

and beds, and the ratio of beds to population, and indicated how backward Bombay was in this respect.¹

Dr. Hewlett also called attention to another social question which was intimately connected with the administration of public health. Examining the prevalence of venereal diseases in the city he remarked that he would not be discharging his duty if he did not ask for a legislative enactment designed to subject all prostitutes in Bombay to strict medical and police supervision. His own experience taught him that this plan had worked in Aden, where there was a Lock Hospital and where, as the result of the measures taken, venereal disease was virtually extinct. He strongly advocated the segregation of such women and the erection of a Lock Hospital in Bombay, but the popular sentiment was so violently opposed to a recognition of vice in any form that nothing could be done in that direction.² Since then, on several occasions, the proposal has been revived but its advocates have failed invariably to overcome the deep-rooted prejudices of the people against it.

This brief account of the efforts made by the Health Department for the improvement of the health of the city reflects no little credit on the officers directly responsible for the department. No less creditable was the record of the engineering departments under Crawford's

¹ The return showed that for a population of 816,562 there were only 2 hospitals in Bombay with 370 beds against 16 in London with 3,860 beds for a population of 3,015,494; the ratio of beds to population being one to 2,206 in Bombay against one to 781 in London. The ratio for Dublin was one to 322 only, for Paris one to 436, for Glasgow one to 692, the most backward of European cities on the list being Leeds with a ratio of one to 1,623.

² A very strong feeling existed also in England at that date against the registration and medical supervision of prostitutes. The Contagious Diseases Act was operative in India up to July 1888 and its abolition was largely due to pressure from England. It proved an entirely difficult Act to work (*Bombay City Police*).

administration. Here too the Commissioner had to fight the contractor for road repairs and watering of roads. The roads had been for years insufficiently repaired, if not altogether neglected, while the traffic had steadily increased. They lacked a sound, dry and firm foundation and there was no surface drainage. The Commissioner realized that to put metal on such roads was equivalent to pouring it into a morass. He had no funds to remake, and sewer and drain them. All that he could do, therefore, was by constant patching to keep the roads just passable. But funds or no funds, he was determined to provide new thoroughfares for facilitating the growing traffic of the city and for opening up undeveloped areas.

We have already noticed in the preceding chapter the main roads and overbridges undertaken and completed during his administration. The work accomplished for the drainage of the city may now be briefly reviewed. For the establishment of the drainage department credit must be given to the discredited triumvirate of municipal commissioners. Before their régime various suggestions had been made for the main drainage of the city. One of the most notable schemes was submitted by Conybeare in 1853. He proposed to run all sewage during the fair season into a sunk pit near Bellasis Road, to deodorize it, and then to apply it to the irrigation of land near the flats. The scheme was tried, but was found to accentuate the existing nuisance. In 1860 Messrs. Wilcox and Tracey submitted plans for the discharge of all sewage at Worli Bunder and Carnac Bunder and for the separate drainage of the Fort area. The Malabar Hill area was not included in the scheme as it was 'not ripe for drainage-operations.' The scheme was approved by a local committee, of which Dr. Leith was Chairman, and by an expert in England, and was sanctioned by

Government in 1863. A drainage department was thereupon organized and work was commenced in 1864. It was, however, abruptly stopped, partly owing to the failure of the contractors, and partly owing to the open expression of popular apprehension as to the advisability of emptying the sullage of the town, in accordance with the scheme, on the west and east of the harbour. This was the position when Crawford found himself at the helm of affairs. He was keen on establishing a perfect system of drainage. A careful survey of the harbour was made under his instructions and a series of tidal experiments were carried out with a view to the selection of an outfall for the sewage. Russel Aitken, the Executive Engineer, submitted his report on 20th June 1866, proposing three sites, and a commission was appointed by Government to examine and report upon it. The commission recommended that all sewage should be discharged into a reservoir opposite the old lighthouse at Colaba, and thence be pumped into the sea at ebb-tide. By the close of 1867 the outlet into the harbour had been provided and several auxiliary drainage works completed. It was not, however, the last word on the subject. In the following year Captain Tulloch pronounced against the outfall at Colaba and suggested Love Grove as an ideal spot for the outfall. It is unnecessary to proceed any further with the chequered story of the sewage-outfall; enough has been said to show how important a share Crawford had in the solution of that all-important question.

To turn now to the question of water-supply, the only source of supply was the Vihar Lake. All possible steps were taken to prevent waste and leakage, and in consequence the Commissioner was able to report in 1866 that 'there was good pressure throughout the year and consequently but few complaints from distant

districts.' He realized, however, that the supply from the Vihar Lake would prove quite inadequate in the near future, and therefore instructed the Executive Engineer, Russel Aitken, to formulate schemes for the extension of the Bombay Water Works. Aitken suggested four schemes, two of which contemplated the construction of the Tulsi and Pawai lakes—schemes which eventually the Municipality had to carry out.

The proudest day in the career of the Municipal Commissioner was the 26th April 1868, when at the instance of their Chairman, Lyttleton Bayley, the Justices passed a resolution of cordial thanks to 'Mr. Crawford and his colleagues for the able manner in which they had respectively contributed to the satisfactory working of the Bombay Municipal Act of 1865, and to whose untiring exertions the marked improvement in the sanitary and other arrangements of the city was mainly to be attributed.' In moving the resolution the Chairman observed : 'It is of the utmost importance that it should go forth to the world that the Bench of the Justices of this City is perfectly satisfied with the manner in which the duties entrusted to the Commissioner have been performed, and that the world should know by our reports that the death-rate amongst the inhabitants has fallen in a very considerable degree . . . and should know further that the discredit cast upon Bombay by the report of the Cholera Commission in Constantinople is proved now to be no longer justified by the facts.' Whilst acknowledging the compliment, the Commissioner, who was naturally moved by this handsome tribute to his work, indulged in an optimistic forecast of the future of the city. 'I see,' said he, 'a few years hence all the railways of Hindustan converging towards Bombay. I see Bombay the centre of the commerce of India, and I see with the help of this Bench opportunities of effecting

a vast deal of good and benefiting this large town to an enormous extent, if we only work together with a will as we have hitherto done.'

Little did he dream that the year which opened with such a vote of thanks and confidence would be fruitful in trouble and recrimination. A general impression prevailed that the municipal establishments were extravagant and that the financial prodigality of the head of the administration was almost certain to land the city in insolvency. A Select Committee of the Bench was, therefore, appointed to scrutinize and report on the establishments of the different departments, and at the end of the year it suggested certain comparatively insignificant reductions and a few changes, such as the separation of the departments of assessment and collection and the partial amalgamation of the Health and Engineering Departments. The Commissioner took the opportunity of vindicating his policy in his administration report.

'Started as the Municipality was in July 1865,' he observed, 'with no ascertained financial position; everything to be done; everything to be learnt; a crisis, sooner or later, was inevitable—and if, by what is called my imprudence, I have hastened that crisis, I am glad of it; for the town has benefited and will benefit more, and its importance will be the sooner recognized. . . . Few know, as we do, how much the poorer classes have been persuaded to do for themselves, to improve their dwellings, and how much money they have really spent on these improvements. While these wholesome feelings exist among the masses, there is no fear that the counsels of those will prevail who would cater for Bombay as for some miserable Konkani fishing village, who cannot or will not, see its wants, note its annual growth, or foresee its future.'

These bold words, however, merely served to fan the flames of hostility to the Commissioner; in and outside the Corporation sensational reports of administrative

extravagance and financial mismanagement were freely circulated. What chiefly provoked the populace was the hardship caused by the distress warrants issued in thousands for the recovery of taxes. Under the new Municipal Act certain taxes had to be recovered from the occupier instead of the owner. The halalkhore, water, police and lighting rates formed what were known as the occupier's taxes. The legislature in this matter had blundered. Instead of 15,000 bills, about 84,000 half-yearly bills had to be made out for house and police rates, and about 56,000 quarterly bills for water-rate and wheel-tax. The work of collecting the dues from a shifting population was practically impossible. The Commissioner had himself complained as bitterly against this system as any clamant champion of the harassed occupiers and had demanded instant legislation for placing the liability on the owner. Meanwhile, he had no alternative but to effect speedy recovery of taxes under a threat of distress warrants. In the chorus of complaints from the occupiers the owners of properties also joined with their melancholy refrain of oppressive house rates and distress warrants. In the words of Martin Wood, then editor of the *Times of India* and a member of the Bench of Justices, the vocabulary of denunciation had been exhausted in characterizing the method of collecting the municipal revenue as one of the most iniquitous things the sun looked down upon, either in torrid or temperate zones. As many as six different special committees were appointed to investigate and report on various questions, such as the reorganization of the system of keeping accounts, the re-adjustment of the fiscal system of the Municipality, the taking of an inventory of all Municipal property in the city, and above all to suggest changes in the constitution of the Corporation and the position of the executive, or in other words to

suggest ways and means of clipping the wings of the Municipal eagle.

This was the beginning of the storm that was to break upon the Commissioner. Brilliant as was the new régime and wonderful the progress made by the city in the matter of improved sanitation, roads, water-supply and other amenities of urban life, the improvements brought in their train a harvest of financial difficulties. Armed with full executive authority, the Commissioner grew impatient of delays and intolerant of criticism, spurned constitutional limitations, did what in his opinion the interests of the city required and then applied for sanction, never pausing to consider from what mysterious fount the money for improvements was to flow. The result was financial embarrassment. A quinquennial review showed that while the ordinary income of the Municipality from 1865 to 1870 amounted to Rs. 1,89,27,143, the ordinary expenditure was Rs. 2,26,98,519, showing a deficit of Rs. 37,71,376. The Justices apparently had no idea that their financial position was so unsatisfactory, although they realized generally that they were drifting along the road to ruin. Hence their anxiety to stem the tide of extravagance. Crawford, however paid no heed to the early signs of the storm. His attitude towards the Bench of Justices became more and more provocative.

The first fateful step taken by the Justices was to ask Government to appoint a Committee to report upon the system and administration of the Municipality and upon the changes that were necessary in the constitution of the Municipality and the Municipal Act. They urged that the unruly Commissioner required financial control and that the Controller was unable to curb him. In reply they were informed that before Government would consider the advisability of altering the existing arrange-

ments, they would 'await the expression of an opinion from H. M.'s Justices' as to whether they themselves could not, under the powers they already possessed, secure a more complete control than that which appeared to have been exercised. The Justices submitted a further representation to Government indicating the scope of the proposed inquiry into the affairs of the Municipality and added that they had not taken that course of 'invoking the aid and counsel of Government' until after they had 'fairly and earnestly striven to grapple with and overcome the peculiar difficulties of the case.' Government were, however, not convinced as to the expediency of appointing a Commission. It was not clear to them in what respect the Act was deemed defective. 'As at present advised,' observed the Chief Secretary to Government in his letter of 8th May 1869, 'he (His Excellency the Governor in Council) is inclined to think the Justices have not availed themselves of its provisions to the full extent allowed, especially in respect to the powers granted them for supervising income and expenditure.' The reply was not calculated to soothe the feelings of the Justices. The popular agitation against the Commissioner grew more and more violent and the *Times of India* criticized the attitude of Government in very scathing terms :

'After receiving this letter, the Bench would be fully justified in declining all further public activity in Municipal affairs. No such plea, however, would be warrant for silence or slackness on our part, and we shall take any and every opportunity that may arise to expose the glaring defects of a system which, by the confession of its admirers, has brought us into great wants, great debt and great embarrassment, and, as we have repeatedly pointed out, affords no sort of guarantee that these expensive luxuries will not go on increasing year by year, until the lucky hour arrives when we shall have a Government in Bombay.'

Meanwhile, the intrepid Commissioner went his own

way. For example, without a reference to the Justices he arranged with A. H. Wadia to lease his building, which after several alterations is now owned and occupied by the Army and Navy Stores, for ten years at a monthly rental of Rs. 2,825. The public was indignant. A newly-formed Ratepayers' Association sent a monster petition to the Bench of Justices on 9th November 1870, complaining bitterly of extravagant expenditure and grinding taxation and of the army of bailiffs let loose on them with distress warrants. They also expressed the intense dissatisfaction of the people at the autocratic administration of the Municipal Commissioner, who appeared to defy everybody, including the Bench of Justices. Another petition followed, urging the Justices to relieve the people of the evils inflicted on them by the operation of the Municipal Act, which, according to the *Bombay Gazette*, ought to have been styled 'Sir Bartle's Folly.' As, however, the Justices felt powerless to mend matters, the Ratepayers' Association approached Government for redress.

The *Bombay Gazette*, which under James Maclean's editorship was then a power in the land and was no respecter of persons from the High Court Judges downwards, lent all its support to the outcry for reform. In a trenchant article in its issue of 16th November 1870, it showed how arrogant and intolerable the attitude of the Commissioner had been towards the Bench in spite of all agitation for reform. The following extract from that article shows to what *impasse* affairs had drifted :

'We have the honour to suggest that the Justices, at least the European Justices, should take the Municipal Commissioner at his word and retire from the Bench altogether. It would be the more dignified mode of proceeding. A public functionary who considers that six hours is sufficient to dispose of a budget authorizing the expenditure of 35 lakhs, plainly regards the Bench as a mere court in which he may register his decrees. Impatient

of criticism, he deals with the members of the Bench, who either oppose or criticise him, as if he were the master and they were the servants. At the meeting last week, after describing the principle speech as a great "flow of oratory" full of general statements and general assertions, he said the Bench wanted shift the responsibility of the expenditure on to his shoulders and politely added :— "You have to take that responsibility upon yourselves and that responsibility you shall take upon yourselves." Not content with this he subsequently denounced opposition generally, and said, the time of the Bench was taken up by wild and unsupported assertions ; while Dr. Hewlett did not think it improper to condemn all remarks not in harmony with his views as "mere verbiage". After displaying this tolerant disposition last week, the Commissioner on Monday, finding his patients bore it so well, increased the dose, taunted the Bench with lack of public spirit and suggested that all who would not attend their civic duties should retire from the Bench ; attending their civic duties, meaning, in the opinion of the Commissioner, voting his estimates munchedance. Considering how the Bench is without any remedy we think the best plan would be to frame a list of Justices who will entirely agree with the Commissioner and allow the rest to take his courteous advice and retire altogether ; and that in future Government, which does not care a straw about the Municipality, should before appointing any gentleman a Justice of the Peace, make him sign a declaration that he will be faithful and loyal to his Majesty the Commissioner and never open his lips to utter a word contrary to the only sacred and orthodox opinions on duty, taxation, and expenditure, to wit the opinions of the Municipal Commissioner.'

CHAPTER XIX

THE STRUGGLE FOR REFORM

THE day of reckoning came at last. On the 30th June 1871, a special meeting of the Bench of Justices was held at the instance of the late Mr. J. A. Forbes of the famous firm of Messrs. Forbes & Co., and other leading Justices, European and Indian, to consider the momentous question of municipal reform. The Act of 1865 had raised high hopes of rapid advance along the path of local self-government. In fact, however, this so-called Magna Charta of Bombay had ignored altogether the most elementary principles of popular government, notwithstanding that enthusiasts like Dr. Birdwood believed that it would give a great impetus to democratic and socialistic principles and revolutionize society. In a letter to the *Overland Mail* that gifted scholar and journalist observed: 'If I said what I thought the Municipal Act would exactly do, say before the Bicentenary of Plassey, I should perhaps be hanged for treason or set upon as an unmitigated communist. Nevertheless, a clean people never can be slaves.' A beautiful dream of freedom and progress which in spite of the failure of the Act of 1865 and of the Montague-Chelmsford Reforms scheme of 1919 may yet prove true before the Bicentenary of Plassey! At the moment, however, poor Dr. Birdwood was laughed out as a visionary, and excepting a few champions of the Commissioner the Bombay public regarded the much-vaunted Act as constituting a shadowy simulacrum of self-government, which those in authority dared not allow to materialize.

The tribunes of the people and the watch-dogs of local finance clamoured for a radical reform in the machinery

of municipal government. All were practically agreed on one point—immediate reform of a constitution under which it was possible for the chief executive officer to defy the supreme authority. Reading the account of the struggle that took place and the reports and recommendation of various committees and associations, one cannot help regarding the Councillors of the day in the light of the proverbial inefficient workman quarrelling with his tools. 'Away with the Act, away with the Commissioner,' they cried, oblivious of their own default and forgetting that only three years previously they themselves had passed a vote of confidence in him. Forbes led the attack and proposed that as Act No. 11 of 1865 had been found 'inexpedient and insufficient for the full and proper management of the City of Bombay, and for the perfect conservancy and improvement thereof,' in lieu of clause 1 of the said Act, whereby the entire executive power and responsibility was vested in one Commissioner appointed by the Governor in Council, the entire executive power and responsibility for the purpose of the Act be vested in a 'Town Council' of sixteen members, six to be nominated and appointed by Government, six by majority of the votes of the Bench of Justices and four to be specially elected by householders (or occupiers to the amount of Rs. 25 per month rent); and that the Council should be designated the Town Council of Bombay presided over by the Chairman of the Bench of Justices.

His long and reasoned speech was free from personal recriminations. It was an impeachment more of the system than of the man who had to work it.

'I say,' said he, 'Act II of 1865 is bad, and has fostered a bad system and it is to protest against the system and to ask the Justices to-day to approve of steps for getting that system removed and altered that we are here to-day . . . I think the great desideratum in administering municipal business is caution and care and due consideration in every step that is taken,

not sudden jerks and sudden purchases, and the sudden contracts and the sudden leases that are entered into. What I complain of in the present system is that everything is left to one Commissioner who feels himself responsible to no one—to the Bench he refuses to be responsible and Government don't care to hold him responsible.'

The proposition was seconded by Dr. Blaney. After him came the turn of Captain Hancock, the chivalrous advocate of the Commissioner. He condemned the principle of management by town councils and moved an amendment to the effect that the proposal to vest executive power and responsibility in a Town Council assisted by a paid Secretary was a resuscitation of the plan on which the late Board of Conservancy had been constituted, was wrong in principle and would fail in practice; and that the 'supervision and control' of Municipal affairs should be entrusted to a Town Council composed of not more than 40 members, one-half the number to be Europeans and the other half Indians. He thus wanted a purely administrative council, not an executive one. 'While the Town Council should have full power of supervision and control, there should still be,' he urged, 'an executive officer whom we could hold responsible for the executive duties of the Municipality.'

Several other amendments were moved which it is unnecessary to examine in detail. The battle of reform was waged for many days in the Town Hall and caused great public excitement. On the first day the Durbar room of the Town Hall was so crowded that when Forbes concluded his long speech, Captain Henry submitted that the atmosphere of the room 'was almost unbearable' and that they should move into the larger hall. It was, however, not convenient for the meeting in the midst of its proceedings to adopt this suggestion but the subsequent meetings were held in the Durbar Hall.

All were agreed on one point—reform. The difference was only in regard to ways and means. At one of the meetings a monster petition was presented to the Justices by the rate-payers of Bombay under the leadership of Moolji Thakersi. A grand demonstration was organized by the Bhattia leader. The memorialists marched to the Durbar Hall in a procession with bands playing at its head. This Terpsichorean demonstration produced the desired impression on the public and enlisted its sympathy in favour of the reform party. After protracted sittings, during which the Commissioner valiantly defended his policy, the debate was brought to a close on 7th July 1871, the original proposition and several amendments were thrown out and the Bench eventually adopted by 86 votes against 26 an amendment moved by James Maclean seconded by Thomas Ormiston, which with a rider tacked on to it ran as follows:—

‘That six years’ experience of an ever-increasing and unchecked expenditure has satisfied the Bench of its own inability, as it is at present constituted, to give to the municipal finances the ‘constant and effectual supervision contemplated by Act II of 1865.’

‘That the Justices in this meeting assembled, therefore, respectfully request Government to transfer all the financial powers vested in the Bench and the Municipal Commissioner to a Town Council of sixteen members, six of whom shall be nominated by the Government, six chosen by the Bench of Justices and four elected by the rate-payers.’¹

‘That the right to appoint, and when necessary to remove, all the executive officers of the municipality and to fix their rate of remuneration, be vested in the Town Council, and be exercised by them subject to the approval of Government if Government desire provision to be made for the exercise of their right of veto in the matter.’

¹ The amendment as originally proposed contemplated a Town Council of 40 members to be partly nominated by Government and partly elected by the rate-payers.

The agitation, however, did not end with the meeting of the Justices. It was continued in the columns of the press, and the *Times of India* made vehement appeals to the Governor, Sir Seymour Fitzgerald, to do something to allay popular feeling. This, doubtless, led to the early appointment by Government of a Committee to make an exhaustive inquiry into municipal finance.

Unlike present-day commissions it was a small and select body composed of Theodore Hope, then Collector of Surat, Dr. Clive, Assistant Accountant-General, and Sorabji Shapurji Bengalee, one of the sturdiest critics of the Crawford régime. It submitted its report in October 1871. Its examination of the financial position of the Municipality showed that there was a deficit of Rs. 7,10,796. On this finding the *Times of India* demanded the head of the Commissioner.

'They (Government) now know,' it observed, 'and all India knows that the law has been violated by our municipal officers, formal restraints have been systematically spurned, unauthorized expenditure has been incurred and concealed to a serious extent, the public credit has been placed in jeopardy, costly outlay has been promoted without anything approaching to adequate results while many most needful works of civic improvement remain in abeyance, and the people of this most populous city in India, where modern corporate institutions might be expected to work best, have been disgusted with the very name of municipality, to such an extent that years must pass before the requisite spirit and confidence of coöperation can again be evoked. If the Government of Bombay, in face of this, desire to retain in office a man, whose characteristic boast it has been that he was responsible for everything done, then Sir Seymour Fitzgerald and his colleagues must be prepared for a struggle with the Government of India and the Secretary of State which will not conduce to the prosperity and glory of the Presidency.'

In short, Government had allowed the Municipality to drift among the shoals, and the advocates of reform

exhorted them to use their utmost effort 'to extricate the craft.'

On the other hand, the *Star of India*, edited by Knight, the previous editor of the *Times of India*, gallantly defended Crawford and exposed the hollowness of the arguments of its contemporary, but nothing could avert the fate of the Commissioner. He was recalled and had to vacate his appointment on 28th October 1871. Dr. Hewlett, the Health Officer, was put in charge of the office till 30th November when Theodore Hope relieved him.

It was a tragic termination of a brilliant administration. Looking back over the years that have since passed, one cannot help thinking that Crawford's 'Himalayan folly' was not so much his extravagance as his arrogance, not so much his defiance of constitutional limitations as his instinctive abhorrence of compromise and conciliatory methods of administration. His worst enemy was his own temper. Had he been a little less impetuous and a little more tactful, the very Justices who combined to drive him out of office would have found justification for the irregular expenditure of which they complained and would have memorialized Government to extend his term of office to enable him to continue his beneficent work for the improvement of the city by preparing and equipping it for the great changes consequent on the completion of the railway system, the opening of the Suez Canal and the laying of the new cables. But he paid no heed to the warnings to act with circumspection, cared not to take the Justices into his confidence or to seek their assistance, and kept them in ignorance of the embarrassed state of the city's finances. Shouldering all responsibility, the municipal Atlas struggled hard to postpone the day of reckoning, not pausing to consider whether the means he employed to that end were

constitutional or the reverse. For a while he lulled the Justices into a false sense of security, so that when the truth was known it came on the Bench like a thunderbolt. The atmosphere was surcharged with electricity from day to day until it overwhelmed him. He did not, however, allow himself to be swept from the scene without a stubborn fight. The struggle had actually commenced in the year 1869. In the report for that year he maintained that the then Health Officer had succeeded in convincing the Select Committee of the Bench that but little reduction could be hoped for in the expenditure on the Health Department, which was the target of much criticism. 'But,' he added, 'many sceptics remained, the majority, as usual, utterly ignorant of the work to be performed, yet claiming to be judges of its cost, not to be convinced by the statements of those best acquainted with the city's wants, unmoved by comparison of its statistics with those of other cities, unmindful of its size and population, but possessed with the one stubborn notion that so many lakhs of rupees is a large sum to spend on the conservancy of the town.'

In the report for the following year he reverted to the charge :

'Imagine,' said he, 'a steamer despatched to sea, ill-found in stores and coal, on the eve of stormy weather, without chart or compass, having in tow the unmanageable hulk of an old wreck, yet required to force its way at speed through an almost unknown channel, abounding with rocks and shoals ! Thus was the Municipality launched in 1865, in the lowering sunset of Bombay's imaginary prosperity, impeded by an unascertained deficit : much expected, much absolutely necessary to be done at once—no statistics, and a new and intricate system of taxation to be worked out ! What wonder if the steamer has touched some rocks and shoals in its perilous passage ; if some cargo has been cast overboard ; at least the health and comfort of the passengers has been well cared for, and their lives are safe ! With this picture before us, it is certain that whatever form the new Municipal

constitution may take, it will be started on a new voyage with an ascertained financial position, and a clear way. But it is quite as important that the ship should be retrimmed and the cargo readjusted, in other words that the whole system of taxation should be revised, partly in the manner I have suggested for the Direct Taxes, but chiefly by reducing Direct, and increasing Indirect, Taxation, thus spreading the burthen over the masses. Let the ballast also, that is the dead weight of loans, be better distributed over the ship's bottom, and let what remnants remain of the old hulk behind be cut adrift. Lastly, let the agents or owners of the ship find it well in all stores and supplies, and retain in their own hands its accounts and money matters. The captain and the crew will have ample occupation in navigating the ship at speed amid the many dangers of the Indian Ocean, and in watching over the health and safety of the passengers. Let the new Town Council then retain, in its own hands, all financial control and take with it the duty of adjusting or imposing taxation. It will be for the executive, working in the interest first of the whole city and afterwards of each district, to urge the need for expenditure, to get as much as it can, and to spend it to the best advantage. It was unreasonable to expect success from a system whereby the executive was at one and the same time expected to spend money and to save it, and also to carry through fair and foul weather the entire odium of taxation.'

CHAPTER XX

A PRESCIENT LECTURE ON CONSTITUTIONAL REFORM

AMONG the Reform Party of the Senators was a youth of twenty-six, who felt that personal rancour had clouded the vital issues involved in the question of municipal reorganization and that in the heat of the strife his senior colleagues had failed to see the wood for the trees. Local Government could only give satisfaction, if based on popular representation, whereas the proposal adopted by the Justices contemplated the transfer of financial control to a Town Council of sixteen members, of whom only four would represent the rate-payers. This in his opinion was a mere palliative and did not touch the root-causes of the failure of the administration under the Act of 1865. The true remedy lay in a radical reorganization of the central body, whereby the Justices might be made dependent on the franchise and amenable to the will of the people.

This discerning youth was Pherozeshah Mehta. He had joined the Bench of Justices in 1869 after his return from England, but had done nothing remarkable during the first two years. The hour had arrived, however, when he was to give an earnest of those valued gifts of perspicacity, sagacity and magnanimity, which distinguished his long and honourable career in the public life of the city and the country. Imbued with high ideals of freedom and representative government, ideals evolved in the school of John Stuart Mill, he felt unable to approve of any of the schemes suggested by his colleagues. Although his sympathies were with the advocates of

reform, he was opposed altogether to the principle of vesting all executive power in the proposed Town Council, the only effect of which, in his opinion, would have been 'to substitute in the place of the responsible executive officer a heterogeneous body of men equally powerful, men incapable and difficult of being controlled, and with their responsibility so attenuated, by division and subdivision, as to render them practically and really entirely irresponsible.'

There was nothing new in this observation. Others had made it before, and none more effectively than the famous engineer Ormiston, who had warned the Justices in the course of the debate on the proposed reforms that 'committees, as was well known, had neither a soul to be damned nor a body to be kicked.' What distinguished Pheroze Shah's speech from those of his predecessors was the emphasis he laid on the fact that the only way 'to bring about a genuine and living spirit of Municipal life in the city was to have a large rate-paying element.' The root of the evil lay in the constitution of the Bench of Justices—Justices elected for life. 'There never will be efficient Municipal administration in Bombay,' he observed, 'till there is a popular and responsible Bench of Justices, elected at regular intervals by the rate-payers themselves, a consultative Town Council elected out of it, with a responsible executive officer as its head.' He considered it inadvisable to press this point at the meeting of the Justices, but reverted to it in a paper which he read before the Bombay Branch of the East India Association at Framji Cowasji Hall on 29th November 1871. Before dealing with the question of constitution he gallantly vindicated the policy of the dethroned Municipal satrap. No one was in a better position than he was to compare the condition of the city before and after the Crawford régime. He had left

for England a few months before the Act of 1865 was passed, and had returned four years later to witness striking reforms. 'The wonderful transformation of the Bombay of 1865 into the Bombay of 1871,' he observed, 'deserves in the main to be emphatically proclaimed. Mr. Crawford was its saviour and benefactor It is exactly like the case of a general who, in the desperate hour of the battle, defies strict orders, relies upon his own judgment, and gains the victory. Death, the just punishment of his insubordination, if he had failed; a grateful act of indemnity, the reward of his successful intrepidity.' He did not desire to minimize in any way the gravity of Crawford's constitutional and financial irregularities, but, he asked,

'Are we to forget, in our day of safety and prosperity, that he has in so short a time driven disease and death from our doors where they were such constant visitors before? Are we to forget that if he has touched our pockets too closely, he has put us in a position to enjoy in comfort and safety the remainder a thousand times more, that in the case of the poorer classes, by improving their chances of health and vigour, he has removed the continual drain which sickness and want of health cast indirectly upon their pockets, and actually supplied them with the means of fighting more vigorously for their livelihood? And not only so, but are we to heap disgrace and obloquy upon his name and fame for having preferred to work out our salvation in defiance of legal forms and authorized sanctions than tardily drag it out or ingloriously incur utter failure by line and rule, like Monsieur Tomes who would prefer to kill his patient according to rule than cure him against it, or the German officer who preferred to lose a battle according to correct tactics than gain it in spite of them?'

Coming to the question of the constitution, the lecturer urged that if there was one thing more than another conclusively established in the reform debates, it was the utter incompetence of the Bench of Justices, constituted as it was, to carry on the municipal govern-

ment of the city. The Justices were elected by Government for life. It cost them nothing to gain a voice in the municipal administration of the city. It mattered little whether they were active or inactive, conscientious or the reverse; their seat on the Bench was secure for all time. Taking his stand on the principles of government propagated by Mill and Macaulay, he pleaded vehemently for the introduction of 'the free representative principle in the constitution of the municipal body.' It was assumed that Indians by temperament and tradition were inapt for representative institutions, municipal or political. This myth the lecturer had no difficulty in dispelling. Quoting from a speech delivered by Anstey before a meeting of the East India Association in London, he established with the help of various authorities from Elphinstone downwards, the dictum of Anstey that 'the East is the parent of municipalities.' But it was alleged that the village panchāyats, in which those authorities discerned the germs of local self-government, were wanting in many an important feature of the representative institutions of the West, and that at any rate the people of India in the condition then existing were not ready for the introduction of such institutions. The lecturer had not the materials before him to rebut the first statement. As regards the second, however, the fitness of the people for exercising the municipal franchise, he laid stress on the public spirit displayed and the intelligent part taken by the citizens of Bombay in the agitation for municipal reform, the formation of the rate-payers' Committee, and their meetings and resolutions, and the worth of the municipal work already accomplished by the Bench of Justices. It was obvious that 'Bombay was a city pre-eminently fitted for the introduction of a municipal representative body elected by the rate-payers themselves.' He urged once more

that what was needed was a comprehensive measure securing such a radical reform, whereas the leaders of the reform movement had brought forward a remedy which might well make them exclaim, 'Heat not a furnace for your foes so hot that it do singe yourselves.' This was an allusion to the proposal to set up a town council which, relying on the authority of Mill, he condemned as a retrograde step, likely to plunge the municipality 'into a gulf of mismanagement, inefficiency and jobbery.'

He was convinced that the best method of administration was to entrust the executive function to a single responsible officer controlled by a representative assembly and that town councils with executive powers would prove centres of inefficiency and jobbery. Ultra-conservative as he was on all questions of constitutional reform, he adhered to this conviction until the day of his death and declined to favour any proposal to transfer even a tithe of the duties and responsibilities of the chief executive officer to committees of the Corporation. When in the year 1908 the present writer expressed his dissatisfaction with the Committee system of the Corporation and suggested the formation of Special Committees to consider special subjects, Pherozeshah said he foresaw many abuses even though it was not then suggested that the committees should be vested with executive powers. He frankly confessed his apprehension that members of a certain type would take undue advantage of their office as members of special committees. The writer could not help asking him: 'If we are to distrust our own colleagues even in such simple matters, what becomes of the Congress cry for self-government?' 'Everything at its proper time,' he said with that characteristic smile and gesture which seemed to suggest that he did not violently differ, but that he would not alter his

opinion. Until his death, and for at least seven years after, the proposals for revising the committee system of the Corporation remained in abeyance mainly because he had expressed his opinion against such an innovation. Since then there has been a reaction and a considerable section of the advocates for reform now demand, as we shall see in the course of our survey, the immediate introduction of the system of executive committees.

To return to the lecture, Pheroze Shah's championship of the unpopular Commissioner greatly incensed the audience. Much disorder prevailed and vigorous marks of dissent punctuated the lecturer's observations concerning the administration of Crawford. He, however, continued 'though the short, sharp, staccatoed hiss which marked every full stop, and which ultimately warned us of where the very commas occurred, was still sent forth with exemplary vigour and enthusiasm. Scarcely, however, had each of these gentle reminders of disapproval been uttered, than it had to do battle with an ocean of other cries of "shame, shame, insulting," mostly disputing its authority and amongst which it soon expired Each moment the confusion increased till the whole meeting rose, as if by one accord, and each person began to raise his voice in defence of the party he considered in the right. Even in this one might have heard the opinions of those who were pressing close to him had it not been for the vigorous expedient, which occurred to some, of laying into the tables with their walking canes right merrily. This, however, was eventually stopped by the gas being turned out just as the second chairman was about to take his seat. This had the effect of causing parties to see that they were really in the dark, which it would have required many hours' talking to do.'¹

¹ *Bombay Gazette.*

The storm provoked by unpalatable home truths did not, however, subside with the unceremonious ending of the meeting. The *Times of India* condemned the lecture as a 'peculiar, perverse, erroneous and sophistical production,' and expressed its surprise that it should have been allowed by the committee of the Association to be read at the general meeting. This was a signal for a requisition signed by several members of the Association calling for a special general meeting to consider the desirability of expunging the paper from the records of the Association. A meeting was accordingly convened in the Framji Cowasji Institute. Pherozeshah was present, but he walked out with one or two others, shortly after the commencement of the proceedings, followed by a tempest of hisses, punctuated by shouts of 'order,' 'order,' and vigorous 'hurrahs.' The proposition for expunging the paper from the record of proceedings was carried by a large majority and the chairman of the meeting, Dr. Bhau Daji, declared that the paper was to be treated 'as not read and as not worth discussion.' He tendered his apologies for the incident and assured the public that there would be no recurrence of it in future! 'It was,' remarks Pherozeshah's biographer,¹ 'one of the most characteristic incidents in the career of Pherozeshah. It was at once a measure of his strength of character and his political acumen.'

¹ H. P. Mody, *Life of Pherozeshah Mehta*.

CHAPTER XXI

THE FIRST INSTALMENT OF SELF-GOVERNMENT

ACT III OF 1872

THE skeleton scheme outlined by Pherozeshah Mehta in his speech at the Justices' meeting and in the subsequent lecture was practically embodied in the enactment of 1872—no mean triumph for the budding orator and politician, who soon attained a prominent position in the sphere of civic government. But the so-called Reform Bill, originally introduced in the local Legislative Council on 27th March 1872, was something quite different. That measure, according to the Hon'ble Mr. Tucker who stood sponsor to it, was the work of several hands and the product of more than one head, and was a 'compromise of certain extreme opinions.' It was intended to be a step on the progressive march of reform, but it was such a halting and clumsy step that the public were in no way enamoured of it. Indeed, it seems to-day to be a parody of representative institutions in European cities, the shadow rather than the substance of self-government.

The Justices had been originally selected as representatives of the citizens of Bombay, as they included a fair number of the most enlightened and intelligent residents of Bombay. Being at hand, they were accepted as the most efficient body available to superintend the municipal government of the city. Their number was, however, undefined and variable, and they were in any case too large a body to be an efficient instrument of control. It was quite uncertain how many would attend a meeting or be dragged in to influence the voting. To

remedy this defect and to provide for regular and consistent action by well-defined and systematic organization, it was proposed to limit the number of those who were to constitute the Corporation. The Bill, therefore, embodied a scheme of municipal government which converted the Bench of Justices into an electoral college, from which 64 members were to be elected for the Corporation—half the number being selected by Government and half by the Justices ; 16 additional members were to be selected from the rate-payers (not being Justices of the Peace), half of whom were to be nominated by Government and half elected by ' persons resident in the city of Bombay who had paid owner's house-rates to the amount of not less than fifty rupees.' All the members were to hold office for two years only, but were eligible for re-election. Thus the Corporation was to consist of 80 members, of whom all except 16 were to be Justices of the Peace who were all nominees of Government. Of the sixteen who were to form one-fifth of the Corporation, only half the number was to be elected by the rate-payers. In other words, only one out of ten members of the Corporation was to be representative of the rate-payers. But what was even more objectionable was that the franchise was denied to the majority of rate-payers. The constituency was restricted to those who paid ' owner's house-rate.' The large body of rate-payers who, as occupiers of houses, paid the lighting rates, water-rates, police rates, halalkhore cess and wheel-tax, were altogether omitted, and even in the class of house-owners, those who paid less than fifty rupees per annum as house rate were disqualified both for membership and for the franchise.

The Municipal Commissioner was still to be the sole executive officer. His powers to spend money were subject to the supervision of the Corporation and the

Town Council of twelve members, of whom six members including the Chairman were to be nominated by Government; but in other respects he was vested with the entire executive power and responsibility. Government reserved to themselves the right of appointing and removing from office an Executive Engineer, a Health Officer and a Municipal Accountant. The last named officer was to have charge of all the accounts of the Corporation and to be Secretary to the Town Council. The accounts were to be examined by auditors appointed by the Corporation but they were to be further scrutinized, once in every six months, by auditors appointed by Government and paid out of the Municipal Fund.

Within two months from the passing of the Act the Governor in Council was to frame bye-laws for the regulation of the conduct of business at the meetings of the Corporation. This was self-government forsooth! But the most obnoxious provisions were those relating to the control of Government. Upon complaint made to the Governor in Council that the Municipal Corporation or the Town Council or the Municipal Commissioner had made default in carrying out the provisions of the law for the municipal administration of the city, it was open to Government to make an order fixing a period for the performance of its duty by the authority concerned, and if such duty was not performed within the time limit, Government had the right to have it carried out by any person whom they might appoint, at the expense of the Corporation.

Thus with the minimum of popular representation the Bill combined the maximum of Government control. No wonder that the *Times of India* characterized the new element of popular representation as 'the sprat thrown to the whale,' and the Advocate-General ridiculed it in the course of the debate in the Legislative

Council as 'a homeopathic dose of the popular elective principle and an overwhelming dose of Government supervision.'

The member in charge of the Bill, while introducing the measure, tried to forestall these objections by the following remarks :—

'Now Sir, there seems an earnest desire on the part of a section of the public—I won't say a large section but an influential section—for an extension of the elective principle for the government of the city; but this is a matter which before it can be widely adopted requires the most careful consideration. It must not be forgotten that the systems of election and popular representation which obtain in England have been the growth of centuries, and that the point which has been reached in Great Britain has been only obtained after much conflict and much self-sacrifice, and I for one think that it is impossible in this country, situated as we are, to adopt in their integrity English institutions. For myself I may say that I am not averse to the introduction of self-government among the natives of India, and personally I would be glad to see self-government extended; but I think this must not be done by sudden jerks or leaps in the dark, but by gradual progress, by well-considered concessions which may be progressively enlarged and increased as the persons or classes to whom they have been granted show themselves fit for the boons given to them. It is only in this way that I think self-government can be introduced in India, where the people have been accustomed for centuries to oriental despotism.'

In other words, the infant Corporation was to be held in leading strings until it learnt to walk boldly upon the path of self-government. In those days the battles of the Indians were gallantly fought by Europeans, official as well as non-official. The Advocate-General was the strongest opponent of the principle of the Bill. Pointing out how very small a share of representation the Bill proposed to give to the persons who were most interested in seeing that the municipal funds were well administered and what 'an enormous, excessive

and unnecessary amount of control was allowed to Government,' he added : ' What is wanted is that those who are not owners, but are only rate-payers, should be able to make their voice heard in the question of the administration of the local funds.' Here he was pleading for the most elementary principle of representative government, but it took no less than fifty years before the principle was adopted in the constitution of the Corporation. On the subject of the official desire to keep the infant in leading strings he was even more outspoken: ' It appears to me,' he said, ' that Government might just as well have kept to itself the whole of the work connected with the Corporation, and directed its own officers in the Accountant-General's Department to check the Municipal Commissioner and see that he did not exceed the amount set apart for him to spend.' Such being his views, he did not agree to serve on the Select Committee to which the Bill was referred and only at the special request of His Excellency the President, Sir Seymour Fitzgerald, did he consent.

Before the second reading of the Bill Government were flooded with representations from various classes and popular societies, protesting against the niggardly instalment of self-government proposed in the Bill. While it was no easy task for the Select Committee to adopt the Bill to the conflicting and irreconcilable opinions and demands of different sections of the public, all were agreed on one point, namely that the representatives of the tax-payers ought to have a potential voice in the management of the city's affairs. Although, therefore, the Committee included men like Tucker, who sincerely believed that much harm would be done to the cause of local government in Bombay if at that critical juncture popular representation was appreciably enlarged

and Government control relaxed, they felt compelled, in deference to public opinion, to waive their own particular sentiments and recommend a more liberal measure of self-government than that previously offered. While the Committee was sitting, there was a change in the head of the Government. Sir Augustus Spencer presided over the Council's meeting and he was of opinion that as it had been decided that popular representative institutions should be conceded to Bombay, the experiment* should be fully and fairly tried. Accordingly, the Bill, as it emerged from the Select Committee, made many valuable concessions. The number of councillors was reduced from 80 to 64 of whom 32 were to be elected by the rate-payers, sixteen by the Justices and the remaining sixteen nominated by Government. Thus instead of nominating one-half of the members, Government nominated only one-fourth; the Justices, in lieu of electing two-fifths, elected only one-fourth and the rate-payers elected one-half of the total number instead of one-tenth. The franchise also was broadened. Every resident rate-payer who should have attained the age of 21 years and paid during the year in which the election was to take place Rs. 50 in the shape of house, police, lighting and supplementary rates, was entitled to vote at the election of the representative members. The amended Bill, however, raised the pecuniary qualification necessary for members of the Corporation from a payment of Rs. 50 per annum on account of municipal rates and taxes to a payment of Rs. 100 per annum on account of house, lighting, police and supplementary rates. It was deemed but right that a higher qualification should be imposed in the case of a member of the Corporation than in that of an elector. This would, however, have excluded nearly all the professional classes of the city including such eminent citizens as Blaney and Nowrozjee Furdoonji. It was,

therefore, agreed in the Council to adhere to the old standard of Rs. 50.

The Town Council was to consist of eight members elected by the Corporation and only four nominees of Government, the Chairman being appointed by Government from the twelve members so elected. The power of nominating the Municipal Commissioner was reserved by Government, but the appointments of the Health Officer and the Executive Engineer were vested in the Corporation, subject to confirmation by Government. The Select Committee considered that the original provisions of the Bill relating to the mode in which the municipal accounts should be kept and audited were in many respects defective. Those provisions deprived the Commissioner of the management of municipal accounts and placed them in the charge of a Municipal Accountant appointed by Government. The Committee was of opinion that it would have been extremely difficult, if not impracticable, to carry out the account work on the proposed plan, and that it was essential that the municipal accounts should be kept by the Municipal Commissioner and his office establishment. The provision regarding the appointment of a Municipal Accountant was, therefore, deleted and a new section introduced, providing for the appointment of an officer to be termed Secretary to the Town Council, who should be appointed by that body. One of the principal duties of this officer was to assist the Town Council in the conduct of the weekly audit of the municipal accounts. The accounts were also to be audited monthly by the Corporation auditors; and a third audit by Government officers was considered necessary. The powers of the Commissioner in respect of contracts were restricted within certain limits. In regard to this and several other matters of executive

action he was required to obtain the approval of the Town Council.

The Bill was thus purged of several obnoxious features and the member in charge of the Bill hoped that 'the liberal concessions' would go far to allay public anxiety. It was nevertheless exposed to a merciless fire from the reform party. The *Times of India* was once more to the fore. To that journal the Bill appeared to be one 'flock of quibbling regulations and crowd of supererogatory provisions.' It compared it with the 'monster road roller' of the Municipality—very imposing, very heavy and withal clumsy, costly and ill-fitted in its essential parts. The 'bludgeon' clauses empowering Government to take drastic measures in the event of default on the part of the Corporation, and the provisions vesting in the Commissioner wide executive powers appeared to harbour 'old foes with a new face.' In the Council however the member in charge of the Bill denied that Government had shown distrust of the people and he justified their attitude on grounds of public policy and expediency.

'It is quite true,' he observed, 'that we have not given to the Corporation absolute or unlimited powers, but it would be opposed to the sound constitutional principles which ordinarily govern the proceedings of Englishmen, whether in the mother-country or in the colonies or dependencies, to confer unrestricted powers upon a body such as the Corporation created by the Bill is intended to be. In this Council our authority is strictly limited, and there is no person or assembly in India or elsewhere in Her Majesty's dominions entrusted with any of the duties of Government, with the exception of Parliament, consisting of King, Lords and Commons, whose authority is absolute or whose powers are not strictly limited.'

This was a plain, unvarnished statement of facts. Fifty years have since elapsed. During the period the world has taken immense strides along the path of local

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autonomy. Everywhere keen constitutional struggles have been waged for the extension of the liberty of the people, but we are not aware of any serious effort to absolve representative institutions concerned with the local government from the entire control of the central government. In fact such control within clearly defined limits is recognized as having a very salutary effect on the administration of local affairs. But the defence of the member in charge of the Bombay Bill had no effect on the opponents of the measure. Munguldas Nathoobhoy, who represented the reform party in the Council, expressed the fear that if the objectionable sections were retained, no independent gentleman would consent to join the Corporation or the Town Council!

As there was no provision in the Act of 1865 corresponding to this section, much excitement and indignation prevailed in and outside the Bench of Justices at what seemed to be a want of confidence in and usurpation of the authority of the Corporation. In the heat of excitement even the sober representatives of the reform party in the Council failed to appreciate the fact that by the proposed legislation Government were virtually delegating a portion of their administrative authority to the agencies created by the Bill and that in thus delegating the authority which they had previously exercised in the city it was their duty to see in the interests of the public, which they were bound to protect, that they provided adequate safeguards against the inertia and contumacy often exhibited by such popular assemblies. The imposition of such restraints simultaneously with the extension of powers and gift of concessions should not have been taken to imply a distrust of the people; for there was indeed nothing humiliating or derogatory in the reservation by the state of ultimate authority to interfere in case of neglect on the part of the Corporation

or the Town Council or of the Executive officers of the Municipality. These mandatory clauses were somewhat irreverently designated in the Select Committee the 'bludgeon clauses.' The member in charge of the Bill, however, thought they might more aptly have been styled the 'life-preserving sections of the Bill.' There were not many matters included in these clauses, and Government were prepared to consider any suggestion for the clearer definition of the limits within which these clauses should be operative.

It had been urged that the reservation of such authority was an innovation; but there were good precedents for it, as the Advocate-General, Mayhew, was able to establish.

'I believe,' said he, 'I am the culprit who irreverently in the Select Committee described a certain clause in the Bill as the 'bludgeon clause,' and I feel therefore that I am bound to say a word upon that point. I objected certainly to the clause, but I by no means meant to carry my objections so far as my honourable friends Mr. Forbes and Mr. Munguldas have done. I think it is quite right that there should be such a clause in this Bill, but the question is, to what objects shall it be limited. . . .

. . . . I have no doubt that there ought to be an imperative power in matters relating to the cleansing and draining of the city, and there is a precedent for this in the Acts of this Council. I allude to the Mofussil Act II of 1862.¹ Express power is there given to the Government to enforce sanitary arrangements.'

At a subsequent meeting of the Council he referred to the English Sanitary Act of 1866. 'The British Parliament,' he explained, 'with the light of many Acts before it, and apparently with the knowledge that local boards were very often disinclined to carry out powers they were entrusted with, reserved a power in sanitary

¹This Act provided that the Governor in Council might issue an order to the local Commissioners to execute sanitary works, and that if the order was not obeyed within a week, the Governor in Council might order the Police or Magistrate to execute the same, the expenses to be recovered by suit in a civil court.

matters to one of Her Majesty's Secretaries of State similar to the power we have reserved to Government in this Bill, so that this clause which is so much objected to is not altogether without precedent.'

Despite this defence the representatives of the reform party fought strongly against the retention of the bludgeon clauses, and although they failed to secure their deletion, they had the satisfaction of getting the matters upon which Government could interfere strictly limited and specified. 'I have always been alarmed,' said the Governor, 'at what is called the "bludgeon clause," and if it is to remain, I think, it will be necessary to settle very carefully the matters upon which Government shall interfere. I also think that some such alteration as this might be made.' The clauses were accordingly amended and allowed to remain. They were retained in the Bombay Municipal Act Amendment and Continuance Act of 1878 and also in Act III of 1888 and are still there, and there has been no instance on record of a single self-respecting citizen refusing to join the Corporation on that account.

Towards the other demands of the city's representatives Government turned a deaf ear. They retained the power of nominating the Chairman of the Town Council as well as the Commissioner. Forbes fought hard to secure the subordination of the Commissioner to the Town Council and the Corporation. Beyond the limits of independent action assigned to him he was unquestionably to be their subordinate, but Government declined to fetter his independence in other ways. All that was gained in the final discussion of the Bill was a provision for the removal of the Commissioner from office, for neglect or default, by Government on the votes of not less than 40 members of the Corporation recorded at a special general meeting.

We may now cast a glance at the principal features of the Bill. The composition of the Corporation and of the Town Council has already been dealt with in the preceding paragraphs. While the Commissioner was to be the Chief Executive Officer, the Corporation had the power of the purse. To determine the rates of taxation, to vote budget estimates and to cut off supplies were their prerogatives, and these were considered sufficient to check extravagance on the part of the executive.

1 All cheques for payment from the Municipal Fund were to be signed by the Commissioner, a member of the Town Council and by the Secretary to the Council. All contracts were to be in writing and to be reported by the Commissioner to the Town Council, special sanction being required for contracts involving an expenditure of more than Rs. 5,000. The Commissioner was thus in matters of finance under the thumb of the Town Council and all his transactions were brought under further control by a system of double audit of accounts by the Town Council and by the Corporation through their auditors.

The annual expenses of the Police were to be determined by Government and the whole or any portion thereof, on a requisition from Government, was to be paid out of the Municipal Fund. While it was left to Government to call the tune and for the Municipality to pay the piper, the control of the Municipal Commissioner over the Commissioner of Police was quietly abandoned. Under the old Act the entire police force was styled 'Municipal Police,' and the head of the force was definitely placed under the authority of the Municipal Commissioner. The new enactment simply provided that the Commissioner of Police should 'co-operate with the Municipal Commissioner for the maintenance of good order and peace throughout the city and should render all the aid that might be in his power to carry out the object of the

Act.' Thus the control of the Constabulary slipped from the fingers of the Corporation and was grasped by Government.

Much discussion in the Council centred round the system of taxation. The Hon'ble Mr. Narayan frankly said that all the excitement in the town was due not to the want of representation or to any earnest desire for self-government, but simply to the fact that the burden of taxation pressed heavily in one direction, viz., house property. On that question different interests demanded different concessions which gave the member in charge of the Bill an opportunity of deriding the opposition offered to the Bill by the representatives of those interests.

' On examination of the speeches of the gentlemen who profess so much confidence in the representatives of the rate-payers, ' he said, ' it may be observed that each side would strictly restrict the action of the Corporation in the direction which is opposed to the interests which they more particularly represent. For instance, neither the Honourable Mr. Forbes nor the honourable member who has taken his seat to-day (Mr. Bythell) is disposed to give the Corporation any little latitude of action with respect to Town Duties ; and, on the other hand, the Honourable Mr. Munguldas and other members, who represent the house-owning interests, wish to restrain within very small limits the power of the Corporation to increase the house rates and police and lighting rates. Neither section of the opposition, therefore, appears prepared to place the unlimited confidence in the Corporation in matters affecting their own particular interests which they blame Government for withholding in matters which affect the welfare of the entire community. '

Again at a later stage, when the representative of the European mercantile community opposed the proposal to leave a certain amount of discretion to the Corporation in regard to the rates of town duties, His Excellency the President had to remark that nothing had been more remarkable in the course of those debates than

the distrust of one another evinced by the different sections of the Community as represented in the Council. 'I think it is fortunate,' he observed, 'that there is a Government to arbitrate between them.'

After prolonged discussion the owners' and occupiers' taxes and other sources of revenue were fixed. Provision was made for the levy of wheel tax and tolls, but there was no provision for a fire-tax. The police department of the Municipality at this date had a fire-brigade whose services were requisitioned whenever a fire occurred. Towards the cost of this brigade the Fire Insurance Companies were required to contribute a lump sum varying from Rs. 500 to Rs. 1,000 per annum. This arrangement continued till the year 1888 when the existing fire rate was legalized and the Insurance Companies contrived to rid themselves of the liability on the understanding that in lieu thereof they would offer to house-owners lower rates for covering fire risks.

The proposals for the imposition of town duties produced a protracted and memorable debate, and as the question of town dues and transit duties is likely to be brought again before the Council in connexion with the proposals of the Municipality to substitute a terminal tax for town duties, it seems desirable to treat this question in a separate chapter.

CHAPTER XXII

THE CRUSADES AGAINST CORN AND COTTON DUTIES

UNTIL the year 1858 no town dues appear to have been levied on articles imported into the city. Act XXV of 1858* authorized, for the first time, the levy of town duties on ghi, grain, cattle, sheep, firewood, timber and chunam. Bricks and tiles were added to the list by the Act of 1861. In the Bill of 1864 it was proposed to allow the Corporation the option to retain this source of income, but although Cassels, who was in charge of the Bill, pleaded for the retention of the duties for the time being, his half-hearted advocacy of the measure virtually gave the death blow to the duties. He frankly admitted that personally he strongly objected to those duties, but that he and his colleagues on the Select Committee had acted on the principle that they should not interfere more than was absolutely necessary with the system of taxation in vogue. He did not endorse the objection raised by many that the duties considerably enhanced the price of food and unduly oppressed the poor. The proceeds of the Town Duties during the year 1863-64 amounted to Rs. 5,68,943. Divided among a population of 850,000 these duties constituted a poll-tax of rather less than annas ten and three-quarters per head per annum. If they considered only articles of consumption, namely, ghi, grain, cattle, sheep and firewood, the impost amounted to annas six and a third a head per annum. As the quantity of those articles consumed by the rich greatly exceeded that consumed by the poor, it was evident that the real poor of the community contributed only a fractional part of the average toll. Therefore; it

was not because they were oppressive to the poor that he objected to the duties, but because they were 'barbarous and irrational in principle.' He would have greatly advocated the immediate abolition of the Town Duties, but the requirements of the Municipality rendered it inexpedient to close arbitrarily any existing sources of revenue. He had, therefore, so framed the clause that while the duties could not be levied after 31st December 1867, they could at any time before that date be abolished on a representation from the Justices and he had proposed the imposition of a license tax on professions and trades so as to place the Justices in a position to forego the Town Duties in due course. But the feeling of the Council was for immediate abolition of the odious duties. The Honourable Mr. White was brutally frank in opposing the retention even for a short period. His position in reference to the Justices was this: he did not wish to delegate to them the option of limiting those taxes; he did not wish to leave it to the interested motives of a number of men who were not affected by the taxes to continue them in lieu of imposing increased taxes upon themselves. In his opinion there was no tax so little objectionable as a house tax which was 'a most improving tax,' and if he had been asked, he should not have hesitated to give the Justices power to increase that tax to 20 per cent.

The result of the debate was that the town duties were abolished and a license tax on trades and professions was substituted. This was not an entirely new tax. Before the town duties were introduced the City was familiar with a shop and stall tax which was virtually a license tax on trade. The license tax, however, proved to be both vexatious and profitless. A proposal for the imposition of town duties was, therefore, again brought before the Council in 1866, but was abandoned in defer-

ence to strong opposition headed by the President, Sir Bartle Frere. It was, however, revived in 1868. The new President, Sir Seymour Fitzgerald, also disliked these duties; but the Municipality was then in urgent need of money and a Bill permitting the levy of town or octroi duties was consequently passed by the Council with the reluctant consent of the Governor. The Bill of 1872 proposed a continuance of these duties. The articles selected for taxation were grain, metals, wines and spirits, beer, sugar, ghi and timber. In the Select Committee it was determined by a majority to add cotton to the schedule of articles liable to the duties. Hence arose the question whether the schedule should contain articles in transit or be limited to articles of local consumption only. The Advocate-General was opposed to the principle of taxing articles of food, but if financial considerations rendered such taxation absolutely necessary, he was of opinion that it should be left to the Corporation to decide what articles should be taxed. In any case he desired a declaration by the Council that the ruthless grasp of the tax-gatherer should no longer be laid upon grain. Oddly enough, in a Council composed mainly of the accredited champions of the taxpayers, this able advocate of a free breakfast table was in a glorious minority of one. But the reason is not far to seek.

Fresh obligations imposed upon the Corporation rendered it necessary to explore new avenues of taxation. One of the symptoms of the general depression which followed the financial crisis of 1865, was a marked slump in Bombay house property. After a lapse of fifty years Bombay has witnessed a repetition of the same phenomenon. The position of owners of landed property in those days was not dissimilar to that of property owners at the present time, except that there was then no



SIR BARTLE FRERE

The Governor who laid the foundations of modern Bombay.

Rent Act to add to their hardships. The prosperity during the course of the American war created a boom in real estate. The sudden cessation of hostilities reduced the market value of properties to a level ruinous to those who had purchased them during the boom. The taxes were by no means excessive, but the returns on the amounts invested were sadly inadequate. Many properties were vacant and the rules for refund of taxes being illiberal, owners were in some cases expected to pay more in the shape of taxes than they actually received as rent. No wonder that the house-owners complained of the 'crushing' burden on real property and clamoured for the transfer of a share of that burden to other shoulders. The principle of indirect taxation was vehemently advocated and by none more effectively than Arthur Crawford. He was of opinion that the best possible method of securing indirect contribution by the mass of the population towards the expenses of the Municipality was the levy of town duties on articles of general consumption. Grain was, therefore, included in the schedule of articles selected for taxation. It was admitted that the canons of political economy forbade the taxing of the necessities of life, but it was urged that exceptional circumstances justified the disregard of this unimpeachable principle and that it would be very unwise to jettison a legitimate source of income on considerations which were founded rather on sentiment than on hard facts. Even in England, despite the historic crusades of the Anti-Corn Law League, the desideratum of a free breakfast table had not been attained. Tucker contended that one of the recognized principles of taxation of commodities was not that every commodity should be taxed but that duties should be placed on a few selected articles in general use and limited to an amount which would press but lightly on

the individual consumer. This, he claimed, was the principle on which the schedule of dutiable articles had been drawn up, and he added that though the prices of all cereals had diminished since the first imposition of the grain duty, wages had not proportionately decreased, so that the state of the labouring class in Bombay was far better than in other parts of the Presidency. Where the lower classes consumed so few articles, which could be considered luxuries, it was necessary, if indirect taxation was to reach the bulk of the population, to place it on articles of general consumption. The rate in this particular instance had been fixed so low—annas four per candy—and was likely to affect the price of the commodity to the consumer in a degree so infinitesimally small that the imposition of the duty could give no reasonable cause for complaint. These arguments prevailed and to this day grain continues to contribute an appreciable share of the municipal revenue. The duties legalized by the Council were as follows :—

Grain of all sorts	...	...	...	4 annas per candy.
Metals except gold and silver, iron and steel...				1 per cent on tariff value.
Wines and spirits	...	..	...	4 annas per gallon.
Beer	...	...	...	$\frac{1}{2}$ anna per gallon.
Sugar	...	...	...	$1\frac{1}{2}$ per cent on tariff value.
Ghi	...	...	...	10 annas per Bombay maund.
Timber, excluding railway sleepers			...	$1\frac{1}{2}$ per cent on market value.

An amusing plea was put forward by Munguldas Nathoobhoy in favour of exemption of ghi from the duty. 'Medical men could tell the Council,' he affirmed in all seriousness, 'that ghi was absolutely necessary to the healthy existence of the portion of the Hindu community who were vegetarians' and that taxation on such an article 'would lead to great hardships being inflicted upon a very large class of Her Majesty's subjects.' Sharp came the retort from the member in charge of the Bill, 'The Honourable gentleman did not object to the duty on beer, an article of consumption necessary to another important section of Her Majesty's subjects and against taxing which the same arguments might be urged.' 'Eut,' contended Munguldas, 'the difference is that ghi is not a luxury and beer is.' His Excellency the President now intervened and asked in astonishment: 'Does the honourable gentleman consider that beer and wines and spirits are luxuries only?' 'Yes, in this country they are,' replied Munguldas. To this another member's rejoinder was: 'I looked upon the matter from the opposite point of view.' The President also could not agree with Munguldas and the result of this discussion was that the duty on ghi was enhanced from annas 8 to annas 10 per maund.

Cotton, the chief article of trade of the premier sea-port of India, was another item brought within the clutches of the tax-gatherer, which after a heated debate eventually escaped taxation in circumstances over which the Council had no control. In those days the city boasted of hardly two dozen cotton factories, and the bulk of the cotton arriving in the port was intended for export. The impost would, therefore, have been tantamount to a transit duty detrimental to the natural development of trade. This point had actually been discussed in the Corporation and in the Council more

than once before, as for example in the year 1856, when a Committee of the Bench of Justices was appointed to suggest articles for taxation and men like J. Graham, J. Parsons and John Fleming advocated a small duty on cotton. Again, in the year 1868 when the question of town duties was before the Justices a small duty upon cotton was preferred by an overwhelming majority to an impost on grain, and Government were moved to legislate for its imposition mainly on the ground that the commodity enjoyed municipal protection and the use of roads which it destroyed more quickly than anything else did. Sir Seymour Fitzgerald, however, then pointed out that the proposed duty would become simply and solely a transit duty in its naked form and he resolutely refused to consent to it. Moreover, in their resolution of 14th November 1868, on the subject of municipal taxation the Government of India had specified certain articles upon which town duties or cesses under any name should not be levied by a municipality, and cotton was one of those articles. Nevertheless, on this occasion the Select Committee recommended a duty on cotton of four annas per candy. The Chamber of Commerce thereupon sent a representation pointing out that the levy of any rate on cotton would be a transit duty and inquiring whether it was competent for the Bombay Council to legislate for the imposition of transit duties in any form without the consent of the Government of India. The member in charge of the Bill, however, held that there was no legal restriction on the Council's power to legislate on the subject, though undoubtedly it would have to adduce valid reasons to induce the Government of India to assent to a proposal which was at variance with the opinion they had definitely expressed.

Bythell of Messrs. Gaddum & Co. was the stoutest

opponent of the proposal. To admit that transit duties were a legitimate source of revenue would be to inaugurate a policy fraught with danger to the commerce of the city.

'Bombay without her great transit trade would be nothing but a fishing village,' he urged, 'and cotton is the one great article in which she trades. Without that transit trade, what value would be put on the now enormously valuable house property, and whence would the Municipality receive the large income now realized by taxation? The inflated prices paid for house property during the mania of 1864-65 cannot now of course be obtained, but it is an undisputed fact that the present value is much greater, that the rents now paid are much higher than during any period before the great development took place in the cotton trade of Western India The Government of India, knowing how difficult it must be for India to compete with America in cotton cultivation, and how valuable the trade in cotton is to the country, have carefully refrained from imposing any tax upon it and have made it their special care to foster it. Even in the hour of their greatest need, when they had to incur the odium of levying an income tax of 3½ per cent, the Government of India did not propose to lay any burden on cotton. Seeds, oil, grain, spices, indigo, lac are all saddled with an export duty, but cotton nevertheless remains free. What, then, will be said by the country when Bombay for municipal purposes attempts to tax the one article that has at all cost been hitherto exempted?'

How far this solicitude for the trade of Bombay coincided with the interests of the firm to which the honourable member belonged we need not pause to examine. The Cottonopolis of India had reason to be grateful to this English merchant for taking up the cudgels on behalf of its staple article of trade. But alas for the exigencies of imperial policy! Within a few years a grievous fiscal injustice, a barefaced political fraud was perpetrated, in the name of free trade and recognized principles of political economy, on the cotton industry of

India, the only indigenous industry of which India could boast! That, however, is another story. We are not for the present concerned with the history of the cotton import and excise duties. The only object of this digression is to show how the sacred principles on which politicians take their stand to avert even the most insignificant iniquities are conveniently forgotten when other more pressing ends have to be served.

To revert to the discussion in the Council. The Advocate-General said he could hardly think that the speaker was in earnest when he said that the proposed insignificant duty would ruin the cotton trade in Bombay. He considered that the objections of the Government of India to a series of inland transit duties would scarcely apply to a small market due levied at the chief emporium of the trade. Cotton intended for export remained a long time in the city and was protected, and the dealers in it were supplied with many conveniences. It changed hands, and in every operation connected with it yielded profitable occupation to a large class of persons. A duty on it could not, therefore, be classed as an ordinary transit duty.

'Supposing,' he said, 'that the cotton merchants of Bombay do go up to the Governor-General and petition him to expunge this tax on cotton from the schedule, what is likely to ensue? The Viceroy will see before him on one side a body of men rolling in wealth, who stay in handsome houses, who possess fine properties, asking that cotton should be relieved. On the other side the picture will show myriads of poor people, with hardly any clothes upon their backs, and having the appearance of starvation, and these will implore that grain should be set free so that their bellies may be filled. And which of these representations will a wise and beneficent ruler incline to? I hope to heaven that the representatives of the rate-payers will stir themselves to get up a kindred petition for the inhabitants of Bombay and present it to their Viceroy, who will then consider whether or not there is justice in taxing grain.'

The most novel but telling argument in favour of the impost was furnished by Munguldas Nathoobhoy who believed that Indian merchants were in favour of a slight duty on cotton. 'They consider,' he said, 'a slight tax upon cotton so unobjectionable that in selling cotton they always put so much per candy aside for charitable purposes. Thus they give four annas per candy for the support of *pinjrapoles*; they give half an anna per candy for the feeding of pigeons, and they had formerly¹ to give a quarter per cent' under the Cotton Frauds Suppression Act, which payment has now been reduced to half the amount I have stated by Government.'

The member in charge of the Bill made much capital of those caste-imposed contributions. The Hindu member had told them that oriental ingenuity had discovered a way of making the cotton trade contribute to the support of Hindu charitable institutions and the maintenance of asylums for useless and moribund animals and for the preservation of vermin, and the feeding of pigeons. 'Now,' said he, 'it appears to me far better that this trade should contribute its quota to municipal revenue in return for the numerous advantages it receives than that it should be subjected to irregular exactions of this kind, which, when not paid voluntarily, are enforced by the power of combination which Hindu traders know so well how to exercise.' After this little remained to be said in favour of the duty. His Excellency Sir Philip Wodehouse declared he could not comprehend the justice of a proposal that cotton alone should be totally exempted from taxation and that the Council should raise a revenue from articles of domestic consumption and the necessities of life such as grain, ghi and sugar. Bythell's amendment was thereupon rejected by a large majority.

¹ It was not a quarter per cent, but four annas per bale of 492 lbs. .

But victory rested with him in the end ; for while the Viceroy had nothing to say concerning the injustice of taxing grain, a communication reached the Council announcing that His Excellency entertained serious objections to the proposed town duty on cotton. The Government of India considered the tax a transit duty, and such duties had been prohibited in the Municipal Bills for other places in India, because they would be opposed in principle to the policy pursued with regard to independent Native States the rulers of which had been requested to abolish transit duties in their territories. In deference to these views of the superior authority it was decided by His Excellency the Governor in Council to omit the commodity from the schedule of town duties. For forty years from that date no one dared make any suggestion to bring cotton within the grip of the tax-gatherer. In the year 1910, the Bengal Government proposed to levy an excise duty, not exceeding two annas per bale, on raw jute and jute cuttings and rejections exported from the port of Calcutta or consumed in any mill in Bengal, with the object of financing the projected Improvement Trust. This emboldened the Municipal Corporation of Bombay to ask for an export duty on cotton and a powerful representation was accordingly sent on 16th February 1911, to Government, both by the Corporation and by the Bombay Improvement Trust, asking that a special duty of four annas per bale might be levied on all cotton exported from Bombay, for the purpose of supplementing the resources of the Trust to the extent of about Rs. 4,50,000. It was the same story over again. The Bombay Chamber of Commerce entered a vehement protest against the proposal with the result that it was shelved once more and the work of improving the slums of Bombay sustained a serious set-back.

The last triumph of the Chamber was, however,

short-lived. Soon afterwards the Bombay Government embarked on their costly schemes of reclamation and development and turned their eyes in search of the sinews of war to the closely guarded realms of King Cotton. Fortunately for the Corporation, the office of Municipal Commissioner was then held by one of the most unassuming but quick-witted and tactful members of the Civil Service, Mr. P. W. Monie, who seized the opportunity of pointing out to Government how illiberal the assistance rendered by them to the Municipality was by comparison with the aid extended to municipalities in Great Britain, and pressed for a share of the spoil for the prosecution of municipal schemes for the development of the city. No sooner said than done. A Bill was forthwith introduced in the Legislative Council (Bill No. VII of 1920) providing for the amendment of the City of Bombay Municipal Act so as to empower the Corporation to levy a town duty on raw cotton imported into the City of Bombay at the rate of rupee one per bale, the Corporation retaining three-sevenths of the gross revenue derived from such duty and paying the balance to Government. In the statement of objects and reasons it was stated that in view of the serious shortage of housing accommodation in the City and surrounding neighbourhood, it was proposed to appoint a Development Authority which would coördinate the work and assist the local and public authorities in all matters affecting the development of Bombay and adjoining areas, and that the amendment was necessary in order to provide revenue for the scheme.

Extraordinary as the measure was, the reforms and the machinery by which it was proposed to carry the reforms into effect were even more extraordinary. Yet neither the Corporation nor other public bodies were consulted before the Bill was launched. The Governor,

Sir George Lloyd (now Lord Lloyd) therefore considered it necessary to explain personally to the Council the objects and policy underlying the measure and he himself moved the first reading of the Bill, an unusual course though not unprecedented. Taking his stand on the extreme need of housing and improvement of slum conditions in the 'city of dearth and death,' he shrewdly avoided any reference to past controversies on the question of transit duties. No whisper was heard about the violation of the principles of political economy which had been previously regarded by the Government of India as sacrosanct. The Bill was passed without a murmur; the Delhi oracles on this occasion were dumb, thereby offering an apt illustration of the poet's words :

'Manners with fortunes, humours turn with climes,
Tenets with books, and principles with times.'