

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

HIS HONOUR THE PRESIDENT intimated that he could not give that permission.]

The Motion being put, the Council divided :—

*Ayes* 9.

The Hon. H. Pratt.  
 The Hon. Dr. Gooroo Dass Banerjee  
 The Hon. C. H. Moore.  
 The Hon. Dr. Mahendra Lal Sircar.  
 The Hon. Sir Alfred Croft.  
 The Hon. Sir Henry Harrison.  
 The Hon. C. P. L. Macaulay.  
 The Hon. H. J. Reynolds.  
 His Honour the President.

So the Motion was carried.

*Noes* 3.

The Hon. Babu Kali Nath Mitter.  
 The Hon. Mowlvie Abdul Jubbar.  
 The Hon. T. T. Allen.

THE HON. BABU KALI NATH MITTER moved the following amendments:—

That, for the first paragraph of section 64, the following be substituted :—

“The General Committee shall ordinarily meet once a week for the transaction of business. It shall transact such business as may be expressly referred to it by the Corporation, or as may not be referred to any other standing or special Committee.”

Also that, in line 3 of section 65, after the word “Commissioners.” the words “a Budget Committee for preparing an annual budget, and” be inserted.

Also that, in line 1 of the third paragraph of section 70, after the word “to” the words “a Special Committee to be called the Budget Committee” be inserted; also that, in line 1 of the fourth paragraph of the same section, for the word “general” the word “special” be substituted.

He said :—Past experience has shown that it is desirable to have a separate Budget Committee, because there are some Commissioners who may not be members of the General Committee, but who may be best qualified for the Budget Committee. The object of the amendment is to exclude the annual budgets from the consideration of the Town Council, and to leave the Commissioners at liberty to appoint a separate Budget Committee.

THE HON. SIR HENRY HARRISON said :—This is not a very important matter, and I cannot say I strongly deprecate it. But the principle seems to me to be wrong. We have a General Committee which will have to deal week by week with financial questions, and no doubt, being a Finance Committee, it will pay special attention to the consideration of the budget, which is

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

a very important matter, being not merely estimates, but sanctions on different heads as well. A separate Budget Committee is now appointed by the Commissioners in meeting, and is subject to all the difficulties to which the appointment of such Committees is subject. The list of members must be prepared by some body or be drawn by ballot; sometimes the Commissioners get out of the difficulty by asking the Chairman to select the members of the Budget Committee. I cannot say that the present system is altogether bad. But when you have a General Committee which understands what the wants of the town are, and which in some sense will be a representative Committee, it will really make a better Budget Committee than a Committee chosen by four or five leading Commissioners. I think the proposed amendment not an amendment in the right direction, though it is not a matter of great importance. The General Committee, I consider, ought to be the Budget Committee.

The HON. BABU KALI NATH MITTER said in reply:—I certainly think that some members of the General Committee ought to be members of the Budget Committee, and also some members of the Bustee Committee; some members from each of the standing Committees should be on the Budget Committee. There is always some difficulty in selecting the members of Committees; and if it is considered desirable that the Budget Committee should be appointed by ballot, I shall have no objection. My experience is that there are some members who, though not on the Town Council, would make excellent members of the Budget Committee, and whom it would be desirable to have on that Committee, and now that the members of the elected and nominated Commissioners on the General Committee have been reduced to 12 and 6 respectively, it will be still more desirable that some of the outside members should be appointed as members of the Budget Committee. I do not ask this as a matter of favour, I consider it a matter of vital importance.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON said:—I come to the amendments now, notice of which was given only this morning; but as far as I can judge, they are in the nature of details involving no important principle: they are chiefly matters regarding the working of the Office, as to which I have received help from the Vice-Chairman and some of the Commissioners, as well from some of the officers of the Corporation. Several of them introduce amendments which will be conducive to the good working of the departments concerned; and if no

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

Hon. Member objects, I shall ask 'the Council' to consider them. I have put the first of these amendments at the head of the chapter, but it has been pointed out that some objection might be taken to its application to the carriage and horse tax. I move first that, at the end of section 77, the following definition be inserted:—

“‘Person’ in this Chapter shall include a Company, Firm, Association, or Hindu Joint-Family.”

The HON. MR. ALLEN said:—I think the members of the Select Committee may complain of amendments of this kind being sprung upon the Council at the last moment without having been laid before the Committee. The significance of the amendment may be very much greater than the Hon. Member anticipates. The definition of “person” is given in the General Clauses Act of the Government of India. It applies to Acts passed only by the Government of India, and therefore it may be said to have no force in regard to Acts passed by this Council: yet as a principle of interpretation it would apply. Now as to the particular cases to which the proposed definition is intended to apply. This is a chapter dealing with the carriage and horse tax, and the trades and professions tax, and it is difficult to see in what way the definition would apply. The word “person” occurs in only a few sections in the chapter. The obligation to take out a license for a carriage or animal is imposed on the owner or person in charge. Primarily the obligation is upon the owner; secondarily on the person in charge. Under the amendment the “person in charge” in section 78 would include a joint-Hindu family; so that the joint-Hindu family would be required to forward a statement in writing containing a description of the carriages and animals in their charge which are liable to the tax. And in the section in which the penalty is imposed (section 80), the word “person” does not occur. When you come to the next part of the chapter, which relates to the tax on trades, professions and callings, great confusion will be caused by the introduction of this amendment. A joint-Hindu family having taken out one license, every member of it will be at liberty for the payment made on account of it to carry on a trade, profession or calling. I think it will be very unwise to accept a definition like this at the last moment, because it may considerably embarrass the working of the Act. It is an unprecedented occurrence for a member who has for a year and half been drafting the language of an Act, and after it has been discussed and re-discussed in Select Committee, to propose an amendment of this kind without affording proper opportunity for its consideration.

[*Sir Henry Harrison.*]

The HON. SIR HENRY HARRISON said in reply:—The hon. member did not say what the definition of “person” in the General Clauses Act is. I do not see anything unreasonable in a joint-Hindu family taking out a license. This amendment has been before the Council for many days: it is not sprung on the Council at the last moment. It has been adopted by me in consequence of representations made by the department concerned, that many Honorary Magistrates refuse to interpret the word “person” as including a company or joint-Hindu family. I am, however, willing to withdraw the amendment at this stage of the proceedings and bring it on afterwards if it is thought necessary.

The motion was then, by leave, withdrawn.

The HON. SIR HENRY HARRISON moved that, for section 78, the following be substituted:—

“The owner or person in charge of a carriage or animal kept in Calcutta shall, before the first day of May and the first day of November in each year, forward to the office of the Commissioners a statement in writing signed by him, containing a description of the carriages and animals owned by him or in his charge; and if he claims exemption under any of the clauses of section seventy-seven, noting the grounds of such claim.

“If exemption be not claimed, such person shall, if he is the owner of the carriages or animals, or if the owner is not resident in Calcutta, at the same time pay to the Commissioners such sum as shall be payable by him for the half-year commencing on the first day of April or on the first day of October (as the case may be) for the carriages and animals specified in such statement according to the rates given in the Fourth Schedule.

“If the person forwarding the statement be not the owner, and the owner is resident in Calcutta, such person may, at his discretion, instead of paying the tax due, state the name and address of the owner.

“Any person who becomes the owner, or who takes charge of any carriage or animal kept in Calcutta after the first day of May, or the first day of November in any half-year, shall, within a week of his becoming owner or taking charge thereof, send in a statement as in the first clause of this section, and if liable to pay the tax for such carriage or animal under this section, shall pay the whole of the tax for the then current half-year according to the rates specified in the Fourth Schedule.

“The Commissioners may, if they are satisfied that any such carriage has not been used within the half-year, or that any such carriage or animal has been kept for only a portion of the then current half-year,

refund, or remit the whole, or such portion thereof as they may think fit, of the amount so payable.

“For the purposes of this section, a livery stable-keeper shall be deemed to be the owner of every animal in his stables.”

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

He said:—At present great difficulty arises from persons who are prosecuted for not having taken out licenses claiming exemption under one or other of the exemption clauses. It would be much fairer if such persons claimed exemption at an earlier stage. It is not at all the rule that statements are sent in by persons owning carriages and horses ; but statements are left to be filled up, and thus opportunity is given for claiming exemption. As to the second clause of the section, the person in possession is bound to pay, whether the owner is or is not in Calcutta.

The HON. MR. ALLEN said :—The objection I have already taken to amendments of this kind being brought at the last moment applies equally to the present amendment. It is certainly extraordinary that after two years' meditation, and after the Bill has been altered by the Committee to suit his views, the hon. member in charge of the Bill should suddenly have new light drawn on him. It is only about four weeks since he himself signed the report of the Committee advising the Council to pass the Bill then sent up. Independently of the merits of the amendment, I say that the Council ought not to accept it at this stage. The Select Committee has most carefully discussed every section of the Bill, and has sent in their report and the revised draft Bill, and the Council is asked on the opinion of a single member to adopt this amendment. Without going into the merits of the question, I say that the Council should not do so. But as to the merits, the amendment simply says in more words what is already said in the sections of the Bill as they stand. I can see no necessity for, nor advantage in, making this change.

The HON. SIR HENRY HARRISON said in reply:—The Hon. Member has himself proved my case ; nobody is liable to pay for carriages and animals which, though used in Calcutta, are not kept in Calcutta. As to the rest, the alteration is a very substantial one, and is made both in the interests of the persons concerned and the License Department of the Municipality. Hitherto persons not liable to pay the tax were not liable to send in a statement. Not having sent in a statement, the person is prosecuted on the supposition that he is liable to the tax ; he then claims exemption under one of the clauses of section 77. The object is to compel every one who owns or has in charge a carriage or animal to send in a statement, in which he should set forth the ground upon which he is exempted from liability to payment.

The HON. MR. REYNOLDS said :—I do not quite understand whether the Hon. Member means that a person who is prosecuted is not to be allowed to set

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

up the defence that he is exempted from the tax, unless he previously sends in a statement.

The HON. SIR HENRY HARRISON said :—There is no intention to do so ; but persons cannot then complain, as they do now, of having been molested.

The Motion being put, the Council divided :—

*Ayes 5.*

The Hon. Moulvie Abdul Jabbar.  
The Hon. Sir Alfred Croft.  
The Hon. Sir Henry Harrison.  
The Hon. C. P. L. Macaulay.  
His Honour the President.

*Noes 7.*

The Hon. H. Pratt.  
The Hon. Dr. Gooroo Dass Banerjee.  
The Hon. C. H. Moore.  
The Hon. Dr. Mahendra Lal Sircar.  
The Hon. Babu Kali Nath Mitter.  
The Hon. T. T. Allen.  
The Hon. H. J. Reynolds.

So the Motion was negatived.

The HON. SIR HENRY HARRISON moved that, for section 79, the following be substituted :—

“ Whenever any person shall pay to the Commissioners the amount of the tax which shall be payable by him for the current half-year in respect of all carriages and animals kept in Calcutta, the Commissioners shall grant to such person a license to keep such carriages and animals during that half-year.

“ A license may at any time be granted for any previous half-year for which no license has been taken out on payment of the amount due for that half-year.

“ But the production of such license shall not afford a valid defence, if the licensee is prosecuted for failing to take out a license within the time required by this Act.”

He said :—This is only a verbal amendment by the addition of the last clause ; for the rest, the section has been shortened in the wording. So far from these sections having been discussed and re-discussed in Select Committee, my difficulty has been that I have never been able to get as much assistance in the settlement of this chapter of the Bill as in the others. The part relating to the trades and professions license, which is full of pitfalls, was passed by the Committee almost without a word. I cannot, however, complain that the Select Committee had sufficient confidence in me to adopt it on my responsibility, but the result has been that it has not been considered, and I think it better, even at the last moment, to bring forward these amendments.

The HON. BABU KALI NATH MITTER said :—If I understand this amendment rightly, one point is this, that if a person takes out a license in November, and he is prosecuted in December, still because there has been default for a

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

certain number of days, he will be liable to prosecution. I will refer to a case which happened a short time ago. A member of the Bar was prosecuted for not having taken out a license, but it appeared that he had taken out a license. [His Honour the President—After the prosecution was instituted.] I cannot say personally whether it was so or not in that case, but I believe that many cases of that sort have happened. When parties were prosecuted they produced their respective licenses in Court, and the magistrate dismissed the cases, remarking that the license officer had failed in his duty. I think that if a person, before prosecution, takes out a license, he should not be prosecuted. If the section is allowed to remain in its proposed form, it will be quite possible, notwithstanding the statement of the Chairman to the contrary, that such a person will still be liable to prosecution, and I think that is not desirable. I still hold the opinion that when a prosecution has been set on foot, the Commissioners should not treat the prosecution as a farce, take the money, and then allow the prosecution to be struck out: the case should be prosecuted to a conclusion. That is in respect of persons who take out licenses after prosecution. But where a person has taken out a license before a prosecution is instituted, it will be a very harsh proceeding that he should be prosecuted for the lapse of a few days; and that can be done under the wording of this amendment.

The HON. DR. GOOROO DASS BANERJEE said:—I think the last clause of the proposed section is objectionable on another ground. It is wholly unnecessary, because section 80 provides that, whoever owns, or is in charge of, any carriage or animal without the required license shall be liable to a fine. The mere fact of owning a carriage or animal without a license makes the person liable to a fine.

The HON. SIR HENRY HARRISON said in reply:—The objection which has been taken on the question of principle is not a new one. The Bill already provides that a license may be granted for a previous year. The prosecution will not be brought until the person who is liable to the tax has neglected for the whole of the period to take out a license. After that, if the Commissioners think it right to prosecute, then the prosecution ought not to be dropped, because the person has subsequently taken out a license. But take the case of a person being prosecuted; he promptly runs to the office and takes out a license. That I say should not be allowed. I do not think I know a case more in point than that of Mr. Roy. After the prosecution was instituted he takes out a license in the name of Roy, he being prosecuted in the name of Rave. The license officer thinking the name of Rave to be an English name. when

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

questioned, said the license was not taken out; and notwithstanding these facts the view of the Court was that it was a most scandalous prosecution, and the license officer was fined Rs. 25. I cannot conceive a more erroneous feeling than that which animated the Courts with regard to the License Inspector as a wrong-doer. Soon after that case we had a precisely similar one, and the charge was dismissed. In a precisely similar case in England, the defaulter admitted that the license was omitted to be taken out, but for not nearly so long a period. A prosecution was instituted simply on the ground that the time for taking out a license had lapsed. In that case the prosecution was instituted after the license had been taken out and was produced, and that showed the widely different view taken of the matter in England. I maintain that the principle of this amendment is a very important one.

The Motion being put, the Council divided:—

*Ayes 5.*

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

*Noes 7.*

The Hon. H. Pratt.  
The Hon. Dr. Gooroo Dass Banerjee.  
The Hon. C. H. Moore.  
The Hon. Dr. Mahendra Lal Sircar.  
The Hon. Babu Kali Nath Mitter.  
The Hon. Moulvie Abdul Jubbar.  
The Hon. T. T. Allen.

So the Motion was negatived.

The HON. DR. GOOROO DASS BANERJEE moved that, for section 80, the following be substituted:—

“Whoever owns, or is in charge of, any carriage or animal without the required license shall be liable to fine not exceeding three times the amount payable by him in respect of such license, and not being less than such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license.”

He said:—I move this because I think it unnecessary and undesirable to provide by law a minimum amount of fine in so far as such fine is a penalty and not merely in liquidation of the demand of the Municipality. The section in the Bill provides that the minimum amount of fine shall be one-and-a-half times such amount, so that, whenever there is a prosecution, in addition to a fine being imposed to the amount of the license fee, a further fine of half the amount at least will have to be imposed. That I think is unnecessary and undesirable. It ought to be left to the discretion of the Court to say whether the penalty part of the fine is to be substantial or nominal, or no amount at all. We need not tie the hands of the Court.



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

The HON. BABU KALI NATH MITTER said:—The next amendment which stands in my name is on the same lines. I am quite willing that the amendment should be in the terms of the amendment just moved, and I shall withdraw the amendment on section 80 of which I gave notice.

The HON. SIR HENRY HARRISON said:—We find by experience that the Magistrates almost invariably impose no fine at all, and this reduces the matter to a farce. If the section contained in the latter part of the Bill, authorizing the Government to appoint a Magistrate to try municipal cases, is agreed to, then the amendment now before the Council will be of minor importance; but as things stand, whenever the Municipality depends upon prosecutions for the recovery of its revenue, it is simply paralysed. From all departments of the Municipality the same cry arises. The leniency of the Court is so great that it is absolutely no sanction at all, and the Act becomes a dead-letter. The same difficulty occurred in reference to non-registered coolies in the municipal market, the Magistrates having inflicted fines of only one or two annas. The minimum fine is introduced to prevent the systematic omission to take out licenses.

The Motion being put, the Council divided:—

*Ayes* 4.

The Hon. H. Pratt.  
The Hon. Dr. Gooroo Dass Banerjee.  
The Hon. Babu Kali Nath Mitter.  
The Hon. Moulvie Abdul Jubbar.

*Noes* 8.

The Hon. C. H. Moore.  
The Hon. Dr. Mahendra Lal Sircar.  
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 moved that the second clause of section 84 be omitted.

He said:—The second clause of this section provides that if the Commissioners at any time find any carriage or animal in respect of which no license has been obtained, the Commissioners may, if the person entitled to the possession of such carriage or animal is unknown, by a written order authorize any of their subordinate officers to take possession of such carriage or animal. This is a new provision: it does not exist in the present Act. A power of this kind is objectionable, because in the first place it may be resorted to when

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

there may be no necessity to have recourse to it. It is the duty of the Inspectors who are appointed by the Commissioners to find out the owner of the carriage, and they will have very little difficulty in doing so if they go to work properly. Whenever there might be the least difficulty, there would be a written order authorizing such officer to take possession; the carriage and horse will be placed elsewhere, and expense will be thrown upon the owner. The Commissioners enjoy plenary powers in this matter; they can prosecute and have offenders fined; all they have to do is to prove their case. In order to justify a change of the law on this subject, it will be necessary for the Commissioners to make out a very strong case, and to show that they suffer loss of a considerable amount of revenue from want of a power of this kind. I am not aware that any considerable amount of revenue is lost on this ground; it may be that a very small sum has been lost, but that will not justify the grant of this extraordinary power to seize property for non-payment of license fees. I think the provision is erroneous in principle. It will be practically attachment of property without the decree of a competent Court. When a fine is levied by the Magistrate, the Court has power to seize the carriage or animal, and have it sold in realisation of the fine, and further the Commissioners have power to sue and obtain a decree and attach the property. But to be allowed to seize property without having recourse to any of these methods, simply because the Inspector has not been able to find the owner, is asking a great deal too much. If proper exertions are made, the officer ought to be able to find the owner or the person in charge of the carriage or animal. A carriage or a horse must be in charge of some one, and there should be little difficulty in finding out in whose possession the carriage or horse is. That being so, a prosecution can be instituted and a fine levied, but to have recourse to such exceptional legislation is unnecessary and undesirable, and I am afraid that if this provision is passed into law the power thereby conferred will be very largely used without proper enquiry being made to find out the owner. I have also to point out that as such provision does not exist in the present law, I am therefore strongly opposed to it.

The HON. SIR HENRY HARRISON said:—This is a very good illustration of the enormous difference with which the law is regarded, according as it affects the rich and the poor. Let me refer the Council to section 98. That section authorises the Commissioners to seize and detain any unregistered cart, and to sell the same if not claimed within ten days. Here there is no necessity for a written order, and the police, moreover, are required to assist in the seizure. The owner of

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

the cart may be there, and may be willing to pay the license fee. Now observe the extremely small power which we ask for with regard to carriages and animals. The reason for this provision has not been stated by my hon. friend. It is to meet a difficulty which is very great in finding out, in a chummary, for instance, or any place where many persons reside, who is the owner of a carriage or animal found there. The license officer prosecutes, but has no evidence; and if he does produce evidence, he is probably misinformed. It is one of those powers which if granted is its own remedy. If the Inspector cannot find to whom a carriage or horse belongs, he can apply to the Chairman or Vice-Chairman and explain the circumstances; and if the explanation is satisfactory, an order will be issued. Where is the hardship of attaching the property: the owner or person in charge has nothing to do but to pay the amount of the license fee? This is a curious illustration of the remark I have made before, that the Commissioners themselves are not anxious to be vested with powers: it is one of the curious illustrations of the working of the municipality in Calcutta. I submit that the power is a very reasonable one and should be granted.

THE HON. BABU KALI NATH MITTER said in reply:—In the very section to which my hon. friend has referred, the order of the Magistrate has to be obtained before the cart can be sold: whereas in the section under consideration there is no such provision. Besides, there is a great distinction between a carriage or horse and a cart. As regards the one, there may be difficulty in ascertaining the owner or the person in charge; in regard to the other, there should be no difficulty whatever. If the Inspectors did their duty, there should not be the slightest difficulty to find out who the owner or the person in charge of a carriage or animal is.

The Motion being put, the Council divided:—

*Ayes* 4.

The Hon. H. Pratt.  
The Hon. Dr. Gooroo Dass Banerjee.  
The Hon. Babu Kali Nath Mitter.  
The Hon. Moulvie Abdul Jubbar.

*Noes* 8.

The Hon. C. H. Moore.  
The Hon. Dr. Mahendra Lal Sircar.  
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.

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

THE HON. SIR HENRY HARRISON moved that, in line 9 of section 85, for the words "establishes his claim" the words "satisfies the Commissioners that he is entitled" be substituted.

He said:—This is only a verbal amendment.

The motion was put to the vote and carried.

THE HON. SIR HENRY HARRISON also moved that, in the second paragraph of section 88, for the words "next after the day of the granting thereof, and no longer" the words "of that year" be substituted.

He said:—This is also a verbal amendment.

The motion was put to the vote and carried.

THE HON. DR. GOOROO DASS BANERJEE moved that, for section 90, the following be substituted:—

"Whoever exercises any trade, profession or calling without the license required by section eighty-seven, on or after the first day of July in any year, shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, and not being less than such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license."

He said:—My reasons for this amendment are similar to those which I urged in support of the amendment I moved in section 80. Among the Hon. Members here present there are some who exercise professions and callings, and have to take out licenses, and I put it to them to say how far they have been strictly punctual in taking out their licenses. I do not mean to encourage want of punctuality or to suggest that in any case they have failed to take out their licenses on due date in wilful disregard of the law, still there have probably been instances where, from forgetfulness or other cause, there may have been delays, and I say that the Courts, and not we here, are the best judges as to what penalty, if any, should be inflicted in each case. We have been told by the hon. member in charge of the Bill that the Magistrates who decide those cases generally act too leniently. If the Courts are badly constituted, the remedy lies not in making the law too severe, but in the remodeling of the Courts.

THE HON. MOULVIE ABDUL JUBBAR, in supporting the motion, said:—I know many cases in which persons who are prosecuted have failed to pay their license fees simply on account of poverty, and in such cases I do not think it is proper that the hands of the Magistrate should be tied by hard-and-fast rules: he should be left to exercise his own discretion in each case.

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

The HON. BABU KALI NATH MITTER said:—I also think that 'the imposition of a penalty and the amount of it should be left to the discretion of the Court ; and as the Bill provides for the appointment of a special officer for the trial of municipal cases, I hope there will be no more further cause for complaint.

The HON. SIR HENRY HARRISON said :—It will be obviously a one-horse arrangement if we accept this amendment for this part of this chapter when we have rejected a similar amendment for an earlier part of the same chapter

The Motion being put, the Council divided :—

*Ayes* 5.

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

*Noes* 7.

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, in section 91, for the words, "the names of all persons residing in such house" the words "the names of all male persons residing, or carrying on any trade, profession or calling in such house" be substituted.

He said :—I move this amendment, because I am told that there the native community have an objection to give the names of the female members of their families.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, for the last paragraph of section 96, the following be substituted :—

"The total net proceeds of the fees half-yearly received by the Commissioners for the registration of carts, after deduction of the charges incurred on account of such registration, shall be divided between the municipalities of Calcutta and Howrah, and such other municipalities adjacent to Calcutta and Howrah as the Local Government shall declare to be entitled to a share in such receipts, in such proportion as the Local Government may (from time to time) determine."

He said :—The present rule is to deduct the charges incurred for registration before dividing the proceeds ; but that condition has been omitted from the section. The object of the amendment is to supply the omission.

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.

The Council was adjourned to Thursday, the 12th April, 1888.

CALCUTTA;

C. H. REILY.

*The 24th April, 1888.*

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

*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 Thursday, the 12th April, 1888.

**Present:**

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

**BENGAL MUNICIPAL ACT, III OF 1884, AMENDMENT BILL.**

The HON. MR. MACAULAY postponed the presentation of the Report of the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884.

**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. MR. MACAULAY moved the omission of sections 99 and 100 from the Bill (sections relating to the imposition of a duty on petroleum).

He said:—In order to clear the way for the discussion, I may as well inform

[*Mr. Macaulay.*]

The Council that a decision of the Government of India has been communicated to the Local Government since the Select Committee decided to adopt these sections. In reference to the question of the contribution from Imperial revenues towards the cost of the police charges, the Government of India have stated that the contribution now assigned to Provincial funds has been fixed on the understanding that petroleum stored in Calcutta shall not be subjected to municipal taxation so long as it is subjected to an Imperial Customs duty. In other words these sections, if adopted by the Council, will remain, for at any rate a considerable period of time, a dead letter. The question then naturally arises, why not leave them out? My hon. friend, Sir Henry Harrison, following the line of reasoning he adopted on another question at our last meeting, will probably rejoin, why not leave them in? My answer is that the principle of an octroi in Bengal is involved. I apprehend that more than one of my colleagues on the Select Committee voted for the inclusion of these sections because they were reluctant to deprive the new municipality of one means of increasing its income which we should all be glad to see augmented. But now that the hope of an increase from this source is removed, they may perhaps change their views. We can put aside the supposed interests of the municipality and look solely to the principle involved. The question comes up on the simple issue whether an octroi can be properly levied, I will not say in Calcutta alone, but in the municipalities of Bengal; and I am glad that the question has been brought to this plain issue. I will not trouble the Council with a disquisition on the arguments for or against an octroi tax. Hon. Members are doubtless well aware of them. On the one hand, if it can be secured that only the fixed rate, and no more and no less, will be levied on articles consumed by the people of a municipality, then octroi will be not only not an objectionable, but a most admirable tax. On the other hand, we know from the many Resolutions of the Government of India that it not only has a tendency to become, but does generally in practice become, a transit duty and a burden on trade. An instance was given by Sir John Strachey in 1879 where a municipality from which cotton was exported charged octroi on the iron brought in for hooping the bales, but refused a refund when it went out on the bales. Many other instances were brought to the notice of Government by the Bombay Chamber of Commerce, which strongly protested against the abuses which the octroi system had given rise to in Bombay municipalities. I shall not dwell further on this point, nor shall I dwell upon the very peculiar provision



[*Mr. Macaulay.*]

of the section as it stands, under which the storage of petroleum in transit is to be altogether prohibited in Calcutta. This will no doubt prevent the octroi from becoming a transit duty. But it seems to me to guard against the risk of one evil by ensuring the existence of another. It prevents a difficulty being placed on trade by a transit duty by placing another difficulty on trade, by preventing merchants dealing with a department of commerce which is increasing in volume every day, from transacting their business at a reasonable distance from their offices. They will have to conduct their operations from a distant depôt, miles out of the town, when, in the area to be included under the Bill, there are places well suited for the purpose. These, however, are not the points which I wish now to urge upon the Council. My objections to the duty are based on broader principles. I maintain that in Bengal, owing to the circumstances of the country and towns, an octroi cannot be levied without the certainty of oppression and corruption and of harassment of the people. Towns in Bengal are not walled or even compact; they are open and straggling, and the most experienced officers of the Government have expressed strong opinions against the imposition of this form of taxation in towns. In 1868 the Commissioners of Divisions in Bengal reported against it. I will read to the Council the opinion of Sir Ashley Eden, on the Bill introduced by Sir John Strachey in 1879 to regulate the levy of octroi. Mr. Mackenzie's letter of 18th December, 1879, said :—

“The only suggestion which the Lieutenant-Governor has to make is that the Bill should be specifically declared not to extend to the Province of Bengal. It has repeatedly been shown that an octroi duty is not adapted to the circumstances of Bengal towns and villages, and the Lieutenant-Governor can imagine no form of impost which would be more objectionable here. Both Sir Cecil Beadon and Sir William Grey condemned proposals to introduce these duties into Bengal. The general voice of district and divisional officers was against them when Sir George Campbell sought to embody them in his (vetoed) Municipalities Bill of 1872, and Sir Ashley Eden would be very sorry to see any attempt made to re-open the subject so far as this province is concerned.”

As I have said, our towns in Bengal are really a series of straggling houses. They are approached by roads and paths, creeks and khalls, and if you are to have an octroi in them, you must have an army of underpaid subordinates to collect the tax at their own sweet wills from the people. To collect an octroi a large staff must be maintained, and, as was pointed out by the Government of India in 1884, the cost of this staff will be unduly high. “In a large open city, moreover,” wrote the Government of India,

[Mr. Macaulay; Sir Henry Harrison.]

"the cost of collecting establishment must be excessively high, and quite out of due proportion to the receipts." I maintain that such a tax collected by such an agency will, under the appearance of indirect taxation, have all the worst evils of direct taxation. If it is urged that the question before us concerns the levy of octroi in Calcutta only, I would answer that in the first place Calcutta is such a town as I have described. I would remind the Council of the speech of my hon. friend opposite (Mr. Allen) at the last meeting. He pointed out that on this Bill becoming law the boundary of Calcutta on the Ballygunge side will be, not even a village, but a series of paddy fields. Again, if we affirm the principle of octroi in Calcutta, I cannot see how we can refuse it in Howrah, Patna, Dacca, and other towns. Here I will borrow a metaphor of which my hon. friend Sir Henry Harrison is so fond. My friend does not like the closing of doors. Here, however, is a case, not of closing a door which might afterwards be opened, but of opening a door, taking it off its hinges, and carrying it away. Such will be the result of introducing any form of octroi in Bengal. If you admit it in Calcutta you will have it throughout the country. Apart, therefore, from the general question of the economic effects of octroi, I would urge that the tax is unsuited to the towns of this Province, and I ask the Council to affirm this principle by omitting these sections.

The Hon. Sir Henry Harrison said:—I much hope that the Council will not accept this amendment, which will very seriously cripple the new municipality. My hon. friend has supported his amendment on two legs widely different in character. One is the *vis major* of the Government of India. We are told that it will be a condition with regard to this Bill that no duty shall be levied on petroleum so long as a duty is levied on that article by the Supreme Government. When we were in Select Committee it was thought probable that it would involve the rejection of the Bill altogether. I am pleased to find from what has been now said that the form of opposition has toned down, and that the exercise of the power reserved by the Government of refusing permission to raise this tax will be the means of preventing it. But is it just to suppose that the Government of India is so opposed to the proposal that they will not be open to conviction, or that there will be no changes in the *personnel* of that Government? Has the case that can be made out for putting a levy on petroleum in Calcutta ever been put before the Government of India? Has the Corporation had the chance of impressing upon the Government of India

[*Sir Henry Harrison.*]

their view of the equity of allowing this tax on petroleum? I believe that a case so strong and so forcible can be placed before the Government for allowing this tax that, knowing how open they will be to reasonable conviction, if this provision remains in the law not many years will pass before the view of the Government of India on the subject will be changed. If the Council will agree to retain this provision in the Bill, we are confident that we shall be able to make out so strong a case that in a very few years the Government of India will allow the levy of this tax. The letter from the Government of India seems to assume that this section will remain in the Bill. Then we have the strong fact that it is in the Bill in Bombay. Bombay levies a duty on spirits in Bombay, although spirits are taxed by the Imperial Government. Bombay has now in their Bill [section 190 and the schedule] the very same tax which we propose to levy on petroleum; they have a duty of two pice per gallon, which comes to about four annas per case. Is it reasonable to suppose that the Government of India will treat Calcutta on one footing and Bombay on another; and provided we can show that the tax will be levied with no harshness except the harshness of having to pay, and without any other particular harassment, is it reasonable to suppose that the Calcutta Corporation will be refused what is granted to the Bombay Corporation?

I then come to the question of octroi, and here I maintain that our position is so unanswerable that my hon. friend is obliged to take up the ground, which is not the ground upon which it is put, that an octroi is unsuitable to municipalities in Bengal. He says that under the circumstances of the case an octroi is so unsuitable to Bengal that it ought not to be introduced. I grant all that. But what is the ground we put forward? It is that the case of petroleum is so exceptional that none of the objections to the introduction of octroi duties, generally, apply to it. We challenge discussion on that ground. But my hon. friend evades that ground, and says that the objections which apply to octroi duties must apply to petroleum. How far is that correct? The history of the case is this. A Committee was appointed by the Government to see how the income of the Calcutta Municipality could be increased, and on that Committee there were representatives from almost every class of the community. Besides myself, there was on that Committee Mr. Craik, Babu Durga Churn Law, Mr. Morrison, Babu Kali Nath Mitter, Babu Jadoo Lall Mullick, Mr. Wallis, and Mr. Buckland who acted as Secretary. After sitting many times and threshing out the question in many forms, we found not a

[Sir Henry Harrison.]

single subject of taxation, except one, on which we could agree, and regarding that one, after discussing it fully, there was not one dissentient voice. Now what was the reason for this? It was unanimity that petroleum being supposed to be a dangerous article is so watched by the law at present at every step, that you can impose a duty upon it without putting on it one single restriction more than what is already put. Is it possible to make out a stronger case? At the present time you cannot introduce petroleum into Calcutta without permission and only under special conditions. You have a depôt for the storage of petroleum far from the Town; you must have a license from the Police for the storage of petroleum in Calcutta; you cannot transport it without a license. So that we have already a complete check on the receipt of petroleum, on the storage of petroleum, and on the transport of petroleum, and consequently we have nothing more to do than to take things as they stand and at a convenient point, when the transport license is given, to impose this duty. The proposed duty on petroleum is so small, it is so easily levied, and the article is so valuable as compared with the duty, that the danger of confiscation is quite enough to prevent any attempt at evasion of the duty, without the necessity for any army of peons and other underlings, or the watching of canals and khals or roads and bye-ways, which is the spectre which my hon. friend has conjured up a reason for not allowing the imposition of a municipal tax on petroleum; and I feel certain that the growth of the trade is such, that the imposition of a small fee in addition to the Imperial duty will in no way protect other oils or prejudice the trade in petroleum. That being so, and a tax on petroleum being recommended unanimously by a Committee specially appointed for the purpose of seeing what extra taxation can be levied for municipal purposes, I ask whether it does not stand on very strong ground, and the least that can be done by any person who wishes to dethrone the proposal from its present position is to show where a substitute is to come from. Taxation *per se* is an evil, and every form of taxation is objectionable in some sense. But taxation is a relative evil, and merely to urge that it is not good is no sufficient argument. After the whole subject has been threshed out by a representative Committee appointed for the purpose, and after this form of taxation has been unanimously recommended, and has had the approval of the Commissioners, is it reasonable for a member of the Council to urge that it is a bad form of taxation, but that he has nothing better to suggest? Seeing that it is now two years since this Bill was placed before the public, and that

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

neither the Chamber of Commerce nor the Calcutta Trades' Association have objected to it till within the last few weeks, is it reasonable now to strike out this section without suggesting any substitute? I hope the Council will do nothing to cripple the new Municipality by closing its mouth. Give them the opportunity of making out a case to the Government of India, and I am confident that they will be able to make out such a case that in spite of the present intention of the Government of India, they will be obliged, by the force of justice and reason, in a few years to give permission to raise this tax.

The Hon. Mr. Moore said:—I wish to say a few words merely to explain why I support this amendment. The arguments which the hon. mover of the amendment has used have entirely convinced me that this section of the Bill should not be allowed to stand. What I wish, however, specially to say is that a representation was made to me by the Committee of the Chamber of Commerce, as soon as they knew that this question was to be discussed, to the effect that they are very strongly opposed to this tax. The hon. member in charge of the Bill has complained that the Chamber of Commerce have not up to this time said anything against this proposal, but I do not see any reason why they should not do so now. Continual changes are going on in the Bill, and it is impossible for any one to say until an actual debate comes on what will eventually be done. The very question of the separation of the offices of Chairman of the Corporation and Commissioner of Police was believed to have been settled finally, and yet it was re-opened twenty-four hours only before this Council met and discussed it. The Octroi Committee, to which the Hon. Member has referred, were unanimously of opinion that no form of octroi was to be recommended. The members of the Committee, it ought to be remembered, included members of the Chamber of Commerce, the Calcutta Trades' Association, and the British Indian Association. I gather that the general view of the whole of the Committee was opposed to an octroi in any form whatever, and in their first recommendation to tax petroleum I read only a kind of compromise, as they thought it necessary to recommend some fresh tax for Municipal wants. The member in charge shakes his head, and I cannot now appeal to the members of that Committee to ascertain their actual views, but whatever they were, the views of the present Chamber of Commerce are very distinct, and they oppose this tax strongly. They represent the views of an influential body, and I hope they will carry due weight when this amendment is put to the vote.

[*Mr. Pratt; The President.*]

THE HON. MR. PRATT said:—I venture to say that I also am commissioned by the Calcutta Trades' Association to add my opposition to the passing of this section of the Bill. The imposition of a tax on petroleum was considered before the letter of the Government of India had been received. At that time there was no intention, as far as they knew, of imposing an Imperial tax on petroleum, and not much attention was paid to the subject. The Imperial tax on petroleum, we think, is quite enough.

HIS HONOUR THE PRESIDENT said:—I think perhaps it may help matters if I explain exactly what the position of the Government of India is in respect to these sections as they stand in the Bill. The Government of India said:—“They involve the affirmation of a principle hitherto opposed to the policy of the Government; but as the clauses are permissive and the previous sanction of the Local Government is required before the power which they confer can be exercised, the Governor-General in Council will not insist on their being withdrawn. It will be understood, however, that the consent of the Local Government to any proposal to impose a municipal tax in any form on petroleum will not be given without the previous sanction of the Governor-General in Council of India.” And in addition to that, in the same letter they make their contribution to the maintenance of the police depend on no municipal duty being levied on petroleum as long as it is subject to an Imperial customs duty. For the present, therefore, although we have had a very interesting discussion on the subject, it seems to me rather of an academical than a practical interest. Because it is perfectly clear from the letter of the Government of India that though we may keep our section if we like, the Government of India will not give us permission to make use of it. The question which then arises, is whether it is worth while to keep the section in the Bill; and although I regret exceedingly to find myself not in accord with such powerful bodies as the Chamber of Commerce and the Calcutta Trades' Association, still I feel inclined to come to the assistance of the Municipality on this subject, and to explain the reasons why I prefer to keep the section as it stands in the Bill. You have been told what the history of these sections is. How it was a resource unanimously agreed upon by a tolerably strong and representative Committee and accepted by the Government. I do not think, although of course I cannot be sure, that any objection to this section would have been heard of if it had not been that the Government of India had been beforehand with us. They took the wind out of our sails and imposed an Imperial tax on petroleum, and they say that is enough, you

[*The President.*]

must not tax petroleum any more. And no doubt people interested in the trade of petroleum look with some trepidation to an additional tax being thrust upon it, although for local and not for imperial purposes. It has just the same effect upon the trade for whatever purpose the tax may be levied. But whether that be so or not,—whether it be the case, as I suppose, that nobody would ever have heard of any serious objection being taken if it had not been for the imperial tax levied by the Government of India—I want to point out that the Government of India's objection merely applies to the superimposition of this tax over and above their own. If their own tax be taken off—and although I do not say it is likely, I have been reminded that the Government of India has been known to take off taxes—then they will not object to our tax being levied. I think that stands clearly in the letter which I have just read to the Council, and that shows, it seems to me, that there is equally good reason for keeping in these sections in their permissive shape in order that, should that good time ever come, it may be taken advantage of without fresh recourse to legislation. Of course it may be objected, as the hon. mover of the amendment probably will object, that the theory being wrong in principle, the question whether the Government of India thinks fit to levy an imperial tax on petroleum or not makes no difference, and that even if they take off their tax, the municipality ought not to levy a municipal tax upon petroleum. On that point I have listened with great interest to what the Hon. Member said on the subject of octroi generally, but it seems to me that his argument that it is objectionable in Bengal generally really amounts to this, that octroi duties are objectionable only so far as your towns are not conveniently situated to watch the ingress and egress to such towns, but in towns where you can watch the ingress and egress of goods without having recourse to any very large protective staff, the objection, so far, will be removed. Therefore the objection is not a universal objection of principle, but an objection as far as the cost of levying octroi duties is concerned. And, as the hon. member in charge of the Bill has pointed out, that objection, as applied to the levy of a duty on petroleum introduced into Calcutta for consumption, falls to the ground. For it is quite certain to all who pursued the subject that, so long as the restrictions to which the importation of petroleum is subjected by law, for the purpose of safety to the public, are in force, so long as the existing establishments and regulations are kept up, you do not want that army of peons which otherwise would be necessary for the imposition of a tax on petroleum brought into Calcutta. I think that on that point the

[The President; Mr. Macaulay.]

argument of the hon. member in charge of the Bill is unanswerable. For my own part, although I think it may not do much good at present to retain these sections in the Bill, and although I do not think that Sir Henry Harrison, notwithstanding his sanguine temperament and the force of his eloquence, will be able to persuade the Government of India that they are wrong and he is right, still I think there is no objection to give him the opportunity he desires.

The HON. MR. MACAULAY said in reply:—With the President's permission, I will say a few words in closing the debate. My hon. friend, Sir Henry Harrison, has said that one of my arguments, or rather one leg of my argument, is an appeal to *vis major*. In fact, however, I used no argument at all in regard to the Government of India's decision. I merely stated the fact, and I think that, from the terms of that decision, there appears little hope of its being reversed. My hon. friend desires to use another *vis*, and to have the means of applying a lever to the Government of India. The question is whether the Council will place such an implement in his hands. There is another point in this part of the hon. gentleman's speech to which I must take serious exception. Sir Henry Harrison has said that the Select Committee had been told that if the octroi sections were accepted, the Government of India would veto the Bill. Now, in the first place, it appears to me to be an unusual and inconvenient course that any words used informally in Select Committee by one member to another should be officially stated to the Council. In the second place, I said nothing of the kind in Select Committee. I distinctly said that I did not speak on any official authority, but only mentioned that one member of the Government of India had said that he thought it likely that that Government would take exception to these sections. I believe that my hon. colleagues on the Select Committee will confirm what I have said. My hon. friend (Babu Kali Nath Mitter) assents. I need therefore say no more on this point.

Now as regards the main question, I regret that I shall have to imitate my hon. friend in his argument. I must, I fear, answer him with a *tu quoque*. My hon. friend said that I avoided the question of petroleum to deal with another question. But my hon. friend has also avoided the real drift of my argument. He has not observed that, though my argument was purposely directed against the general



[*Mr. Macaulay.*]

principle of octroi in Bengal, I said that this led from the proposal regarding petroleum. I fully recognize that an octroi may be levied on petroleum without the general objections to the impost. I quite recognize that the minute regulations regarding import and storage and transport offers facilities for it. It would raise the price no doubt, but beyond this I think it is as nearly as possible an ideal octroi. But, I would ask, if on petroleum, why not on salt? Salt is also subject to minute regulations, and certainly, apart from the objections to the levy of municipal taxation concurrently with imperial taxation, it would be as easy to levy an octroi on it as on petroleum. Then, why not on coal? Coal, it is true, is not subject to minute regulations. But it enters the city in bulk by rail, or sometimes by boat, and an octroi could easily be levied on it. What I contend is that if an octroi is admitted on petroleum, it will be extended to other articles. Throw in the stone of octroi, and there will be the ever widening circles of petroleum, then salt, then coal, and so forth.

As regards my hon. friend's argument that because increased revenue is necessary, those who oppose an octroi on petroleum are bound to propose a substitute, this seems to be an argument that should be addressed rather to the Government of India than to the Council. But as a matter of fact, as I shall have occasion to show later on, the amount of which Government is relieving the new Corporation of police charges will actually amount to precisely the figure which has been suggested as the increased income required. This is Rs. 2,80,000 for police, and Rs. 75,000 for petroleum. It will be found that the Government relief would amount to at least Rs. 3,55,000. I have only referred to the circumstances of Bengal municipalities, because I thought that that argument was enough to convince the Council apart from the general objections to octroi in India. But even if the circumstances were the same, I think they would be wise to avoid the difficulties which the Bombay Chamber of Commerce has found in Bombay, and Sir John Strachey found in the North-West. It is true that the Government of India has taken exception to the proposal only on the ground, that municipal taxation cannot be allowed to be concurrent with Imperial taxation. But as the Government of India has admitted octroi generally in other provinces,—though, as I have shown, with constant attempts to subject it to regulations,—it could not well forbid it in Bengal. This, it appears to me, is a matter for the Bengal Council.

[Babu Kali Nath Mitter.]

The Motion being put, the Council divided:—

Ayes 5.

The Hon. H. Pratt.  
 The Hon. C. H. Moore.  
 The Hon. Moulvie Abdul Jubbar.  
 The Hon. C. P. L. Macaulay.  
 The Hon. the Advocate-General.

Noes 8.

The Hon. Dr. Georoo Dass Banerjee.  
 The Hon. Dr. Mahendra Lal Sircar.  
 The Hon. Babu Kali Nath Mitter.  
 The Hon. Sir Alfred Croft.  
 The Hon. Sir Henry Harrison.  
 The Hon. T. T. Allen.  
 The Hon. H. J. Reynolds.  
 His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER moved that the following new sections be inserted after section 100:—

“100A. It shall not be lawful for the Commissioners to apply the rates, taxes, fees, and other income belonging to the Town of Calcutta to the area added to the said town for any of the purposes contemplated by this Act, save and except the sum of Rs. 2,80,000, being the amount which the Local Government has relieved the said town from contributing to the expenses of the police maintained by the said Government.”

“100B. The Commissioners shall yearly spend for the area to be added to the Town of Calcutta the whole of the revenue to be derived from the said area, including the sum of Rs. 2,80,000 referred to in the preceding section, the sums which may be raised under the provisions of section ninety-nine of this Act, and any sum which the Local Government may, with the sanction of the Supreme Government, contribute to the Municipal Fund.”

He said:—The object of the insertion of the first of these two sections is to prevent any confusion ensuing as to the division of the funds of the present town of Calcutta, for any purpose contemplated by the Act, to the added area. The Amalgamation Committee in their report distinctly pointed out that one of the conditions on which the amalgamation should take place was that there should be no diversion of the funds of the town for the benefit of the amalgamated area. In the concluding portion of paragraph (15) of their report, they say—“It should, in our opinion, be accepted as a definite principle that the scheme of amalgamation is not to involve the town in any heavier charges than the town is now legally liable to bear.” And in the Statement of Objects and Reasons appended to the Bill it is said that the Government of India having approved in general terms of the principle that no portion of the revenues and funds belonging to Calcutta should be diverted for any purpose to the added area, it is necessary that a section

[*Babu Kali Nath Mitter.*]

of this sort should be introduced into the Bill because it is anticipated that the funds which are likely to be placed at the disposal of the new municipality will not be such as to enable it to administer to the wants of the added area in a satisfactory manner. The Amalgamation Committee thought that the revenue, which it would be possible to obtain from such added area, would be Rs. 6,00,000; that was the figure they put down in their report. I think that that was a sanguine estimate. I have since been in consultation with one of the Commissioners who takes an active interest in the affairs of the Suburbs, and from the figures with which he supplied me, the conclusion I have come to is that it will not be possible to obtain more than Rs. 5,00,000 from the added area. But even supposing that my figures are wrong, and that the expectation of the Amalgamation Committee is realized, we have Rs. 6,00,000, from revenues; to that has to be added Rs. 2,80,000, which is the amount of relief the town of Calcutta will obtain from not being required to contribute to the Police Fund, besides Rs. 25,000, the amount of rating to the added area on the same account; and if we add also Rs. 75,000 to be realised from a tax on petroleum, the prospect of realising which is as distant as ever from what has fallen from Your Honour, the whole amount available for expenditure on the added area will come to about Rs. 9,50,000. The question is whether that sum would be sufficient to administer the municipal affairs of the added area? I am deliberately of opinion that it will not be sufficient. The first thing to be done will be to construct reservoirs for filtered water, to lay down distribution pipes, and to pay for four million gallons of water which the Suburbs will take from Calcutta. That contribution will amount pretty nearly to Rs. 2,00,000. An estimate has, I understand, been prepared, which shows that the cost of laying down pipes will be somewhere about Rs. 7,00,000; then there will be charges for the distribution of the water, which will be a serious item of expenditure at the very outset. It will of course be necessary, as far as the works for the water-supply and other improvements are concerned, to raise a loan for the purpose; and therefore out of this estimate of Rs. 9,50,000, at least Rs. 1,00,000 will have to be set apart for the payment of interest and for a sinking fund for the loans to be raised for the water-supply, for the construction of latrines (I am not aware that there is any large number of latrines in the added area), for the drainage of the area, and for opening out new roads. If you really wish to improve the added area, the first thing to be done will be to open out new streets: you will not be able to effect any improvement unless you open out new

[*Babu Kali Nath Mitter.*]

streets. For all these purposes, it will be necessary to set apart at least Rs. 1,00,000 for interest and sinking fund on loans. This is a very moderate estimate, and there is every prospect of its being exceeded. Then we have Rs. 8,50,000 left. I have prepared a statement showing the different items of expenditure, and it is a very moderate estimate. The annual cost of distributing water, according to Mr. Buckley's estimate, will be Rs. 47,380, and of providing a large main will be Rs. 21,000. At present the scheme is to supply only two million gallons of water, but the Corporation of Calcutta has contracted to give a supply of four million gallons; and if we really want to improve the sanitation of the added area, it will be necessary to give at least four million gallons of water; so that the figures will be doubled, and the amount for this purpose will be Rs. 1,37,684. Then the establishment charges will be Rs. 40,538, maintenance of roads Rs. 3,50,000, conservancy Rs. 34,000, house-service Rs. 2,00,000, charges of collection Rs. 12,000, additional lights Rs. 75,000, watering streets and so on Rs. 50,000: the present contribution to hospitals is Rs. 4,560, cost of vaccination Rs. 3,431, education Rs. 4,000. These items make up a total of Rs. 9,14,832. But this does not take into account expenses incurred for the erection of latrines and for the opening out of drains. If these are done out of capital, perhaps Rs. 1,00,000 will, for a few years, suffice. We have therefore Rs. 9,14,000 against an asset of Rs. 8,50,000. This is a moderate estimate on the basis of the expenditure in the Suburbs at present, increasing it of course to the extent necessary. For my own part, I think that this estimate of Rs. 9,14,000 is not a sufficient estimate, and I would not put down the expenditure at less than Rs. 12,00,000 per annum. I think that is the conclusion also to which the Local Government arrived when this matter was placed before it. After reviewing the report of the Amalgamation Committee, the Local Government pointed out that although the Committee did not in so many words state the amount of expenditure which the municipality would have to incur, it came to the conclusion that the sum which should be provided for was Rs. 6,00,000. Although by the Statement of Objects and Reasons of this Bill, no portion of the funds of the town is to be applied for any of the purposes of the added area, yet in making provision for the additional sum of Rs. 6,00,000, Rs. 2,50,000 of the house-rate was taken into consideration. That is entirely opposed to the scheme of the Amalgamation Committee. The funds of the town are to be applied for the benefit of the town, excepting the amount of relief which the Government is about to

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

give, and yet in the estimate for this additional Rs. 6,00,000, which the Local Government considered would be needed for the improvement of this area, 2½ per cent. house-rate is taken into calculation. That, I submit, is entirely a mistake. Therefore it seems to me absolutely necessary that a section of the sort I propose should be introduced in the Bill to protect the rate-payers of the town of Calcutta. If, with the maximum rates from the added area, it be found impossible to do all that is needed, the responsibility will not rest with the Commissioners of Calcutta, but with the Government, and I wish that to be stated in the Bill as clearly and definitely as possible. Now it is proverbial that the added area is in an extremely insanitary condition, and this has been brought about not by the neglect of a few years, but of ages. This area is now to be placed under the administration of the town which has done a great deal to improve its sanitation, but has not yet done all that is necessary. Therefore it cannot be said that the area to be made over to the town is precisely in the same condition as the town, and on these grounds I submit that care should be taken to make it as clear as possible that no portion of the funds of the town will be diverted for any of the purposes of the added area. Under these circumstances, I move that section 100A be added to the Bill, but I have no objection to any improvement in the drafting of the section which may appear necessary to the learned Secretary of the Legislative Department.

If section 100A is accepted by the Council, it will be necessary to insert also section 100B, and I put it on precisely the same footing. If these sections are adopted, I do not propose to raise a discussion by moving my next amendment, viz., that the following section be inserted:—

“The Local Government shall contribute to the Municipal Fund the sum of two lakhs of rupees per annum, to be devoted to the improvement of the area added to the town of Calcutta.”

My object is simply to put on record that if the funds available are insufficient for the proper municipal administration of the added area, the responsibility will not rest with the Commissioners.

HIS HONOUR THE PRESIDENT said:—I think it will help somewhat to the decision of this section if I put the Council in possession of the gist of the correspondence with the Government of India on the subject of this contribution. This Bill has been before the Council about two years. When it was introduced by my predecessor Sir Rivers Thompson, it was introduced on the assumption, as you will see from the Statement of Objects and Reasons, that the Govern

[*The President.*]

Government of India are prepared to take over the entire charge of the contribution for the police, a charge which was stated at the time to be Rs. 3,00,000. That runs all through the correspondence, and when I took up the subject it had already very far advanced, so far in fact that when the Select Committee submitted its report, it did so on the assumption that this contribution of three lakhs had been settled. It was only during my absence in Chota Nagpore that I learned that the Government of India were of opinion that this assumption was without any sufficient foundation. On going into the official papers on record, I am bound to say that the Government of India had always carefully guarded themselves from consenting in so many words to undertake this entire charge, although they had always accepted the principle of bearing a portion of the charge. As soon as I returned and found this situation of affairs, I took immediate measures to get the matter definitely considered and settled. The result of the further consideration on the part of the Government of India was that the Imperial revenues will contribute Rs. 2,00,000 towards the police charges of the municipality. No more. It then became a question for me to consider what was to be done—whether to ask you to go on with the Bill and hand over the added area to the municipality with diminished means to meet the charge, or whether to abandon it altogether, or to await the result of our deliberations as to whether the Provincial revenues are going to bear the burden. Last year I do not think the Provincial revenues could have done it; but fortunately by dint of hardheartedness on the part of the hon. the financial member on the left (Mr. Macaulay) we have accumulated sufficient to give an extra contribution from the Provincial funds. As to this extra contribution which will be given from the Provincial funds, my hon. friend will explain further what the total burden of our contribution will be. But it includes the police charges which we have already relieved the Suburbs of, and part of which have accumulated from year to year with a view to furnish a water-supply to the Suburbs, a statement which the Hon. Member omitted to mention. With reference to the amendment now before the Council, I presume the hon. member in charge of the Bill will say how far he thinks it is possible to work it. It seems to me it will involve an almost impossible practical difficulty in working. I only wish to put the Council in possession of such information as I can as to how Rs. 3,00,000 are to be given, and to assure the Council that, although the Provincial revenues will gladly give the additional Rs. 1,00,000, it is quite

[*The President ; Mr. Macaulay.*]

impossible to give more. I may mention that I do not think I can allow the additional provision proposed by the hon. mover of the amendment, as it is contrary to the section in the Indian Councils' Act, which allows no measure affecting the public revenues of any charge which would be imposed on such revenues, to be put without the previous leave of the Government.

There is one other point it is well I should mention now, as the proposed section 100B gives me a better opportunity of doing so than at any other time. The Government of India, in agreeing to give Rs. 2,00,000, saddled it with two conditions, one of which you have already heard, namely, that we shall not put a tax on petroleum while the Government of India taxes it, and then that we shall give some guarantee that the sum so contributed in lieu of the cost of the Calcutta Police will be devoted to expenditure on works of sanitation, and will not eventually be diverted from such purpose and be applied to a reduction of such taxation. It is just such a guarantee which section 100B, moved by my hon. friend, proposes to give. I have been in consultation with my hon. friend, the member in charge of the Bill, on the subject, and he thinks as I do, that this guarantee ought to be given, and he will propose to put it in the Bill as clause No. (7) at the end of section 37 in a slightly different form, viz., "devote to the improvement of the area newly added to Calcutta by this Act not less than Rs. 3,00,000 annually from the receipts of the revenue funds described in sections 102, 103, and 105 of this Act; provided that the instalments of interest and reserve fund payable on any capital sum expended under clauses (3), (4) and (5) of this section, for the improvement of that area, shall be taken as part of the Rs. 3,00,000." It will probably be desirable that the Council should see this section and have an opportunity of considering it. Therefore my hon. friend will not ask you to vote upon it now. But in case you do not accept section 100B, or in case it is withdrawn, the provision to which I have referred will be brought forward after the Council have had an opportunity of considering it.

THE HON. MR. MACAULAY said:—The precise figure in regard to the Calcutta Police charges of which the municipality will be relieved has been stated to be Rs. 2,80,000. I think that figure is taken from the figures of a year before additions were made on account of the mounted police. As a matter of fact in the current year the contribution payable by the Government is Rs. 1,02,720, and consequently the amount payable by the municipality is Rs. 3,08,158. In addition to that there is now the charge on account of the Suburbs, viz.,

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

Rs. 38,000. And I may mention that previously in 1883, Sir Rivers<sup>d</sup> Thompson relieved the municipality of an equal sum of Rs. 38,000 on condition of its being devoted to the water-supply and other works of sanitation. The total sum is Rs. 3,84,000 for the whole of Calcutta and the Suburbs. But as the portion of the Suburbs, which will not be included in the Calcutta Municipality, is, if I recollect rightly, in the proportion of 12 to 26, the amount of which the Government will relieve the area to be included in the Calcutta Municipality will be about Rs. 3,55,000 a year. In addition to that I may mention that this Bill will involve a relief to the Howrah Municipality of Rs. 11,000, which will be made available for expenditure on works of water-supply and sanitation.

The HON. SIR HENRY HARRISON said:—I would ask whether, after the statement which Your Honour has made, it will not be better to reserve the discussion till the section which you read out is proposed. It nearly covers the same ground, and the objections are not objections in principle, but the section prescribes a course which in practice it will be difficult to follow. It will be better if the Hon. Member sees the section proposed to be introduced, and then moves any amendment he thinks necessary to effect the further purposes which his section is intended to embrace. He wishes to make it compulsory by law for the Commissioners to spend on the added area no larger sum from the revenues of the town than the sum of which they are to be relieved from payment on account of the police charges. I think the practical difficulty of making that a legal obligation is so great that I could not undertake to support such a provision. The Hon. Member himself perceived the objection when he said that it was the principle he wished the Council to adopt, and that he was open to an alteration in the wording of the section. It seems to me that the objects it is intended to accomplish are beyond the possibility of being expressed in the imperative manner in which he desires to do so. I wish to know if the Hon. Member will accept the suggestion I have made.

The HON. BABU KALI NATH MITTER said in reply:—If there is any chance to coming to an agreement on this point, I am quite willing to postpone the discussion on this matter. But the section which Your Honour has read out makes the Commissioners responsible for devoting a particular sum of money for the improvement of the added area. There it stops. It does not go further. It takes the restriction from my section, puts it in the Bill, and excludes all the privileges. I do not consider that a right course to adopt. If I am to be met



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

on fair terms, if we can come to a compromise on this point, surely the English language will enable us to enunciate a principle which is just, and I do not think there will be any difficulty. Therefore, on that footing, I am ready to meet my hon. friend for the purpose of seeing whether we can come to a compromise.

HIS HONOUR THE PRESIDENT said:—I think the objects of the two sections are really incompatible. The object of the Hon. Babu Kali Nath Mitter is, that you should spend nothing on the new area which should come out of the pockets of the rate-payers residing in the old area. He says, if you will undertake to do that, we will undertake to give a guarantee that the police contribution shall be spent in that way and in no other. Speaking for myself, I think that to put in the Bill a section making it illegal for the Municipality to spend on the objects of the new area any portion of the funds raised in the old area will make the whole thing unworkable. The Commissioners will have to keep separate accounts, and when you come to distribute the establishments, it will be almost impossible to make the distinction. And I may add that I think the Municipality is strong enough to distribute the funds in such a way as not to give the new area any advantage over the old. I think it will be advisable, as the Hon. Member has said, that we should leave the section as it stands.

THE HON. BABU KALI NATH MITTER said in reply:—What Your Honour has recorded will be quite sufficient for my purpose. I am quite willing that the matter should stand over now. I understand from Your Honour now, that you affirm the principle that no portion of the funds of the town shall be applied to the improvement of the added area.

HIS HONOUR THE PRESIDENT said:—What I distinctly refused to affirm is any legal restriction enforcing that principle.

THE HON. DR. GOOROO DASS BANERJEE said:—I wish to make one observation in the interests of the newly-added suburban area. It will be most unfair to it to tie up the hands of the new Municipality in this way. The amalgamation scheme has been accepted for the sole purpose of enabling the municipal improvement of the Suburbs to be undertaken, which could not be done if the Suburban Municipality had been left unaided by itself. If the proposed section is allowed to stand, there would really be no amalgamation at all; at best there would be federation of the two Municipalities. When the strong and the weak go in partnership, the strong must assist the weak; and if the

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

Hon. mover of the amendment is not agreeable to that, he should oppose the amalgamation altogether. With regard to the remark of my hon. friend, that the present insanitary condition of the Suburbs is the result of the neglect for years past, it should be remembered that it is really due not to any neglect of the Municipality, but to the want of funds. His own argument went to show that the insanitary condition of the Suburbs was due to want of funds and not to the want of proper supervision.

THE HON. SIR HENRY HARRISON said:—I need not say more than that, as Your Honour remarked, the proposal of the Hon. Member appears to me to be unworkable. Every salary paid to the Municipal officers and every payment made to the Municipality will have to be divided. My idea is that the town will not want any safeguard, as with a little care nothing will be more easy than for them to protect themselves. The body which will really want protection will be the Suburbs ; and as they will be brought in from outside and engrafted on to a system in full working, it will be necessary that their representatives should look closely to see that they are getting their share.

THE HON. BABU KALI NATH MITTER said in reply:—I do not possess the experience which the hon. member in charge of the Bill does, but to my mind it seems that there cannot be any difficulty in carrying out the sections I have proposed. Moneys are now being collected and duties totally distinct are being performed yet under the same authority. The water-rate, the lighting-rate, and the general rate are separate funds ; yet there is no difficulty in working, and why should there be any further difficulty in working on the lines I have suggested. That portion of the objection I think is more imaginary than real. As to the remark that the Town Commissioners will be a stronger body, I do not see how that has anything to do with it. To me it seems possible that the Town Commissioners may wish to devote a portion of the funds of the Town for the benefit of the Suburbs. In the Statement of Objects and Reasons accompanying the Bill, the Hon. Member said that “care has been taken to protect the rate-payers of the Town against loss owing to the diversion of these rates and taxes to the benefit of the new area to be added to Calcutta.” That being stated in the Statement of Objects and Reasons of the Bill, I cannot understand why there should be any opposition to inserting a section in the Bill affirming that principle.

The motions were then severally put and negatived.

[*Babu Kali Nath Mitter.*]

The HON. BABU KALI NATH MITTER withdrew the amendment of which he had given notice, that the following section be inserted after section 100.—

“100A. The Local Government shall contribute to the Municipal Fund the sum of two lakhs of rupees per annum to be devoted to the improvement of the area added to the town of Calcutta.”

The HON. BABU KALI NATH MITTER moved that clause (d) of section 101 be omitted.

He said:—This refers to what is called the Halalkhor rate, and is the same as the fees levied under the present Act for removing night-soil. My objection to this being put under the head of rates is one of principle. Fees for service performed cannot be made the object of a rate. The basis of a rate is rent; unless there is rent there cannot be a rate. If that objection fails, there is the further objection that this rate will have to be paid by three classes of persons—persons who have got their water-closets unconnected, persons who have them connected, and persons who have no water-closets at all. It may seem a strange statement to make that there are persons in the town who have no water-closets at all, but in point of fact it is so. This is principally to be found in places of business where different rooms of a house are assessed separately for the purposes of the assessment of the Trades and Professions Tax, and if this clause of section 101 is passed, they will have to pay a rate of two per cent. At present such persons do not pay any night-soil fees; no service is performed, and justly they ought not to be called upon to pay. Then again connected houses do not pay, but it has been very properly pointed out that the drainage works have been constructed at considerable expense to carry away the sewage of the town, and it is only fair that connected houses should make some contribution towards the maintenance of the sewers. But that unconnected houses should pay at the same rate as connected houses is, I think, far from right. The owners of connected houses have undergone very large expenditure to have their houses connected, and therefore they get the benefit of the sewers, and though it will be just to make them pay something for the maintenance of the sewers, to make them pay in the same way as unconnected houses seems unreasonable. I cannot understand on what principle persons who have never hitherto paid night-soil fees, and for whom no service is performed, should have to pay simply for the convenience of the Corporation. The argument for the imposition of a rate is simply this, that there will be a saving of trouble and expense in preparing bills for house service, and for

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

collecting the fees due. No doubt there is considerable force in that argument, but I do not for a moment admit that that inconvenience justifies the adoption of a proposal which will make persons liable for payment who have not now to pay anything. This liability will not be restricted to a few persons, but will fall on large numbers who are not now liable to pay anything. If this amendment is carried, I shall propose two sections to enable the Commissioners to levy fees from connected as well as unconnected houses, and so far as the revenue is concerned, the Corporation will not lose anything. It will only have the effect of applying a differential rate. To impose the same rate upon connected and unconnected houses will be totally unfair to the owners and occupiers of unconnected houses. It is also an objection that a large number of persons who have not to pay now will have to pay though no service is performed for their benefit.

The HON. SIR HENRY HARRISON said:—If this amendment is accepted by the Council the results will be very embarrassing. This section is one of corner stones on which the whole scheme of taxation rests. I do not know what the views of other Hon. Members are; whether they are to any large extent in favour of the amendment. Therefore I shall have to set forth fully all the reasons why this section should be retained as it stands. This is essentially apart of the scheme for the consolidation of the rates, and if it is not accepted the difficulty will be great. The principle of it is that you may collect all the rates by one and the same bill and by one and the same establishment, and then fairly divide them between owners and occupiers. But the amendment will destroy both these arrangements; it will prevent one collection and a fair and equal division between owners and occupiers. At present, as pointed out by the Select Committee in their report, by the Calcutta Trades' Association and by the Chamber of Commerce, the incidence of taxation is  $9\frac{1}{4}$  per cent. upon owners and  $7\frac{3}{4}$  upon occupiers, if you leave this occupiers' cess out of consideration. Fees for house service are entirely paid by occupiers; leaving them out, the proportion is as I have stated. But if you turn the house service fees into a rate, you have a maximum of  $10\frac{1}{2}$  per cent. upon occupiers and the same upon owners, and then the fairness of an equal division comes in. Besides this, very great importance must be attached to a diminution of the expense and vexation caused by the separate collection of fees of this kind. In all Municipal establishments, especially in England, the first idea which naturally finds favour is to adjust the payment of the burden of taxation to each

[*Sir Henry Harrison.*]

particular case. In this way, as one measure after another was introduced for local taxation, it was adjusted in a different manner, and the result has been that with the legitimate object of adjusting taxation fairly, local taxation in England has reached a state of perfect chaos, and although we have not yet reached a similar state, the difficulty is very great indeed, and it arises from our endeavour to recover payment for house service only from houses in which house service is performed. Where you have 30 houses and 10 privies, it is very difficult to find out who ought to pay and who ought not. There is now not a Municipal discussion on a quarterly report in which the failure to work the cess successfully does not form the first and chief topic of comment. At least 10 per cent. of the bills are returned unrealised, on the ground that the persons who are required to pay are not liable. Local enquiries are made and lead to reports which are not accepted, and the whole subject gives more vexation and more trouble than any other matter connected with the administration of the Municipality. On the other hand, the trouble of making out the bills is extreme. The scale varies with every form of rent. In the Suburbs there are 23 scales; in Calcutta there are 20, according to the rating of the house. Then even in the matter of exemptions it is extremely invidious. The exemptions in the Suburbs are tanks, waste land, gardens, and shops without privies. Why should shops having no privies be exempted? The persons who occupy the shops are subject to the ordinary laws of nature; and as a matter of fact the only principle is this, that the town is for human beings and the Municipality has to undertake the task of removing the sewage for all, whether by means of drainage for connected houses, house service for unconnected houses, or public latrines where there are no privies at all. The one thing above all others to which attention is necessary is to make the municipal system work smoothly. In Mr. Goschen's Committee in 1871, this was the one point upon which they were most unanimous, and they recommended one consolidated rate. I have by me a handbook on local taxation by Wright and Hobhouse, and they write:—"There are some alterations in the system of local taxation in which all parties are agreed; one of which is the consolidation of the rates." That is now an accepted principle. Again, it is not possible in Municipal administration to apply generally the principle of taxing according to benefits. See how you break through that principle in the matter of the equal payment of water-rates. Do large business houses, the Port Commissioners, the Mint, the High Court,

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

get anything like the amount of water they pay for? You ought not on that principle to make temporary residents in the town pay anything on account that part of the municipal income which is levied for the repayment of debt. Permanent residents of course benefit by the construction of permanent works; temporary residents derive much less benefit from them. If you once allow yourself to be drawn into that argument and insist on separate collections and collections according to some ideal of the extent to which persons are benefited, you will land yourself in unmistakable difficulties and inconsistencies. When the present system was introduced the Commissioners appointed a Committee to consider the question of the house service fees, and my hon. friend, the mover of this amendment, was a member of that Committee. I am not going to twit him with changing his mind, but I may appeal to his former judgment on the subject. Out of 13 members of the Committee all but three reported that it would be better to have a rate in preference to a system of fees, and my hon. friend himself was one of the majority. I say that this is a section which cannot be struck out without upsetting the whole arrangement of the Bill. It will remove from the poor a burden which they now in some cases pay to the possible point of 400 per cent. Therefore you see how very hardly the present system presses on the holders of small tenements, and it will be a very great relief to them if the Council accept the provision in the Bill which will have the effect of converting the house-service fees into a rate.

The HON. BABU KALI NATH MITTER said in reply :—As the Hon. Member in charge of the Bill has referred to my opinion on this point on a previous occasion, I will meet him on his own ground and point out that what he now considers the most fundamental part of the Bill on which everything depends, was not contained in the Bill as submitted by him to the Council after having been agreed to by the Select Committee. There was no Halalkhor rate at all in that Bill, although the consolidated rate was to be found in it. The consolidation of the rates was adopted at my suggestion, but at that time there was no idea of introducing a Halalkhor rate. That idea dawned on the mind of my hon. friend after the Bill had been remitted to the Select Committee for various consideration of details. It was only when the Bill was being reconsidered on points of detail that this idea dawned on his mind. If it is such a fundamental principle, why did not my hon. friend propose it on the first reference of the Bill to a Select Committee? It passed the Select Committee and was laid before the Council without any such provision. There is one circumstance connected with my

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

change of opinion to which my hon. friend refers, and it is this, that although there were 13 members on the Committee, and I was one of those who were in favour of a rate instead of levying fees, yet three of the most experienced Commissioners were against their imposition. I had then recently joined the Municipality, and opinions formed then were subject to change by the light of experience. I came across a very curious case where the owner of a very large tank called the Kurballah tank was called upon to pay a bill for night-soil service in respect of the tank, but when the matter came before the Commissioners, it was unanimously agreed that no fee could be charged unless the service was performed. The lighting-rate was justifiable because the value of houses enhanced owing to the lighting of streets. In the same way water-rate was paid because the supply of filtered water increased the value of property in the town. It is very remarkable that the very law under which the water-rate is levied makes a distinction in the rate levied in different localities. When the water-rate is levied at a maximum, houses situated in streets where pipes are not laid have to pay one per cent. less than houses on streets having water : in the one case the rate would be five per cent. and in the other six. Night-soil fees cannot come under the definition of a rate ; it is only by a forced construction that you can impose a rate for house service. The rates at present payable by owners and occupiers are  $7\frac{3}{4}$  and  $9\frac{1}{4}$  per cent. respectively. If the past literature on the subject is studied, it will be obvious under what circumstances the owners of house property were made to contribute one-fourth of the water-rate. The question was decided by the casting vote of the President. Perhaps it is right that they should pay something, but one-fourth was an arbitrary proportion fixed by the Legislature. Under these circumstances, I submit it is only fair to a large number of persons in whose houses no service is performed that they should be relieved from paying this charge for house service. My hon. friend said that all persons must have their places of convenience. He forgets that persons who have shops have also houses to live in for which they pay fees for house service. Therefore I do not see how that argument advances my hon. friend's argument. I again submit that an inequitable rate should not be levied merely for the sake of the convenience of collection.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, in clause (a) of section 103, for the words "above purposes" the words "specified in clause (c)" be substituted.

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

He said:—This is a mere verbal amendment. The purposes of clauses (a) and (b) do not involve any expenditure, and I think the alteration in wording will be an improvement. It was suggested to me by the Secretary.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 117 be omitted.

He said:—Persons should not be made to pay for what they are not liable. Hut-owners are properly liable to pay this rate; but by this Bill the owners of the land on which the huts stand will be made to pay. This again is a question of convenience. Suppose the landholder is not able to realise the rate? Suppose the tenant absconds? The rates have to be paid in advance, while rents are paid to the landholder in arrear, and he cannot realise it in advance. I think this provision is most arbitrary, and I cannot perceive any principle of justice in it. Precisely the same thing was attempted to be done on the last occasion. The late Hon. Kristo Das Pal took exception to it. The matter came up for discussion, and the hon. and learned Advocate-General then said:—"It appeared to him that the objections of the hon. mover of the amendment were really unanswerable. He had put it on the ground of principle, that the person to whom the hut belonged should be the person chargeable with the tax. The hon. member in charge of the Bill said that such a procedure would produce confusion. The Advocate-General did not think the Council should legislate simply for facilitating the collection of taxes, but they were also to see that the party from whom the tax came was the party from whom it should come." With that I will leave the matter in the hands of the Council; it is not possible to adduce stronger arguments. The result was that the amendment of the late Hon. Kristo Das Pal was carried.

The HON. SIR HENRY HARRISON said:—I cannot accept this amendment, although I am aware that it had on a previous occasion the support of the learned Advocate-General. It is no new principle. It was in the Act of 1863 and in our present Act, but in an optional form, and it has not been acted upon, and therefore for some years we have collected from the smallest huts in the town. But that is not the principle elsewhere. Under the English law all the rates are paid by occupiers, so that you have much greater force of precedent. Nevertheless, in the case of small tenements, that rule is broken through. In the first instance it was done in the form of an appeal to the owners to compound for their tenants; but since the Act of 1869



[*Sir Henry Harrison ; The Advocate-General ; Babu Kali Nath Mitter.*]

was passed, the local authorities have the power of forcing the owners to compound, and an abatement of 15 per cent. is allowed from the amount of the rent for the cost of collection. It has been found necessary to make the owner compound. At present the tax gatherers have to go to all the smallest and poorest hut-owners to collect the rate, and afterwards the agency of the Warrant Department recovers the amount in addition to warrant fees. If any objection is taken, it ought to be to the amount allowed for collection, which is one-eighth of the total demand ; and as a portion is payable by the landholder, it comes to about one-sixth of what he has to pay for others. It is a fair allowance, and it does not throw upon him any additional expense, because he will collect the rate by the same agency by which he collects his rent. The whole of the subordinate agency of the Municipality will be kept away from the doors of the poorest inhabitants, and the amount of saving in time and establishment, but above all the saving in vexation, harassment, and even worse than that, which must necessarily result from poor ignorant people being brought face to face with the tax-collectors, will be considerable. I consider this provision to be fair, it is fully covered by English precedent, and is expedient in an eminent degree in the interests both of the poor and of the Municipality itself.

THE HON. THE ADVOCATE-GENERAL said:—I wish to explain that the precedent which the hon. member in charge of the Bill relies upon does not apply in this case. In England all house property belongs to the landlord : in this country huts belong to the tenants. Everything put upon land in England belongs to the landlord : here huts belong to the tenant. And therefore, I submit, it is unfair to make the landholder pay for property of which he is not the owner.

THE HON. BABU KALI NATH MITTER said in reply:—In this country the tenant is allowed to remove his hut : in England the landlord gets the benefit of permanent fixtures. My hon. friend, the member in charge of the Bill, has given a glowing picture of the harassment to which poor hut-owners are subjected by the Municipal agency ; but does not he foresee the harassment to which they will be subjected by the sircars and durwans of the landholders ? The landlords will have to pay the rate even when the hut-owner absconds. My hon. friend has not attempted to meet my argument that if the tenant absconds, how is the landholder to recover the money which he has paid ? Moreover, the harassment and annoyance to which the hut-owner is subject will be nothing less because the agency is changed.

[Sir Henry Harrison.]

The Motion being put the Council divided:—

*Ayes* 5.

The Hon. Dr. Gooroo Dags Banerjee.  
The Hon. Dr. Mahendra Lal Sircar.  
The Hon. Babu Kali Nath Mitter.  
The Hon. Moulvie Abdul Jubbar.  
The Hon. the Advocate-General.

*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. Royholds.  
His Honour the President.

So the Motion was negatived.

The HON. SIR HENRY HARRISON moved that, for the first paragraph of section 117, the following be substituted:—

“The entire consolidated rate imposed upon bustee land and the huts built thereon shall, after deducting therefrom a sum equal to one-eighth of such rates, be paid by the owner of such land. The sum deducted shall be retained by the owner of the land as a set-off against the expenses which may be incurred in collecting the portion of the rate recoverable from the occupiers of the land, or the owners or occupiers of huts built thereon, under the provisions of the next succeeding section, and as a commutation of all refunds in respect of huts which are vacant, or which may be removed or destroyed during the continuance of the period for which the rate is imposed.”

He said:—It is not intended to make any alteration in substance in this section, but it was considered by the learned Secretary to be an improvement in the wording.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, in line 1 of section 118, for the words “in such cases” the words “whenever a rate is imposed on bustee lands” be substituted.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, in line 7 of section 120, for the words “duly entered” the words “registered provisionally” be substituted.

He said:—This section is a reproduction of section 103A of the present amending Act, with alterations which are a little more than verbal. If the section had been acted upon, it might have led to a very serious abuse. If a person's name is registered as owner, it may assist him very much in borrowing money on that property. Now that we have a system of provisional registration,

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

it is better to say that it shall be *provisionally registered* so as to be subject to all the safeguards of that form of registration.

The motion was put to the vote and carried.

The HON. DR. GOOROO DASS BANERJEE moved that, for the first paragraph of section 122, the following be substituted :—

“For the purpose of assessment under this Act, the annual value of land and the annual value of any house shall be the gross annual rent at which such land or house might reasonably be expected to let from year to year, less, in the case of a house, an allowance of ten per cent. for the cost of repairs, and for all other expenses necessary to maintain the house in a state to command such gross rent.”

He said :—The object of this amendment is to leave out that portion of the section in the Bill which provides a special mode of valuation for residential and other houses not intended for letting purposes, and to fix one general mode of valuation for all lands and houses. That is the law at present, and is the only method which can be supported on principle; and so far as I can discover from the report of the Select Committee, no case has been made out for the proposed alteration. The only grounds upon which the Select Committee propose to introduce the change are two, namely, difficulty of assessment under the present law, and its inequitableness. With regard to the first ground of objection, I think the difficulty is not peculiar to Calcutta. Similar difficulties arise in England in similar cases as Sir Richard Garth points out in the case of *Nundo Lal Bose v. The Corporation of Calcutta* (see I. L. R. 11 Cal. p. 281). I may further point out that the mode of assessment proposed to be substituted in this Bill also involves a difficulty, namely, that of ascertaining the amount of deduction for deterioration, which is certainly not less, and may often be greater, than the difficulty which is sought to be avoided. In the second place let us see how far the other objection is well grounded. It is said that if we are to assess houses built for purposes of residence on their expected letting value, the assessment may be far below what it ought to be. But on what principle? The majority of the Select Committee say on this principle, that we should adopt 5 per cent. on the cost price as the letting value. Nobody denies that that will give a valuation considerably above the expected letting value. But to infer thence that the existing assessment is too low is to beg the whole question. If 5 per cent. on the cost price is the proper basis of assessment, then no doubt anything less than that would be unjustly low. But is there anything in reason

[Dr. Gooroo Dass Banerjee.]

which supports that basis? The report of the Select Committee refers to the great English political economist Mill, and points out that the cost price of a house may be fairly adopted as the basis of taxation, because it indicates the extent of the owner's means, and therefore it fairly indicates his capability of paying the tax. With reference to that argument, I would beg to point out that that is not the case in this country, and for a very simple reason. We all know that many a man builds a large house to live in because he has a large family consisting of his own children and those of his father and grandfather, and secondly, because there is a prevailing sentiment that one ought to have a house which he can call his own to live in; and therefore to tax a person on the basis of the capital he has invested in building the house will, in this country, be not taxing him according to his means, but taxing him on account of his feeling and sentiment. Another point I will draw attention to. In the report of the Select Committee an English decision is referred to:—

“In the case of such houses in England as are not built to let to tenants from year to year, the rule has been judicially declared to be that ‘a hypothetical tenant must be assumed, and the terms of such tenancy are not difficult to be conceived; the occupying tenant must be assumed to pay *adequate remuneration to a contractor for land and fixed capital vested therein*, and the local rateable value would be such a sum as would pay the rent of the land and profit on the fixed capital therein.’”

I have not been able to find this case in the reports, but the hon. member in charge of the Bill has handed me the book from which he made the quotation, and I find that the case is not the case of a residential house but of a manufactory. In the case of a residential house, which is also referred to in that book, the basis of assessment is said to be a percentage not on the capital invested, but on the market value which the property will fetch. That one can understand, but that is very different from the provision in the Bill. A man may build a house which suits his convenience more than the convenience of another man, and he may invest more money in building it than another man. But if he sells the house, what he would get would not be the cost price, or the cost price less a deduction for deterioration, but it will be something which would be quite different from and much less than the sum of money invested in building the house. So that the standard on which the section is based is quite an arbitrary standard, and therefore I submit it ought not to be allowed to stand. If this amendment does not commend itself to the Council, I propose as an alternative

[*By Mr. Gooroo Dass Banerjee ; Sir Henry Harrison ; Mr. Allen.*]

the substitution of "4" for "5" in line 14 of section 122, the object of which is to bring the valuation nearer to the proper standard.

The HON. SIR HENRY HARRISON said:—I am very much disposed to agree with the concluding remarks of the Hon. Member. I would consider it a considerable improvement if "market value" is substituted for "cost price." So far, if the Hon. Member will agree to that, I shall be very glad to make the alteration.

The HON. MR. ALLEN said:—The principle of this section has been attacked as if it was perfectly unknown, but already it is the law in all mofussil municipalities that where property or houses have been erected not for purposes of letting, a certain percentage should be struck on the cost price as correctly as can be ascertained. It was found necessary to introduce this principle, because while mills and structures of that character were over-assessed, houses in which Municipal Commissioners and their friends resided were as much under-assessed. From the report of the Chairman of the Corporation it would appear that something of the same kind is not unknown in Calcutta, and that on houses occupied in the northern part of the town, hitherto the average assessable value has been about 2 per cent. or less of the cost of construction; while in regard to all houses in the southern part of the town which are built for letting purposes, there is not a house which is let for less than 6 or 7 per cent. on the cost, and the full rent is taken as assessable value of all such. I have heard of houses being built with money borrowed at 7 per cent., and the Hon. Mr. Irving took the trouble to ascertain from a partner of Messrs. Mackintosh, Burn and Company, who reported that it is a thing unknown in Calcutta to expect less than 6 per cent. as a return for the money invested in house property. This being the case, while the southern part of Calcutta is assessed at the full rent, that is 6 or 7 per cent. on the outlay, a totally different principle of assessment is in force for the northern part of the town. If the amendment now proposed is carried, the only way to adjust the incidence of taxation between the north and south of the town will be by deducting one-third of the rent paid in the southern portion and taking two-thirds as the assessable value. It will to that extent be equitable. But possibly the total receipts of taxation would fall so far short that a higher rate would have to be struck. The market value of a house is supposed to be a proper indication of the value rather than the cost of construction. What is the market value of that for which there is no market? The first difficulty is that the houses in the northern portion of

[*Mr. Allen ; Babu Kali Nath Mitter.*]

the town are not built for sale, and they are not in the market. Market value implies that somebody should be willing to sell, and that more than one person should be willing to buy. The hon. mover of amendment talks about a man building a house to suit his own taste which differs so much from the taste of everybody else that he sinks a greater sum of money in the construction than any other person would be willing to give. If he is a poor man, the probability is that he will not sink money in that way. It is a novelty to hear that natives of this country are willing to accept 4 per cent. on money in house property. In other matters even 6 per cent. will not suit them. " If a man does so sink money, the money sunk represents his stake or interest within the municipality, and it is precisely on the stake each member so has that municipal tax is properly levied. The average rate they expect for their money is far beyond what Europeans expect ; far above 6 per cent. The only way to effect an equitable assessment is either to deduct 33 per cent. of the rent of houses in the southern part of the town, or to take a percentage on the cost price where houses are built for the purpose of residence and not for the purpose of letting.

The HON. BABU KALI NATH MITTER moved that, for section 122, the following be substituted :—

" The annual value of any house or land for the purposes of assessment shall—

- (a) in cases where the gross annual rent at which such house or land might reasonably be expected to let from year to year can be ascertained, be such gross annual rent, except that, in case of a house, an allowance of ten per cent. shall be made for the cost of repairs and for all other expenses necessary to maintain such house in a state to command such gross rent ;
- (b) in cases where such gross annual rent cannot be ascertained, be four per cent. on the sum obtained by adding the estimated cost of building, less a reasonable amount to be deducted on account of depreciation (if any) to the estimated value of the land valued with the house as part of the same premises :

" Provided that in making the assessment under clause (b) the estimated value of ornamental works in any house or building shall be excluded ; and provided further that no assessment under the said clause shall be valid unless sanctioned by the Commissioners in meeting "

He said :—There are a few houses in Calcutta in regard to which perhaps it may be difficult to obtain the letting value. To meet these few exceptional cases I propose to frame the section in this manner. In cases where the lettable value can be ascertained, the assessment should be the rent less a certain deduction for repairs ; in cases where the lettable value cannot be

[*Babu Kali Nath Mitter.*]

ascertained, it would be a percentage on the cost price. The Select Committee in their report refer to the report made by the Committee of which Mr. Goschen was the Chairman. There it is pointed out that—

“When it appears to the assessing authority that for special reasons a building cannot be fairly valued according to the annual rent which a tenant might reasonably be expected to pay for it, it shall be valued in the following manner:—

“The gross value of any such building shall be a sum equal to 4 per cent. on the capital sum which a purchaser might justly be expected to give for such a building in its actual state and existing mode of occupation”

Therefore, as far as this report is concerned, it clearly points out the distinction. In cases where the lettable value cannot for any special reason be ascertained, then we must take a percentage on the market value. I wish to adopt that principle, and have therefore framed the section in this manner. In the first place objection is taken to the amendment of my hon. friend on the ground that in the mofussil a percentage on the value is allowed by law. But my hon. friend forgets that the value of land in the mofussil is very different from Calcutta. Here you have to pay large sums of money to purchase land. A cottah of land has been known to sell for Rs. 5,000. In the mofussil in the best of position it will perhaps be Rs. 50. Therefore the mode of valuation allowed in the mofussil does not justify it being introduced into Calcutta. It was said by the Hon. Member opposite (Mr. Allen) that a person who has money to spend after his house should not grumble to pay Municipal taxation. Take the case of a person who has embellished his house with gilded corners and ornamental works, would it be just because he has spent money in that way to take the annual value as a percentage on the cost price? To my mind such a proposal should not be entertained for a moment. Rent is the basis of rating; before you can tax property, that property must be capable of producing rent. It has been pointed out that there are some cases in which it is not possible to fix the rent of a house: in those cases perhaps an exception is needed. The Select Committee referred to certain observations of Mr. Mill, but those observations are inapplicable to Calcutta, because the rate he speaks of is paid by the occupier and not by the owner. It shows that the rent which a man is able to pay for a house to live in, is a fair guide to go upon; but it is different when the rate is to be paid by the landlord. A landholder sinks his money with the view of getting a fair return, and surely the rent is to be taken into consideration. The hon. member in charge of the Bill will correct me in what I now say I am mistaken.

[*Babu Kali Nath Mitter.*]

When this question was considered for the first time in Select Committee, he referred to those exceptional cases showing that justice was not done because of this hard-and-fast rule of ascertaining the lettable value, and on that the section was framed as it stood in the last Bill. But when the question came before the Select Committee on the second occasion I understood the Hon. Member to say that in the majority of cases, in the case of almost all residential houses, the assessment should be based on a percentage of the cost. While I agree that there are some exceptional cases which ought as far as possible to be dealt with on that principle, I think the proposal to assess all residential houses at 5 per cent. on the cost price would press unduly upon owners. In the first place who is to decide the market value of the property? The assessor fixes one value; the owner puts it at a different figure. From the amendment to be moved by the hon. member in charge of the Bill he seems to wish that there should be no appeal from the decision of the Commissioners. I myself am not in favour of allowing an appeal to the Presidency Small Cause Court. The Judges of that Court not having to decide matters relating to land have no experience as to the value of real property, and therefore they will find extreme difficulty in determining the market value. There will besides be the further disadvantage and inconvenience of the parties having to dance attendance for perhaps six months before a case is decided. I believe I am perfectly correct in saying that although recourse is now allowed to the Small Cause Court by way of appeal from the assessment of the assessor, there has hardly been a single appeal to that tribunal. People avail themselves largely of the right of appeal to the Commissioners, but they do not resort to the Small Cause Court. What is the reason for that preference of one tribunal to another? It is this, because in the one case the Judges are themselves mostly land-owners and are fair judges of what the assessment should be, and in the other there is no such experience, and moreover there is the harassment and annoyance of a case hanging on for months. I admit that the amendment of the hon. member in charge of the Bill is an improvement on the section in the Bill, but not to the extent desirable. This is a question on which the rate-payers of the town are very much interested, and I hope therefore that on this and all other matters of importance due consideration will be given. The British Indian Association is composed of men of property in Calcutta, and they have pointed out that it is only in exceptional cases that the assessment should be based on the value, but that in such cases it should not exceed four per cent.



[Babu Kali Nath Mitter.]

My hon. friend the last speaker believed that the natives of Calcutta would not invest money at 4 per cent. I think he is labouring under some misapprehension on that point. A very large proportion of the Government securities is held by the natives of Calcutta, and that is a strong argument that they are satisfied with that investment. From my own experience I know that house-owners now lend out money on mortgage of house property at from 6 to 8 per cent, whereas the rate of interest formerly was 12 per cent. Hitherto no difficulty was found in the assessment of property in Calcutta till we came to the memorable case of Nundolall Bose. I know of no other case which was appealed to the High Court. There was one other case appealed to the Small Cause Court from an over assessment of the Justices. Besides these two cases I am not aware of any other where, as far as the Commissioners are concerned, any difference has arisen between them and the rate-payers. The case of Nundolall Bose, which gave rise to the proposed alteration in the mode of assessment, shows that in that case no attempt was made to ascertain the lettable value of the property, but the assessor professedly took a certain percentage on the market value. Nundolall Bose appealed to the Commissioners. A Bench of five Commissioners sat. There was no denial that the assessment was made irrespective of the lettable value and solely on a percentage of the value of the property. The Commissioners made a slight reduction, which did not satisfy the appellant, and he applied to the High Court for a rule of *certiorari*. The matter first came before Mr. Justice Pigot, who was of opinion that the Commissioners were not justified in making the assessment in the way they did; but that they had acted within their jurisdiction, and the High Court could not interfere. That decision was appealed against, and the appeal was heard by the then Chief Justice, Sir Richard Garth, and Mr. Justice Wilson. There was nothing before those Judges to show that there was any attempt to fix the assessment on the lettable value of the property, and the statement made, that the assessment had been reduced out of regard to the Pleader who acted for Babu Nundo Lall Bose, was not challenged in any way. The Appeal Court held that this was not a question of jurisdiction but of a mistake made by the Commissioners in fixing the assessment on a principle not warranted by the law, and the rule was made absolute. I do not think there is anything in that case to justify a change in the principle of assessment hitherto followed, and to make the value of property the basis of assessment. It is contrary to all the principles of rating in

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

England so far as I am aware. The case referred to in the report of the Select Committee is in respect of a manufactory. It is a case in which Mr. Justice Whiteman said there should be a hypothetical tenant. Probably in the case of Nundolall Bose, if it could have been shown that the lettable value could not be ascertained, and that it was necessary to presume a hypothetical tenant, the result might have been different; but the assessor simply stated that he took the percentage which he considered fair and reasonable (2½ per cent.) on the value of the property. I submit it is quite evident from the ruling in this case that the law as it at present stands does not warrant the value of the property being taken as the basis of assessment. What has happened to justify the proposed change in the law? Simply this case of Nundolall Bose. If my amendment is adopted, the ordinary method of assessment will be the lettable value. Where that cannot be ascertained, a percentage on the value would be taken; but then there would be this safeguard, that it would need to be sanctioned by the Commissioners. The cases in which this mode of assessment would be resorted to would be exceptional cases where the lettable value cannot be ascertained, but the ordinary mode of assessment would be the lettable value.

THE HON. SIR HENRY HARRISON said:—I would suggest that the Council should adjourn at this stage. This is, I think, the most difficult section in the Bill. It is beset with difficulties, and it is one to which I have given more attention than to any other part of the Bill. Several principles of extreme difficulty are involved in it; and before I proceed to propose the amendment of which I have given notice, I would ask the President to adjourn the Council.

HIS HONOUR THE PRESIDENT said:—I am rather unwilling to cut short this discussion in the middle of it; but if the hon. member in charge of the Bill thinks it expedient to take time to consider the suggestions which have been made before making his reply, I think it would be wrong in me to refuse an adjournment.

The further consideration of items Nos. (15), (16), and (17), and of the other clauses of the Bill, was postponed to the next sitting of the Council.

The Council was adjourned to Saturday, the 14th April, 1888.

CALCUTTA;

The 1st May, 1888.

Reg. No. 2680G-300-21-5-88.

H. A. D. PHILLIPS,

For Assistant Secretary to the Govt. of Bengal,

Legislative Department.