

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67

The Council met at the Council Chamber on Wednesday, the 4th April, 1888
at 11 A.M.

Present:

The HON. SIR STEUART COLVIN DAYLEY, K.C.S.I., C.I.E. Lieutenant-Governor of Bengal, *presiding*.

The HON. H. J. REYNOLDS, C.S.I.

The HON. C. P. L. MACAULAY, C.I.E.

The HON. T. T. ALLEN.

The HON. SIR HENRY HARRISON, K.T.

The HON. SIR ALFRED CROFT, K.C.I.E.

The HON. MOULVIE ABDUL JUBBAR.

The HON. BABU KALI NATH MITTER.

The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON. C. H. MOORE.

The HON. DR. GOOROO DASS BANERJEE.

The HON. H. PRATT.

NEW MEMBER.

The HON. MR. PRATT took his seat in Council.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

The HON. SIR HENRY HARRISON moved that the final Report of the Select Committee on the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON also moved that the clauses of the Bill further amended, be considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

[*Sir Henry Harrison; The President; Dr. Gooroo Dass Banerjee.*]

THE HON. SIR HENRY HARRISON said:—We have already considered the first 57 sections of the Bill, and therefore I move that we begin with section 37. The first amendment on the list of business belongs to the chapter of definitions, and will naturally come on for discussion when that chapter is considered. As we have only to-day seen the exact line which the Hon. Member wishes to take, we shall be able to consider it at another meeting.

HIS HONOUR THE PRESIDENT said:—The Hon. Dr. Gooroo Dass Banerjee may explain to-day what his motion is, and we may postpone the discussion to another day.

THE HON. DR. GOOROO DASS BANERJEE said:—The amendment of which I have given notice regarding the definition of "Calcutta" differs only in one respect from definition No. 7 in the Bill. It excludes from the Suburban area which the definition in the Bill proposes to include only a portion on the south side, namely the portion bounded on the north by the line of roads commencing from the east with the Tiljullah Road, and going along the Ballygunge Circular Road, the Puddopookur Road, the Pakoortollah Road, and the Chacollputty Road, till it comes to a point where Tolly's Nullah turns south; and the portion excluded in my amendment has, for its western boundary, Tolly's Nullah. This is how it appears on the map. The line marked blue is the northern boundary of the portion I propose to exclude; and the other line, which is Tolly's Nullah, is the western boundary. The parts of the portion excluded, which are in the immediate vicinity of the northern and western boundaries, are, it is true, populous; but as we proceed further on towards the south from the northern boundary and towards the east from the western boundary, we come to places which are scarcely suburban, and which are of a rural character, and may safely be excluded from the operation of the Bill. I have no objection to postpone the discussion of the question now, but in that case I will ask permission to come back to any part of the Bill which may involve any question as to the extent of area involved, if such part is disposed of before the question of the definition is finally settled. I do not however think there is any important part of the Bill, which will render this necessary, now that we have disposed of the question of the number of roads.

[*Dr. Mahendra Lal Sircar ; The President ; Babu Kali Nath Mitter*]

THE HON. DR. MAHENDRA LAL SIRCAR said:—I have to request that maps showing the proposed boundaries be circulated to the members; otherwise it will be impossible to come to any definite conclusion as to what the boundaries should be. This is what I have been insisting upon from the beginning, as I have not been able to procure a map which gives the correct boundaries in the plan.

HIS HONOUR THE PRESIDENT said:—I think that the map which the hon. mover of the amendment has will show very distinctly what he proposes. I do not wish to postpone the discussion till the end of the Bill, but I thought that if the Hon. Member explained to-day what he proposes, we may give ourselves till the next meeting to consider his proposals after having seen his map, instead of merely trying to follow the printed description of the boundaries. I think we might be able to meet the hon. gentleman to a certain extent. The portion of country which he wishes to exclude is no doubt distinctly of a rural character, but I should have preferred if he took the Bhowanipore and Kallighat road as the western boundary, instead of the Tollyganje road, because the part of country between them is distinctly of an urban character, and very thickly populated. If we could come to an agreement on these lines, I shall be glad to try to meet him. We can discuss the matter at our next meeting after the hon. gentleman has seen on the map the boundaries which the hon. mover of the amendment proposes to prescribe.

[The further discussion of the amendment was postponed on this understanding.]

THE HON. BABU KALI NATH MITTER moved that (c), (d), (e), (f), (g), (h), (i), (j) and (k) of clause 5 and clause (6) of section 37 be omitted.

He said:—When this Bill was before the Council on the last occasion, the section which is now No. 37 was then section 30, and in the latter certain matters only were included as the duties of the Corporation. Take for instance, the naming of streets and the numbering of premises. If general default is made by the Commissioners in the numbering of streets, they are to be superseded. I do not think it was ever intended that such should be the case, nor is it very likely to happen. The construction and maintenance of public latrines, urinals, and other public conveniences. These matters depend very much upon the funds at the disposal of the Commissioners as to the extent to

[*Babu Kali Nath Mitter ; Sir Henry Harrison.*]

which they may be in a position to carry out such works; but if these are put in the section as duties to be performed by the Commissioners, they would have to be performed irrespective of the question whether funds are available or not. The section which has already been passed (section 36) declares the purposes to which the Municipal Fund may be applied, and I think that should be sufficient, leaving it to the discretion of the Commissioners to carry out those objects as far as might be practicable. Then, with regard to the watering and lighting of streets. The whole of the town at the present moment has not been lighted. It would depend very much on the state of the funds as to what parts can be lighted and what cannot be lighted; and therefore it is essentially necessary to leave it as a matter of discretion as at present and not to convert it into a duty. Then, again, as regards the abatement of nuisances. There is a section of the Bill (section 389) which shows that the Commissioners have to be satisfied that there is real necessity for taking up a case before they can be called upon to take it up. But if it is to be a duty, then as soon as a complaint is made they will have to take it up as a duty; there is no discretion left. Under these circumstances, I move that the clauses which I have mentioned be omitted from section 37. I wish it to be distinctly understood that I do not for a moment mean that by the exclusion of these clauses, I intend that the Commissioners are not to give these matters their very best consideration; but having regard to the large area to be included in the town it is very difficult to foresee what the Commissioners will be able to do.

The HON. SIR HENRY HARRISON said:—I wish to ask whether it will be possible to consider amendments Nos. (2) to (5) together, voting upon them of course separately, because the Hon. Member who has just moved amendment No. (2) has admitted that the objection does not lie to the clause itself, but only when it is read with section 38. It seems to me that substantially the question involved by amendments Nos. (2) to (5) is an alteration in the framework of section 37 as read with section 38. I think it would shorten and simplify our procedure if these amendments are all considered together. Suppose section 38 were altered? Suppose we omit the clauses of section 37 mentioned in amendment No. (2), and the Hon. Member then suggests a very different control section, the position of Hon. Members will be a very difficult one? It will therefore be far more convenient if the whole of these amendments are treated as involving one large question.

[*Babu Kali Nath Mitter.*]

THE HON. BABU KALI NATH MITTER said in reply :—I agree with my non-colleague that it will be very desirable to discuss all these amendments together. If I succeed in having section 38 substantially altered, the objection to section 37 will be very much minimised. I have therefore not the slightest objection to the course proposed.

[HIS HONOUR THE PRESIDENT on that understanding asked the Hon. Babu Kali Nath Mitter to proceed with his next amendment No. (5).]

THE HON. BABU KALI NATH MITTER said :—My objection to section 38 of the Bill is this, that when the Act of 1876 was under consideration a similar objection was taken by various public bodies, and thereupon this and some other sections of the Bill were referred back to the Select Committee for further consideration. After a good deal of discussion, after hearing delegates and counsel on behalf of several public bodies, the section which stands in the Act was adopted, and the then Lieutenant Governor expressed his fullest concurrence in the alteration made by the Select Committee. When the present Bill was laid before the Select Committee in the first instance no change was proposed in the section. It was only at the very last moment that the Hon. Mr. Macaulay thought it to produce the present section 38 in lieu of the section in Act IV of 1876. The reason assigned by him was, that the provision as it stands in the Act is cumbrous and unworkable. As far as it is cumbrous and unworkable, no doubt it will be necessary to remodel it; but I do not think that because it is cumbrous and unworkable, therefore the law should be materially altered so as to give uncontrolled power in the hands of the Local Government. The powers under the present law are these. In the first place the power is to be exercised only in a few cases, that is in cases where adequate provision is not made for the conservancy and cleaning of the town so as not to secure its healthiness. In the second place if the Commissioners failed to take steps to improve the bustees of Calcutta, and thus to secure the healthiness of the town, then the law authorises the Local Government to step in. But before the Commissioners can be superseded in any way, the present law provides as the most important matter that there should be an independent enquiry, and unless in the course of that enquiry it appears that default has been made within the terms of the law, the Commissioners cannot in any way be superseded. This safeguard does not appear in section 38 of the present Bill. I was told in the Select Committee that due enquiry would mean after hearing

[*Babu Kali Nath Mitter.*]

the Commissioners. If that is so, why should it not be stated in the law that, before this power is exercised, the Commissioners shall be heard? Again it was said that the wording of the present law makes the provision unworkable. I have, therefore, thought fit to alter the wording of the section, and I am confident that the section, as I have framed it, cannot be said to be unworkable. If there is complaint made, the Commissioners are to be heard, and if the Government is then satisfied that default has been made, there is to be a Commission appointed. The Sanitary Commissioner or any one acting for him is to be one of the arbitrators; the second arbitrator is to be appointed by the Commissioners, and the third by the Local Government; and these three arbitrators are, within a time to be fixed by the Local Government, to find whether any such default as has been complained of, has been made. If they find that default has been made, then they are to state what, in their opinion, should be further required to be done in regard to such matter. After the Commission makes its report, the Local Government is entitled to call upon the Commissioners to carry out what the members of the Commission have awarded; and if they fail to do so, the Chairman of the Corporation is to supersede the Commissioners. What is how the section I have framed will practically work? it will substantially leave the law in the same position as at present. No outsider is to supersede the Commissioners; the supersession will be by the Chairman under the special authority of the Local Government, but this supersession would not take place until after a proper enquiry. It is said that such an enquiry will take time. No doubt it will take some time, but time should not be objected to in a matter of this kind. It is entirely in the hands of the Local Government to fix the time within which the report is to be submitted by the Commission. If the complaint is in respect of a matter of very urgent importance, which can be enquired into within two or three days, the Local Government might fix a very short time. If, on the other hand, it is a matter of a complicated nature in which there is no great urgency, the Local Government may fix a longer time for the members of the Commission to make enquiry and submit its report. Therefore, as far as the objection goes that the procedure is cumbrous and unworkable, I submit that the section framed by me will not be open to that objection. Then, again, I have limited the enquiry to one of the duties enumerated in clauses (3) and (4) and (a) and (b) of clause (5). These are the most important matters. Clause (3) refers to completing and extending the drainage works throughout Calcutta, and the opening out and improving of bustees

[*Babu Kali Nath Mitter.*]

and to the expenditure annually of not less than two lakhs of rupees for these purposes. Clause (4) refers to the maintaining of a water-supply; and (a) and (b) of clause (5) to the cleaning and conservancy of Calcutta, and the maintenance and cleaning of drains and drainage works. These are the most important duties which the Commissioners have to perform. They have immediate reference to the health of the town, and in respect of which the Government should have a power of control. As regards clauses (1) and 2), they are so important and so essentially a part and parcel of the working of the Municipal Act that I have not thought it necessary to include them in section 38, because the payment of interest and the establishment of a sinking fund are the first duties of the Corporation. If the Commissioners can be trusted with the administration of the municipal affairs of the town, they should be trusted to make suitable provision for these purposes. I cannot conceive it possible that under any circumstances these duties would not be performed, but if it is thought desirable that they should be included, though the section will then need slight modification, I shall have no objection to offer. I have excluded them simply because they are primary duties, and it is not possible to conceive that under any circumstances these duties would be neglected.

Then as regards other matters, I submit that they are matters of detail which may be left to the Commissioners, subject to the control of public criticism and to the influence which the Press can bring to bear on the Commissioners. I put it to the Council and to Your Honour, whether or not it would be utterly absurd to supersede the Commissioner, because two or three streets had not been named! That, however, is how the section stands. While it is desirable that the Local Government should have this power in matters of vast importance, I think it is desirable that such power should be safeguarded, and the safeguard should be an enquiry by a Commission. The members of the Select Committee, in dealing with this subject, say in the first page of their report, chapter II:—

“Section 37 enumerates the duties of the Corporation. This section has been enlarged to include all that should be included as the duties of the Commissioners, and section 38 confers ample powers on the Local Government to compel the Corporation to discharge any of these duties should it neglect to do so. We could not recommend the re-enactment of the cumbrous and unworkable sections of the former law. On the other hand, the discretion and forbearance of the Government constitute the best guarantee which can be given to the Corporation against a hasty and injudicious use of this power. We have introduced an appeal as of right to the Government of India.”

[*Babu Kahl Nath Mitter.*]

Though I look upon this right of appeal as a concession to my objections, yet I am not satisfied with the section as it has been framed by the Select Committee; and I think it is necessary that there should be material alterations made in it to show the public that since the passing of the Act in 1876 nothing has happened which would justify an alteration of the law on the subject. Within ten or eleven years it was only once that the Local Government thought fit to have recourse to this section. I do not wish, for obvious reasons, to enter into that discussion further than to show that all the recommendations of the Commission were altogether accepted by the Commissioners, and they gave effect to them so far as the Government requested them to do so, not putting their request under the provisions of the law, but appealing to the good sense of the Commissioners. I believe the hon. member in charge of the Bill will bear me out in saying that every one of those recommendations has been attended to. Suppose the law then stood as it is now proposed to make it, what would have been the consequence? I think the consequence would have been the supersession of the Commissioners, and then a grievous mistake would have been committed. As regards matters of vast importance, of course the Local Government should have a power of control; but while conceding this control there should be the safeguard of an independent enquiry. In 1876, and also upon the present occasion, it has been said that this power exists in England and in Bombay. As regards England, the cases are totally different. There the Government does not appoint a single Town Councillor, but all of them are elected by the rate-payers, and the Chairman is elected by themselves; so that in every sense local bodies there are wholly independent of Government control, and moreover all large municipalities, as far as I have been able to ascertain, are represented in Parliament, and that of itself is a safeguard against the capricious action of Government. I appeal to the Council and to Your Honour to say whether it is likely the town will suffer in the least by adopting the section I propose? If the town will not suffer, I think it will be an act of grace towards the Commissioners and the rate-payers not to alter the law so materially as is proposed. On this subject both the British Indian Association and the Indian Association have made representations. The British Indian Association in their letter says—

“The controlling power of the Government is proposed to be made more summary than at present. The exercise of such summary power would not only be inexpedient in the face of the very reasonable provision at present existing, but unjust to the Commissioners, who

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ought to be heard in their defence. The Local Government may, after considering such explanations as the Commissioners may offer, appoint a Commission, as in section 25 of the present Act. Such a Commission, if properly constituted, would form a proper bench to judge of the issues between the persons complaining of default by the Commissioners on the one hand, and the Commissioners on the other. After our experience of the last Commission it is necessary that the Government should specify in detail the work or works neglected, and the exact amount of work to be done. The danger of a special officer, spending money without limit on any particular work, may so cripple the municipality as to lead to the neglect of more pressing work in other directions. The resources are not unlimited, and the expenditure should be regulated according to income."

And the representation of the Indian Association have also made similar observation. After comparing the provisions of the existing law with the section in the Bill, they say—

"It will be seen at once that the powers of control claimed under the new Bill are far more summary in their operation than what is provided for in the existing law. Under the present law, the Government cannot take any action except as the result of a public enquiry. Under the Bill no public enquiry need be made. If the Government is satisfied that default has been made—it does not matter by what process—the Municipality may at once be coerced to carry out the orders of Government. But the fact remains that the powers of control reserved to the Government by the existing law have been found by actual experience to be amply sufficient for all purposes."

With these observations I leave the matter in the hands of the Council. I think this is a matter which demands our earnest attention, and I hope that the Council will accept the amendment proposed by me.

The HON. DR. GOOROO DASS BANERJEE said :—I beg to move that, in section 38, line 5, after the word "duties" the words "relating to public health" be inserted. I also move that, in line 7 of the same section, after the word "enquiry" the words "by a Commission consisting of three persons, two of whom shall be appointed by the Local Government, and one by the Commissioners in meeting" be inserted. The object of these amendments is of a nature similar to that which my hon. colleague who has just sat down has in view in proposing his amendments. The only difference between his amendment and mine consists in this, that whereas he would revert to the old law with very slight modifications, my amendments take a middle course between the old law and the provision contained in the Bill. I fully admit the necessity of the Government having control, but

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I submit that this control, in the case of an important public body like the Calcutta Municipal Corporation, should be limited to extreme cases—to the cases of serious neglect of duty by the Corporation in relation to matters of public health. It is then only that the grave importance of the subject would justify the action of the Government. In other matters of minor importance, the Municipal Corporation could be safely trusted. But if the provisions of the law remain as they are in the Bill, the result will be that the Commissioners would be liable to be superseded on account of default in the discharge of every minor duty, such as the naming or the watering of streets. This would no doubt very prejudicially affect the independence of the Corporation, a result which is scarcely desirable. Then it should be borne in mind that the new Corporation, with their limited funds, and with the comprehensive and detailed scheme of duties laid down in section 37 of the Bill, would be constantly exposed to the risk of being proceeded against under this section unless its operation is limited in the way I suggest; and this danger will be all the greater when it is further borne in mind that the amalgamation of the large suburban area with the town will increase their responsibilities a great deal without providing them with adequate funds to discharge those responsibilities. Therefore, I submit, that the first of the two amendments I propose ought to be accepted by the Council.

Then as regards the second amendment, it is quite true, as the Select Committee observe in their report, that the discretion and forbearance of the Government constitute the best guarantee that can be afforded against any unnecessary or arbitrary exercise of the power; but, I submit that it is equally true, in the case of an important public body like the Calcutta Corporation, that their own good sense and the control of public opinion will be sufficient in all ordinary cases to induce them to perform their duties. And if it is thought necessary to guard against neglect of duty by the Corporation in important cases by legislative enactment, I submit it is at least desirable, if not necessary, to make some provision in the same law against any hasty or injudicious exercise of the power of control in any case. And this necessity will appear most clearly when it is remembered that the Corporation, with their limited funds and almost unlimited responsibility, will always have to choose between two evils. They will always be obliged to neglect, for a time at least, duties of a less urgent nature in order to discharge others of a more

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pressing character. With regard to a public body so circumstanced the duty of judging of their acts and omissions must necessarily be of a most difficult and delicate nature, and therefore I submit it is due as well to the Corporation as to the controlling authority itself to lay down rules and to make careful provision against any unfair or injudicious interference being made in any possible case. There are many cases in which the question involved will after all be a mere matter of difference of opinion; the Commissioners after exercising their judgment most carefully and anxiously may think one class of duties more important than another, whilst the Local Government may be inclined to take a different view. And the possibility of the Commissioners being able to discharge both duties together will depend on the state of their funds. An enquiry into these points can hardly be fairly conducted unless the Commissioners are represented by some one in the tribunal which is to judge. I therefore submit that the very least which ought to be done in this direction will be to have an enquiry by a Commission constituted as my amendment indicates. I earnestly hope that if the Council has any difficulty in accepting the larger proposition contained in the amendment of my hon. friend Babu Kali Nath Mitter, it, at any rate, will find no difficulty in accepting the smaller measure proposed in my amendment.

THE HON. SIR HENRY HARRISON said—Although I am quite prepared to admit that the question is not without difficulties, I can hardly recommend the Council to accept the amendments moved by the Hon. Member on my left (Babu Kali Nath Mitter). As regards the fact that section 37 in its earlier form did not contain the clauses to which the Hon. Member has referred, I may mention that in the first instance the Government of India drew attention to the non-inclusion in the section of such provisions. In a letter, received from the Government of India last year, commenting on the draft Bill, they asked us to look into the corresponding sections in the Acts relating to Municipalities in other parts of India, and it is not possible to deny that the maintaining of a system of registration of births and deaths for instance, or the naming of streets and the numbering of houses are duties of the Municipality. * Then, if it is the duty of the Municipality to do these things, ought they to be omitted from the section of the Bill, over the operation of which a power of control is given to the Government? I admit that for all practical purposes it will perhaps be sufficient if the power of control is confined to matters affecting the public health, because it is

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essentially in such matters that there will be a probability of difference of opinion. But as a question of principle, why should the other clauses of the section be excluded? The probability is that there will be no likelihood of default in such matters. But suppose the Commissioners were to commit default in respect of such matters? Suppose the Commissioners discontinued the maintenance of a system of registration of births and deaths? There are statistics of births and deaths extending over a series of years of extreme value to which constant reference is needed. Would it not then be necessary that the Government should have power to say to the Commissioners, you shall not discontinue those registers? Take another case. Take the naming of streets and the numbering of houses. Conceive the total confusion which would result from total neglect of this duty. Consider the total prostration of the Postal Department and of all inter-communication in Calcutta. Is there one single duty of the Commissioners regarding the performance of which it would be more incumbent on the Government to interfere than that supposing it neglected? As a question of principle I cannot see why we should take away the control of the Government over duties of this kind which, supposing they are not performed, will lead to disastrous results, simply because we think there will be no necessity for such control. The chances are a hundred to one that the Commissioners would not commit default in such matters; if so, no harm would be done, and the section would remain a dead letter. But suppose the Commissioners did commit general default, then there is no single matter amongst the duties of the Corporation control over which would more meet with the approval of the entire population, than some of the matters which I have instanced. I think the essence of the objection is that instead of the decision in such matters being vested in the Government it should be vested in a tribunal consisting of three persons, two of whom should be appointed by the Local Government and one by the Commissioners in meeting. That is a legacy from the Act of 1876, and the Hon. Babu Kali Nath Mitter correctly described what happened then. The section was adopted as a compromise by way of concession to representations made by various public bodies, because they considered that the general power of control proposed to be given would prove fatal to the independence of the Commissioners. But I would ask the Council to consider whether that is not a fundamentally erroneous principle. It appears to me to be an erroneous principle incautiously and easily yielded by Sir Richard Temple to satisfy the objections raised by several public bodies. And now that the law is being amended, I am

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bould to say that in my opinion the Council will do wrong, unless it lays down most distinctly that the authority in all such matters rests with the Government. There is a great deal of difference between the Government interfering in matters concerning the duties of a Municipality and in matters affecting private rights, in which case the decision of a perfectly independent tribunal is necessary. There is a wide difference between such rights and rights and duties which are really part of the work of Government. The Municipality is a body vested with some of the authority of the Government of the country, and it should be properly regarded as a body which is subordinate to the Government of the country, and so it is regarded in every country in the world. In Paris, in Berlin, in London, the Government of the country is vested with the supreme authority and the supreme responsibility of disposing of public duties, but as it cannot attend to everything itself, it has its subordinate officers, and, where it is possible, local bodies are constituted for local purposes. But who in the long run is responsible to the individuals of each community against gross abuse of authority, but the Government of the country. Therefore, I submit, that as a matter of Government we must have a hierarchy of institutions, and subordinate authorities must be placed under superior authority. The Government ought to make up its mind with the utmost care, prudence, discretion, and forbearance; but when the Government has made up its mind that something is wrong, it is erroneous in principle to say that it should not have power then and there to act, but that authority should be given to some other tribunal to judge between it and the subordinate authority. That is the principle on which this section is based. Therefore on the whole I submit that the proper principle is that the responsible authority must be given the power after it has given full consideration to the matter and has made up its mind. And that being so, may we not fairly appeal to the experience of all other parts of the world? Can the Hon. Member point to any provision such as exists in the Act of 1876? In France, there can be no question that Municipalities are absolutely and entirely under the control of the Government: the President of the Republic has complete power over municipalities. In Paris, it is entirely under the Prefect of the Seine and the Prefect of Police. And a similar rule prevails everywhere. In Bombay, a precisely parallel case, where a portion of the members of the Corporation are appointed by the Government, we have the same principle; and in Madras it is the same. In India, that appears to me to be the

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legitimate and proper position which the Government must exercise. On the other hand, it seems desirable that that principle once safeguarded, the Government should make every concession it can, consistently with the working of the principle, to the position of the Corporation. On that ground we are much indebted to Your Honour that the Corporation should, under such circumstances, have been given a right of appeal. That right can no doubt be granted without any serious incumbrance to the exercise of the authority. It is in itself a very moderate safeguard. The Hon. Member asked why it should not be incumbent on the Government in the first instance to call for an explanation from the Commissioners. But by a concession of the kind offered by Your Honour, you practically concede what is asked. I know that there is a strong feeling in many quarters that in doing that the Government has made an unnecessary concession, and it is perfectly possible that if that view had been pressed on the Council, a majority might have been found to agree with it; and that makes us all the more indebted to you for making the concession, and it is the utmost concession which Your Honour can make consistently with principle, Your Honour being the responsible authority.

One more argument before I sit down. It is but fair to point out that a very great change has taken place, or, I should rather say, the experience of past years has made a great change in the aspect which this question now presents. If I read to the Council from a speech delivered by the late Hon. Kristo Das Pal when he objected to a similar provision which was first proposed, it will be apparent that what he made the primary objection to the principle no longer exists. He said—

“This was the last straw which broke the camel’s back. If this section passed, he would rather set his face against an elected system than vote for it in this form. The section gave power to the Local Government to modify or cancel rates which might be fixed by the Municipal Commissioners after full and mature deliberation. So long as this section should remain a part of the statute book, he did not know whether any independent gentlemen, with any feeling of self-respect, would care or would be willing to work for an object which would be likely to be set at nought at the pleasure of the Government. The other day the Justices, after days of labour and discussion came to the decision, that a 7½ per cent. house-rate would be sufficient for the year. The Chairman was not of course satisfied with that decision, and, as under the present law, the Government had no power to alter the rates, the Chairman was bound to accept the decision of the Justices so long as they saw no reason to alter it. But if the Government had power under the existing law in the way proposed in this section, then the Chairman might have at once gone up to Government, and the rate passed might have been cancelled. It might be urged that Government would not unnece-

[*Sir Henry Harrison; Babu Kali Nath Mitter.*]

sarily exercise that power. But at the same time Babu Kristo Das Pal submitted, with due deference to the Government that it would be chiefly inspired or guided by the Chairman in a matter like this. Government could not be expected to be master of those details which the Chairman, it was thought, ought to be; and in such a matter the Government would necessarily be guided by the Chairman. With every deference to his hon. friend who now so ably filled the office of Chairman to the Justices, he submitted that the tendency of the Executive had always been to expend money, and that tendency it had been the business of the working Justices to control.

“That, he submitted, was a healthy policy. He thought such a state of things was good for the town. Good, because the Chairman, as the executive officer, might be anxious to undertake works of improvement which might be desirable to carry out, and good, because there was an independent body of working Justices to temper the excessive zeal of the Chairman, and their conduct in this way helped to preserve the much-needed equilibrium. But once that power was destroyed or lost, it would come to this, that the Chairman, however reasonable he might be overruled by the Commissioners, would have only to appeal to the Government, and, as the representative of the Government, he would in nine cases out of ten be likely to be supported by it. Such being the tendency of this section, he was sorry he could not support it, and he was compelled to say that, if it were carried, it would defeat the very object for which His Honour so laudably sought.”

The whole gist of his objection was that the Chairman would be constantly rushing up to the Government to appeal against the Commissioners. Has not experience shown that that is quite contrary to the spirit in which the Act has worked? Does not the Chairman recognize that his interest and the interest of the Corporation are the same; that his success is their success, and that their success is his success? And so long as that is the spirit which guides the Corporation, I do not think there is any reasonable fear of the Chairman going up to Government; of any constant appeal to Government from within the Corporation. That was the only way in which the late Hon. Kristo Das Pal thought the principle of the section originally proposed was unwise; but as far as the outside public was concerned, he admitted that if, say, 500 rate-payers petitioned the Government, the section should be brought into operation.

For all these reasons, I think it will be fittest for the Council not to accept the amendment, and to be satisfied that the Corporation will always have a right of appeal to the Government of India.

The HON. BABU KALI NATH MITTER said in reply:—I have listened very attentively to what has fallen from the hon. member in charge of the Bill, but I fail to see how he has attempted to meet the objections I have raised to the section. He has made general statements which an advocate will

[*Babu Kali Nath Mitter.*]

always make when he has a bad case to deal with, but he has not attempted to meet the objections which I raised. All throughout he has made general statements. As to the quotation from the speech of the late Hon. Kristo Das Pal, I submit that everything he then said applies in every possible way to the present time. Suppose this section is not altered, but is passed as it has been framed, will the relations between the Chairman and the Corporation be of the same character as they have been in the past? I think if the law was different, the Chairman would on many occasions have gone up to the Government; the Act has worked well, because the law insisted upon an enquiry. We have no experience of what would have happened if the law had been different; our past experience, therefore, does not help us. The late Hon. Kristo Das Pal put it on that ground alone. I did not put it on that ground. I never referred to the possibility of the Chairman being the person who would be the complainant: that is a matter wholly immaterial to my argument. We are asked why the Government should not interfere if the Commissioners omitted to register births and deaths or to name streets and number premises. If that happened, the interference of Government should be very different. It should not be supersession by the appointment of a person to register births and deaths or to name streets or number premises, but the interference would take the form of establishing a totally different system of Municipal Government. If it is possible to conceive that the Commissioners should fail to provide for the performance of these obvious duties, then the course would be not to supersede the Commissioners in the manner indicated in the Bill, but to supersede them completely, and to have another system for the administration of the affairs of the town. To my mind the two things are as totally distinct as it is possible to conceive, but I do not think it is possible any such thing can happen. I am told that if it is not possible to happen, what objection is there? I object to this provision on principle; that it is a provision which should not be left without reasonable safeguards. Then I am referred to the words "general default." The expression "general default" has not been defined in the Bill, and I do not know what it means; whether the omission to name two or three streets or a hundred streets would be considered "general default." It would be very difficult to say how a court of law would interpret this "expression," or how the Local Government would interpret it. Then my hon. friend has thought fit to say that on the last occasion when this question was considered it was decided on an erroneous principle. I have listened very attentively to find where the principle lies, but I have failed to find

[Babu Kali Nath Mitter.]

any principle involved in it. My hon. friend says that if such default is committed, who is the person who should take action but the Local Government? My answer is that it will be impossible for the Local Government, constituted as it is, to have any opinion on the subject, unless it causes a proper enquiry to be made by an independent person or tribunal. When a memorial signed by 500 or 1,000 persons is submitted to the Government, it is *prima facie* evidence that the complaint is a just one, and no reasonable man can object to the exercise of this power in such a case; but if the complaint is to be enquired into in the mode indicated in the law, and if, as the result of that enquiry, the Local Government is to exercise the power, then I do not see where the principle suffers. It is not to be an enquiry made by a Secretary to Government or some other Government official; but by independent persons, assisted by a nominee of the Commissioners, so that the nominee of the Commissioners will be able to place before his colleagues the fullest information on which it would be possible for the Commissioners to come to a finding. Therefore, I humbly submit, that there is no question of principle involved in the section. My hon. friend has asked me to show whether there is in England or elsewhere, or in this country, any such provision of law as that contained in Act IV of 1876, or in my amendment. I say there is not, and it is because Calcutta is differently circumstanced from other towns that it was thought fit to make this provision. May I not retort and ask whether the Hon. Member can point to any case where an appeal to the Government of India from the decision of the Local Government has been allowed? If he cannot, then does not that show conclusively that the circumstances of the case are different, and that therefore a different procedure is applicable. I would also urge that as this appeal is to be allowed, the order must be made after the Commissioners have been heard. Where is the objection to provide for such hearing? If that is the intention of the section, why not plainly say so? Where is the objection to state plainly what the law intends, and to say so plainly if that is the intention? We know as a fact that on the occasion to which I have referred, the Commissioners were not heard before they were condemned; and therefore I am extremely anxious that it should be stated plainly, so that there should not be the slightest doubt on the subject. Under these circumstances, I hope that, notwithstanding the opposition of my hon. friend, Your Honor, as President of the Council, will see your way to support these amendments. One thing more I have to say. If my hon. friend, the member in charge of the Bill, is so much struck with the erroneous principle

[*Babu Kali Nath Mitter ; Dr. Gooroo Dass Banerjee.*]

of this section of the existing Bill, why was not the amending section proposed by him when he introduced the Bill? It was not proposed by him, but it was brought forward by the Hon. Mr. Macaulay at the very last moment. It is a matter of surprise that the hon. member in charge of the Bill, who is so much struck with the erroneous principle of the existing law, never brought forward any amendment of it.

THE HON. DR. GOOROO DASS BANERJEE said in reply:—The Hon. Member in charge of the Bill has been pleased to point out the necessity for retaining the section in the general terms in which it stands, on the ground that although general default in the performance of their duties by the Corporation may not be a very probable thing, yet it is possible, and that when such a possibility happens, there will be good reason for the interference of Government. I have not had the honour of being a member of the Corporation, and it is therefore not for me to say what default by the Corporation is possible and what is not possible; but we have the word of the Hon. Member himself that it is not very probable that such default will be made. If that is so, where is the necessity to provide for a mere possible contingency which may after all never happen? I should have thought that the work of providing for probable contingencies is work enough for us. Then as to the question of enquiry, it has been said that it involves an erroneous principle, and the hon. member in charge of the Bill entered into a discussion on the general question as to whether the functions of the Municipality are functions delegated by the Government or are independent functions. I do not think it necessary to enter into a discussion as to whether the Municipality is an independent body and entitled to have any question in dispute between it and the Government decided by an independent tribunal. I concede to the fullest extent the correctness of the principle laid down by the hon. member in charge of the Bill, but I must say the Hon. Member has been labouring under a misapprehension. When I addressed the Council, I did not say that any of the powers of the Local Government to judge are to be curtailed in any way. I think I said, with some degree of distinctness, that I wanted the Corporation to be represented by some one on their behalf as an assessor, in order that the controlling authority, the Local Government, may be in full possession of the facts and details into which it would be necessary to enter to enable the Government to come to a right decision. I do not think that would infringe any principle of law or justice. My amendment concedes that the Local Government shall have the right to judge; all I say is that it will be assisted very materially if

[*Dr. Gooroo Dass Banerjee.*]

it has before it the report of a Commission consisting, amongst others, of one member at least who has been nominated by the Commissioners.

The HON. BABU KALI NATH MITTER'S motion that (c), (d), (e), (f), (g), (h), (i), (j) and (k) of clause (5) and clause (6) of section 37, be omitted, was put to the vote and negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion that, in line 5 of section 38, after the word "duties" the words "relating to public health" be inserted, being put, the Council divided:—

Ayes 4.

The Hon. H. Pratt.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.

Noes 7.

The Hon. C. H. Moore.
The Hon. Moulvie Abdul Jubbar.
The Hon. Sir Alfred Croft.
The Hon. Sir Henry Harrison.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
The Hon. H. J. Reynolds.

So the Motion was negatived.

The HON. DR. GOOROO DASS BANERJEE'S motion that, line 7 of section 38, after the word "enquiry" the words "by a Commission consisting of three persons, two of whom shall be appointed by the Local Government, and one by the Commissioners in meeting," be inserted, being put, the Council divided:—

Ayes 3.

The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.

Noes 9.

The Hon. H. Pratt.
The Hon. C. H. Moore.
The Hon. Moulvie Abdul Jubbar.
The Hon. Sir Alfred Croft.
The Hon. Sir Henry Harrison.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
The Hon. H. J. Reynolds.
His Honour the President.

So the Motion was negatived.

[Babu Kali Nath Mitter.]

The HON. BABU KALI NATH MITTER'S motion that, for section 38, the following be substituted, being put, the Council divided:—

“Upon complaint made to the Local Government that the Commissioners have made general default in the performance of any of the duties enumerated in clauses (3) and (4), and in (a) and (b) of clause (5), the Local Government, may, by notification in the Calcutta Gazette, appoint a Commission, consisting of three persons, of whom one shall be the Sanitary Commissioner for Bengal or any Medical Officer officiating for him, the second shall be appointed by the Commissioners in meeting within a fortnight from the date of the said notification, or in their default by the Local Government, and the third by the Local Government. And the Local Government shall order the members of the said Commission to report within a certain time to be fixed by the Local Government whether they are of opinion that any such general default has been made, and in that case to specify in their report what further provision should be made towards the performance of any of the duties in respect of which such default has been made, and to submit an estimate of the cost of the said further provision.”

Ayes 4.

The Hon. H. Pratt.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.

Noes 8.

The Hon. C. H. Moore.
The Hon. Moulvie Abdul Jubbar.
The Hon. Sir Alfred Croft.
The Hon. Sir Henry Harrison.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
The Hon. H. J. Reynolds.
His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER, by leave, withdrew the motion that after section 38, the following new section be inserted:—

“38A. On receipt of the said report, the Local Government shall forward the same for the consideration of the Commissioners; and if the Commissioners shall decline to carry out the provisions recommended therein, the Local Government may order that such provisions, or any of them, or any portion of them, respectively, be carried out; and thereupon it shall be the duty of the Commissioners to comply with such orders, and to provide the funds mentioned in the said estimate or such portion thereof as the Local Government may fix; and the Chairman shall forthwith carry out such order and shall defray the cost of carrying out the same from the Municipal Fund, notwithstanding any power conferred on the Commissioners by section sixty-one or anything to the contrary contained in any other provision of this Act:

[*Babu Kali Nath Mitter.*]

Provided that if there is a difference of opinion among the members of the said Commission, the opinion and report of the majority of the said members shall be held to be the opinion and report of the Commission."

The HON. BABU KALI NATH MITTER moved that, for the first paragraph of section 39, the following be substituted:—

"The Commissioners at a special meeting to be held for that purpose may, from time to time, nominate a proper and fit person residing within the limits of Calcutta to be appointed by the Local Government as the Chairman of the Commissioners"

He said:—Under the present Municipal Law of Bengal many municipalities have been entrusted with the duty of appointing their own Chairman, and of late this concession has been extended even to some of the minor municipalities. I fail to see why the Calcutta Municipality should not have some voice in the appointment of their Chairman. The policy of the law, as laid down in this Bill and in the existing Act, seems to be as if it was intended that the Commissioners should have some voice in the matter; for we find that in the appointment of officers on a salary not exceeding Rs. 200 per mensem, the Chairman of the Corporation has uncontrolled power. Then, as regards appointments between Rs. 200 and Rs. 500, he is to make nominations to the Commissioners, and the Commissioners are to appoint one of the persons so nominated by the Chairman; and in regard to appointments of Rs. 500 a month and upwards, the Commissioners have the absolute power of appointment subject to the approval of the Local Government. But there is one appointment as to which the Commissioners do not seem to have any power whatsoever. I fail to understand why that should be so. If they are competent to appoint all the superior officers of the Municipality, subject to the sanction of the Local Government, surely they ought to be allowed to have the privilege of nominating a person to be their Chairman. It seems to me that the Commissioners are in an excellent position to make such a nomination. So far as the appointments hitherto made by the Government of Chairmen of the Corporation are concerned, I believe they have given satisfaction generally. There was only one case in which satisfaction was not given, but with that exception the appointments made by the Government generally gave satisfaction. But I claim on principle that the Commissioners should have some voice in the appointment of their Chairman. If it be considered that the amendment proposed by me goes too far, I shall be quite content to make a modified proposal. In the same way as the Chairman is required to submit three names to the Commissioners in respect of appointments between Rs. 200 and Rs. 500 a month, the Commissioners might

[*Babu Kali Nath Mitter ; Mr. Macaulay ; Sir Henry Harrison.*]

be authorised to send up to Government three names, out of which the selection should be made for the appointment of Chairman of the Corporation. If that proposal is approved, I shall have no objection to modify my amendment. My object is simply that the views of the Commissioners should be considered, and that the Government should make the appointment after the Commissioners have made their nominations.

THE HON. MR. MACAULAY said :—I regret that my hon. friend in charge of the Bill leaves it to me to oppose the amendment. I do so on two grounds. First, I think that my hon. friend has proceeded on a wrong line in suggesting that the appointment of the Chairman is in any way of the same character as other officers of the Corporation. He has, I think, overlooked the provisions of section 61 of the Bill, under which the Chairman may exercise all the powers of the Commissioners. That removes the appointment from the same category as the subordinate officers of the Corporation. Beyond that we have to regard Calcutta in a different light from other municipalities in Bengal. No one would be more ready than myself to see the principle of Local Self-Government extended as far as possible, and I fully admit that the nomination to the office of Chairman is a proper development of that principle, and that this power should be given to the Commissioners of Municipalities where it can be given safely. But I draw a serious distinction between Calcutta and Municipalities in the interior. It must be remembered that in Mofussil Municipalities the Commissioners are concerned in managing their own affairs. In Calcutta, the Commissioners are, to a great extent, managing the affairs of people in all parts of the world who are concerned in the welfare of the town as it affects commerce, though they have never been and may never be in Calcutta. We must look upon Calcutta as the capital of a great Empire, and, as such, we should secure as far as we possibly can its good Municipal Government.

THE HON. SIR HENRY HARRISON said :—I was in no way unwilling to oppose this amendment myself ; but as I was convinced that my hon. friend, Mr. Macaulay, would do so much more forcibly and eloquently than I could, I asked him to reply to the observations of the hon. mover of the amendment. Nevertheless I will add a few words, and in doing so I would draw attention to the difference between Calcutta and the homogeneous municipalities in the mofussil. In Calcutta the main difficulty lies in this—that there are people of different classes, different races, different nationalities and different religions, all of whose affairs have to be managed impartially and equitably by the

[*Sir Henry Harrison ; Babu Kali Nath Mitter.*]

Municipality. Looking at it in that light, is it desirable that the Chairman should be nominated by the Commissioners? The problem is an extremely complex one, and might well lead one to suppose that nothing short of administration by an officer of Government would satisfy all parties. It is of the utmost importance that any tendency to special national and race sympathies should be kept out of the Municipality. For this reason it seems most unwise that the appointment of Chairman should be thrown into the cauldron of Municipal contests as a prize to be carried off by the strongest party. The Chairman of the Municipality should be of no party, so that he may deal with all parties on an equality. If you make him the nominee of one particular party, would you not bring about the very thing you wish as much as possible to prevent? He would simply be the nominee of the majority, and the more completely he would be in harmony with the views and feelings of the majority, the more effectually would he work in the very way he should not work: any Chairman who would be completely in harmony with one party would be as completely antagonistic to the others. On the other hand, the Local Government, which is extremely interested in the welfare of all parties, and which has the best means of judging between them, should be the authority to select a fit person for the appointment. The Hon. Member has himself borne testimony to the success of the present mode of appointing the Chairman during the last ten years. Could they do better than let well alone?

THE HON. BABU KALI NATH MITTER said in reply:—My own experience is that the Chairman has always belonged to one of the parties in the Corporation, and the members of the opposition to the other; so that there have been two parties, the Chairman and his followers, and the members of the opposition. It is a mistake to say that the Chairman is wholly independent of parties, because it cannot be so. He has to work by majorities. I think the very reasons he has assigned strongly support my contention. Many municipalities have been entrusted with this privilege, and surely the metropolis of the Empire can be trusted with it. We have not got any experience of nominations by the Commissioners; but in one or two instances in which the Government accepted the views of the Commissioners, the appointment gave complete satisfaction. In every instance, as the hon. member in charge of the Bill said, there would be competition, and the Chairman would side with the party which elected him; but it is very difficult to say whether in practice it would so

[*Babu Kali Nath Mitter ; Sir Henry Harrison ; Mr. Macaulay.*]

happen. I can, however, conceive it to be quite possible for the nomination to be made without canvassing. If my hon. friend desires to restrict the appointment to the members of the Civil Service, he is right in what he said; but if the appointment is to be thrown open to other persons, then the nomination should be left to the Commissioners. It may be that the Commissioners would nominate a gentleman who is not a member of the Civil Service; and such person may turn out a success; but without allowing the thing to work, it is difficult to say what would be the result. The ultimate power would rest with the Local Government to accept the nomination of the Commissioners; and, with this safeguard, I do not see why this privilege should not be granted to the Corporation. I think the Commissioners have shown that they are persons who ought to be trusted.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, in line 7 of section 41, for the words "Collector of Taxes" the word "Collector" be substituted.

He said:—The term "Collector of Taxes" was a misnomer. The Act distinguishes between rates and taxes. Taxes are imposed on trades and professions, and rates are levied from the community at large. As a matter of fact, the Collector is the Collector of Rates, and not the Collector of Taxes; the latter being collected by the officers of the License Department.

The motion was put to the vote and carried.

The consideration of the further clauses of the Bill was postponed to the next sitting of the Council.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The HON. MR. MACAULAY moved for leave to introduce a Bill to amend the Bengal Municipal Act, III of 1884.

He said:—This is a measure to which Your Honour made reference in your opening Address. But I may inform the Council that since that address was delivered, some correspondence had taken place between the Government of India and the Local Government, with the result that the scope of the Bill will be much more limited than was originally proposed. It was originally suggested that the Government of Bengal should have the same power as other Local Governments in India under their respective Municipal Acts, without referring to the Commissioners of a Municipality, to exclude from its limits any lands

[*Mr. Macaulay.*]

or buildings in the occupation of the State for State purposes. The Lieutenant-Governor, however, represented that as the law stood any change of limits would require the sanction of the Commissioners of the Municipality, we have practically to guard against two dangers; undue assessment and undue interference. As regards undue assessment it was considered that the interests of the State were sufficiently protected by the Imperial Municipal Taxation Act, XI of 1881; and as regards protecting State property from undue interference, it was believed that it might be effected by restricting the power of the Government with regard to altering the limits of Municipalities to lands and buildings belonging to the State of a particular character. In this view the Government of India concurred. The Council are aware that the necessity for legislation arose out of the proceedings of the North Barrackpore Municipality. The Commissioners of that Municipality claimed the right to enter upon and to inspect the premises of the Gunpowder Manufactory, and the Superintendent of that Manufactory represented—and it was a reasonable representation—that that was a power which could not ordinarily be exercised without risk to the very delicate and dangerous operations under his control. The Commissioners, however, had the power, and so long as the Act remained in force, and the manufactory was within their Municipality, they were entitled to exercise that power. The only way out of the difficulty was to alter the limits of the Municipality so as to exclude this magazine from the municipal limits. The Commissioners declined to give their assent to this proposal, and we now ask the Council to amend the Act so as to give the Government power to do so without the consent of the Commissioners of the Municipality. It has been considered that cases of this kind will be sufficiently met if section 9 of the Act be amended so as to give the Government power to exclude from municipal limits any land or buildings in the occupation of the State for military or for naval purposes. With that object, I ask leave to introduce a Bill.

The motion was put to the vote and carried.

The Council was adjourned to Saturday, the 7th April, 1888.

C. H. REILY,

*Assistant Secretary to the Govt. of Bengal,
Legislative Department.*

CALCUTTA;
The 17th April, 1888. }

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 7th April, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.

The HON. H. J. REYNOLDS, C.S.I.

The HON. C. P. L. MACAULAY, C.I.E.

The HON. T. T. ALLEN.

The HON. SIR HENRY HARRISON, KT.

The HON. SIR ALFRED CROFT, K.C.I.E.

The HON. MOULVIE ABDUL JUBBAR.

The HON. BABU KALI NATH MITTER.

The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON. C. H. MOORE.

The HON. DR. GOOROO DASS BANERJEE.

The HON. H. PRATT.

BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.

The HON. MR. MACAULAY, in introducing the Bill to amend the Bengal Municipal Act, III of 1884, and moving that the Bill be read in Council, said:— The Bill is one of extremely attenuated dimensions, and I do not think I need trouble the Council with any further observations upon it.

The motion was put to the vote and carried.

The Bill was read accordingly.

The HON. MR. MACAULAY also moved that the Bill be referred to a Select Committee, consisting of the Hon. Mr. Allen, the Hon. Dr. Gooroo Dass Banerjee, and the Mover, with instructions to report thereon.

The motion was put to the vote and carried.

**CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION
BILL.**

The HON. SIR HENRY HARRISON moved that the clauses of the Bill to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta, as further amended, be further considered for settlement in the form recommended by the Select Committee.

The motion was put to the vote and carried.

The HON. DR. GOOROO DASS BANERJEE moved that, for the definition of "Calcutta" in section 3, the following be substituted:—

"'Calcutta,' subject to the inclusion or exclusion of any local area by the Local Government under section four hundred and fifty-eight, includes the area bounded as follows:—

By a line drawn along the southern and western bank of the Circular Canal from the River Hooghly to the south of Balliaghatta, till it meets the Pagladanga Road. Thence along the eastern edge of the Pagladanga Road to a point where it meets the Chingrahatta Road. Thence along the southern edge of the Chingrahatta Road to a point where it meets the South Tangor Road. Thence along the eastern edge of the South Tangor Road to a point where it meets the South Topsea Road. Thence along the eastern edge of the Topsea Road to its junction with the Tiljullah Road. Thence westward along the southern edge of the Tiljullah Road to its junction with the Ballygunge Circular Road. Thence along the southern and western edge of the last mentioned road to its junction with the Puddopookur Road. Thence westward along the southern edge of the Puddopookur Road, and its continuations, the Pakoortollah Road, and the Chaoollputty Road to Tolly's Nullah. Thence southward along the eastern bank of Tolly's Nullah to the southern edge of the Tollygunge Bridge. Thence westward along the southern edge of the road leading therefrom, and its continuations, the Sharpore Road, the Goragachee Road, and the Taratollah Road to Nimuck Meha' Ghât, where it joins the Hooghly. And thence along the left bank of the Hooghly to its junction with the Circular Canal. But from this area there shall be excluded—

(1) —Fort William.

(2).—The Esplanade.

(3).—That part of Hastings, north of the south edge of Clyde Row, which has hitherto been excluded from the Municipality of the Town of Calcutta."

He said:—I beg to point out how these boundaries will stand. If the Council adopt this amendment, the line of roads commencing with the Tiljullah Road, going along the Ballygunge Circular Road, and coming to a point where the Chaoollputty Road meets Tolly's Nullah, will give the northern boundary of the suburban area excluded on the south; and a line southward along Tolly's

[*Dr. Gooroo Dass Banerjee.*]

Nullah will be the western boundary. That is how my amendment stands. I now ask permission to move a further amendment in the alternative, if my first amendment is not accepted, that the definition of "Calcutta" be so altered that this other line of roads which I have marked in two of the maps now before the Council in red pencil be adopted as part of the boundary. That line consists of the Tiljullah Road and the Ballygunge Circular Road up to the point where the latter meets the Majra Road.

Then the boundary goes south along the eastern edge of the Majra Road up to the Beltala Road. The boundary then continues along the south edge of the Beltala Road; and then the boundary proceeds along the eastern edge of the Russapugla Road till it meets the Tollygunge Road. The verbal alterations which this will render necessary in the definition of 'Calcutta' I have in writing, and I ask permission to move the same in the alternative if my first amendment is not accepted. My reasons are almost the same as those I had the honour to submit in support of a former motion of mine for a more restricted boundary when considering the question of the number of wards in the town. I need not therefore repeat those reasons in detail now. I will only observe that, shortly stated, those reasons amount to this. That considering the limited funds of the present Calcutta Corporation, and remembering that the inclusion of the additional suburban area will lead to an increase of liabilities without bringing in anything like a proportional increase of funds, the larger the suburban area we can conveniently leave out, the better it will be for the improvement of the suburban area we propose to take in. The only question then is one of convenience. Can we conveniently leave what my amendment proposes to leave out? As regards the former of these two alternative amendments, I may observe that the major portion of the area proposed to be left out is scarcely of an urban character, though I am bound to admit that the area between Tolly's Nullah and Russapugla Road is of an urban character. But no such objection can apply to the second of my two alternative amendments, because the area that the boundary there proposed excludes is almost wholly of a rural character. I may also observe that neither of these two amendments is open to the objection on account of which my former motion for a restricted boundary was rejected. The objection was that it excluded the Kidderpore Docks, Kidderpore, and Alipore. All those portions will now come in under either of these two amendments, and therefore there need be no objection on that score. I have one other

[*Dr. Gooroo Dass Banerjee ; The President ; Mr. Allen.*]

observation to make, namely, that by leaving out rural areas in the vicinity of the proposed new town, we leave some breathing ground, so to speak, for the poor, who are unable to pay the increased rates which will be levied within the amalgamated suburban area, and may go outside the town and take up their abode in the area left out. And if in the end these areas grow populous, then the Lieutenant-Governor, under the power reserved to him, might include them within the town thereafter. The change might be effected gradually without any hardship to the people.

HIS HONOUR THE PRESIDENT said:—As I understand the proposal of the hon. and learned member, the difference in regard to the area in dispute is this: the line drawn by the Select Committee has for its eastern boundary the line of railway going from the South-Eastern Railway station to the Kidderpore Docks. The first proposal made by the Hon. Member was to take as the eastern boundary of the new municipality a line a good deal to the west of that; a line which, for practical purposes I may say, follows Tolly's Nullah as far as the Tollygunge bridge. There is no question that a great portion of the country included between these two boundaries is rural rather than urban; but, as he admits, that portion between the Russapugla Road and Tolly's Nullah, including all the lanes around Kalighat, are distinctly urban and very thickly populated. I walked there quite lately and satisfied myself that that bit of land is so distinctly urban in character that it ought to be included in the municipality. Personally, therefore, I am quite prepared to accept the second alternative of the hon. member's two proposals, and I think there is a good deal to be said for the argument which he uses—that as far as it is in the power of the new municipality to exclude from its operation thinly-populated non-urban tracts for the present, it is as well they should do so. The time will very likely come when these tracts will be as thickly populated as the portion we propose to include, but that time has not yet come, and sufficient unto the day is the evil thereof. On these grounds, speaking for myself only, I shall be prepared to accept the second alternative of the hon. member's two proposals. At the same time I shall be glad to hear what other hon. members, who have studied the question in Select Committee, have to say on the subject.

THE HON. MR. ALLEN said:—That the portion of country which it is proposed to exclude under the second amendment is perfectly rural is entirely true: it is covered with paddy-fields, kitchen gardens and cultivation generally, and when this Bill was first introduced I was opposed to its being included

[*Mr. Allen ; Sir Henry Harrison.*]

within Calcutta. But in Select Committee I was persuaded, and I adhere to the conclusion I then came to, that on the whole it was more desirable to include it in order that the line of railway might be the boundary of Calcutta. There is great inconvenience in taking roads for boundary lines. For instance, the Hon. Member took the Ballygunge Circular Road as one of the boundaries. The consequence would be that a man who possessed land on this side of the road came within Calcutta, while houses on the other side of the road would be neither in Calcutta nor in any other place. The Suburban and the South Suburban Municipalities are, I believe, divided by the sandy road which runs from the Jodhpore thannah to the Tollygunge bridge, and the line of railway follows that line within a few hundred yards; so that in taking the line of railway for our boundary we are accepting a boundary which divides and marks off one municipality from another—the South Suburban from the ordinary Suburban Municipality—we avoid the inconvenience of taking in houses on one side of a road and leaving out other houses on the other side, while the inconvenience of including within the town an area which is not of an urban character is very trifling. The assessment on such a tract of land would be almost nothing, and it is not likely that the sanitary and other provisions of the Act will come into operation in that portion of Calcutta for a very long time to come. By taking the line of railway as the boundary, the inconvenience to which I have referred would be avoided; and even should houses be erected up to the verge of the railway, still the land which forms the property of the Railway Company is a strip of land of considerable width, so that there would be a marked distinction between what would be Calcutta and what would not be Calcutta. It is not, however, at all likely that houses will be built up to the railway fence. It therefore appears to me that the inconvenience and the risk of confusion would be infinitely less by taking the line of railway as the boundary than by taking any road or series of roads. There is a mistake in the amendment in speaking of the Tiljullah Road; the road is the Bandel Road which leads from the rifle butts to the end of the Ballygunge Circular Road. I therefore accept the boundary which was settled by the Select Committee after much consideration, and I think it much better to take the railway line as a boundary than to follow the line of these roads which might lead to confusion.

The HON. SIR HENRY HARRISON said:—My own view of the subject is something like that of the classical donkey with two bundles of hay at equal dis-

[Sir Henry Harrison.]

tances on either side. The arguments on both sides are so nearly balanced that all I can say is that although I think I shall give my own vote for taking the line of railway for the boundary, having weighed both the advantages and disadvantages, I cannot press those who think otherwise to adopt my view. I do not agree in the argument that the poor would be driven out of Calcutta by increased taxation. Under the present system no doubt the poor feel the taxation very heavily, but one of the objects of the Bill is to bring about relief to those upon whom taxation now presses most hardly, and I am inclined to think that if this Bill becomes law, the position of the poor in Calcutta will be very much better than it is now.

Both the original and alternative amendments were put to the vote and respectively negatived.

The HON. SIR HENRY HARRISON moved that, in clause (b) of section 42, the words "The Chairman may also hold the appointment of Commissioner of Police, and" be inserted before the words "The Chairman."

He said:—The object of this amendment is not to put any obstacle in the way of the change which has always been recognized by the Select Committee, that if this Bill becomes law, and if the police-rate is not levied, there should be separation of these two appointments. But the object of it is for a purpose of equal importance, but at the same time differing very much from it, namely, that in adopting this change there may be left a *locus penitentie*, or an opportunity of reviewing the measure at any time should it turn out not to work well. I know well that the body of opinion on the subject of the separation of the two offices is so overwhelming that I appear almost to stand alone. At the same time it does require very strong arguments to induce the Council to tie the hands of the Government and to prevent it from going back to the present policy. It is difficult to say how strong the argument ought to be to justify us in burning our ships. The matter strikes me very forcibly, because this is not the first time the question of separating the two offices has been raised. The very same question was raised in 1876. The late Hon. Kristo Das Pal then moved the separation of the two offices, and he was replied to by the then Lieutenant-Governor himself in words so forcible that I ask the permission of the Council to read them. Sir Richard Temple said:—

"I listened with great interest and attention to all the arguments which have been advanced by him, but I deem it my duty to say that I cannot concur in any one of them

[*Sir Henry Harrison.*]

So far from the present arrangement causing divided responsibility, as the hon. member seems to think, it appears to me that it has the clearest possible advantage in uniting responsibility. It may be that the Deputy Commissioner of Police exercises a great deal of power over the police, and that the Chairman of the Justices does not interfere very much with them. Nevertheless, he does interfere with them in some respects, and in so far as he does interfere, he interferes beneficially. But if his interference was really so rare and exceptional as the hon. member supposes, then what possible objection can there be to uniting the functions of Commissioner of Police and Chairman of the Justices? Either the Chairman does interfere with the management of the police, or he does not; if he does not, then there is no practical harm in having the power; but if he does I maintain that he does so with advantage.

“The duties of the Chairman may be varied and onerous, as the hon. member seems to consider, but I believe they will not be rendered less onerous by his being shorn of his power as Commissioner of Police, and I believe that the possession of this power renders the execution of his duty as Chairman of the Justices much more smooth than it would otherwise be; and so far from his being able to do much more for the town if he were not also Commissioner of Police (as the hon. member supposes), my belief is that he would be able to do much less; and that, were the functions of the two offices to be divided, the state of the town would not be so good as we now see it. And as to the combined power being used to the detriment of the poor and the liberty of the people of the town (as stated by the hon. member), I cannot at all believe that to be the case. I do not suppose that the police are always blameless; they may be sometimes in the wrong. But, on the whole, I believe that the police powers of the town, as administered by the officer who combines the functions of Chairman of the Justices and Commissioner of Police, are exercised judiciously and considerately towards the people. There may be instances to the contrary, but whenever they occur a prompt remedy is applied. But my impression is that the Police Administration of the town has been on the whole just and considerate towards the people, and that it is more likely to be so when the two offices are combined in an officer who has so direct an interest in the welfare of the town as the Chairman of the Justices must necessarily have. I desire to put that in the clearest manner as regards the interests of the people, viz., that the Commissioner of Police is more likely to be merciful and considerate when he holds the office of Chairman of the Justices than if he held the office of Commissioner of Police only. I believe it is the combination of the two offices that greatly improves the practical adaptability of the police administration to the needs and feelings of the people.

“As regards the experience of Bombay, I need not remind the Council at this moment that I have a great respect for the example of that Presidency town, having so recently quoted its experience from this Chair. But there are cases in which this Council may be permitted to judge for itself, and I contend that in this matter we have a better system than that which exists at Bombay. We have what is of the greatest benefit, viz., a strong, united, and efficient Executive, and I believe the condition of the city and its administration will compare favour-

[*Sir Henry Harrison.*]

ably with that of any city in British India; and I do hope there may be no disturbance of this system, which long experience has shown to work so well."

I think the experience of twelve years since that time has not done anything to alter the circumstances which led Sir Richard Temple to speak so strongly in favour of keeping the two offices united, and no one would say that the police had become inefficient; and those who say that the municipal arrangements are not efficient will not say that it is because of the union of the office of Commissioner of Police with that of Chairman of the Corporation. I think that the inefficiency of the municipality would have been greater and not less had it not been for the assistance which the head of the municipality has derived from being also the head of the police. Sir Richard Temple argued in favour of continuing the union of the two offices, mainly on the ground of the advantage to the police itself. But although I believe these arguments are correct, it is in the interests of the Corporation and the future Chairman of the Corporation that the proposed separation should not be made. The police and municipal establishments are necessarily brought into contact at all points of the city. These two bodies represent two fundamentally different animating principles. The animating principle of the police may be said to be the efficiency of the public service, whereas the animating principle of the Corporation is the convenience of the community and the individual. Nothing strikes me more forcibly than that in the police the first consideration is always efficiency, whereas in the municipality the convenience of the public is everything, and everything must yield to it. I may appeal to many of the amendments on the paper to-day to show how that spirit animates the Corporation. I am not blaming the municipality: it is good to a certain extent, but if pushed too far it is not good. We have here two bodies, whose animating principles may be said to be two opposite poles, and the result must be a rapid discharge of electricity unless you apply the connecting link which will take off the current. The Chairman of the Corporation is that connecting link. Hardly a week passes when he does not have complaints from one side or the other, commenting on the action of the one or drawing attention to something which is deficient in the other, and I derive the greatest advantage from such complaints. I get the benefit of the information, but before acting on it, where there is a sting in it, I take it out. The reports received by me are utilised, but they do not lead to friction between the two bodies. Of course there are cases in which subordinates of the two bodies have come into more marked collision, but they are comparatively rare. What happens

[*Sir Henry Harrison.*]

every day is something in the form of a criticism or report which now comes under one authority; but if the two bodies were separate, would terminate in correspondence and friction. Nor can it be said that experience everywhere else is against it. In England, in all boroughs of 30,000 inhabitants, and in many of less extent, the police are the servants of the Corporation; they are appointed and paid by them, and Government interference extends no further than the obtaining of a report periodically from an Inspector appointed for the purpose, and the Government do not sanction a contribution—for there the Government give a contribution—unless that officer reports well of the efficiency of the police. In all other respects it is a municipal force. In France the Mayor is the head of the Police, except in Paris. Paris is placed under a special disability in consequence of past proceedings there, and the police is under the Prefect of the Seine and the Corporation is shorn of all police authority. Neither is the experience of Madras and Bombay to the point. The question is, is it desirable that the Chairman of the Corporation should sink into a very inferior position? If it is, then possibly the experience of Madras may be to the point. In Madras there is a separation of the two offices. The present Chairman of the Corporation there occupies a position a little below the Inspector-General of Registration and a little above the Superintendent of Stamps and Stationery. If that is a desirable position for the Chairman of the Calcutta Corporation, then of course the separation of the two offices is desirable. I am aware that there are some members of the Corporation and of this Council who think that in some respects that is a desirable position, because the more the position and the prestige of the Chairman declines, the more the probability of the nomination falling into the hands of the Commissioners. I do not mean to say anything against that. We perfectly understand that the natural desire of many of the Commissioners is that that might be brought about; and it is but natural that seeing that this arrangement will tend in that direction, they will be influenced to do what they can to effect the separation of the two offices. But it is not wise for them to do so. The position of the Corporation and of their Chairman is so closely united that their prestige and influence must fall together. I have always fully felt that the interests of the Corporation and my own are identical, and that whatever redounds to its credit redounds to mine. But the opposite is also true, and it will infallibly be found that if the position of the Chairman is lowered, the position of the municipality will decline with it. When the Chairman of

[*Sir Henry Harrison.*].

the Corporation loses his influence with the Government, and becomes a personage of less importance in the town and occupies a more subordinate position, the prestige of the Corporation will be weakened, and the desire to serve on it will decline also. One of the greatest objections to this separation of offices is the inevitable decline in the importance of the Corporation which will be the result. Then, as regards the system in Bombay, the only way it has worked has been by the head of the municipality being another Commissioner of Police. He is called the "Municipal Commissioner," but is in reality a second Commissioner of Police. In Bombay the Executive is not in the hands of the Corporation as it is here. The Corporation has the financial control, but in all ordinary matters, when the funds have been granted, the Municipal Commissioner does as he likes. The Town Council is a separate body independent of the Corporation, but the Municipal Commissioner has all the powers of the Executive, and as a consequence it is most interesting to observe the totally different turn the discussions on the Bill have taken in Bombay as compared to what is happening here. The Bills in themselves are in many respects similar. Here the objections are almost entirely to powers being conferred upon the Corporation. You have the singular position of the municipality itself and those whom they regard as their special representatives not asking you to increase the powers of the Corporation, but not to increase them. On the other hand, you see no traces of friction between the Executive and the Municipality itself. The Commissioners are represented by the Commissioners in meeting. The Executive are represented by the phrase "Commissioners," which means that in all cases where there is no special rule, vote or resolution of the Commissioners to the contrary, the Chairman exercises the power. Not a single case throughout the whole of this Bill has there been in which we have fought as to whether we should have the phrase "Commissioners in meeting" or "Commissioners"—so complete is the agreement. In Bombay, on the contrary, the whole struggle regarding the Bill has been a struggle between the "Municipal Commissioner" and the Corporation. The Bill was framed so as to give the whole power to the "Commissioner," and the amendments proposed were nearly all to substitute one for the other. It has been simply a struggle for authority. They raise no objection at all to the whole class of sections which have been objected to here. All the sanitary powers conferred by the Bill are much more stringent than they have been proposed to be made here, but they have been passed without objection.

[*Sir Henry Harrison ; Mr. Macaulay.*]

The simple question is, who shall exercise the power? So it cannot be said that you have not the same problem. You have an officer of the Executive in the place of the "Municipal Commissioner." It may be well, at a time when it is easy to find an efficient Commissioner of Police for Calcutta, to try the change, especially when the municipality will not pay for the police. But what harm can there be in leaving the door open to the Government to go back if they find the change does not work? It seems as if those who advocate the change admit that they are afraid it will turn out wrong. If it turns out well, and if my expectations prove wrong, what harm can there be in having the provision in the Bill? But should the change turn out wrong, and should injury be done to the town or to the police, or should it turn out not easy to find an efficient Commissioner of Police apart from the Chairman of the Corporation, and should Your Honour or your successor be of the same opinion as the Lieutenant-Governor of 1876, why should you not be allowed to retrace your steps and say, as Sir Richard Temple said, that long experience has shown the union of the two offices to work well?

The HON. MR. MACAULAY said :—It is with great reluctance that I find myself compelled to oppose the amendment, and I can assure my hon. friend that my reluctance is very much enhanced by the consideration that I am opposing the wishes of an officer who has for so many years, and with so much distinction, held the amalgamated office of Chairman of the Corporation and Commissioner of Police. But in spite of all that my hon. friend has said, and in spite, to my mind, of a certain confusion of argument which he has introduced in reference to the discussions in Bombay, and to what Sir Richard Temple said in 1876, it appears to me that the issues before the Council, and the conclusions to be drawn from them, are perfectly clear. The Hon. Member has adduced certain arguments in favour of the principle of his amendment, and adds what I may call an apology for its form. As regards the principle, the first question is, can it in any way be said that the conjunction of the functions of the Commissionership of Police with the Chairmanship of the Municipality will be of assistance to the Corporation in the discharge of municipal work? The Council may put aside the question of the efficiency of the police. That has not been called into question, and I have no intention of calling it in question. But as regards the first point, what is our experience? In 1864 Sir John Strachey, who was Sanitary Commissioner at the time, drew attention to the fact that portions of Calcutta were in an extremely

[*Mr. Macaulay.*]

'bad condition in point of sanitation, and he was of opinion that this was due to some want of executive vigour, and that the hands of the Chairman of the Corporation would be strengthened if he were made also head of the police. This suggestion was adopted, although the arrangement was altered after a time. But with reference to what Sir Richard Temple said in 1876, I am bound to tell the Council, from my own personal experience, that at that time the police did not give any assistance to the Corporation, and that the Chairman of the Corporation did not interfere with the regulation of the police. I myself was Deputy Commissioner of Police in 1875 under Sir Stuart Hogg; and if ever there was a strong and active executive officer at the head of the Corporation, it was Sir Stuart Hogg. Yet he hardly interfered at all in police administration. Some years afterwards my hon. friend himself was obliged to admit that he himself did no part of the police work, as he was unable to find time for it. Now, if in 1875, a keen, able, I may even say masterful, man like Sir Stuart Hogg found it necessary to put aside what I may call the most attractive part of his duties, when the municipality was, if not in its infancy, at any rate in its youth, is it likely that the Chairman of the Corporation, which would now control the great amalgamated municipality to be created, when sanitation has made so much progress and so many works are in contemplation, would be able to devote time to the control of the police or derive any benefit from their assistance? As to the second and, it seems to me, only other argument which my hon. friend has used, that to dissociate the two offices would have the effect of injuring the prestige of the Chairman of the Corporation, I think that that is very much a matter of opinion; but I should certainly say that the head of the amalgamated municipality of Calcutta and the Suburbs will hold a position which will require no additional prestige from the conjunction of another office. But apart from these considerations, the great point is this. The police will now be paid by the Government, and no part of the cost will be borne by the Corporation. I wish to know what claims the Corporation have, either on the ground of assistance from the police, or on the ground of prestige to the head of the Corporation, to ask the Government to put the regulation of the police under an officer whom it does not pay? [The Hon. Sir H. Harrison—It appoints him.] But it does not pay him. My hon. friend has brought forward the case of the police in English boroughs, where the police are paid as well as controlled, by the municipal authorities. Now this might be used as an argument why the

[Mr. Macaulay.]

people of Calcutta should pay for their police, but I think that such an illustration is inopportune at the very time when the police of Calcutta are no longer to be paid by the municipality. If the police rate were to be retained, there might be some sort of reason for retaining the present state of things; but precisely when the maintenance of the police is to be taken away from the Corporation, and the Government is to provide for its payment, it seems strange for my hon. friend to refer to the case of towns in England where the Government does not pay for the police.

So much for such arguments as my hon. friend has brought in support of his proposal. Looking at it from the other point of view, let us see what are the objections to it? The first objection to my mind is that it is a sham. My hon. friend does not pretend that he takes any real part in the police work, and it is clear, except for a time when Mr. Souttar made an energetic effort to do so, that it is impossible for any Chairman of the Corporation to take any substantial part in the work of the police of Calcutta. In the second place it involves an injustice. I maintain that it is unjust to the officer who is in charge of a great body like the Metropolitan Police, and who is practically responsible for its working, that he should not have the name and title of the office. In the third place, it might be, though it has not yet been, a source of very serious inconvenience. Calcutta is a great metropolis, where, as the Council are aware, a great many elements of disorder are brought together from all sides—elements which are always ready to menace the public peace and even to cause political danger. It is important that the Government should be more closely in touch with the police of the metropolis than with the police of any other part of the province. It is due entirely to the personal qualities of my hon. friend, to his tact and moderation, that no friction has arisen in his case. But that does not alter the fact that the arrangement involves a danger of very serious public inconvenience. Now as regards what I may call the apology of my hon. friend for the permissive form of his amendment, and his desire that the Council should not tie the hands of the Government or burn its ships, but on the contrary should provide for it a *locus penitentiae*, I can only say that the policy of the Government in this respect has already been distinctly and officially affirmed. The plurality of appointments, though, I admit, not of emoluments, which has been held of late years by the Commissioner of Police, has undoubtedly resulted in inconvenience. The Commissioner of Police was till lately also President of the Steam-boiler Commission, and, as in

[*Mr. Macaulay; Sir Henry Harrison.*]

the case of the police, he found it impossible to devote much time to the supervision of that institution. The result was that the attention of the Government of India and of the Secretary of State was drawn to this plurality of appointments, and that the question was asked whether it was possible for any one man to do all this work. My hon. friend may, under the Act, be a member of the Port Commission and of the Bengal Council, and he is also President of I do not know how many charitable institutions besides. But in the case of the Boiler Commission it was found necessary to make new arrangements; and the Government then officially declared that the office of the Commissioner of Police should be severed from that of the Chairman of the Corporation. That being the case, what possible good can there be in giving the Government a power to do something against which it has formally and officially declared? On all these grounds I cannot advise the Council to accept the principle of the amendment, and its permissive form does not save it from condemnation. I therefore ask the Council to reject it.

The HON. SIR HENRY HARRISON said in reply:—I will not take up time in reply. My experience, if not much longer, is a little longer than that of my hon. friend who has opposed the amendment, and my experience is that what is officially condemned in one decade is most usually officially thought right in another. There is no country in which the official pendulum swings more certainly, and in which Government opinion and public opinion changes more rapidly, than in India. That is certainly my experience. My hon. friend said that the office of Commissioner of Police is an impossible burden for the Chairman of the Corporation to bear. [The HON. MR. MACAULAY—On the contrary, I said that as Commissioner of Police he did not do anything at all.] But the Commissioner of Police signed every letter to Government, and the Government would not receive a letter not signed by him; and he took considerable part in the correspondence. The Lieutenant-Governor, for instance, has no personal knowledge of the wants of the Medical Department or of the Public Works Department, and yet he exercises a control over both departments. In the same way the Chairman of the Corporation has very great advantage if he has a control over the police, even if he has not the advantage of exercising control over its details. I think that not many years will pass when not the rights of the municipality but the public interests will necessitate a return to the present system. Before any long time elapses, I think it will be found desirable in the public interest that the two offices should be united.

[*The President.*]

HIS HONOUR THE PRESIDENT said:—I wish to say a few words before the debate closes. The Hon. Member has alluded to the previous history of the question to a certain extent, but I may add to that, that quite recently the Government of India selected a special officer and deputed him to Madras and Bombay to examine the working of the police in those Presidency towns, and he made suggestions, primarily financial, but also administrative, in regard to the working of the police in Calcutta. One of the leading and most important suggestions made by that officer was that the separation between the posts of Chairman of the Corporation and Commissioner of Police, which has been already recommended by my predecessor, should be carried out without any further delay. This recommendation with others was submitted by the Government of India for my opinion, and I have recently had the duty of sending in that opinion, which concurs with the opinion of Sir Rivers Thompson and with that of the officer who was deputed to make enquiries: that upon grounds of public responsibility, of the necessity of the man who does the work being the responsible officer to the public, and on the principle that there should not be any shadow or cloud between the Government which is the representative of the public, and the working officer at the head of the police, the separation is necessary and desirable, quite apart from any personal or other considerations whatever. But on looking a little beyond that, my views were strengthened by the historical aspect of the case of which some details have been given by the Hon. Mr. Macaulay. It was also strengthened by the acknowledgment which I had previously seen put on record by the Commissioner of Police himself, that it is impossible for an officer in the position of the Chairman to the Corporation to devote his time to any of the details of those minor points connected with police administration. My opinion was also strengthened by the considerations which the Hon. Mr. Macaulay has placed before the Council that in times of difficulty, and in case of a crisis when some action has to be taken within half an hour, or an hour, it will be exceedingly inconvenient that the man who has the power to give an order is not the person whom by official routine the Government was bound to address. They were bound to address the Chairman of the Corporation who does not give the order, and he has to address the man who will give the order. Then, when we come to the present aspect of the case in connexion with the Bill, there is the particular fact that so long as the Municipality paid for the police, it was quite right that their Chairman should have some control over it, and that his prestige and position should be increased by the extent of that control. But as my hon. friend has admitted, as

[*The President ; Babu Kali Nath Mitter.*]

soon as the duty of paying for the police is removed from the shoulders of the Municipality, that argument no longer applies, and there is no necessity for further discussing it. For my own part I am greatly obliged to the Hon. Member for the stool of repentance which he has provided for me, but I see no necessity for taking advantage of it. The principle involved is so important that if the Government should in future wish to revert to the present arrangement, it is not unreasonable that they should again bring it before the Legislature. I shall vote against the motion.

The Motion being put, the Council divided :—

Ayes 3.

The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Henry Harrison.
The Hon. H. J. Reynolds.

Noes 9.

The Hon. H. Pratt.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.
The Hon. Moulvie Abdul Jubbar.
The Hon. Sir Alfred Croft.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
His Honour the President.

So the Motion was negatived.

THE HON. BABU KALI NATH MITTER moved that, in clause (a) of section 43, the words "or less than two thousand five hundred rupees a month" be omitted.

He said :—Under the present law no minimum is fixed at all ; the maximum salary is fixed, but the minimum is left to the discretion of the Commissioners. It seems to me that nothing has happened to necessitate the Council making any modification in the law at the present moment. Since the introduction of the elective principle, no less than five persons have been appointed Chairman of the Corporation, and in each of those cases the Commissioners in meeting have had to make provision for their salary, and I do not think any instance can be shown where the discretion left to the Commissioners has not been properly exercised by them. In every instance Rs. 2,500 a month has been fixed as the salary of the Chairman, but house-rent was reserved until such time as the Commissioners were satisfied with the work of the Chairman, and then house-rent was allowed. That being so, I do not see any necessity for making this change in the law. The change implies a slur upon the Commissioners, as if they had not

[Babu Kali Nath Mitter ; The President.]

exercised their discretion properly, and therefore it was necessary to modify the law. The officer who is to be the Chairman of the future Corporation will be appointed by the Government, and the only safeguard which the Commissioners have against an inexperienced officer being appointed to the post of Chairman of the Corporation is the fixing of his salary. No such thing has happened during the last twelve years, and I do not for a moment think it will happen, and that being so, I cannot understand why this slur should be cast on the Commissioners by making a modification in the existing law.

HIS HONOUR THE PRESIDENT said :—As I am to a certain degree responsible for asking that this provision should be retained in the Bill, I will explain my reasons. The Council having now affirmed the principle that the Chairman of the Corporation should be appointed by the Government, it seems to me there must be some point at which the question between the two people who ride on the horse—as to who is to ride in front and who is to ride behind—must come to an issue. The hon. gentleman says he is not aware what has occurred during the last twelve years to necessitate this modification being made now. I quite admit that nothing has happened, but must we always wait till the steed is stolen before we shut the door? It is perfectly certain that if an officer is appointed who is distasteful to the Commissioners, and if no minimum salary is fixed, it will be in the competence of the Corporation to adopt a course which will fender the power of appointment nominal and to prevent its being exercised. The Government may appoint A to be the Chairman; the Commissioners may fix Rs. 100 a month as the salary: then B may be appointed, and the Commissioners may again fix Rs. 100, and so on until the power of appointment is whittled away to absolutely nothing. I do not anticipate that this friction will occur, for the common sense of both parties will easily bring about a *modus vivendi*. But when you come to make legal provision as to the authority in whom the power of appointment shall rest, it is perfectly apparent that to leave a counteracting power with another body will be to make the power of appointment a nullity. As long as you give the power to the Government you must fix some adequate salary as a minimum to prevent the power of nomination being made absolutely null. I can assure the hon. gentleman that nothing like a slur is intended, and I cannot understand how any reasonable person can suppose that any slur is intended. It is like any ordinary condition which is drawn up when an agreement between two persons has to be made in which a clause safeguarding the agreement implies no slur on

[*The President; Babu Kali Nath Mitter; Sir Henry Harrison.*]

either party. And I would also point out that the power of reducing the salary is not the only safeguard which the Commissioners have to prevent the nomination of an inexperienced officer. The law provides that a majority of two-thirds of the Commissioners may insist on the removal of the Chairman, and that the Government must then remove him. I hope the Council will accept these reasons for the proposal to fix a minimum, and will not think that any slur is in any way meant.

THE HON. BABU KALI NATH MITTER said in reply:—I wish to make one observation in reference to what has fallen from His Honour the President. My experience is that it will be utterly impossible to obtain a majority of two-thirds for the removal of any Chairman: with every deference to the opinion expressed by His Honour, I think that provision affords no safeguard at all.

The motion was put to the vote and negatived.

THE HON. SIR HENRY HARRISON moved that, in line 30 of section 45, for the word "section" the word "clause" be substituted.

He said:—As it is intended to accept the amendment to be moved by the Hon. Babu Kali Nath Mitter, that when the Chairman nominates for the approval of the Commissioners, he shall, if the Commissioners wish it, nominate three persons, of whom the Commissioners might choose one; this verbal amendment becomes necessary to make the meaning clear.

The motion was put to the vote and carried.

THE HON. SIR HENRY HARRISON moved that, in lines 6 and 7 of section 46, for the words "subject to confirmation by the authority empowered to confirm such removal" the words "subject to the approval or sanction of the authority (if any) empowered by this Act to approve or sanction such removal" be substituted.

He said:—It is desirable to indicate that the same authority who may dismiss an officer may suspend or fine him. The word "confirmation" is not the word used: it is "approval" in the case of the Government, or "sanction" in the case of the Commissioners. The object of this amendment is to improve the wording of the section.

THE HON. BABU KALI NATH MITTER said:—I do not see that this alteration is merely a formal one. When the words "if any" are added, it must mean that there is no such authority in the Commissioners. As the section stands, it means that the Commissioners will have power to sanction the removal, and

[Babu Kali Nath Mitter; Sir Henry Harrison.]

will also have power to sanction the imposition of the fine contemplated under this section. If the words "if any" are added, a doubt will be thrown as to the real meaning of the section; and therefore it does not seem to me that the alteration is a mere verbal one, and I oppose it.

THE HON. SIR HENRY HARRISON said in reply:—I cannot accept the validity of the argument used by my hon. friend. There are three ways in which the section will apply—first, to the case of an officer appointed by the Commissioners and the appointment approved by the Government; secondly, to the case of an officer appointed by the Chairman, whose appointment must be sanctioned by the Commissioners; and lastly, to the case of an appointment under Rs. 200 a month, in which case no sanction is required. The section as it stands may be read as implying that in every case there is *some* authority mentioned by the Act. There can be no mistake as to the cases in which there is authority. The words 'if any' will apply to cases in which there is no power of approval. It seems to me that the ambiguity lies in the old section under which it appears as if there is always some authority to approve or sanction. The section as proposed to be amended will make the meaning clear.

The Motion being put, the Council divided:—

Ayes 8.

The Hon. H. Pratt.
The Hon. Dr. Goor Dass Banerjee.
The Hon. C. H. Moore.
The Hon. Moulvie Abdul Jubbar.
The Hon. Sir Alfred Croft.
The Hon. Sir Henry Harrison.
The Hon. C. P. L. Macaulay.
His Honour the President.

So the Motion was carried.

Noes 4.

The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.
The Hon. T. T. Allen.
The Hon. H. J. Reynolds.

[On a suggestion made by His Honour the President, the following three amendments were considered together.]

THE HON. BABU KALI NATH MITTER moved that, in line 2 of the second paragraph of section 63, for the words "eighteen" and "twelve" the words "thirty" and "twenty-two," respectively, be substituted; also that in line 13 of the same paragraph, for the word "three" the word "five" be substituted.

He said:—Section 63 provides for the appointment of a General Committee consisting of 18 members, of whom 12 shall be elected by the fifty

[*Babu Kali Nath Mitter.*]

lected Commissioners, one shall be nominated by the Bengal Chamber of Commerce, one by the Calcutta Trades' Association, one by the Port Commissioners, and three by the 15 nominated Commissioners. At present the Town Council consists of 30 members, the average attendance being 14 or 15. This question was fully discussed by the Amalgamation Committee, who recommended a reduction of the number of members of the Town Council, but at the same time they recommended that special fees be paid to ensure attendance. When this Bill was first referred to the Select Committee, it was almost unanimously resolved that provision for the payment of fees should be eliminated. As that has been done, I do not see why the other part of the recommendation of that Committee should be retained. It would be extremely inconvenient to pay 30 members every week, and very properly it became necessary to reduce the number. But when there is no longer a question of payment, I do not see why the number should stand in the way at all. There will be 25 wards. It is a matter of great advantage, and I believe my hon. friend in charge of the Bill will admit it, to have all the wards represented in the Town Council. Week after week local grievances are placed before the Town Council for consideration by one of the members in whose ward the grievance has occurred, and the matter is taken up and decided one way or another. If, however, the number of elected Commissioners is reduced to 12, having 25 wards, it will necessitate the making of at least two wards into one for the purpose of appointing elected Commissioners to the Town Council. The result will be that many Commissioners who take great interest in the affairs of the town will be excluded by reason of the limit of number, and their services, which are valuable, will no longer be at the disposal of the Town Council. And one of the obvious difficulties which will arise will be that there will be debates at the general meetings of the Commissioners much more frequently than at present, because Ward Commissioners who are not members of the Town Council will take up matters which they would have discussed in the Town Council if they had been members of that body. Moreover, the Town Council itself would be more willing to consider complaints made by a Ward Commissioner than if the grievance was brought before them in respect of a ward by a Commissioner who was not returned by that ward. Therefore, there will not be a reciprocal feeling between the rate-payers and the members of the General Committee, which is essentially necessary for the proper administration of the affairs of the town. For myself, I have been a member of the Town Council since it has been formed. No

[Babu Kali Nath Mitter ; Dr. Gooroo Dass Banerjee.]

doubt on some occasions, when matters of great importance come to be discussed, there was a full attendance of members, and it might be that on such occasions some inconvenience was felt by the Chairman owing to the presence of the large number; but considering that many of the persons who attended on such occasions are those who were in the habit of taking great deal of interest in municipal matters, it was better they were heard in Committee than that there should have been long discussions at the general meetings of the Commissioners. It is under these circumstances that I bring forward this motion, but if it is thought desirable that all the 25 wards should be represented in the General Committee, as will presently be proposed by my hon. friend, Dr. Gooroo Dass Banerjee, I shall not oppose that motion.

The Motion being put, the Council divided :—

Ayes 4.

The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.
The Hon. Moulvie Abdul Jubbar.

Noes 8.

The Hon. H. Pratt.
The Hon. C. H. Moore.
The Hon. Sir Alfred Croft.
The Hon. Sir Henry Harrison.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
The Hon. H. J. Reynolds.
His Honour the President.

So the Motion was negatived.

The HON. DR. GOOROO DASS BANERJEE moved that, for the second paragraph of section 63, the following be substituted :—

“A General Committee shall be elected by ballot by the Commissioners in meeting, and shall consist of thirty-five Commissioners—one being chosen from the elected Commissioners of each of the twenty-five wards, and the remaining ten being chosen from the Commissioners appointed by Government and those elected by the Bengal Chamber of Commerce, the Calcutta Trades' Association, and the Commissioners for making Improvements in the Port of Calcutta.”

He said :—I move this amendment because I consider it necessary that each of the wards or electoral units should be represented by one of its elected Commissioners in the General Committee, which is to be the Executive Committee of the Commissioners, and which will occupy the same position as the present Town Council does. My reasons are two—First, it is clear that every elected Commissioner will naturally feel inclined to serve that ward best which returned him. But if he has to represent more wards than one on the General

[*Dr. Gooroo Dass Banerjee.*]

Committee, then in almost every case, and particularly in cases involving conflict of interests, wards, other than those the members of which are elected to the Committee, will be most imperfectly represented. That is not a desirable state of things. The second reason is that by having each of the wards represented on the General Committee, we afford greater facilities to the rate-payers to get their local grievances redressed than we can by having a General Committee constituted in the manner proposed in the Bill. That is a reason which has already been alluded to by the Hon. Member, who moved the last amendment. So that we ought to have 25 members on the General Committee out of 50 elected Commissioners. To keep up the proportion as nearly as possible, 10 more members should be selected from amongst the 25 remaining Commissioners. The number would thus rise to 35. I know it may be said that when a Committee consists of a large number of members work is done less quickly than in a small Committee. That may be true to a certain extent, but we should bear in mind that this loss in time will be more than compensated for by gain in efficiency and in public confidence in the decisions arrived at by the General Committee, and therefore we should not object to any little loss of time on this score. I may be permitted to add that it is as true in machinery municipal as in machinery mechanical that gain in time is always joined with loss in power and efficiency, and conversely. There is another point worth noticing. My amendment, subject to certain conditions, gives a voice to every member of the Corporation in the selection of the Executive Committee, whilst the provision in the Bill leaves to different sections of the Corporation the right to elect their respective representatives in the Executive Committee; and what is worse, in one instance, in the instance of small electoral units, such as the Chamber of Commerce, the Calcutta Trades' Association, and the Port Commissioners, it gives the power of electing representatives of representatives not to these last-mentioned representatives, but to the original electors themselves. That, I consider, is wrong in principle. It is allowing the original electors an interference with the working of the electoral body after that body has been constituted. I may also point out that my amendment has this additional advantage. It cannot be denied that though it is necessary in the first instance to have every sectional interest, geographical or otherwise, represented in the general body of the Corporation, on the Executive Committee of that Corporation those members will work best who are most void of party spirit, who are not the least animated by party interest; and that can only

[*Dr. Gooroo Dass Banerjee ; Sir Henry Harrison*]

be secured by giving the right of election to the General Committee to the Corporation at large, instead of dividing the Corporation into groups, and asking each group of Commissioners to elect their representatives. On all these grounds I ask that my amendment be accepted. It is in certain respects an improvement on the last proposed amendment. It carries out to the full the suggestions as to the necessity of each ward being represented, where my hon. friend's amendment stops short at a certain point. As regards the number of the Committee, my amendment is open to objection, but this is but a trifling one when it is remembered that instead of having a town consisting of six square miles as we have now, we shall have a new town of, I believe, 18 square miles.

The Motion being put, the Council divided:—

Ayes 4.

The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.
The Hon. Moulvie Abdul Jubbar.

Noes 8.

The Hon. H. Pratt.
The Hon. C. H. Moore.
The Hon. Sir Alfred Croft.
The Hon. Sir Henry Harrison.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
The Hon. H. J. Reynolds.
His Honour the President.

So the Motion was negatived.

The HON. SIR HENRY HARRISON moved that, for the second paragraph of section 63, the following be substituted:—

“The General Committee shall consist of eighteen Commissioners, of whom twelve shall be elected in such manner as the Commissioners in meeting may direct by the Commissioners elected under clause (1) of section 8.

“And six shall be elected in accordance with such rules as the Local Government may prescribe by the Commissioners nominated under section 7, and elected under the last clause of section 8.”

He said:—I shall take advantage in moving this amendment to comment also on the amendments of the two preceding speakers. It is true that there is some advantage in having one member from each ward, but the views of the Commissioners are so pronounced in favour of keeping the present wards, that we have now 25 wards, and I look upon a Town Council of 37 members to be quite out of the question. I look upon a Town Council of 30 members as half-and-half; nor does it give adequate representation to the

[*Sir Henry Harrison.*]

other Commissioners not elected under clause (1). Though there is a certain advantage in having one member from each ward, I do not attach anything like so much weight to it as the two Hon. Members who preceded me have done. We can always invite one or both members of a ward when any thing local has to be discussed. By far the greater number of questions do not affect any particular ward, and there is really too much isolated ward interests as opposed to the general interests of the Corporation. As regards the principles of legislation, I am decidedly opposed to what the Hon. Dr. Gooroo Dass Banerjee has advanced. I think it shirks a fundamental principle. If you allow the whole body of Commissioners to elect to the General Committee, you will not get a proper representation of the minor bodies. Suppose a native gentleman was sent in by the Chamber of Commerce, would it be right and proper that that very one should be selected without any malice *prepense* by the whole body of Commissioners to represent the Chamber? On the last occasion of election to the Town Council, two gentlemen, one of whom would have been a most proper representative, and another who would not, were nominated. Of the nominated Commissioners, the one who was not so good a representative had more friends among the elected Commissioners, and he got one or two more votes; the majority did not wish to exclude the Eurasian gentleman, but they wished to have their friend; and that is sure to happen if you allow election in that way. Therefore you should allow the elected members to select their representatives, and the other classes theirs. The representatives of the Chamber of Commerce, the Calcutta Trades' Association and the Port Commissioners are in the same class as the Government nominees, and it would be better if representatives from all these classes were elected by the general body of nominees. On the other hand, it will not always be convenient to do otherwise. Take the case of the two members of the Port Commissioners. It is quite possible that neither of them may be able to afford the time, when perhaps a second member of the Chamber or of the Trades' would serve the town better. I can assure the Council that they will get better representatives of all the bodies if you allow them to be elected by the 25 Commissioners. For the rest, I consider that we might possibly go up to 20 or even 24, but a Town Council of 30 members has often been found to work very inconveniently. We have no set discussions, and we often have separate discussions in each corner of the room going on at the same time, because everybody cannot find an opportunity of getting in his word. The work is, however, best done with

[*Sir Henry Harrison ; Babu Kali Nath Mitter.*]

twelve or fourteen members present, but not with a much larger number. I think therefore that, all things considered, we must abandon the principle of one member for each ward, now that we shall have such a large number of wards; but on the other hand it will conduce to convenience if we agree to accept the grouping of the 25 nominated members, and the selection by them as a body of those who should represent them on the General Committee.

The HON. BABU KALI NATH MITTER said—I have carefully listened to the speech of the last speaker. He is slightly in error in stating that it will be necessary for the Chamber of Commerce to elect one of their own representatives to act on the General Committee. The Bill says: "One shall be nominated by the Chamber of Commerce, one by the Calcutta Trades' Association, and one by the Port Commissioners," so that the nomination is not limited to any particular person. Any of those bodies is at liberty to name any one they please. That being so, I do not see much force in the observation of my hon. friend as to any modification in the way proposed by him. He has thrown out a hint that possibly there would be no objection to 24 members on the General Committee; that is the largest number he would agree to. Twenty-four to my mind is certainly a better number than eighteen, because I certainly think it will be an advantage to make as many Commissioners as possible conversant with the working of the affairs of the Corporation. If there are only twelve elected Commissioners they will virtually be the governing body of the Corporation. If eight of them agreed together they would practically be able to carry everything before them; but if the number is larger it will be impossible to form small parties, and there will be the advantage of some of them giving independent views. That is a decided advantage which ought to be secured if possible. The Chairman of the Corporation no doubt would be better pleased to have the number reduced as much as possible, because he would have a small body to deal with, and he would be able to persuade a small body better than a larger one. That I can well understand, but we should not forget that the exclusion of those members from the General Committee who take an active interest in the affairs of the Corporation will necessitate warm discussions at the General Meetings of the Commissioners, which should be avoided as much as possible, and the effect of having a large number on the General Committee will be to avoid such discussions. If my amendment raising the number to 30 is lost, I claim permission to propose a further amendment that the number be raised to 24.