheets of the various municipalities under its administration. This is the more essential as there is no sort of remedy provided in the Act against defaulting municipalities. Now, considering the zeal with which Commissioners and district officers naturally enough desire to see the improvement of their charges, it is hardly to be expected that, unless very carefully watched and controlled, there will not arise instances in which the Municipal Committees will outrun the constable, and the municipal funds prove unequal to meet the liabilities they have incurred. Under such a contingency, bearing in mind the constitution of the Committees, and that the civil functionaries of Government will be the real workers of the system, it is indubitable that debenture-holders would hold the Government responsible.

“ Over and above this consideration, however, wherever an Act of this kind is in operation, it is I think of extreme importance that the Financial Minister of the Government of India, who has to adjust the fair incidence of general or imperial taxation, should have at command the means of judging of the actual pressure of municipal taxation under various Local Governments. He should not be compelled to waste time in asking for reports on such a vital question, waiting for months or years before he got them. I doubt whether at present even a vague approximation is at his command; yet in order to satisfy himself of the soundness of his own financial measures with regard to the equitable distribution of the burthen of imperial taxation in the least objectionable and least afflictive form, he ought to be able accurately to estimate the degree of pressure already laid on the people by local and municipal taxation.

"I could add to these remarks, but I have said enough to show that, if this Bill pass into Committee, its provisions must be carefully reviewed and rigidly scrutinized.

"I should have dwelt on the inexpediency of the Bill covering, as it does, the levy of municipal taxes from those in the military service of the State. This is a point on which I entertain a strong opinion, and consider that the action of the Bill should have been carefully restricted. But as I hope that His Excellency the Commander-in-Chief may touch on this omission in the Bill, I shall abstain from entering at any length on the question."

~~His Excellency the Commander-in-Chief was afraid he must speak the~~
 number of those who viewed the Bill with much disfavour. He had no doubt that the Government of the North-Western Provinces had given great consideration to the Bill, but they must recollect that that Government was much interested in prosecuting the objects of the Bill, and that, although they asked the Council to give them great and despotic powers of taxation, the Council were really furnished with no reason beyond bare assertion why such taxation was necessary. Mr. Brandreth had told the Council that he was but little acquainted with the North-Western Provinces, and that he had merely accepted what was put before him. But when the Council was asked to confer powers on the Local Government which would enable it to impose taxation in a very arbitrary and searching manner on all classes of the community, he did think that that Council, and the Government in its executive capacity, were bound to call for full information before they gave such powers to the Local Government without any expression of opinion on the part of the people. The Council were absolutely without that information. If he turned to the Statement of Objects and Reasons, HIS EXCELLENCY found that they were told that the existing Municipal Act had by experience been found in the North-Western Provinces to be deficient in several points. Now what a very mild expression that was! Surely the Council ought to have had such a statement of facts as to enable them to judge precisely as to what portion of the existing Act was defective, and how the Local Government had been inconvenienced thereby. If they proceeded to consider the principle of the Bill, it would be found that they were asked to make an alteration of an alarming character; they were asked to entirely change the principle on which municipal taxation had hitherto been imposed on the thirty millions of people in the North-Western Provinces. Hitherto such taxation had rested on what may be called the popular principle; it could not be imposed without the inhabitants of certain towns first making a request that the

operation of the Act should be extended to them. But now, on the contrary, in any town, it was to be the mere fiat of the Lieutenant Governor which would be sufficient to impose such taxation, whether it asked for the establishment of the municipal forms or not. If they were told that they had the Panjáb Act as a precedent, he would remind the Council that they were induced to pass that Act solely on the condition that it was to be viewed as an experiment. His EXCELLENCY himself considered the conditions of that Act to be of a most dangerous character. Still that Act was put before them as an experimental measure; it was only to last five years, so that Government might take the opportunity of judging of its operation, and that at its expiration they might revert to the voluntary principle, or they might be induced from a sufficient induction of facts to hold that there was no danger in extending the scope of the Act. Viewing it as an experimental measure, surely the Government of the North-Western Provinces might have waited till the five years had elapsed before asking the Council to pass another measure of the same kind, but which, according to the North-Western Bill, was to be perpetual. His EXCELLENCY submitted that the time for such legislation had not yet arrived. Whether the principle of the Panjáb Municipal Act were right or wrong, he thought that the Council were bound by the conditions on which they passed that Act to await the issue of their experiment for four years more, at least, before they put in force similar provisions in other provinces.

The details of the Bill having been considered by his Hon'ble and gallant friend Sir Henry Durand, he would not say much about them; but there were certain points regarding them which he would like to re-state, and if guilty of repetition, he (SIR WILLIAM MANSFIELD) would ask the Council to bear with him, because he considered that no Bill had recently been submitted to the Council which had so important a bearing on the peace and contentment of the people. If he looked to the provisions of Part II, he found that an absolute power of taxation was proposed to be vested in the Lieutenant Governor. It was true there was a sort of fiction of a municipal constitution: they were told that there was to be a Committee. Yet what was it? It was the Lieutenant Governor signifying his wish through the channel of the Municipal Committee. His powers under the Bill were great, not merely as regarded the defining of the limits of towns and villages that were to constitute a municipality, but even with regard to the mode of assessment; not merely as to what was to be the tax on the people; what was to be taxed; who were to be taxed, but even as to the constitution of the Committee, which was to be so framed that the views of the Lieutenant Governor should alone be listened to. They all knew that corporations were difficult things to deal with. It had been gravely said by Sir Edward

Coke that a corporation could not be excommunicated because it had no soul: it was stated with some coarseness by an eminent Chancellor, at the close of the last century, that a corporation could not be trusted because it had neither a body to be kicked nor a soul to be damned. And if the Council looked to the constitution of a Committee as sketched in the Bill, they would find that it had neither soul nor body: its actions were confined to the execution of the wishes of the Lieutenant Governor; it was merely the echo of his whisper. HIS EXCELLENCY did not think it was possible to conceive any thing more dangerous, and he completely concurred with Sir Henry Durand that it was impossible to fence it with too much care, or to view it with too much distrust; there was not a loop-hole left through which might leak the expression of popular opinion; there was not a corner or cranny in which the people taxed could find space to protest against the mode of taxation adopted, or guard themselves in any way from the despotic powers of the Lieutenant Governor and those who represented him in the local administration. HIS EXCELLENCY had for so many years been connected with the Government in this country, and knew so well the difficulties with which Local Governments had to contend, that he was most unwilling unnecessarily to cramp their powers: he knew how they were pressed on all sides by the demands of the Supreme Government, and by the natural desire for improvement by which Local Governments were so honourably actuated. But there were other things still more important; that those who were taxed should have some voice in the apportionment of the proceeds of taxation, and some means of expressing their dissatisfaction if taxes were imposed in an improper manner. He found in this Bill no safeguards, no power of that sort secured to the tax-payer in even the faintest degree. On the contrary, he found that the Lieutenant Governor was to be represented by four official members, the Magistrate of the district, the Civil Surgeon, Executive Engineer, and the Tahsildár of the head-quarters Tahsil. Every other member of the Committee was to be either a nominee of the Lieutenant Governor, or he was to be appointed by election in such manner as the Lieutenant Governor might direct: it was not even provided how that election was to be carried on. Further, the Commissioner of the Division was to be entitled to attend all meetings of the Committee, to have free access to all records and accounts, books and other documents, and to make such suggestions for the consideration of the Committee as he might deem fit, and the Committee must furnish him with any information he might call for. It was well known that the Commissioner of the Division represented in a still more positive manner the Lieutenant Governor himself. Whatever, therefore, might be the opinions of the Commissioner, whatever might be the results of the orders given by him, whether for the spread of material

improvement and the establishment of more police, or the finding of ways and means for such operations, such opinions and results were nothing more or less than the echo of the wish of the Lieutenant Governor, expressed through the Commissioner. Lieutenant Governors and Commissioners and Magistrates in this country were generally animated by the most ardent zeal, but it did sometimes happen that that zeal outran discretion. When there was a total irresponsibility, HIS EXCELLENCY thought they had reason to put some check on the actions of the local officers. They were able to quote various instances in which the application of large local funds in certain places had been made with a view to ornament and beautify localities; sometimes much more to the convenience of European ladies and gentlemen, than of the people who paid the taxes. They had beautiful parks in one place and magnificent gardens in another, all made out of the local funds. The Bill provided no safeguard against the application of the municipal funds to such agreeable but comparatively useless projects. In the course of his duties, it was HIS EXCELLENCY'S lot to travel over the Provinces under the several Governments and administrations, and he was constantly thrown into communication with men of all classes who talked freely with him, and if there was one point more than another in which jealousy was manifested, it was in the mode of disbursing local funds. Very recently, HIS EXCELLENCY was stopping for a day in a town of some ten thousand inhabitants, in which there was a beautiful new market-place, a handsome dispensary, a new square, a cross erected at the meeting of certain roads. It was in fact a perfect model of a place. But how was all that done? From local funds. HIS EXCELLENCY could not help seeing that local funds might be made to do in a year or two what might be more safely spread over a much longer time. Among the other buildings at the town in question, HIS EXCELLENCY saw the office of the octroi. Here was a rural town in which there were no manufactures, and there was the octroi office, at which the producers, the farmers of the country, paid an octroi for the introduction of their grain into the markets of this town. HIS EXCELLENCY had also heard there that the industry of cotton-pressing was stifled, or about to be stifled, because of an octroi put on cotton at Hattras, in the North-West Provinces. This had been told him in conversation. HIS EXCELLENCY was not sure of the precise facts in this matter, but gave it as an instance of the abuses likely to be practised by Municipal Committees. The Council knew something of them and the manner of their work. They could understand that district officers did not look much beyond the confines of their own districts, and the Native gentlemen who sat with them in Committee did not see beyond the walls of their own town: they had consequently no objection to get the funds required for municipal purposes from the people living outside, in short to shift the

burthen of local or municipal taxation from themselves on others. His EXCELLENCY was now able to assert, with something like authority, that that abuse had been pursued so as to become almost a system in various parts of India. In Oudh, he was able to say, the abuse of the octroi had so attracted the notice of Mr. Strachey that he was bent on applying a remedy. In other parts of the country the octroi had really come to be a transit-duty in effect, although called an octroi. In another presidency, His EXCELLENCY had himself seen such a tendency, and he believed that the octroi had in itself a self-acting movement to such abuse, and it was almost impossible for any Government, local or imperial, to stop that tendency or put a stop to it in any manner whatever, if pressure were being constantly put on the local Committees to raise funds.

With respect to what fell from Mr. Shaw Stewart regarding debentures, His EXCELLENCY thought that they should take great care that that new power, which had not been given in any manner by previous legislation and was not to be found in the Panjáb Act, was not abused. But there was one important question regarding it which was briefly alluded to by Sir Henry Durand, namely, who was to be responsible in the case of a defaulting municipality? Seeing what the constitution of the Municipal Committees was to be, and that debentures were to be issued with the sanction of the Local Government, which, it might be assumed, would have given the first hint that debentures were wanted, it appeared to His EXCELLENCY that it would be impossible for the Supreme Government to escape the responsibility on account of those debentures. But there was another objection in connection with that matter. The Government of India did not allow any minor Government to contract loans on its own account, lest perhaps it should involve the credit of the Government of India itself. If therefore it became necessary to borrow money on account of any Local Government for any purpose, such for instance as an irrigation scheme, the Local Government would come up and state its wants to the Government of India, and the money would then be borrowed by the Government of India. The Bill proposed to grant a power to the Municipal Committees—that was, to the Lieutenant Governor speaking through the Municipal Committees—which had always, as a matter of financial principle, been denied to the Local Governments, even to those who were assisted by a Council, as in Bombay and Madras. Viewing the great tendency to waste wherever large funds were at the disposal of irresponsible bodies, His EXCELLENCY must say that he thought the only amendment possible with regard to the proposal to give Municipal Committees the power of borrowing money by debentures, was to strike out the sections altogether. He did not

think it was possible to frame any safeguard sufficient to protect the credit of the State, when they entrusted such a power to a municipality, who would not only have had the formal sanction of the Local Government, but who would have been prompted by the Lieutenant Governor himself, because, in considering this matter, HIS EXCELLENCY must say that it was the Lieutenant Governor, and not the screen of a Municipal Committee, that they must look at: they must take the fact of the real governing power, and must throw away the Committee. That view of the subject might not at the first glance be so apparent to the public and to those who were to manage the Committees, but they must deal with it in that light as a simple matter of fact.

With respect to the point stated by Mr. Brandreth, and on which he had been appealed to by Sir Henry Durand, in regard to cantonments, HIS EXCELLENCY would observe that, under the orders of the Governor General, a circular had lately been directed to the several Local Governments as to whether municipal taxation was applicable to cantonments, and if so, in what form such taxation should be imposed. HIS EXCELLENCY had the greatest objection to it himself in any form, as he did not think, considering the manner in which military cantonments were organized, that it was either equitable or politic to extend municipal taxation to them. He said 'equitable,' because municipal arrangements were for the benefit of citizens. It had always been held that cantonments were Government establishments for the residence of military men who were there according to military orders in the discharge of their duty, the expenses of roads and so forth falling on the State. Now, although Bills might be passed, such as the Panjáb experimental Act, which gave the power of taxing people without their being consulted, HIS EXCELLENCY did not think it would be possible to introduce such a practice if they had a British constituency to deal with. If therefore they extended such provisions to cantonments, in which resided British officers and other members of English society, HIS EXCELLENCY was convinced that they must frame their Municipal Bills on a totally different principle. There was no Englishman, he imagined, who would be content to live under a system which ignored the right of taxpayers to have a voice in the raising and application of the municipal taxes—a system deprecated in the report of the Commissioners who reported before municipal reform took place in 1835, and who said that reform was then required in England because of the close character of the municipal corporations of that day, when those who paid the taxes were unable to know how the proceeds of those taxes were disbursed. HIS EXCELLENCY thought it extremely dangerous that military men, living in a state of discipline, should be mixed up with measures

of taxation which would give them a right to discuss the measures of the Government which they were bound to serve; yet, if you subjected them to that taxation, they would require to be represented, and not only that, but they would insist on discussing all questions connected with municipal operations. He thought that would be dangerous in a political point of view, and very wrong in a military point of view. That matter was, however, under investigation, and he would only ask Mr. Brandreth, who was in charge of the Bill, to leave out the question of cantonments, and let it be treated in the manner which had already been decided by His Excellency the Governor General.

It was not for HIS EXCELLENCY to urge that the Bill should not go to a Select Committee; but he would express a fervent hope that, when in Committee, the interests of taxpayers, and the important principle that they should be consulted, would not be forgotten, and that the Committee would bear in mind the principles which had carried so much weight with them in India till now, and were never forgotten by our countrymen at home.

The Hon'ble SIR W. MUIR wished to say a few words in favour of the Bill, which he trusted would be allowed to go into Committee. He had read this Bill for the first time that morning, and therefore was not prepared to go thoroughly into the subject. In the course of the debate, questions of the highest importance had been raised, affecting the first principles of local administration; but he did not think that anything had been advanced to prevent the Bill being entertained favourably by the Council, though some of its provisions might be susceptible of improvement. His Hon'ble and gallant friend, the Commander-in-Chief, had remarked that a sufficient case had not been made out to prove the necessity for the introduction of this measure, and had urged that it should be postponed until the corresponding enactment had had full trial in the Panjáb, that was for four years. But he (SIR W. MUIR) could not see the necessity for any such postponement. The measure had been approved as an experimental one for the Panjáb, and he did not see why the North-Western Provinces should not be admitted to share in the same advantages from the measure, even as an experimental one, as the Panjáb. The Act had now been in force in that Government for a year, and he had heard no complaints of its having worked badly in any respect: it might be presumed that the Government of the North-Western Provinces had ascertained that the Act had so far succeeded and answered expectations before they recommended its extension. At any rate, the North-Western Provinces were entitled to claim that they should have the benefit of the same measure, even if the Council should see fit to pass the enactment as an experimental one for a term of years.

Although the reasons which induced the Government of the North-Western Provinces to propose this measure might perhaps have been stated more in detail, yet he did not agree with His Excellency the Commander-in-Chief that no sufficient grounds had been submitted. In the Statement of Objects and Reasons it was shown that, whereas the present municipal law required an application from the people themselves, in order to bring it into play, those really concerned were indifferent in the matter. Unless, therefore, the Government acted *proprio motu*, there would be no early prospect of anything being done towards municipal improvement. The Government were responsible for the sanitary condition of towns, and there were also other objects of deep interest to the people which it devolved on the Government to carry out—education for instance; and yet it would not be possible for the Government to introduce these important reforms and improvements without a machinery such as this Bill contemplated for raising and administering the necessary funds.

He would also urge that the Bill was in conformity with those principles which were now advocated of local taxation. It was now admitted that certain branches of the local administrations should be met by the raising of local funds by means of license-taxes, &c. But unless the Council sanctioned some such measure as this, giving the power of initiating local taxation to the people under the guidance of the Government, it would be impossible to carry the proposed principles into effect.

It had been stated that the existing municipal taxation under Act No. XXVI of 1850 was a voluntary measure, since the people must themselves apply for its introduction, and that, therefore, taxation under it was not subject to the same objection as under this Bill, which provided for the compulsory application of the measure. It had also been said that, notwithstanding the provisions for the Committee themselves proposing the taxes to which they should be subjected, it was notorious that whatever was done would be at the prompting of the official members, and would, in fact, be the action of the Government. But he (SIR W. MUIR) might apply the same reasoning to the present system. It might be said with equal truth that the chief people of a town were induced by official influence or pressure to apply for the introduction of Act No. XXVI of 1850, and when it had once been applied, they could not rid themselves from its obligation, and from the taxation which, equally with this Bill, it involved. In this view it must be looked upon, equally with this, as a measure virtually of Government taxation.

Valuable suggestions had been offered in the course of the debate, and he (SIR W. MUIR) was disposed to think the Bill might be improved in Committee by

the adoption of some of them. Some checks might be introduced to secure that the modes of taxation should be really in conformity with the desires of the people. The system might possibly be more popularized. For example, in section 6 it was proposed that the non-official members might be selected either by the direct nomination of the Lieutenant Governor, or by election. Whether some plan might not be secured for having a portion of the Committee invariably nominated by popular election, he was not prepared, without further consideration, to say; but such a modification would to a great extent obviate the objection that had been raised. If the Bill went, as he trusted it would, into Committee, this point could be farther considered there.

Then it had been objected by His Excellency the Commander-in-Chief that the powers assigned to the Lieutenant Governor were too absolute and despotic. But really, unless some considerable authority was vested in the Government, there would be a danger of taxation taking wrong courses. At present the Native communities themselves were indifferent and also uninformed on the subject of taxation, and it seemed absolutely necessary, in order to ensure just and politic taxation, that a complete authority should be reserved in the hands of the Government.

In the remarks which had fallen from his Hon'ble and gallant friend Sir Henry Durand, as to the advisability of accounts being rendered to the Supreme Government, in reference to loans taken up under the 13th section, he (SIR W. MUIR) fully concurred. Indeed, it would probably be expedient that the sanction of the Government of India should first be obtained for such loans. Some responsibility—at least an ultimate and eventual responsibility—would be regarded as attaching to the Government, and it was only right, therefore, that it should have the means of checking the account.

In respect to what had been urged against section 5, that Committees already formed under Act No. XXVI of 1850 should not be brought under the proposed Act, he (SIR W. MUIR) was disposed to think there would be a decided advantage in bringing them under the same law, and so having a uniform system for all Municipal Committees; and he could not see that there would be any injustice in so treating them.

There were other matters in the Bill which might be animadverted on, but they were more or less matters of detail, and there would be full opportunity for considering them if the Bill was allowed to go into Committee.

The Right Hon'ble MR. MASSEY said that, like Sir Henry Durand and Sir William Muir, he had not had time to examine very carefully the provisions of

the Bill, but he was satisfied that it should not be summarily rejected. The objects which the Bill had in view should, he thought, be encouraged. Those objects were stated in the preamble to be police, conservancy, local improvements and education. If those objects were to be promoted, they must be provided for from local resources, and those resources could only be developed by the action of the Local Government. His Excellency the Commander-in-Chief had objected to the Bill as constituting a Committee which, in fact, would be ruled by the Lieutenant Governor. MR. MASSEY agreed with His Excellency on that point. Looking at the mode in which the Committee would be appointed, so far as it professed to assume the status of an independent body, it was, he must say, a phantom and a fiction. The Bill substantially conferred power on the Lieutenant Governor to tax the people of the Province for the purposes named in the Bill. MR. MASSEY would be very glad, if possible, so to constitute the Committee as to provide for that infusion of the independent element which had been adverted to by Sir William Muir; but MR. MASSEY was not satisfied that the independent action of the Committee would not be weakened by an attempt which would probably be futile. There was no possibility at present of constituting, in this country, any body containing a representative element. Every Member of the Council itself at which they were sitting, and which had power to tax the whole people of India, was nominated by the head of the Government, without reference to the wishes of the people or any mode of election. He must say, therefore, that he was not satisfied that the powers proposed to be conferred on the Lieutenant Governor of the North-Western Provinces could be exercised by any more responsible or better authority. But when he came to consider the powers proposed to be conferred on the Lieutenant Governor by the Bill, he was disposed to be more critical. His Excellency the Commander-in-Chief had adverted to the fact that there was no provision in the Bill for the examination and independent audit of accounts. The Committee was required merely to make returns of their expenditure annually, or at any more frequent intervals that the Lieutenant Governor might appoint; but it appeared to him (MR. MASSEY) that the provision contained in section 34 as to the submission of statements of receipts and disbursement of the funds raised under the Bill was very insufficient, and that it would be expedient that those disbursements should be examined by an independent authority, and that statements of receipts and expenditure should be submitted, either annually or half-yearly, to the Government of India. He also agreed with His Excellency the Commander-in-Chief that the Government of India might be involved in a contingent responsibility in the event of the municipal funds being misused. It therefore behoved the Government to take measures for the prevention of such a contingency, and to arm itself with power to en-

force such regulations in that respect as it might think proper. His Excellency suggested that the Bill itself might be deferred until the Council should ascertain the result of the incomplete experiment which had been tried last year in the Panjáb. MR. MASSEY, however, was extremely unwilling that urgent requirements of the kind contemplated by the Bill should be postponed, and he was anxious that this Bill or some such measure should be tried in the North-Western Provinces.

There was one provision in the Bill which he looked on with great hesitation and disfavour. By the tenth section, power was given to the Municipal Committee, with the sanction of the Lieutenant Governor, to impose taxation; and thus, through the instrumentality of this power, the Local Government could cover the Province with a network of taxation, in contravention or evasion of the Indian Councils' Act, which rendered it necessary that all taxation, whether imperial or local, should receive the sanction of the Governor General in Council.

The Bill also proposed to confer on municipalities the important power of raising money by debentures. Reading that provision by the light of English experience, he should regard it as one, not only unobjectionable, but absolutely necessary to carry out the purposes of the proposed Act. There was not a municipal body in England which had the power of local taxation, which had not also the power of raising money by debenture. It was impossible to carry out improvements without large funds, which could not be provided for out of the proceeds of annual local taxation. In England no difficulty was felt in obtaining advances on local credit, but that was because the local resources were of an ample and substantial character. The security which could be offered was sufficient to tempt capitalists, and there was seldom any difficulty in raising money on good security. Even if such difficulties existed, there was an Act of Parliament which authorized the Treasury to advance money on such security, and large sums were lent by the Government for local improvements. In India, however, the case was different. He greatly doubted whether, in the first place, the Local Government could offer any security which would induce Indian capitalists to come forward to lend their money. If funds could possibly be raised, it would no doubt be at a high rate of interest; and even if the Municipal Committees could get money at a moderate rate, his experience of Indian institutions was such as to suggest a vivid suspicion that the Government of India would be ultimately responsible to the persons who advanced the money. He would therefore much prefer to see the omission of the section, and to reserve the power of raising money for the consideration of the Government of India whenever the necessity arose. If the object for which the money was

required was desirable, and the local resources were adequate, the best way would be for the Government of India to advance the requisite sums from imperial resources, and thus at once accept the responsibility which would practically devolve upon them.

Those were the only observations which he thought it necessary to make at the present stage of the Bill. He admitted that there were materials in the Bill for a very valuable law, and he did hope that, if it were carefully considered with the amendments which had been suggested in the course of the debate, and if such of those amendments as were found valuable were introduced into the Bill, a commencement would be made of a system of local taxation for local purposes which would ultimately conduce to the benefit of the country, and enable the Government to carry into effect such improvements as it behoved every civilized community to effect with as much speed as was consistent with a wise economy.

The Hon'ble Mr. COCKERELL said that the main provisions of this Bill, as they might be termed—he referred to those contained in the 10th section—appeared to involve a wrong principle, *i. e.*, the vesting in the Local Government a practically unlimited power of taxing the population and owners of property in the towns to which the Bill, if passed into law, might be applied, without their sanction. These provisions, he was aware, had been under discussion in this Council and eventually passed, in the same form as they stood in this Bill, in the Panjáb Municipal Act of last year; but grave doubts were then expressed as to the policy of conferring such extensive powers on the Local Governments, and the disinclination of certain Hon'ble Members to give their accord to such a measure was apparently overcome solely on the understanding that the proposed Act was purely tentative and temporary, and on the assurance of the Hon'ble promoter of the Act, and of those whose experience of the country in which the Act was to come into force entitled their opinion to the greatest weight, that the state of things which it would introduce, and the manner in which it was likely to be carried out, would not be materially different from that which was already in existence, and that the practical effect of the Act would be, rather to give a legal status to existing municipal institutions and their proceedings, than to impose any new burdens or restrictions on the people.

But when it was proposed to extend this experimental legislation to a much wider sphere; to provide for its operation in some of the largest and most densely populated cities and towns of the empire, he ventured to think that it was incumbent on this Council to examine more closely the principle by which the proposed power to impose local taxation for municipal purposes was regulated.

The section to which he referred, as also the corresponding section in the Panjáb Act, was apparently taken from the 7th section of Act No. XXVI of 1850. But there was this important distinction in the circumstances of these different enactments that, whereas the section in the Act of 1850 which provided for this unlimited discretionary taxation was preceded by important preliminary conditions, which precluded the introduction of the Act into any town without the consent of the majority of the people who would have to bear the burdens which it would impose, in the case of the present Bill and the corresponding enactment of last year, the people upon whom the taxation was to fall had no voice in the matter. For although the Bill attempted, by its provisions in regard to the constitution of Committees, to give a representative character to the agency by which the local taxation was to be defined and regulated, that agency would nevertheless be virtually selected by the Local Government; its constitution and acts would be so directed and controlled by the same authorities as to give it practically no representative form whatever in the ordinary sense of the term.

Such being the case, he ventured to maintain that it was the duty of the legislature to affix some reasonable limits to the power of the Local Government in enforcing a system of taxation upon the population of any town with or without their consent.

That principle had been fully recognized in framing the municipal enactments which were in force in the Lower Provinces, and although he did not advocate the restrictions which they contained as to the form which local taxation for municipal purposes should take—for he could readily conceive that the form of direct taxation which obtained exclusively here might be unsuited to application as the sole source of income in the towns of the Western Provinces—he submitted that, where the taxation imposed took the direct form of a rate upon real property, or an assessment on the circumstances of the person assessed, some reasonable limit should be fixed by law as a safeguard against the imposition of undue burdens upon the people.

Where taxation was imposed in the indirect form of duties upon produce and other articles of export or import, a limit was impracticable, and was so, he thought, from the very circumstances of the case—for in such instance there were certain natural restrictive influences, if he might so term them, which tended to operate as a guarantee against undue burdens—for if the trade of any town in any particular branch were to decline through its subjection to an excessive duty, in proportion to such decline would the revenue derived from its taxation be diminished, and the municipal administration would have a

direct self-interest in preventing such results; but when the taxation of real property, or direct assessment of the inhabitants of any town, was resorted to, the case was different; neither property nor persons could escape the impost, and the guarantee against its excessive and oppressive incidence was wanting.

As the Bill, amongst other provisions, contemplated the borrowing money on the issue of debentures by the Municipal Committees, it was not improbable that recourse to direct taxation would be found necessary to provide a sufficient security for loans; the sources of indirect taxation were fluctuating and uncertain. Even in Calcutta, municipal credit had not attained that position which would enable it to act freely in the matter of raising loans without the support of a Government guarantee, and yet here the public creditor had some fixed data by which he could estimate the value of his security; local revenue, based on indirect taxation only, had no such data, and he apprehended that, although there might be a general preference for indirect taxation, the direct form of a rate on real property must be resorted to.

For these reasons he hoped that the present provisions of the Bill relative to the imposition of taxes would undergo such alteration in Committee as would supply a safeguard against the possibility of the imposition of excessive burdens on real property or persons for the purposes of the Act.

The provisions of section 27, which empowered the Lieutenant Governor to suspend or limit the powers and cancel the proceedings and rules of the Committees, seemed to be open to grave objection.

Neither the necessity for, nor the sound policy of, such provision was apparent. It was unnecessary, because almost all the rules and proceedings, with the exception of those referred to in section 20 of the Bill, must be primarily approved and sanctioned by the Lieutenant Governor before they could have effect, and there could be no reasonable grounds for the exercise by the Local Government of the power of revoking measures initiated with its assent, and indeed under its direct authority. It was impolitic, because one of the main objects of the introduction of municipal administration was to stimulate the interest of the more intelligent portion of the community of the towns, &c., to which it was applied, in measures which had for their object the amelioration of the condition of the people, by inviting them to take a share in the local administration which devised those measures and carried them into operation; and if their free action was to be restricted by such an excessive degree of interference by the Government as this provision of the Bill contemplated, he apprehended that there would be a difficulty in inducing men of the greatest intelligence and

independence of character, in short, the very men that were most needed, to serve on these proposed Municipal Committees, or at least to take an active interest in their affairs. Any provision that would be likely to result in discouraging the taking an active share and interest in the direction of municipal affairs by this class of persons was much to be deprecated. For these reasons he hoped to see this section struck out in Committee.

There were other points of detail which seemed to call for careful attention when the Bill went into Committee. Some sections, such as the 32nd, 33rd and 36th, seemed to be wholly unnecessary, as providing for matters already within the provisions of the existing law, or as treating of subjects for which no legislative sanction was required.

Objection had been taken by one Hon'ble Member (Mr. Shaw Stewart) to the proposed assignment of certain magisterial authority to Municipal Committees, for dealing with nuisances, on the ground (as he understood him) of the supposed innovation which the measure involved. The proposed assignment of such jurisdiction was not without precedent; more extensive magisterial powers were conferred on Municipal Committees by the District Municipal Improvement Act of the Bengal Council, which had been in operation in most of the chief towns of the Lower Provinces for the last three years, and he was able to state, so far his experience of the results of their exercise of those powers enabled him to form an opinion on the subject, that the experiment of investing them with magisterial authority had been entirely satisfactory.

His Excellency the Commander-in-Chief objected to conferring upon Local Governments the power of pledging their credit by the issue of debentures, as was provided for by the 18th and following sections of this Bill. His Excellency would seem to be unaware that precisely similar provisions existed in the Act of the Bengal Council to which he had above referred, and which had been in operation for some time past. He was not prepared to say what had been the results of those provisions, or whether the power created by them had ever been exercised by the Municipal Committees; but he thought it likely that recourse might have been had to them both in Howrah and the suburbs of Calcutta.

The Hon'ble MR. BRANDRETH said that, as he had taken charge of this Bill, it would be incumbent on him to say a few words with reference to the observations that had been made by several Hon'ble Members upon the Bill. He was very glad to hear that, with the exception of His Excellency the Commander-in-Chief, all the other members of the Council who had spoken, though

they objected to some of the provisions of the Bill, and were generally of opinion that it required a good deal of further consideration, were still in favour of his motion that it should be referred to a Select Committee. Some very important observations had been made in the course of the debate which had just taken place, which would, he had no doubt, be carefully considered by the Select Committee to which he trusted the Bill would be referred. The first speaker, his Hon'ble friend Mr. Shaw Stewart, in expressing his disapproval of the fifth section of the Bill, which provided that existing Committees were to be deemed Committees under the proposed Act, said that he (MR. BRANDRETH) had not indicated what course he intended taking with reference to this section; but MR. BRANDRETH had stated the points on which this section differed from the corresponding provision in the Panjáb Act, in order to shew that it was a matter which required the consideration of the Select Committee. Though he took charge of the Bill and introduced it because he approved of most of its provisions, yet the Bill itself was by no means drawn up exclusively in accordance with his views, but in order to represent the proposals of the Lieutenant Governor of the North-Western Provinces in regard to the legislation which he thought necessary. His Hon'ble friend Mr. Shaw Stewart, as well as Sir H. Durand, adverted to sections 23 and 24 of the Bill, which gave Committees the powers of Magistrates in regard to certain matters, as conferring new and objectionable powers which Committees had not hitherto exercised. His Hon'ble friend Mr. Cockerell, however, had told them that, in Bengal, Municipal Commissioners were invested with the powers of Magistrates, and were considered to exercise them in a satisfactory manner. He would observe also that it was a very restricted power which was conferred on Committees by these sections animadverted on. If he remembered right, under sections 62 and 63 of the Code of Criminal Procedure, Magistrates had the powers described with which Committees were invested by this Bill; all that the Committees would be empowered to do was to enjoin persons not to continue nuisances, and to prohibit certain obstructions and injuries being committed. If any person disobeyed the orders of a Committee in such matters, he could not, he believed, be punished by the Committee in the exercise of any powers conferred by this Bill, but would have to be prosecuted before a regular Magistrate fully empowered to punish such disobedience. Again, the powers that might be exercised under chapter XX of the Code of Criminal Procedure in regard to local nuisances, were guarded against any liability to abuse by many important restrictions presented in that chapter; but if it should appear that, in places where Municipal Committees were likely to be appointed, there were at present resident Magistrates, he was by no means bent on retaining these sections. The investing of the Municipal Committees with these restricted magisterial powers would, however, add

some extra dignity and importance to the office, which might not be without advantage. Sir H. Durand adverted to section 21 of the Bill, as conferring a dangerous and excessive power on individuals; but all, he imagined, that was intended by that section was to allow Committees to delegate to individuals, in certain respects, such of their powers as they could not conveniently exercise in their collective capacity. Sir H. Durand considered that provision ought to be made for the accounts of the Committees being published. Section 7 of the Bill however directed that the proceedings of Committees should be published in some local English or vernacular newspaper, or in such other manner as the Lieutenant Governor might direct. The Hon'ble and gallant member also considered that provision ought to be made for regular statements of accounts being submitted by the Local Government to the Government of India, with a view to some check on municipal expenditure being exercised by the Government of India. This Bill however only professed to deal with the relations of the Municipal Committees towards the Local Government, to which estimates and accounts were to be submitted. If the Government of India really wished to examine and check these accounts, he imagined it had only got to call upon the Local Government to furnish it with any statements on the subject it might require; or if the Government of India desired that provision to this effect should be made in the Bill, it could easily be done; it was not likely that any objection would be raised. As a minor point, Sir H. Durand raised some objection to the maximum proportion of one policeman to thirty houses being fixed. It would perhaps be better not to attempt to fix any proportion; for whatever maximum was fixed would probably be excessive if applied to most towns, and would consequently be no real safeguard against their being overrun with constables, and the mere suggestion of a proportion might put it into the heads of Police Superintendents to ask for more policemen than were absolutely necessary.

His Excellency the Commander-in-Chief was the next speaker. He appeared to object to the Bill altogether. He considered that it invested the Lieutenant Governor with a despotic power in regard to taxation; that on his mere fiat any amount of money might be raised without any regard to the wishes of the inhabitants of the towns. His Excellency told them also of the wasteful expenditure from the local funds which he had noticed in some parts of the country, and of the evils of the octroi. He also drew an unfavourable comparison as regarded this Bill, between it and the existing Municipal Act (No. XXVI of 1850). He considered that, under that Act, the inhabitants really had some voice in regard to the matter of taxation, as the Act could not be introduced unless they desired it; and he thought that no sufficient reasons had been

duced for the substitution of a new Act. MR. BRANDRETH thought that most of the objections which had been taken to this Bill would be found to lie equally against the existing Municipal Act. No limit was placed by that Act on the amount of taxation; the octroi tax was there recognized; the Municipal Commissioners were all to be appointed at the sole will of the Government; the inhabitants could not elect their Commissioners, and, in regard to the matter of accounts and estimates, the Committees were left much more unchecked than they would be if this Bill became law. Notwithstanding the objections raised by His Excellency the Commander-in-Chief, MR. BRANDRETH trusted that the Council generally would see that a new Act was really necessary; some of the reasons for it were given in the statement which he had annexed to the Bill. Now that a regular organized police-force, with a Police Superintendent at its head, had been established in every district, it was surely desirable that the police in large towns should be a part of that body; that their number should be finally decided by the Local Government, and that the Local Government should be able to require every Municipal Committee to provide out of its funds, in the first instance, for the maintenance of the police establishments. In a matter, also, so obviously necessary as the construction of public works, and the giving effect to useful sanitary measures in towns, it was surely advisable that the Local Government should be empowered so far to take the initiative as to require the appointment of Municipal Committees for these purposes, and that it should not be required to go through the somewhat absurd formality provided by the existing Act, which was not well suited to the circumstances of the country, of calling upon the mass of the inhabitants of such towns to decide whether they would have the Act or not; that was, to decide whether they would have their town clean or dirty, healthy or unhealthy; whether they would have proper roads, streets and drains constructed, or whether they would do without them. This Bill also allowed of provision being made by the Committees, out of the municipal funds, for the establishment of schools—a provision which was not recognized in the existing Act—and also allowed the Local Government to exercise a greater check on the proceedings of the Committees, in the way of requiring estimates and accounts and cancelling any of their proceedings that were objectionable, than it could exercise under the existing Act; and considering how ignorant of their duties, however willingly they might perform them, many of these Committees would probably be in the first instance, it seemed to him most desirable that the Local Government should be able to exercise that extra control over their proceedings which was given by this Bill. It would be observed that two-thirds of the Municipal Commissioners at least must be inhabitants of the town for which they were appointed; and, considering that it could not for a moment be supposed that the object of the Local Government

in making these appointments would be to oppress the people and extort money from them, but, on the contrary, that it could only be supposed that the object of the Government would be to appoint the most intelligent persons to represent the rest of the inhabitants, it seemed to him that as much precaution, care and attention to the wishes of the inhabitants in general would be insured, in regard to this matter of taxation, as could reasonably be required and was suitable to the circumstances of the country. His Excellency had concluded that there was a better guarantee for municipal taxation being in accordance with the wishes of the people under the existing Municipal Act, than there would be under this Bill, in consequence of the inhabitants of a town being required to declare themselves for or against the adoption of the existing Act before it could be introduced. MR. BRANDRETH thought, however, that the observation of his Hon'ble friend Sir W. Muir on this subject would have satisfied the Council, that the ascertaining of the wishes of the inhabitants might become a mere formality, and that the mass of the inhabitants would not really have, on account of its observance, any voice in regard to taxation of their town, on His Excellency's supposition of the Government intending to act despotically in the matter without any consideration for the people. As regarded the wasteful expenditure of local funds which His Excellency had noticed in some parts of the country, and which he apparently thought would be still less capable of check by the passing of this Bill, he would remark that what were usually called local funds were the ferry fund, the road fund, the local agency fund; and that they were generally distinguished by this name from the municipal funds, which were alone treated of in this Bill. Over the former class of funds Municipal Committees had no control whatever, and perhaps, if enquiries were made, it would be found that the wasteful expenditure which His Excellency noticed took place from these local funds, and that it would not have taken place if the expenditure had been under the control of Municipal Committees.

His Right Hon'ble friend Mr. Massey, though he agreed to the Bill going to a Select Committee, was yet by no means satisfied with the Bill as it stood. His principal objections appeared to relate to the power of initiating taxation, which he supposed to be conferred by the Bill on the Local Government, and to the power given of raising money on debentures. It was not intended, however, to give the first-mentioned power to the Lieutenant Governor; nor did he think that the eleventh section of the Bill, which he supposed was what his Right Hon'ble friend referred to, would bear the interpretation which had been put on it; or if it did, the wording of it could be altered in Committee. All that was intended by that section was to provide that the taxes fixed by the Committee should be equitably assessed and distributed on individuals; that no

individual should have to pay more than the amount properly due from him, and that appeals from the assessments or rates should, if necessary, take place. As regarded the raising money on debentures, if it was considered that it would be any safeguard against the abuse of the power, the previous consent of the Governor General in Council might be required.

The last speaker was his Hon'ble friend Mr. Cockerell. He considered that some limit ought to be put on the amount of taxation, if raised from real property, and that the power given in the 27th section to the Lieutenant Governor, of cancelling the proceedings of Committees, would be very galling to them, and make the members hesitate to accept office if they were thus liable to be interfered with. It seemed to him, however, that it would be impossible to limit the amount of taxation in any satisfactory manner; and as to the power given to the Lieutenant Governor under section 27, he thought that it was advisable that the Lieutenant Governor should have this power, with reference to the character of most of the Committees that were likely to be appointed in the North-Western Provinces. This section, which was taken from the Panjáb Act, was agreed to after a great deal of consideration. With those observations he again moved that the Bill be referred to a Select Committee.

HIS EXCELLENCY THE PRESIDENT thought it was a pity that the principle of the Bill had not been more fully discussed in the Executive Council before the Hon'ble Mr. Brandreth had obtained leave to introduce it. At the same time HIS EXCELLENCY was free to admit that he did not think that any harm had arisen in consequence of that neglect. The debate which had taken place had been a valuable one, and had elicited many useful points, which would no doubt be carefully considered in Committee. As regarded the objection of His Excellency the Commander-in-Chief to the Bill itself in a military point of view, THE PRESIDENT thought it right to remind the Council that this Bill did no more than maintain the principle confirmed so long ago as the year 1864 as regarded taxation of military persons in cantonments. The Act then passed was supported by the opinions of the late Commander-in-Chief of the Army and the then Military Member of Council. At the same time, THE PRESIDENT was fully aware that His Excellency the Commander-in-Chief had always been opposed to that principle, and it was consequently, and in deference to his views, that the Government of India had lately issued a circular directing the chief local authorities to consult the chief military authorities in the Provinces, and report on the subject; and, as far as His Excellency THE PRESIDENT was concerned, he thought it would have been well that, pending

replied to that circular, this Bill had not been introduced. At the same time the Committee to whom the Bill would be referred, would perhaps bear in mind that circular, and postpone their final decision on the merits of the Bill until those replies should have been received.

As regarded the abuse of the octroi system, and its tendency to abuse, HIS EXCELLENCY was very much in accord with the Commander-in-Chief. THE PRESIDENT did think that there was a great tendency for that duty to run into a transit-duty, and HIS EXCELLENCY recollected very well the remarks made to him by Mr. John Strachey on that subject while he was in Oudh. But at the same time it was certain that, in many places in the North-Western Provinces, as in the Panjáb, where the people were allowed to give their opinion, they greatly preferred octroi duties to any direct system of taxation for municipal purposes. On that ground originally in the Panjáb, octroi duties, though in opposition to the principles of political economy, were introduced, and from thence the system had been extended to the North-Western Provinces, Oudh and the Central Provinces. HIS EXCELLENCY therefore thought it right to say that, while allowing the imposition of that system of taxation, the local authorities, and particularly the Lieutenant Governor of the North-Western Provinces, should be most careful to see that they were not abused.

There was another point to which His Excellency the Commander-in-Chief had referred. In many places, where undeniable improvements had been effected, they had been made more for the advantage of Europeans than Natives, whereas no doubt the greater portion of the funds had been paid by Natives. That was a point, also, which was deserving of consideration.

With regard to the question of returns of accounts being made to the Government of India, HIS EXCELLENCY was somewhat doubtful. In the first place you would burden the Government with an enormous mass of papers, which it had no time to digest and consider. HIS EXCELLENCY'S belief was, with every respect to the Financial Department, that if those papers were sent up, they would not be sifted and digested and criticized in a way which would make them of any use whatever. There was also this objection that, if those papers came, and the Government did not exercise a check on them, then the Government of India practically became responsible, certainly morally responsible, for any evils that grew up; whereas, if those papers did not come up to the Government of India, they would remain with the local authorities, and those authorities would be held responsible.

Then, on the question of policy as to borrowing. It seemed to HIS EXCELLENCY that if you limited the amount that could be borrowed in the way

Mr. Brandroth had set forth in his opening speech; practically a sufficient check would be imposed. HIS EXCELLENCY did not think it was the habit of municipalities in the interior to borrow money: he thought, on the contrary, that the feeling of the citizens of towns would be adverse to such a system. As far as HIS EXCELLENCY'S experience went, the dangers of that system existed more in the presidency towns than in the mofussil; but he had on one or two occasions seen cases where money to a moderate extent had been borrowed entirely with the consent of the Native inhabitants, and great and beneficial improvements had been made, and those sums had been duly repaid. HIS EXCELLENCY alluded particularly to the case of Lahore, where the glacis of the town had been turned into gardens very much to the health of the town, and numerous members of the Native community had expressed themselves as very much pleased at the result.

Then, as to the fear that had been expressed that the local authorities would have too much power, and that there would be a tendency to abuse it, HIS EXCELLENCY thought that, unless some considerable power were given to those authorities, the system of municipal taxation and municipal expenditure would break down. The people on the whole were really indifferent to the subject of municipal and local improvements: if left to themselves, a great majority would prefer that there should be filth and insalubrity, rather than that they should be taxed; but if the initiative was taken in a kindly and gentle way by the local officers, if the leading Native citizens were consulted, and improvements were carried out by degrees, then HIS EXCELLENCY thought, particularly where the Local Government took the initiative, the Natives would gladly follow the lead and accept a system of municipal government, which, if left to themselves, they would really oppose. HIS EXCELLENCY thought that several Hon'ble Members would bear him out in that statement.

Then, as to the question of the appointment of Committees, it appeared to HIS EXCELLENCY that a considerable majority of such Committees would be independent members, who could exercise their independent votes; and if such members, having that independence, were willing to be guided and led by the official members, HIS EXCELLENCY thought that, on the whole, there would be a gain and not loss. The Executive Members of Council would no doubt remember that, for several years, the Government had been trying to induce towns throughout British India to bear a portion of the cost of their police, and they had been urging the adoption of sanitary improvements and arrangements, the establishment of hospitals, the construction of saráís, and all those numerous matters which result in such great improvement to the country and benefit to the inhabitants, particularly the poor. To enable such improvements to be carried

out, they must give the Commissioners some power to raise funds for the purpose. If, on the one hand, they urged the local authorities to induce the people to come forward, and when they did come forward and asked for a law inaugurating this system, they checked and restrained them, what gain was there ?

One objection also was that the authority given to the Committees was to be subject to the sanction of the Local Government. HIS EXCELLENCY thought that was clearly to the interest of the people. He did not think that it put an arbitrary power in the hands of the Local Government. The practical effect of that provision would be to prevent the Committee or any influential members of the Committee (Commissioners, Magistrates and the like) from persuading the body to which they belonged to do more than they were willing to do. The section seemed to provide for that class of cases. The Lieutenant Governor would hear of the doings of the Committee in various ways; there would be many who would be willing to tell him by petition or otherwise of what was being done. He would be told that such a thing was going on, and that the people did not oppose it from fear of the Magistrate. The Lieutenant Governor would then tell the Magistrate that it ought not to be done. He would say "No doubt you mean well, but I object to the thing being done". HIS EXCELLENCY therefore thought that the section would practically work well.

The Motion was put and agreed to.

COTTON FRAUDS' BILL.

The Hon'ble MR. SHAW STEWART asked leave to postpone the presentation of the report of the Select Committee on the Bill for the suppression of Frauds in the Cotton Trade.

Leave was granted.

The Hon'ble MR. SHAW STEWART moved that the Hon'ble Mr. Cockerell be added to the Select Committee on the Bill for the suppression of Frauds in the Cotton Trade.

The Motion was put and agreed to.

SUNDRY BILLS.

The Right Hon'ble MR. MASSEY moved that the Hon'ble Mr. Cockerell be added to the Select Committees on the following Bills:—

To consolidate and amend the law relating to Merchant Ships, Seamen and Passengers by Sea.

For repealing certain enactments which have ceased to be in force or have become unnecessary.

To define and amend the law relating to Contracts, Sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership.

To define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

The Motion was put and agreed to.

The Right Hon'ble Mr. MASSEY moved that the Hon'ble Khwāja 'Abd-ul-ghani be added to the Select Committees on the following Bills:—

To define and amend the law relating to Contracts, Sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership.

To define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill to amend Act No. III of 1861 (to provide for the collection of duty of customs on pepper exported by sea from the British port of Cochin)
—The Hon'ble Mr. Taylor and the Mover.

On the Bill to make better provision for the appointment of Municipal Committees in towns in the North-Western Provinces and for other purposes
—The Right Hon'ble Mr. Massey, the Hon'ble Major General Sir H. M. Durand, the Hon'ble Messrs. Shaw Stewart and Cockerell and the Mover.

The Council adjourned till the 17th January 1868.

CALCUTTA,
The 10th January 1867. }

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Department (Legislative).