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

The Council met at the Council Chamber on Saturday, the 14th April, 1888, at 11 A.M.

Present:

The Hon. Sir Steuart Colvin Bayley, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The Hon. 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, Kt.
The Hon. Sir Alfred Croft, K.C.I.E.
The Hon. Moulvie Abdul Jubbar.
The Hon. Babu Kali Nath Mitter.
The Hon. Dr. Mahendra Lal Sircar, C.I.E.
The Hon. C. H. Moore.
The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. Pratt.

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 adjourned debate on section 122 was resumed.]

The Hon. Sir Henry Harrison said:—The amendment which stands in my name has been wrongly shown in the notice paper. I gave notice of two amendments in respect to this section, each distinct from the other, the first to

substitute for the words 'the estimated cost of the building' 'the estimated present cost of building the house.'

The other to add the words—

"When a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken."

It seems to me that this provision stands on quite a different footing, and therefore I put it separately, although it may be discussed with the other amendment. If both are put as one amendment, they would stand or fall together; but if put separately this branch of the amendment might be adopted, although the first portion might be rejected. Having Your Honour's permission to put my amendments in this way, I shall now proceed to discuss them. As I stated to the Council at the last meeting, my reason for asking for the adjournment of this discussion was that the question is the most difficult and most important which we have to face. Most important because it will be easy to show, and in fact it has been shown by my hon. friend Mr. Allen, that there is an abuse prevalent in the existing system which renders the whole incidence of taxation in the town unequal—an abuse which goes to the root of the whole equity of our municipal taxation. If that is an opinion which I can conclusively establish, then a case is made out for correcting it, and it is not difficult to point out to a certain extent the direction in which amendment should take place. But as to the exact wording which will best meet the case, there is considerable difficulty, and it is a matter on which I may fairly appeal to the assistance of the whole Council to help me in solving the difficulty in the best manner possible. A few words I ought to say in the first instance as regards the serious abuse which it seems to me indispensable to correct in the new Bill. It is this. Obviously fair and equal valuation lies at the root of all municipal rating. If one house is estimated at half its proper value and another at its full value, it is perfectly evident that the same injustice is done as if you put a rate of 5 per cent. upon one and of 10 per cent. upon the other. If it is a fact that a large portion of Calcutta is being valued at more rather than less than double of the other, it means that more rather than less than double taxation has been levied from one class of rate-payers as compared with the other, and it is difficult to conceive any abuse which more urgently requires remedy than this. It is not so much a case as between the south and the north of the town, as between different classes of the community. The class which has bene-

fited, I think unjustly, is the class living in their own houses. The class which has suffered has been first and chiefly the business community; that portion of the community which does the work of Calcutta, and which most contributes to its wealth and greatness, and in this class must be included public offices and buildings. In the second category are all those classes of the community who live in tenanted houses. These are the two classes who suffer; while the class who are living in their own houses have had an unfair advantage. If that is the case, the first point to notice is that it is exactly the opposite of the distinction which should be made, if any. Business premises, according to political economists, ought not to be taxed at all, and on the principle of this tax, as pointed out by Mill, whatever portion of a house is occupied for business purposes ought to be exempted altogether. That obviously would not be practicable in Calcutta. Still this much is reasonable, that certainly the business parts of the town ought not to be selected for exceptional taxation. I will not contend that any immunity ought to be given; but if any immunity ought to be given, then the only sound principle of justice in municipal taxation is that that portion of a property which is devoted to reproductive purposes—business purposes—ought rather to be exempted. Then there is another principle why business premises should not be too heavily taxed. For water-supply and some other purposes, they pay much more than the benefits they receive. There is no difficulty in showing, in fact I have already shown, that a large portion of the business part of the town undoubtedly pays more for water than the advantage they get in return. I am merely pointing out that if there is to be any distinction, if all classes are not to be put on the same footing, the portion of the community engaged in business is the one which ought rather to be treated with consideration.

Next as regards tenanted houses, their occupiers also may put in a claim for indulgence. Certainly, as regards the water-supply, they get their share; but a large portion of the revenue of the town goes to making improvements or paying interest for improvements. Suppose a great improvement is made? If the money is laid out wisely, property rises in value. So long as there is a lease the tenant enjoys the benefit, but when the lease expires, the result is that the rent is raised. It is therefore a well recognised principle that, in so far as taxation is devoted to improvements, and not to ordinary current expenditure, the taxing of occupiers who are tenants, and occupiers who are owners, on the same basis, is not equitable. I do not like to take up the

time of the Council by reading long extracts; but I may say that this is very clearly pointed out in the last pages of Fawcett's Political Economy. Therefore I say that the two classes now worst off are those which, if there should be any immunity at all, ought rather to be favoured. But so far from being favoured they have not merely been over-assessed, but another class has been under-assessed. I say they have been over-assessed, because in making a valuation you should on principle allow such deductions as will enable the property to be kept in such a condition as to continue to command the full letting value. Suppose Rs. 3,000 is the annual letting value, but, to keep the property in a state to obtain that value, Rs. 500 have to be spent annually for repairs: you ought to deduct this Rs. 500 for repairs before fixing the fair letting value. That is never done in Calcutta, and the objection has been dismissed with the remark that taking the assessment all round it comes to the same thing in the long run. But in this instance it is not an all round deduction. Houses occupied by owners have been assessed on a totally different principle. They have not been assessed much below their value: therefore the classes I speak of—persons occupying business premises and tenanted houses—have been assessed on the gross rent realised, and they have consequently been over-assessed to the extent of 10 or 20 per cent., while others occupying their own houses have been assessed at less than the true value. My hon. friend Babu Kali Nath Mitter has said that I am unnecessarily stirring up dirty water, that hitherto things have worked well, and he does not see why I need have raised the question. But I maintain that I should have been absolutely wanting in my duty, when my attention was drawn to the unfairness, if I had not laid before the Select Committee proposals for remedying it.

Assuming that this inequality of assessment does exist, and that the injustice should be redressed, the question is how should it be done? The first question is, to what is it due? I have taken a great deal of trouble to discuss the matter with several Commissioners and the officers of the Corporation, and, so far as the state of facts is concerned, I have found no real dispute, but I have found many persons ready and eager to justify the system. I have therefore pressed them to disclose the reasons for favouring one class of the community. I give the best reasons I have heard. One very intelligent advocate argued that when the owner lets his house he gets an income, and therefore he feels that he ought to pay a rate on that income as a

deduction from his profits; he receives Rs. 1,000 and pays Rs. 100. But when he gets no profit, and is living in his own house, he feels it particularly hard that he should have to pay anything. It is not difficult to understand the sentiment; but how about those who have to pay Rs 1,000 to occupy a house? If the person who makes no income from his house feels the payment of rates a grievance, what must the person feel who has to pay rent and rates besides? If the owner who gets no return feels it a grievance that he has to pay an equal rate of taxation, ought not the person who pays rent to feel that he ought to have a portion of the rent returned to him? Arguments of this kind cannot help the matter. There is, I am aware, a strong sentiment that my proposal is extremely unjust. It is looked upon as a grievous act of oppression, reflecting the greatest possible discredit on me and on some Hon Members of the Council who adopt my proposal; but surely an accusation such as this must rest on something better than the sentiments of those whose pockets it touches, it must be shewn to have some reasonable foundation.

Another argument advanced is this, that a gentleman, when he builds a house to dwell in, looks upon it as his jewels or his ornaments, and he feels it as great a hardship to be taxed for that house as if he is taxed on his diamonds and his pearls. Lastly, we have the objection which is embodied in the amendment before the Council, proposed by my hon. friend Babu Kali Nath Mitter, which says: "Provided that in making the assessment under clause (*b*) the estimated value of ornamental works in any house or building should be excluded." That in fact he ought not to pay anything more than before for the brick and mortar. Is that reasonable? If a person spends a certain sum to ornament his house, plainly he ought to pay on that sum just as much as he ought to pay on any outlay for additional buildings.

The next point is what are the causes of this anomaly? One cause is the system of procedure in force for the last 12 years; the other is, to the wording of the substantive law. As regards the system of procedure, the assessor fixes the valuation. On his doing so, if the owner is dissatisfied, he has the option of appealing either to the Small Cause Court or to a bench of three Commissioners from which the executive officers of the Corporation are excluded. As a matter of fact, the second of these modes of appeal is invariably adopted. Within my experience I have known, I suppose, of 200 or 300 appeals against assessments, and I have known of only one appeal to the Small Cause Court. The appeal to a bench of three Commissioners is almost invariably followed

In the law of 1863, and in the revised law of 1866, the rule was that the appeal should be heard by three Justices, the Vice-Chairman being usually one. But on the motion of the late Hon. Kristo Das Pal in 1876, objection was taken to any executive officer of the Corporation sitting on Assessment Benches; and that objection was allowed, and the result is that appeals are now heard by three Commissioners. We have had various systems in the selection of the three Commissioners to hear such appeals. Under the latest system the selection has been by lot amongst those who offer to sit on appeal benches, volunteers being invited for the purpose. To this appeal, which is made once a year generally rather more than half the Commissioners respond. The European Commissioners, as a rule, abstain It is true it is their own fault, but they consider they have not the time to spare. The Assessment Committee thus consists of about 36 Native Commissioners and about 4 European Commissioners; and I only know of 3 Europeans who have ever sat on appeal benches during the last six or seven years. Nearly all these Commissioners are owners residing in their own houses. I do not say that this has been designed; it comes about by natural drift; they are most interested, therefore they put their names down, and they naturally have sympathy with their own class and look kindly on any interpretation of the law which tells in their own favour. They have adopted one standard for houses occupied by owners and a totally different one for houses occupied by tenants or for business purposes, or for large Government buildings. The Government officers have accepted the assessments, and Government buildings have on the whole been assessed at a fair valuation.

Now, as regards this lenient interpretation of the law, I ask the Council to bear with me while I explain what the law is. The present law of assessment in England dates from the time of William the Fourth. Before that time it was in great confusion. At that time an Act was passed which has maintained its ground ever since. It prescribes that the valuation is to be the rent at which the tenement might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and deducting therefrom the average annual cost of repairs, insurance, and other expenses, if any, necessary to keep the estate in a state to command such rent. The words adopted by the Indian Legislature are "the rent at which it may be reasonably expected to let from year to year." That is in the existing Act and in the present Bill, and the principle has been everywhere accepted as the best. Although in England an amendment of the

law is now considered necessary by all authorities, nevertheless the law has worked fairly well there owing to the liberal interpretation which has been put by the Courts on the words of the Act. The difficulty which has to be faced, is how to apply it to houses which are not ordinarily let, such as large manufactories, light-houses, hospitals, and, above all, large family mansions. The case of large family mansions soon came up in England, and the very same abuse resulted there for some time. Instead of being assessed at anything like their proper value, such mansions were assessed at a mere song, on the ground that no one would be likely to take houses like those on rent from year to year. On this subject Mr. Mill says:—

"The public were justly scandalised on learning that residences like Chatsworth or Belvoir were only rated at the imaginary rate of perhaps 200 a year, under the pretext that owing to the great expense of keeping them up they could not be let for more, probably even they could not be let for that, and if the argument were a fair one they ought not to have been taxed at all. But a house tax is not intended as a tax on incomes derived from houses, but on expenditure incurred for them. The thing which it is wished to ascertain is what a house costs to the person who lives in it, not what it would bring in if let to some one else. When the occupier is not the owner and does not hold on a repairing lease, the rent he pays is the measure of what the house costs him; but when he is the owner some other measure must be sought. A valuation should be made of the house, not what it would sell for, but what it would cost for rebuilding it, and the valuation might be corrected by an allowance for what it had lost in value by time, or gained by repairs and improvements."

Does not every word of this argument thoroughly bear out and justify the changes proposed in this section?

But how has the law been interpreted in England? I have here a manual on assessments by Lumley published in, and I will read to you the summary of decisions given by the Superior Courts in the cases of manufactories, light-houses, family residences, and hospitals (Here the Hon. Member read from the manual).

What can be more reasonable than the spirit of these decisions? The determination which the Courts manifest not to allow the letting test to be used as a handle for under-assessment, on the plea of no tenants coming forward to offer more. They invariably insist that either the cost of building with ground rent, or the market value, must be taken to determine the rent which a hypothetical tenant should pay.

How, on the other hand, has the law been applied in Calcutta? I am not referring to the decision of the High Court in the case of Nundolall Bose,

partly because it has very little to do with the matter, because the decision in that case is not constructive, but merely reverses the decision of the Appellate Bench. What is the principle on which our assessor has proceeded under the guidance of these Appellate Benches? I have questioned him very closely on the point, and he thinks that in general the Assessment Benches do not proceed on any principle at all. Just consider what is likely to be the principle of action of three gentlemen, taken haphazard, who have never sat before together, and who have forty appeals to decide in the course of an afternoon. But still they are clearly in agreement on one point, that if any one desires to let his family residence, he is not likely to get any one to rent it at its full value. There is no demand for such houses, and he will perhaps have to wait a long time before he can get a tenant at all; when he gets one, a small sum will be offered. Hence on that principle they value such houses just as was done in the case of Chatsworth and Belvoir at very small amounts. Now I put it to the Council that this is not a proper interpretation of the law. I believe it to be erroneous and contrary to the spirit of the interpretation in England. When a house is built for occupation by the owner, and the owner is the tenant himself, that house has found its tenant, and you have not got to go into the highways and byeways to find another tenant; but to ask what is the tenancy worth to him, and not to any imaginary successor. He builds it to suit his own taste and family, and has no intention of letting it. Now so much do the owners of such houses value the tenancy that far from this principle leading to too low an assessment, it would, if correctly applied, lead to over valuation. It would take two or three times the fair value of the house to tempt them to give it up. Of course that is partly due to the sentiment of attachment to ancestral property, and, above all, to the desire to live in their own houses. It is said that it is not fair to make a man pay for his sentiment. This may be admitted: but it remains that if the true test, the value of the tenancy to the actual tenants, were looked to, they would have to pay much more rather than less than others; and if the present law were applied by an unsympathetic instead of a sympathetic tribunal, they would soon come to their senses and see the justice of applying some other test.

I consider therefore that I have fully shewn, looking to the very different way in which the present words of the law may be interpreted, the necessity for changing that wording. The same difficulty was found by Mr. Goschen's Parliamentary Committee; and in the Bill, which he brought before

Parliament, he thought it necessary to add, some sections about taking the capital sum paid for the house. Opinion oscillates between two different tests. The first is to take "the capital sum which would be paid for the house," which is the same virtually as the market value, or should be so. The second, the cost of building, which in several decisions is said to be the best and the proper test, or, as Mill has it, the present cost of the building, allowing for depreciation. When my hon. friend Dr. Gooroo Dass Banerjee proposed at the last meeting the words "market value," I was disposed to accept the suggestion, because it is, on the whole, a question of equity, as people would not be willing to under-value their own property. On the other hand, there is an objection to use the words "cost of building," because it is not quite clear whether it should be the original or the present cost of the building. The original cost is not a fair test. The cost of building might have been much less 30 or 40 years ago; the true test is the cost of building now, not then. On the other hand, as regards "market value," I have been dissuaded from accepting this test by my hon. friends the learned Advocate-General and the Legal Remembrancer; they consider the expression "market value" to be fraught with far more embarrassment, and prefer taking the present cost of building the house, making due allowance for deterioration. After full consideration I have come to the conclusion that it is best to be advised by experts in a matter of this kind, and I therefore submit that the wording should be "estimated present cost of building the house, less an allowance for depreciation on account of deterioration."

Then, as regards percentage, the Committee at first thought 6 per cent., or nearly 16 years' purchase, to be a fair assessment, and that is usually taken by the Courts in the valuation of property; but the remonstrances to that were so strong, that by a narrow majority we thought it better to reduce it to 5 per cent. Less than 5 per cent. I cannot say is fair. I cannot think that in ordinary circumstances 5 per cent. on the cost would be too high an assessment, looking at the rate of interest. At the same time I have, after giving very careful consideration to the question, thought it necessary in a subsequent amendment, to which I shall refer now, to add these words: "When a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken." I would not propose this if the appeal is to be left as heretofore to the haphazard tribunal of three men to-day

and a different set of three men to-morrow, because I am afraid the exceptions, as in the Latin grammar, will be the rule. But I hope in future to have a fair-minded and impartial officer to decide objections to assessments under an appeal to a judicial tribunal, so that it may be shorn of the objections which I would otherwise admit. I shall now explain the necessity for this clause. A person builds a house for his own use and to suit his tastes and his means, and when he occupies it you may fairly rate him at the full value of the house to him; but circumstances may change very materially. Subsequently, whether in one, two or three generations, the family may fall into less prosperous circumstances, as happens in this country very frequently. They have this house on their hands; their circumstances are such that they would not have built so expensive and well kept a house; they would with their means have built a much less pretentious house. They have only three alternatives at hand; they have either to sell or to let the house, or to continue to live in it themselves. It is hard, looking to the great attachment to ancestral property in this country, to drive owners to these alternatives; but if he retain the house you cannot in justice say that it is worth the same to him as it was to his ancestor who built it. To him it is really not worth more than he could get for it if he sold it or let it. You cannot make out that the house is worth more than it will command in the market, and I should therefore be very reluctant to make a hard-and-fast rule in the case of poor house-owners of this kind. I think that in such extreme cases an assessment of 4, 3 and even 2 per cent. might be taken equitably as the fair value in the case of once wealthy families whose property and circumstances have become depreciated. I propose to move this as a separate amendment, because I do not think I ought to include the amendment on the general principle with this amendment, which is intended to deal only with exceptional cases. I hope the Council will fully realise that such a clause is essential, if we are to keep a 5 per cent valuation as the general principle on which residential houses ought to be assessed, where they now pay 4 per cent. or even less: on the other hand even 4 per cent. would in some cases be very hard. We should levy taxation fairly over the town, but at the same time should not be unjust to those families in impoverished circumstances who have inherited houses of a better kind. For these reasons I ask the Council to consider these two amendments.

The HON. MR. ALLEN said—This is one of the Hon. Member's last thoughts. During the two years the Bill has been before the Council, I do

not believe that this proposal has ever been brought forward. The early part of his speech distinctly showed the evils to be guarded against; and having guarded against those evils by a section which is substantially the same as the Select Committee has provided, he proceeds to undo the whole and to introduce a clause which is vague above all vagueness. Having erected a dyke to keep out the sea, he is not content till he burrows a hole through it which lets in the sea again. He provides that "when a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken." And he mentions one single circumstance to which the exception would apply, viz. where a man lives in a bigger house than his circumstances warrant. But the words of his clause reach far beyond anything of that kind, and they are words which should not find a place in any law. They are, as I said, vague beyond any permissible degree of vagueness, and they afford not the slightest indication as to what limits the reduction may extend. And further with reference to the words "valuation of 5 per cent. of the cost of building being excessive." With reference to what is it excessive? Not with reference to the valuation of the property. The whole system of municipal taxation proceeds on the idea that the property owned by a person within a municipality is an indication of the amount of tax to be paid by him; he is to pay in proportion to the extent of his property. Whether he is a poor man or a rich man, whether he occupies it himself or lets it, is immaterial for purposes of municipal taxation. His poverty would be a good ground to reduce his income-tax, or any tax which takes the circumstances of the individual into consideration. But when the law discards all consideration of the circumstances of individuals, and takes into account only the value of property in the municipality, if the circumstances of a man are to render the valuation of his property excessive, we have altogether a new principle introduced; it is utterly impossible to say how far it will extend, or to what extent the resources of the municipality will be affected by it. The Hon. Member is unwilling to allow appeals to the assessment benches of Municipal Commissioners, and suggests that the decision on appeals should be left to the Small Cause Court. But suppose enquiries into these exceptional circumstances are to be held by the Small Cause Court. It is the bounden duty of this Council to lay down some indication of the character of the exceptional circumstances which should be admitted as a sufficient justification for a reduction of

the assessment valuation. I can imagine nothing more exceptional than the position of Government House, which is occupied only for three months in the year; the Government may ask for a heavy reduction of the assessment. Then there is the Indian Museum, which is a building occupied by the Government not for any benefit of its own, but for the public good. Can anything be more exceptional? Suppose the residential house of a Hindu gentleman proves unhealthy, and that its inmates are unable to work more than three days in the week on account of illness? Who can say that that is not an exceptional circumstance, and the parties may ask the Court to take into consideration the unhealthiness of the house. Hotels are not very numerous in this town, and therefore occupation as a hotel is an exceptional circumstance. Messrs. Dykes & Co. have premises behind the Great Eastern Hotel a mile in circumference; that is exceptional. All these may be held to be exceptional circumstances. But while the Hon. Member means to limit the reduction of the assessment to the case of probably one or two respectable gentlemen in reduced circumstances, all these classes of cases may be brought successfully before the Small Cause Court. [The Hon. Sir Henry Harrison—The contention is that the property in these cases is of less value than before.] Property has a certain value according to the amount of money sunk in it, and when there is a demand for such property, as at the time of the Exhibition, it will certainly command its full value: when it is otherwise, it is simply that there is no demand and that purchasers are not forthcoming. Were a wealthy family to migrate from the mofussil into Calcutta, they would have to pay for the house its full value according to the expense of construction, and the situation of the fact is that there is no change in the value of the property, but an impoverished man is perhaps not justified in living in such a house. In natural history we learn that the oyster dying by starvation expends its last efforts of strength in constructing for itself a smaller shell to match its reduced size. If it is a fact that the people of this country are unwilling to follow the example which nature has set them, I can therein see no sufficient reason to violate the principle of this Act. I think that under any circumstances this clause in its present state ought not to be accepted for its vagueness and uncertainty.

The HON. THE ADVOCATE-GENERAL said:—I wish to say just one word as to what has fallen from my hon. friend Mr. Allen. The clause goes on the supposition that there are circumstances which depreciate the value of the building. The whole of my hon. friend's argument proceeds on the

assumption that there are no circumstances under which a valuation of 5 per cent. would be excessive. That is a very different thing. Suppose a person of eccentric habits builds a large house in a grotesque fashion; it suits his fancy, but after he dies it will not be valued at the price the building cost? It is an exceptional case which would fall under this clause. I quite agree with my hon. friend that no human wisdom, ingenuity or ability could define the range of exceptional circumstances, and frame a section which would clearly be applicable to all cases. Cases of this sort cannot be defined: this must be left to the discretion of the court for determination. It must not be supposed that in the northern part of the town property yields a return of 5 or 6 per cent. when they are let; sometimes they fetch only $3\frac{1}{2}$ or 4 per cent. It will be impossible for the Legislature to summarise all the exceptional circumstances; they can only enunciate some general principle such as a reasonable person could interpret. I do not see that that makes a hole in the rule laid down. The rule applies to ordinary circumstances, leaving the court to deal with exceptional cases as they arise. I think it does honour to the hon. member in charge of the Bill that he has thought proper to introduce some sort of a safety-valve which may be applied in the case of those who have been excessively assessed.

Then with regard to the substantive section. The hon. member in charge of the Bill dwelt on the value of the house to the owner. I might put it in this way. Suppose a man wants a house to suit his fancy and another man is to build it for him; the cost of the house would be a fair test of its value to the occupant? The only thing I am a little in doubt about is whether the words "a lower percentage may be taken" ought to be allowed to remain, and whether or not a minimum limit of assessment ought not to be given I throw this out as a suggestion for the consideration of the hon. member in charge of the Bill.

The Hon. Dr. Mahendra Lal Sircar said:—The amendment proposed to be introduced by the hon. member in charge of the Bill, and the arguments which have been adduced both in favour and against it, clearly show that it is inconvenient to have two different standards of valuation of houses in town. This introduction of two different standards of valuation will lead to most unfair and inequitable conclusions unless we can make these two standards correspond. Now we have just heard from the hon. and learned Advocate-General that, in the northern part of the town, houses built for

dwelling purposes would scarcely fetch even so much as 3 per cent. of the cost of building. [The Advocate-General—I said sometimes.] It is a notorious fact that houses built at the same cost in different parts of the town fetch different rents, the difference being sometimes enormous—two, three, four, and even tenfold. Take the case of two similar houses, one in the south and one in the north of the town, both built at a cost of Rs. 50,000. The house in the south of the town may fetch Rs. 200 a month or even Rs. 300; whereas a similar house built in the northern portion of the town at the same cost would scarcely fetch Rs. 100 a month. Suppose both the houses were let, one fetching Rs. 200 and the other only Rs. 100? Under the first standard, that is, taking the rent as the net annual value, the two houses would be assessed at different rates. But suppose the owner of the house built in the north of the town, after having let it for one year, chooses to keep it to himself, he would have to pay now at quite a different rate from what he was doing when he got Rs. 100 a month. Would that be fair? You will now assess his house by the standard of cost, whereas a year ago you assessed him to the extent of the net annual income or rent of the house. Then, again, what is to be the basis of the estimated present cost? Are you prepared to accept the cost as given by the owner of the house? Is it not a fact that similar houses may be built at very different costs? Two similar houses built, one under the supervision of the owner, the other by a contractor, would cost different sums of money: the one could be built for much less than the other. That being so, how are you to proceed in making the estimate? You must accept the cost given by the owner. In the one case it may be Rs. 50,000; in the other as much as Rs. 80,000. A difference of Rs. 30,000 would make a great difference in the assessment. It is also notorious that large houses like those of Babu Nundo Lall Bose, Maharajah Sir Jotendro Mohun Tagore, and others built by different contractors, are built at enormously different costs, each contractor having his own estimates and prices differing considerably from those of others. How would you assess such houses? Taking all these things into consideration, I am of opinion that the use of two different standards of valuation of houses would not work fairly and justly. You must revert to the old standard of the annual rental of the house; otherwise you will be doing serious injustice to occupiers and owners of houses.

The HON. DR. GOOROO DASS BANERJEE said:—I do not wish to protract this debate much longer. I will only ask permission to say a few words in

answer to the remarks against my amendment, and to point out the objections to which some of these remarks are open. My hon. friend on my left (Mr. Allen), who spoke against my amendment at the last meeting of the Council, was pleased to remark that the portion of section 122 to which I objected was rendered necessary by the under-assessment of houses in the northern division of the town resulting from the Committees of the Commissioners being led away by personal feelings of favour towards their friends and neighbours. [The Hon. Mr. Allen—I did not say so. I referred to what had occurred in mofussil municipalities.] My hon. friend reminds me that he referred to the Commissioners of mofussil municipalities, with whom we have nothing to do just now. It is fortunate that I was not a mofussil Commissioner before the passing of Act III of 1884, in which the new assessment provision was incorporated for the first time. Then my hon. friend pointed out what to his mind was a shocking absurdity and inequity of assessment; the inequity, namely, of a house in the south of the town being assessed as 6 per cent. on the cost-price, whereas houses in the northern division are assessed at only 2½ per cent. But how is that an inequity? The whole argument assumes that we are bound, in making valuation for the purpose of rating, to have a certain uniform percentage on the money actually spent in building the house; that is the only basis on which all these arguments about inequality and inequity rest. Now my hon. friend was good enough to point out that we must base municipal taxation on the standard of the extent of interest that the rate-payer has in the municipality as determined by the capital sunk by him within its limits. Granting, for argument's sake, that the extent of permanent interest which a rate-payer has in immoveable property owned by him in the municipality ought to be the basis of taxation, I deny that the capital sunk in building a house is any indication of it. The capital may be misspent and may be partially irrecoverable when the property is put up for sale, and would it be right in such cases to tax a man for his folly because he has sunk capital which cannot be recovered? There is no reason or justice in that. It is not the capital sunk, but so much of it as can be recovered in the shape of market value which ought to be the standard of valuation for assessment. Adopt that standard, and you at once get rid of all those difficulties and anomalies which have been pointed out in the course of the discussion on the amendment moved to-day by the hon. member in charge of the Bill. And if you adopt the market value, you will after all be returning to the present

matter should be referred to the Commissioners, and I have little doubt as to the manner in which their view will be expressed. I venture to think that before any change is made in the law on the supposition that a certain statement of facts is true, it is necessary to make a thorough examination of the facts and to find out whether such statement has proceeded from erroneous impressions or is justified by the actual state of things. Now when the Local Government was pleased to intimate its willingness to assist the Commissioners in raising further funds, and with that view appointed the Octroi Committee, I never heard that there was such a simple method by which the income of the municipality might be greatly increased. If the reports of the Calcutta Municipality from 1877 to the present time are overhauled and examined, I am almost certain that not a single word will be found anywhere which will justify the statements which have been made by the hon. member in charge of the Bill. Will it be just, will it be right, without making due enquiry into this matter, so far as the question of fact is concerned, to come to the conclusion that the owners of residential houses have not been fairly assessed up to the present time? I submit that it will not. As regards the law, the English law is applicable to this country. It is the law which in most cases is administered by the Courts here. If the law on the subject is that which has been propounded by my hon. friend the member in charge, why cannot he persuade the Judges to agree with him? I think it is going too far to say that it is impossible to have the law properly interpreted here. I think we have Judges here who are capable of enunciating the law in matters of this kind without any difficulty whatever. That being so, and as the provision of the law to which my hon. friend referred is based on the probable letting value of the property, why should not the matter be left there, and in exceptional cases, resort to the ruling of the different Judges in England, and fix the assessment in such cases on the basis my hon. friend has suggested? But he is not satisfied with that. He wants a change in the law. He has referred to what I said on the last occasion, and he said he felt it is his duty to point out the inequalities which exist. Of course he is responsible for his own acts, and what he considers his duty no doubt he will perform to the best of his ability. But it is also my duty to show the Council that we shall be doing a grave injustice if, without making due enquiries, we adopt the Hon. Member's proposal in this matter. He has entered into an elaborate discussion in order to show how it is that this inequality has come into existence. He has been pleased to refer to several appeals before assessment benches of the Commissioners; but it would

have been better if he had pointed out the percentage of appeals allowed, of modifications made in the valuations of the assessor, and of appeals disallowed altogether. If these percentages are given, I am positive that the conclusion to which the Council will come will be different from that which my hon. friend asks the Council to adopt. I think that if those cases are carefully examined you will find that substantial justice has been done; that in most of the cases the appeals were rejected; that in about 30 or 35 per cent. of the appeals there were modifications made; and that in only a very small percentage appeals were wholly allowed. My hon. friend shakes his head. I am now speaking from recollection; but my hon. friend has the papers before him, and he could have given the information on this head without the slightest difficutly, and he could have shown that in most cases the appeals were allowed.

In the course of his argument he has been pleased to say that he would only support his modified proposal in the event of a proper system of appeal being fixed, and that proper system he has foreshadowed by his notice of amendment, that appeals are to be taken out of the hands of Commissioners and preferred to the Small Cause Court. I submit that it will be a great mistake to drive persons to the Small Cause Court, putting them to the expense of appointing vakeels and to the harassment and annoyance of frequent attendance for the purpose of having the appeals heard. There is another difficulty which has suggested itself to my mind, and which I shall refer to at the proper time in a much fuller manner than I shall do at present, viz., that by the constitution of the Court of Small Causes, there is no provision in the law which compels the Judges of that Court to take up this duty. Suppose the Judges refuse to entertain these appeals on the ground that the law which constitutes the Court does not provide for the hearing of such cases. What then would be the state of things? One executive officer would make the assessments, another would hear objections, and then, if the person was dissatisfied, he will be compelled to go to the Small Cause Court. In addition to the harassment and annoyance of frequent postponements, and to the absolute necessity of incurring expense for engaging vakils, the person preferring the appeal will run the risk, when such appeals become frequent, of the absolute refusal of the Small Cause Court Judge to hear him, on the ground that there is no provision under which that Court can be compelled to hear such appeals. I submit that this is a matter of very great importance, and that, before the facts stated by my hon. friend are

accepted, it will be far better that an enquiry should be made; and if in the course of that enquiry it transpires that his position is unassailable, I shall then have nothing to say against his proposal; but I do think it will be altogether a mistake, especially when the rates are being consolidated, when the owners are to pay one-half and the occupiers the other half, to have two modes of assessment. A great deal has been urged by my hon. friend to show that one class of rate-payers is now benefited at the expense of the other two classes. I am not prepared to admit that the two classes mentioned by my hon. friend are sacrificed for the benefit of the other class; it has not been ascertained that they consider they have been sacrificed. Therefore, it seems to me that before we give way to any of the arguments adduced by my hon. friend in respect of this matter, we should really realize what we are doing. It seems strange that no complaint of any kind has been heard up to the present time from one class or the other of the unequal incidence of taxation. It seems strange that there should be such unequal incidence of assessment. It can only be possible if the assessment has been made on some erroneous basis; for if the Council would refer to the assessment of appeals, they would find that the percentage of appeals is very small. On the contrary, the rate-payers are generally satisfied by the assessments made by the officer of the Corporation And if the percentage of appeals has not been large, what does it show? Either that the officer entrusted with the duty of assessing has entirely mistaken his vocation, or that he has made correct assessments. I think the Council would be perfectly justified, in the absence of any complaint, to come to the conclusion that the assessments have been justly made. Under these circumstances, I submit that we should pause and consider before we accept a mode of assessment which prescribes two different methods of valuation for two different classes of property. I am aware that I have myself proposed two methods; and, as far as that is concerned, it is open to my hon friend to say that my remarks are somewhat out of place. But my alternative proposal is restricted to cases where, owing to exceptional circumstances, it is not possible to ascertain the letting value. It puts the matter on this sound footing, that it will only be in certain exceptional cases that the assessment will be affected. And then there will be the safeguard that the assessment will not be valid unless it is sanctioned by the Commissioners in meeting, showing that it will only be in exceptional cases that assessments under the second clause will be permitted. With these observations I leave the matter in the hands of the Council.

The Hon. Sir Henry Harrison said in reply:—As regards the facts, I must leave every member of the Council to judge. We have just heard the statement made by a very competent member of the Council that if two similar houses be built in the two divisions of the town, each at a cost of Rs. 50,000, the house in the southern division would be assumed to carry a letting value of Rs. 200 a month or more, while the house in the northern division will be valued at only Rs. 100. Is any single circumstance more than that necessary to establish the case which I have laid before the Council? There is no question that land is more valuable in one part of the town than in another; but the moment you have bought the land, you have cleared the ground for the operations of Capital, which in the long run will look for the same return in one neighbourhood as in another, otherwise it will not be invested. Is not what has been stated above sufficient to establish my contention that the opinions of a large class of the community have completely lost their bearings in a matter of this kind? Is not that conclusive of the position I have taken that, where the lettable value cannot be ascertained, the valuation should be fixed at 5 per cent. on the estimated present cost of building the house? Can any one doubt that in the part of the town where this Council Chamber is situated, on the river bank, or in Chowringhee, houses are assessed at fully 5 per cent. on their cost; probably more, either 6 or 7 per cent. If there is any doubt that in the native part of the town houses are assessed less highly, then why this outcry against 5 per cent.? So far from there being an outcry, we ought to be thanked for reducing it to 5 per cent. Is anything more necessary to show that my fundamental contention is right?

As regards the assessment benches, that will be more properly discussed in another stage of the proceedings. I shall only say further that the hon. and learned Advocate-General has correctly explained what is the meaning of the exceptional clause I have proposed. It does not mean an appeal *ad misericordiam* to the poverty of the owner; it means that for some exceptional reason the valuation of 5 per cent. will be at times excessive, and when that can be shown, the operation of this clause will come in. One exceptional case is that in which property passes from the person who built it for his own purposes to his successor, to whom it is not worth what it was to the original owner. I should feel no difficulty in applying the principle to the other cases selected by the Hon. Mr. Allen. To Government House, the Museum, and the Great Eastern it would not apply; whereas the other case put by my hon.

friend, where a person builds a house at great expense in a position which he thinks will be healthy, and the house turns out to be very unhealthy, is precisely one of these exceptional cases. The clause is proposed to meet such exceptional cases, and in each case the exceptional circumstances must be proved.

The HON. DR. GOOROO DASS BANERJEE'S motion 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."

being put, the Council divided:—

Ayes 4.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. BABU KALI NATH MITTER'S motion 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 should be excluded; and provided further that no assessment under the said clause shall be valid unless sanctioned by the Commissioners in meeting."

being put, the Council divided:—

Ayes 3.	*Noes* 10.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Moulvie Abdul Jubbar.
	The Hon. Sir Alfred Croft.
	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon. H. J. Reynolds.
	The Hon. the Advocate-General.
	His Honour the President.

So the Motion was negatived.

The HON. SIR HENRY HARRISON'S motion that, for the words "the estimated cost of building" the words "the estimated present cost of building the house" be substituted, being put, the Council divided:—

Ayes 5.	*Noes* 8.
The Hon. Moulvie Abdul Jubbar.	The Hon. H Pratt.
The Hon. Sir Henry Harrison.	The Hon. Dr. Gooroo Dass Banerjee.
The Hon. H. J. Reynolds.	The Hon. C. H. Moore.
The Hon The Advocate-General.	The Hon. Dr. Mahendra Lal Sircar.
His Honour the President.	The Hon. Babu Kali Nath Mitter.
	The Hon. Sir Alfred Croft.
	The Hon T. T. Allen.
	The Hon. C. P. L. Macaulay.

So the Motion was negatived.

The HON. SIR HENRY HARRISON'S motion that the following clause be added to section 122:—

"When a house is occupied by the owner under such exceptional circumstances as renders a valuation of 5 per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken."

being put, the Council divided:—

Ayes 7.	*Noes* 6.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. C. H. Moore.
The Hon. Babu Kali Nath Mitter.	The Hon. Sir Alfred Croft.
The Hon. Moulvie Abdul Jubbar.	The Hon. T. T Allen.
The Hon. Sir Henry Harrison.	The Hon. C. P. L. Macaulay.
The Hon. the Advocate-General.	The Hon. H. J. Reynolds.
His Honour the President.	

So the Motion was carried.

The HON. DR. GOOROO DASS BANERJEE moved that, in line 14 of section 122, for the figure "5" the figure "4" be substituted.

He said:—I have already explained to the Council the reason of this amendment. The reason is that 5 per cent. is not anything like the profit which is likely to be made where the house is not built for letting purposes, but is the dwelling of the owner. The profit is much nearer 4 per cent. than 5. And if that is the case, there is no reason why the Council should adopt an arbitrary percentage instead of the real one, viz., the value of the property to the owner. In the course of the discussion on the last amendment, it has been abundantly shown that in the Northern Division of the town, house property does not bring anything like 5 per cent. on the cost price. Why, therefore, should we take 5 per cent. as the basis of valuation? It is only by adopting the figure "4" that we can do anything like justice. The adoption of the figure "5" does not rest on any principle of justice unless we hold that justice requires that a man must be taxed uniformly on capital whether it is sunk profitably or unprofitably. We may as well say that the same percentage of valuation must be taken on property drowned in a river within the municipality.

The Motion being put, the Council divided:—

Ayes 4.	*Noes* 9.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon H Pratt.
The Hon. Dr Mahendra Lal Sircar.	The Hon. C. H. Moore
The Hon. Babu Kah Nath Mitter.	The Hon Sir Alfred Croft.
The Hon Moulvie Abdul Jubbar.	The Hon. Sir Henry Harrison.
	The Hon. T. T. Allen.
	The Hon. C. P. L. Macaulay.
	The Hon H J. Reynolds
	The Hon. the Advocate-General
	His Honour the President.

So the Motion was negatived.

The HON. SIR HENRY HARRISON moved that, at the end of section 123, the following proviso be inserted:—

"Provided that, for the purpose of dividing the town into districts under section one hundred and twenty-nine, the Commissioners may retain the valuation of the houses in any part of Calcutta for a further period no exceeding six years, or may, with the same object, make a re-valuation for a less period than six years."

He said:—The town is divided into districts for the purposes of assessment and each division is assessed in turn after six years. But it is not equally divided, and when the new area is added, it may be that by an accidental flush

of assessments a great deal more will have to be taken in hand in one year than in another. Therefore I wish to give a power of re-arranging these assessment districts as may be convenient, and to allow an assessment which has terminated to go on for another period, or if the period happens to be a long one to re-assess a district for a shorter period. Suppose the assessment of a certain portion of the new area terminates inconveniently, and that it is desirable that it should be re-assessed, say, in 1892, it will be for the Commissioners to say, we will continue the existing assessment till 1892, or we will make a new valuation up to 1892. This is a new power which it is proposed to give to enable the assessments to be properly carried out.

The motion was put to the vote and carried.

The Hon. Sir Henry Harrison said:—I propose to discuss together the following four amendments to be moved by myself for the omission of section 135 of the Bill, the substitution of a new section for section 136, the insertion of a new section after section 136, and the substitution of a new section for section 137, as well as the amendment to be moved by the Hon. Babu Kali Nath Mitter for the omission from clause (*a*) of section 135, of the words "the Chairman or Vice-Chairman and" My amendments run thus—

(1). That section 135 be omitted.

(2). That, for section 136, the following be substituted:—

"Any person who is dissatisfied with a valuation made under this Chapter shall, in the case of houses, within fifteen days after the publication of the notice referred to in section one hundred and thirty-two, or after receipt of the notice referred to in section one hundred and thirty-three when such notice is received after the publication of the notice referred to in section one hundred and thirty-two, and in the case of bustee or other land within fifteen days after the receipt of the special notice referred to in section one hundred and thirty-four, deliver at the office of the Commissioners a notice in writing stating the grounds of his objection."

(3). That, after section 136, the following be substituted:—

"136A. All such objections shall be entered in a register to be maintained for the purpose, and on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

"On the day and place notified, the Chairman or Vice-Chairman (if the case is referred to him by the Chairman) shall hear the objection in the presence of the objector if he shall appear, or the Chairman or Vice-Chairman may, for reasonable cause, adjourn the investigation. When the objection has been determined, the order passed shall be recorded in the register of objections, together with the date of such order."

(4). That, for section 137, the following be substituted:—

"Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the house, land, or bustee land is situated. Such appeal shall be presented to the Court of Small Causes within thirty days of the decision of the objection under section one hundred and thirty-six A, and shall be accompanied with an extract from the register of objections containing the order objected to. No appeal shall be admitted unless an objection has first been taken under section one hundred and thirty-six."

He said:—First with regard to section 135. I have for a long time past thought that the present system of assessment benches is utterly unsound. In Select Committee it was known that my hon. friend would move that from clause (*a*) the words "Chairman or Vice-Chairman and" be omitted, and as we were desirous of getting on with the Bill, I suggested that he should bring forward his motion in Council, and I reserved my amendment also. It is an amendment in principle to be considered on its own merits. The present system is that a person aggrieved has a right of appeal to a bench of three Commissioners or to the Small Cause Court, and the former is always exercised. The effect of this is that the assessor knows perfectly well who is the controlling authority. The closing remark of my hon. friend in the last debate was that if the assessor did his duty no inequalities of assessment would happen. Is this remark either just or true? The assessor cannot rise above the body which controls him. If he knows the assessment will be revised on one principle, naturally he cannot be expected to make his assessments on any other basis. The proportion of appeals is small, as he generally persuades people to accept his assessments. He knows perfectly well what system of assessment will ultimately prevail, and he adapts himself to it, and it is understood that houses occupied by their owners will be assessed on the rent which another tenant can be found to pay for it, and therefore the assessor assesses these houses on that principle. So far from the assessment bench not usually modifying what the assessor does, the fact is precisely the opposite. I have added up two pages of assessment appeals taken haphazard. In one of them there are 29 cases, and I find that the assessment was modified in 18 cases, and the objection fully allowed in 7 and disallowed in 4 cases only. Where there is an old assessment, and it is retained or reduced, I call that a rejection of the assessment *in toto*; where there is a new assessment, it is hard to say whether it is rejected or modified. In the next page 15 assessments are upheld out of 25; 19 are modified, and the other one, the objection is maintained in full. Again in

another page the results are remarkable. In the Chitpore Road six houses are assessed. The first is a new assessment, which the assessor fixes at Rs. 1,800; the Committee reduces it to Rs. 1,200. In the next case the assessor fixes Rs. 3,000; the Committee reduces it to Rs. 1,200. In the case of the next house, formerly assessed at Rs. 720, the assessment is raised by the assessor to Rs. 900; the bench lower it to Rs. 600. In the next the former assessment was Rs. 480. The assessor raises it to Rs. 900. The bench reduce it to Rs. 360. In the next the former assessment was Rs. 360; the assessor raises it to Rs. 480. The assessment is reduced to Rs 240. The last case is that of a new house which the assessor values at Rs. 3,000; the bench reduce it to Rs. 1,200. I do not select these as average cases; they are no doubt extreme, but can any officer be expected to do his duty according to principle when the opinions he forms are upset in this manner, although he is a most experienced officer? I have often asked the assessor what he thinks is the best remedy, and it is instructive to hear what he says. One of his suggestions is, that the assessment benches should be obliged to give their reasons in all cases where they admit appeals or modify the assessments. The second suggestion is, that they should be required personally to satisfy themselves by seeing the house which has been assessed. For myself I do not think that the remedy lies in any of these courses. It is true that in England there have been Assessment Committees of two kinds. First, in parishes, introduced in 1837, and at first they were highly thought of. But actual experience showed that exactly the same objection applied there as here. It was found that their decisions were unequal and commanded no respect, and now they have been nearly discarded, and, as far as possible, not resorted to. Then there were Assessment Committees appointed by the Unions, and the object here was different: it was to check the partiality of officers in their own parishes. In 1869 an assessment law was passed for London under which the system of appeals was very elaborate. There was an Assessment Committee, whose functions were relegated to the hearing of objections, totally different from the supreme appellate benches here. After the assessments are made, the Assessment Committee revises them; then they are ready for appeals, and the rule is that anybody can appeal. Our idea is that only the owner of the house assessed may appeal. In England if a person's neighbour is under-assessed the aggrieved person may appeal. And the overseer of the parish may also object, and above all an officer appointed by the Commissioners of Inland Revenue, called the Surveyor of Taxes, and it is his duty to go round and see that the

assessments are fair, and the decision of the Surveyor of taxes is made binding on the ultimate appellate bench of Justices from the decision of various Committees, unless it can be proved to be wrong. So the whole burden of proof is thrown on those who oppose the judgment of an experienced officer. The assessor here says I am thrown over for no reason. I have seen the house; it has so many large rooms. The appellant says they are small rooms, I cannot afford to pay. Instead of an assessment of Rs 180 which the assessor proposes, the Assessment Bench fixes Rs. 120, and it is settled. Is it possible for assessments to be carried on in this way on any fair and satisfactory manner? And some continuity of principle is needed. The system I propose, is, I am convinced, the only one if you want to have Calcutta fairly and equally assessed. It is true that in Select Committee I accepted the Chairman or Vice-Chairman being a member of the Bench, and as a makeshift that would be something. He would be the principle of continuity, and that would do something. But I have only to appeal to the discussions of the last few days and ask you, looking to the extreme divergence of views, is it possible that a tribunal constituted by haphazard in this way can be an equal tribunal? Would it not depend on the lot whether an appeal would be decided on one way or the other? My hon. friend says he is confident that if an appeal is made to the Commissioners, they will endorse his views. He is right. But either that view is right or it is wrong. I say that it is wrong, and that from the very nature of the circumstances the Commissioners are disqualified from being a good tribunal. In a matter between class and class we choose a fair and impartial officer to decide. It is not a question of Municipal convenience or expediency. It is simply a question of justice between man and man, and is it fair to let the question depend upon the opinions of three Commissioners chosen by lot? That is not at all fair. The work of the Assessment Bench is judicial work, and must be made over to an officer who feels the responsibility, and who has constant experience. Therefore I am satisfied that if you wish to do what is right, you will accept the system of appeals which has always been in force in Bombay. There the Municipal Commissioner, an Executive officer, issues most elaborate instructions for the guidance of the assessing officer, and he is the person to whom the appeal comes, and if the appellant is dissatisfied, he goes to the Small Cause Court or to the Presidency Magistrate there. That is the system I wish to adopt in Calcutta. I am quite satisfied that it will be very fair, and that the assessments will be much more equal. If the Council is unwilling to adopt this system, I hope the section in the Bill will be allowed to remain by which

the Chairman or the Vice-Chairman will be made members of the Assessment Bench. The feelings of the different classes of the community are so widely different and so incompatible, that I may almost say that it is a farce to leave the decision of these cases to Commissioners chosen by chance, who would take an entirely different view of the equity of the case if they belong to one class, and an entirely different view if they belong to another class. My object is simply to do justice to all classes of the people.

The Hon Babu Kali Nath Mitter moved that, in clause (*a*) of section 135, the words "the Chairman or Vice-Chairman and" be omitted.

He said:—As regards the amendment of the hon. member in charge of the Bill, my first objection is this, that there is no provision in the Presidency Small Cause Court which confers jurisdiction in such cases on that Court. I appeal to the hon. and learned members, the Advocate-General and the Legal Remembrancer, to say whether it is so or not. [The Advocate-General—Opinions are divided: it is extremely doubtful.] I think the question is very doubtful. [Sir Henry Harrison—Numbers of cases have been decided under the provisions of all the Municipal Acts.] I went through the Presidency Small Cause Court Act on a recent occasion, and I found that in the Chapter on Jurisdiction there is nothing in my judgment to show that the Court can be compelled to take up a case of this kind. The Hon. the Advocate-General is pleased to say that opinions are divided; two eminent lawyers came to one opinion and two to another. Therefore I am right in saying it is a doubtful question. In the second place the constitution of that Court is such that it has nothing to do with questions relating to immoveable property. The Judges who preside in that Court have not the experience necessary to enable them to determine the value of real property, because questions of that kind never come before them. They have to deal with questions relating to moveable property, matters of contract, and so on; and it is not a Court which in my humble opinion is capable of doing justice in cases of this kind, and it will not be the best tribunal to select for the purpose. When the Bill was in Select Committee, I intimated my intention to move for the omission of the words "Chairman and Vice-Chairman" which were inserted on the motion of the hon. member in charge of the Bill, without in any way intimating that he reserved his amendment for the consideration of the Council. Not a word was then said by him as to the hearing of these appeals being taken out of the hands of the Commissioners. The section regarding the mode of assessment will operate

very hardly on the owners of residential houses. I have said before and I repeat that the hardship of dancing attendance on the Small Cause Court will be intolerable. Contested cases will not be decided in that Court in less than four or five months; sometimes they take years, and in my own experience I know of one case which took more than two years to decide. The cases in the Court are so numerous that it is impossible for the judges to do more than they are doing; and that being so, when a case of assessment comes on, the first thing which will infallibly happen will be its postponement for two months. That is the first satisfaction the appellant will have, and I cannot say in the ordinary course how many postponements will be made, and on each of these occasions a pleader will have to be engaged. I ask the Council whether it is right or just to drive persons to a Court not so constituted as to be able to deal with these cases in a proper manner. The English precedents referred to by the Hon. Member show that these appeals are placed before Justices. I ask how any continuity of principle can be maintained under such a procedure, as the Justices hearing appeals will not always be the same persons. Here in 1863 the duty of administering the affairs of the town was entrusted to the Justices of the Peace, and the assessment appellate benches were formed from amongst them. In 1876, on the amendment of the law, Commissioners were substituted for Justices, the change being only one in name. It is a singular fact that complaints as to the decisions of assessment appeals are heard here for the first time; they are not made the subject of complaint in the administration reports published from year to year. The Chairman ever pointed out to the Commissioners that appeals are not conducted as they should be. On the contrary, judging from the fact that the number of appeals is very small in proportion to the number of assessments, I am emboldened to say that the mischief the Hon. Member speaks of does not exist. He has referred to a few cases to show that reductions have been made in the assessments, and he asked the Council to infer from that, that appeals are not conducted in a fair and proper manner. I submit that two or three cases or even five will not justify any tribunal to determine whether appeals are conducted fairly or not. If the public are under the impression that they have only to appeal to get their assessments reduced, how is it that the proportion of appeals is so limited? That one fact goes to the root of my hon. friend's argument. It shows that there is no such belief in the minds of the people. The belief is quite the other way, viz., that the appellate benches will not admit appeals unless there is real ground of complaint. The method proposed by my hon. friend is a

doubt a very convenient one as far as the executive officers of the municipality are concerned ; one officer assesses, another deals with objections, and then the appellant is driven to the Small Cause Court. The annoyance and trouble and expense of litigating in that Court are so great that in many cases the parties will be deterred from instituting appeals. I am sure the Council will not in a matter of this kind, after passing a very stringent clause as to the assessment of house property, place people in a position not to be able to obtain justice. It is all very well for my hon. friend to say that that will be the best course. He said there will be a continuity of policy. We have had instances when the Corporation has been either plaintiff or defendant in the Small Cause Court. In one case it was a question of taking out a license, and some very strong remarks were made by the presiding Judge, and there was another case where another Judge made similar remarks. Therefore the result will depend very much upon whether the case will always come before a particular Judge before you can say that there will be a continuity of principle. If the Commissioners are unfit to be trusted to hear these appeals, they are not fit to be trusted with the administration of the affairs of the town. My contention is that the executive officer having done his duty, the hearing of appeals should be left to the Commissioners. Ordinarily the number of Commissioners who sit to hear appeals is five, and not three. Five Commissioners are chosen by ballot, and that is done because it was said that if a person knows beforehand who are to hear his appeal, probably the Commissioners who are going to sit will be subjected to the annoyance of receiving personal solicitations from the appellant. That rule was therefore established and is in force now. It seems to me that of all persons the persons who have to deal with these appeals are the very persons who, by virtue of their position, are far better able to judge of the value of property than any Judge of the Small Cause Court. If the theory is that they will not do justice, then I say that the elective system should not be retained in Calcutta. If there is this fear lurking in my hon. friend's mind, he should be the last person to advocate the elective system. Large sums of money are expended on the advice of the Commissioners for the benefit of the town, and yet these persons are considered by my hon. friend not fit to decide whether the value of a particular property is Rs. 5,000 or Rs. 50,000. My deliberate opinion, formed from an extensive and intimate knowledge of the value of house property in the town, is that the Commissioners are the best persons to decide

[*Babu Kali Nath Mitter.*]

assessment appeals. Under these circumstances, I say that the adoption of my hon. friend's amendment will be a gross injustice to the rate-payers of the town, and I hope the Council will, at any rate, not alter the existing law in this respect. If the report of Nundolall Bose's case is carefully read, it will be seen that it does not help my hon. friend's contention. The Judges there came to the conclusion that the valuation on which the assessment was made is wrong, and therefore they allowed the appeal. Therefore there is no decision of any Court which will justify the Council in taking this matter out of the hands of the Commissioners. They are responsible for the well-being of the town, and I cannot understand why they should not be entrusted with the assessment of house property. I can understand the principle of their supersession under the control section of the Bill, but I cannot understand their supersession in the matter of hearing assessment appeals.

The HON. SIR HENRY HARRISON'S motion that section 135 of the Bill be omitted, being put, the Council divided:—

Ayes 8.	*Noes* 5.
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. Babu Kali Nath Mitter.
The Hon. Sir Henry Harrison.	The Hon. Moulvie Abdul Jubbar.
The Hon. T. T. Allen.	His Honour the President.
The Hon. C. P. L. Macaulay.	
The Hon. H. J. Reynolds.	
The Hon. the Advocate-General.	

So the Motion was carried.

The HON. SIR HENRY HARRISON'S motion that, for section 136, the following be substituted:—

"Any person who is dissatisfied with a valuation made under this Chapter shall, in the case of houses, within fifteen days after the publication of the notice referred to in section one hundred and thirty-two, or after receipt of the notice referred to in section one hundred and thirty-three when such notice is received after the publication of the notice referred to in section one hundred and thirty-two, and in the case of bustee or other land within fifteen days after the receipt of the special notice referred to in section one hundred and thirty-four, deliver at the office of the Commissioners a notice in writing stating the grounds of his objection."

was put to the vote and carried.

The HON. SIR HENRY HARRISON'S motion that, after section 136, the following new section be inserted :—

"136A. All such objections shall be entered in a register to be maintained for the purpose, and on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

"On the day and place notified, the Chairman or Vice-Chairman (if the case is referred to him by the Chairman) shall hear the objection in the presence of the objector if he shall appear, or the Chairman or Vice-Chairman may, for reasonable cause, adjourn the investigation. When the objection has been determined, the order passed shall be recorded in the register of objections, together with the date of such order."

was put to the vote and carried.

The HON. SIR HENRY HARRISON'S motion that, for section 137, the following be substituted :—

"Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the house, land, or bustee land is situated. Such appeal shall be presented to the Court of Small Causes within thirty days of the decision of the objection under section one hundred and thirty-six A, and shall be accompanied with an extract from the register of objections containing the order objected to. No appeal shall be admitted unless an objection has first been taken under section one hundred and thirty-six."

was put to the vote and carried.

The HON. SIR HENRY HARRISON'S motion that, in section 138, for the words "two last preceding sections" the words "last preceding section" be substituted, was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that section 151 be omitted.

He said :—This provision is not in the existing law. The water-supply to the shipping is working satisfactorily and no friction has arisen, and I do not see why a section of this sort fixing a maximum charge of Rs. 5 per thousand gallons should be introduced when Rs. 8 per thousand gallons is now charged without complaint. At present the Port Commissioners get all the water they want, ships are supplied with water, and I am not aware that any difficulty has arisen.

The HON. SIR HENRY HARRISON said :—This section was inserted in the interests of the Port Commissioners. At present we charge Rs. 8 per thousand gallons, but the price is no doubt excessive when the cost of the water is from 2 to 2½ annas per thousand gallons, although the cost of putting it on board is something considerable. I think on the whole Rs. 5 per thousand gallons is really a very liberal allowance.

[*Babu Kali Nath Mitter.*]

The HON. BABU KALI NATH MITTER said in reply:—My argument is that no necessity has been shown for the introduction of such a provision. It is a notorious fact that one-third of the town has not yet been piped, and it might seem invidious to make legal provision for the supply of water to the shipping when a large proportion of those who have contributed to the expense of the water-supply have not yet been supplied. Charity begins at home, and I think that matters of this kind ought to be left to the discretion of the Commissioners.

The motion was put to the vote and negatived.

The Council was adjourned to Wednesday, the 18th April, 1888.

H. A. D. PHILLIPS,

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

CALCUTTA;
The 1st May, 1888.

Reg No 2947G—300—22-5 88.

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

THE Council met at the Council Chamber on Wednesday, the 18th April, 1888, at 11 A.M.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON, KT.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. BABU KALI NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON. C. H. MOORE.
The HON. DR. GOOROO DASS BANERJEE.
The HON. H. PRATT.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

HIS HONOUR THE PRESIDENT said:—Before we commence the work of the day, I think I ought to inform the Council that yesterday I received a deputation of some leading gentlemen of Calcutta, who were deputed on the part of a public meeting held last week at the Town Hall to submit a memorial protesting against a number of the provisions of the Municipal Bill that is before you. Many of the points to which they have objected have already been decided by the Council; there are others which are still waiting for the Council to consider. A copy of the memorial and of my reply will be laid before you to-day, but I should tell you that in my reply I thought it necessary to say, in regard to those sections which have already been debated by the

Council, and in respect of which decisions have been come, seeing that a Select Committee, consisting first of seven and subsequently of nine out of twelve members of the Council, have already through two Sessions made two separate careful investigations and examinations of the Bill—I say that, considering the constitution of the Council with relation to the Select Committee, I thought it would be scarcely consistent with proper respect towards the Council if I were to ask them without fresh arguments being put forward to reconsider their decisions. At the same time, if I should hear of any desire on the part of the Council to take up any of the points already decided, I shall not let any technical objection stand in the way. I think it right that this should be mentioned to you and the memorial placed before you in case the Council wishes to express any views or desires on the point.

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. SIR HENRY HARRISON said:—I may be out of order, but perhaps your Honour will not object to my saying a few words on one point of the Building Regulations, with reference to section 233 and the recent accident in Kyd Street, so that if any members consider an amendment of the law ought to be made, they should have an opportunity of bringing it forward. A similar accident occurred some time ago, and the Coroner's jury having made some remarks as to the functions of the Municipality with respect to such buildings, we took legal advice, and the opinion clearly expressed by the Solicitors to the Corporation was that the present section does not impose any obligation of an inquisitorial character with regard to buildings which are not dangerous to a highway. The Government thought it expedient to take further opinion on the subject, and the opinion of the learned Advocate-General was to the same effect. Therefore in preparing this Bill it was fully considered whether it was desirable to impose any further obligations, and, as far as I am concerned, it was deliberately decided that it was not expedient to do so. I wish to draw attention to the distinction between watching over the safety of all buildings and of those which are absolutely dangerous to the public safety. But in case any Hon.

Member thinks that the Corporation should have an obligation imposed on them with reference to all buildings, whether dangerous to the public safety or also to the inmates, I draw attention to the provisions of section 236, so that members may have an opportunity of proposing an amendment if desired.

In accordance with the instructions received from the Government of India, which your Honour explained to the Council two meetings ago, in the amendment which I now propose by way of addition to section 37 of the Bill I have endeavoured to embody the views and wishes of the Government of India. It makes no change in the intentions of the Government in framing the law, but it makes it obligatory upon the Corporation by law always to spend three lakhs of rupees annually—equivalent approximately to the town police rate—on the improvement of the added area. The following amendment does nothing more than reduce to words the obligations which it is always understood that the Corporation would undertake. Accordingly I move that the following clause be added to section 37 :—

"(7). Devote to the improvement of the area newly added to Calcutta by this Act not less than three lakhs of rupees annually from the receipts of the revenue funds described in sections one hundred and two, one hundred and three, and one hundred and five 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 three lakhs of rupees."

The Hon. Babu Kali Nath Mitter said :—As the amendment is worded, it is not open to any other objection than this. By an earlier clause (3) of the section an obligation is imposed on the Commissioners to spend two lakhs for drainage and bustees. So far as the drainage works of the town are concerned, they are almost completed now, and probably in another year or two there will be no appreciable expenditure on those works. And as regards the improvement of bustees, I believe in the course of another year the improvements contemplated three years ago at an estimate of Rs. 7,50,000 will also be completed. Therefore the greater part of these two lakhs will after a year or two be available for the improvement of the added area. That being so, is it desirable to make it obligatory to spend a further sum of Rs. 3,00,000, making Rs. 5,00,000 in all, for the improvement of the added area?

As far as I understand the obligation, it has reference only to the contribution on account of Police. Such relief, without going to the benefit of the rate-payers, was originally intended to go to the benefit of the town; but since the question of the amalgamation has come up, it was decided to appropriate it for the improvement of the added area. That has been throughout the understanding, and I am quite willing that that understanding should be made clear by the law to save any misunderstanding hereafter. But if it is put in the form proposed, without having regard to clause (3), it might be that it will be obligatory to spend five lakhs on the Suburbs, which is far more than what was contemplated.

The HON. SIR HENRY HARRISON said in reply:—It appears to me that clause (3) must stand on its own merits and it was passed without objection, being mainly taken from the existing law. Instead of an obligation to spend Rs. 1,50,000, as in the existing law, on drainage, the Corporation is required to spend Rs. 2,00,000 on drainage and bustees. No doubt something should be done to drain the Suburbs. How much is a difficult question, whether Rs. 200,00,000 or 50, 40 or 30 lakhs, which is an inside estimate The system of drainage remains to be decided on the best advice available. Still a considerable sum must be spent for a considerable time, and that is the reason why bustee improvement is thrown in with drainage. My hon. friend is correct in supposing that it would mainly be spent on the added area. The interest, &c., on the sums thus borrowed will be part of the three lakhs

The motion was put to the vote and carried

The HON. BABU KALI NATH MITTER moved that, in section 155, the words "five thousand gallons" be substituted for "three thousand gallons"; and that the words "through a ferrule, the size of which is to be determined by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth schedule."

He said:—The matter which I have to place before the Council is one of very great importance, and I have no doubt that it will receive from my hon. colleagues that consideration which it fully deserves. The question, as I understand it, is this. Whether the supply of water to the town within a given time should be reduced, for, broadly speaking, the reduction in the size of the ferrule will have that effect. Before a question of this sort can be fairly

discussed and settled, it is absolutely necessary that independent opinion should be had from experts eminently qualified to advise in a matter of this kind. Undoubtedly the note submitted by the hon. member in charge of the Bill is a valuable document, and it should deserve consideration as coming from one who by virtue of his position is qualified to express an opinion; but no further. It should not be accepted as conclusive on the point and as justifying this Council in making a change in the law which must operate with very great disadvantage to the poorer classes. The literature of the water-supply of the town is rather extensive, and any one who has studied it will be struck with some of the features that have exhibited themselves from time to time, and generally it will afford this instruction, that the executive officers of the present Corporation and of the late Justices, who were entrusted with the duty of supervising the works, have not been able to give the satisfaction which was expected. That position I think even my hon. friend the member in charge of the Bill will admit. It is a notorious fact that when the 42-inch main was laid by the Justices, they did so under an agreement by which an eminent firm undertook to lay the main so as to bear a certain amount of pressure. When the work was completed, pressure was applied to a portion of the main and the whole thing burst; and on advice being taken from experts, they unanimously advised the Justices not to test the main at all, but to take it over as a bad job. The result was that the main was taken over without having been laid in the way contracted, and it was not capable of bearing the pressure which it was intended to bear. Again when the extension of the water-supply was taken into consideration, various questions came up for discussion. Questions of great importance were submitted to experts; opinions were obtained, and ultimately the Committee of the Commissioners appointed to consider the subject submitted a report which was confirmed by the Commissioners, and the works were begun. But there was one striking feature above all others. When the extension works were first contemplated, the advice of the Engineer was that there should be a brick culvert of 60 inches diameter, and the Committee then appointed adopted it. It was placed before the Commissioners in meeting, who sent it back for further consideration, and some time after, when Mr Kimber, the present incumbent, obtained leave to go to England, Mr. Buckley was appointed to act for him.

Mr. Buckley, on looking over the various papers in connection with the water-supply scheme, advised that it would be better to have an open cut instead of a brick culvert. The two questions were discussed in all their phases; they were submitted to experts, and their opinions were obtained. But at the very last moment the Chairman suggested that a 48-inch iron main would serve the purpose best. I was one of the Commissioners who opposed this suggestion on the ground that the supply would not be sufficient for the town, that it would be necessary to have a still larger supply than what was contemplated, and that it would be a mistake to be satisfied with a 48-inch main. I was in the minority. But at my instance it was agreed that the main should be so laid as to be capable of bearing a pressure of 100 feet. Perhaps it would be well to explain what is meant by a pressure of 100 feet. The water was to be raised to a height of 100 feet at Pultah and then forced into the main, instead of being allowed merely to flow down by gravitation. Up to a very late period the Commissioners were under the impression that the main was being laid so as to be capable of bearing this pressure; but it was all a delusion. When the time came for testing the main, it was successfully pointed out that it would be more economical to have a third main than to run the main under a pressure of 100 feet. The majority of the Commissioners adopted that view, and the main, after undergoing a certain test which by all was admitted to be insufficient if the main was to be worked under a pressure of 100 feet, but sufficient if it was not to be worked under that pressure, was put into use. There the question remained. Therefore I say that the question of the water-supply is not free from difficulties; it is not one in regard to which the public would be justified in putting implicit confidence in the statements of the executive officers. It is one which should be narrowly enquired into before any change in the law is adopted. The note of my hon. friend shows that, whereas under the present law the maximum supply to which a person is entitled is at the rate of 1,500 gallons for every rupee of taxation paid by him, the average present supply to the whole town is at the rate of 5,500 gallons to the rupee; but he proposes to allow only 3,000 gallons for the rupee. Is this equitable or just? I say that the people are not getting sufficient for the money they are paying. My hon. friend admitted at the last meeting that the average cost of filtered water was 2 annas or 2½ annas

for every thousand gallons. In providing filtered water to the town the Corporation was not acting on commercial principles. They took the rate-payers' money for constructing the works and for providing a Sinking fund for the liquidation of the loan, and it could not therefore be said that they are selling water to the town. They are only giving the town what they are entitled to have, and if we give them 5,000 gallons for the rupee they will not get more than they have paid for. My hon. friend complains that the standard of 1,500 gallons has become a dead letter, and it is quite right that it should. Why should the people who have paid for the water-supply purchase the water at an enormous profit to the Corporation? There is no justice or sense in that. The original standard was fixed under a total misconception of facts: the facts were erroneously stated to the then Council. But if by equity, good conscience and justice the rate payers of the town are entitled to have 5,500 gallons for every rupee of tax they pay, I do not see why they should not have it. In fact it is only right they should have it.

An important question is raised in paragraph 7 of my hon. friend's note. He says—

"So far therefore as command over the water to the individual is involved, and loss of command to the Commissioners, this depends on the size of the ferrules; and it is the simple fact that the scale of ferrules sanctioned has been such that it has entailed entire loss of command over the water-supply, and if the Commissioners are to be responsible for the pressure of the future supply, they can only fulfil this duty if they recover their command by a wholesale reduction in the size of the ferrules."

If it is a fact that the Commissioners have lost command over the water-supply, is it not strange that there should be a general complaint all over the town as to the scanty supply of water. If that shows anything, it shows that the people have not got the command over the water which is stated in the note; they cannot get the water which they want, and therefore there is this outcry and howl of indignation on all sides. If an enquiry be made from 100 persons, probably only five persons will say that they get a fair supply; but 95 per cent. will complain that they do not get a proper supply. My hon. friend shakes his head, but I am quite willing to leave it to the rate-payers to say whether what I have stated is not perfectly correct. The effect of the proposed reduction in the size of the ferrules will be that within a given time the supply will be great deal less than it is at present.

People require their supply within a given time, and care should be taken to give it to them within that time. It will be no satisfaction to tell the rate-payers that whilst you are now getting a given supply within one hour, by reducing the size of the ferrule, you will not get less than that quantity, but you will get it within three or four hours. This will be no satisfaction, because a supply within three or four hours will not serve their purpose. It is within a certain time that water is needed, and it must be supplied within that time. The whole of my hon. friend's memorandum is based on certain mathematical formulæ set out in paragraph 9, and it shows that in one minute 16¼ gallons of water can be obtained if a tap of half inch diameter is left open. This statement has been tested by a friend of mine, a European gentleman living in the European quarter of the town. I have in my hand the letter in which he gives the result of his testing and which he has given me permission to use, and the fact is that he got only 1¼ quarter gallon of water by leaving the tap open uninterruptedly for a whole minute. He says he has two taps—one 18 feet above the ground level from which he got no water at all, and the other only six feet high from which he got the quantity specified. If that is so, what is the utility of my hon. friend's formulæ? Before the formulæ can be applied, there must be a certain state of things existing to satisfy the requirements on which the formulæ is based. If the main has not been satisfactorily laid, if the inclination of the main is different from what it should be, if the connection has several bends,—all these things will have a material effect on the supply; and until all these facts can be ascertained in respect of every case, the formulæ cannot be relied upon. As I have said, the complaint of the scanty supply of water is a just one, and on the 12th of November last a motion on the subject was brought before the Town Council, and a Committee was appointed for the purpose of making a thorough enquiry into the matter. On that Committee there were persons some of whom by virtue of their professional position were highly qualified to give an opinion in a matter of this kind. On the 19th of November this Committee met, and on that day, after a good deal of discussion, the following Resolution was passed at the instance of Mr. Spring:—

"That the engineer be requested to prepare a scheme for the Committee's approval for ascertaining in a reliable manner the actual quantity of water which passes clearly into

certain isolated sections of the town which he may be able to select. The object of the scheme should be to furnish as far as possible the following information:—

(1). Period during which the supply is given.

(2). Pressure maintained during that period.

(3). Area of ferrule orifices in each isolated district.

(4). Population of each district.

It was hoped that the Engineer would be able to prepare this scheme on an early date. But that early date has not yet come. The Commissioners have been anxiously waiting for this scheme, but it has not yet been placed before them. If the information which has been asked for was available in a reliable form, there would be no difficulty in at once ascertaining what are the causes of the scanty supply of water, instead of giving credit to the vague general statements made, that persons are getting more water than they should have, or that a great deal of water is wasted. I submit that when the Commissioners are themselves enquiring into this matter, and when their executive officers have not placed the information before them up to the present moment, although it was called for so far back as the 19th November last, it will be a mistake to proceed now on the basis that people are getting more water than they are entitled to, or that there is a great deal of wastage. My motion is that instead of 3,000 gallons of water, 5,000 gallons should be supplied for every rupee of tax paid, the actual cost being less than at the rate of 5,500 gallons. That is the least quantity of water to which the rate payers are fairly entitled, and if they are fairly entitled to that quantity, why should the law reduce it? My hon. friend speaks of his generosity in giving 3,000 gallons when the existing law only allows 1,500 gallons. Is there any generosity in giving 3,000 gallons when the rate-payers are entitled to 5,500 gallons? They are entitled to have more, and therefore they should have more. For the convenience of discussion I may state that my amendment should be divided into two parts.

My first amendment is to substitute in section 155, lines 3 and 4, "five thousand gallons" for the words "three thousand gallons." And my second amendment is that, in lines 9 and 10 of the same section, the words "through a ferrule, the size of which is to be determined by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth schedule." If in the course of the enquiry

to which I have referred it transpires that the real cause of the scanty supply to several persons is what is put forward by the hon. member in charge of the Bill, he may be able to bring before the Commissioners a proposition for the reduction in the size of ferrules. If he can clearly show that that is the cause, there is no reason to suppose that he will not succeed in doing what he is attempting to do by the arm of the law. If the size of the ferrule is fixed by law, the result will be that in the absence of any enquiry this Council will take upon itself to say that some persons are getting more water than they are entitled to. That is my objection to fixing the size of the ferrules by legislative enactment. It does not go to the principle of the proposal, but it is whether the legislature should fix the size of the ferrule without being in possession of any reliable data It is a question of pure justice.

The HON. SIR HENRY HARRISON said:—I find the speech of my hon. friend very difficult to answer, because, instead of having brought out the essential points of the questions before the Council, he has directed his speech to an impeachment of the action of the Executive of the Corporation on the water-supply question. Naturally it is somewhat embarrassing for me to answer him in reply to this impeachment without saying anything, but I do not think I have the right to inflict upon the Council a disquisition upon the several matters which have arisen between the Commissioners and their Engineer. All I ask the Council to consider is the present issues which we have to decide to-day. It remains for me to point out what the issues are—a task which my hon. friend himself should have undertaken. I am very glad that he has divided his amendment into two parts, as it consists in fact substantially of two amendments—one that the Corporation shall be bound to supply to the rate-payers for every rupee of the tax paid by them 5,000 instead of 3,000 gallons of filtered water; the other that the supply should be given through a ferrule, the size of which is to be determined by the Commissioners in meeting, instead of being laid down by law. Taking the first question, he has twitted me with claiming generosity. I never claimed any generosity whatever in this matter. I said you can easily give 3,000 gallons per rupee, instead of 1,500 as heretofore, and thus show that there is no intention to diminish the supply. But would it be equally safe to guarantee 5,000 gallons? The total supply may be said to be sufficient to give 5,500 gallons per rupee, and when the extension

works are completed, they will give 7,000 or even 8,000 gallons. But the effect of the amendment is to make it obligatory on the Commissioners to supply water to each person to that extent. How can we undertake to do so unless we can prevent others from taking more than they are entitled to have? There is no doubt that some persons are getting a supply equivalent to from 9,000 to 12,000 gallons per rupee, and as long as we cannot stop that, how can we guarantee to each person a supply of 5,000 gallons? The Select Committee thought I was too generous in proposing to fix the supply at 3,000 gallons: still we do think that under the proposed restrictions as to ferrules we can undertake to give 3,000 gallons. That seems on the whole a commendable concession, but we cannot undertake to do even that if we have not some surety that people are not taking more than their fair share. Therefore I cannot accept the first amendment.

Next as to the question of ferrules. This is a point in respect of which, by the unanimous agreement of all bodies who have been consulted, something must be done. We found ourselves bound not to overlook the unanimous appeal of all parties, and therefore we have carefully looked into the matter and examined the reasons why at present a good supply cannot be given to all persons. It has, I think, been shown to demonstration that the ferrules of the town are at present on too liberal a scale. I have consulted Mr. Kimber, the Engineer to the Corporation, and that point admits of no doubt. And yet how has it been accepted by my hon. friend? He seems to consider that, although the result is produced by a law of nature, yet I am in some way responsible for it. Is it right, when we try to combine forces and to cope with a serious difficulty, to hold back and decline to admit that the only solution which the laws of mathematics and hydraulics impose on you, is not the correct one? That attitude is taken up not only by my hon. friend, but by a large number of Commissioners. I am quite prepared to admit that it is a question of very great difficulty, because mathematically the formula can only apply under normal conditions. When you come to apply it to actual conditions, such as the pipes through the tortuous lanes and gullies in the town, the taps and bends throughout Calcutta, you must bring an enormous number of disturbing elements into the calculation. If there is a bend before or after the connection, if instead of going from one street to another there is a dead

end, the pressure is not so good as it is elsewhere. Mr. Kimber is now engaged in completing experiments throughout the town with a view of testing the discharges; but there has not yet been time to tabulate the results and to examine them, but there can be no doubt that a ferrule of a certain size will operate very differently in different cases. By some mistake the section in the Bill does not stand in the way it was settled by the Select Committee; we directed that there should be a power of altering the schedule by the Commissioners in meeting with the sanction of the Local Government. We desired to introduce this power either in the section or in the schedule, but it has been left out of both. Seeing the uncertainty of the precise effect of a hard-and-fast scale of ferrules, I do think there must be a power of modifying the schedule in that way.

Then comes the further amendment of my hon. friend, that instead of inserting a scale of ferrules in the Act, it should be left to be determined by the Commissioners in meeting. I do not look on this proposal with any great disfavour. It will put a very hard task on the officers of the Corporation to persuade the Commissioners to adopt a reduced scale, for it is plain how very unwilling the Commissioners will be to face the question in the only way it should be faced, but it is a power which ought perhaps to rest with the Commissioners; and although it will be difficult to convince them of what is the right thing to do, I believe they will in the end be convinced. Therefore as Chairman of the Corporation I raise no opposition to the second portion of my hon. friend's amendment. It is a question for the Council to settle. It is not I, as representing the Corporation, who say that you must prescribe a schedule in the Act. Hard as the task may be, I am prepared to let the Commissioners settle it if the Council think fit, but it is a further question to consider how far we will be doing our duty to the public. This the Council must determine. If they are willing to leave the decision with the Commissioners, I do not object.

I must add one word as regards the allegation that 95 per cent. of the people complain of the scanty supply of water. This I deny *in toto:* 40 per cent. might be nearer the mark. There is not the slightest doubt of what the supply is; the capacity of the pumps is known. Every stroke that is pumped up is registered, and there is no doubt that the quantity of water

shown by the indicator is actually delivered. But it is delivered to 13,000 or 14,000 houses in the town. Of these about 8,000 or 9,000 have a good supply, 2,000 or 3,000 have an indifferent supply, and 2,000 or 3,000 have a very bad supply; and these 2,000 or 3,000 persons have a very bad supply, because others take the water off before it reaches them. We had a very good practical test the other day. Out of 13 Commissioners who were present at a meeting of the Town Council only two of them, Mr. Simmons and Dr. Mahendra Lal Sircar, complained that they had a bad supply; and I believe every member of this Council, except the Doctor, would say that they have a fair supply. Mr. Simmons' house is situated in one of the worst quarters of the town. (St. James' Square) in relation to the water-supply, and for some reason the pipes there are so arranged and are of such a size as to act very badly indeed: and see how wide of the mark his comments are as read out by the Hon. Babu Kali Nath Mitter. Mr. Simmons is one of the most intelligent, hard-working and devoted members of the Corporation. The formula shows that he ought to get 16¼ gallons of water per minute, but it is a question of pressure, and he says (as has been stated by my hon. friend) he gets only 1¼ gallons per minute. All that that proves is that the pressure in his house is extremely bad. He has a tap 6 feet in height, therefore 6 feet of pressure goes in raising the water to the tap, and if the pressure there is only 7 feet, he can only get one foot of pressure. Applying the mathematical formula to this case, and assuming that the average quantity supplied is 16¼ gallons per minute on the 30 feet pressure, it follows that if there are no disturbing elements in the case, the supply to Mr. Simmons should be very small indeed. Making due allowance for the existence of some or all of the disturbing elements to which I have referred, the formula must be taken to be only approximately correct. My hon. friend knows that everybody wants the water quickly and at the same hour; is it not therefore perfectly plain that everybody cannot have what he wants, as the supply has been so arranged as to give the full supply not in one hour, but in three or four? It has often been suggested that we should give the supply at different parts of the town at different times, but that will give great cause of complaint, and will, moreover, involve a fundamental alteration of the scheme of the water-supply works. I have only to repeat that as regards the size of the ferrules I have no objection to leave it in the hands of the Corporation.

The HON. MR. MACAULAY said:—As regards the first amendment of my hon. friend Babu Kali Nath Mitter, I think the arguments of the hon. member in charge of the Bill cannot be disputed, and that the Council should resist the amendment. As regards the willingness of Sir Henry Harrison to accept the second amendment, I would ask the Council to consider what the effect of that amendment will be. It is perfectly clear that the existing scale of ferrules has resulted in a considerable waste of water by certain people to the disadvantage of other people. Some people get a great deal more water than they pay for, because they are able to intercept it, while others are unable to get even as much as they pay for. This is the result of the adoption of the present scale of ferrules. Still I do not think it can be fairly said the Commissioners will be willing to exercise the very invidious task of reducing the dimensions of ferrules, and therefore I think the Council should wait until they are in a position to fix the schedule of ferrules in such a way as to give a standard to which the Commissioners can apply themselves. I understood in Select Committee that we had practically decided that. We found that the existing ferrules were on too liberal a scale, that the Engineer to the Corporation was engaged in practically testing the correctness of the mathematical formula, and that his enquiries have not yet been completed. There remain only the questions whether we should now fix a scale of ferrules in the schedule, or leave it to the Commissioners to do so, or wait until we are in possession of the results of Mr. Kimber's investigations. I ask the Council to allow the consideration of this question to stand over during the time we are in Session, so that we may be in possession of fuller information before we come to prescribe any scale in the schedule.

The HON. MR. ALLEN said:—I would ask the hon. member in charge of the Bill to say whether it was not his suggestion that the question of the size of ferrules should be taken out of the hands of the Commissioners and embodied in the Bill by the Select Committee, and whether it was not in consequence of his having informed the Select Committee that he felt it perfectly hopeless to induce the Commissioners (who wanted a larger quantity of water than that to which they were entitled) to reduce the size of the ferrules, and that he wished a scale of ferrules to be inserted in the Act. At present the scale of ferrules is such that those who have been first in the field are able to take

much more water than that to which they are entitled, to the disadvantage of those who apply for water connections later on. It has been a regular scramble; first come first served. To avoid that the Hon. Member induced the Select Committee (another view was adopted by a large majority) that the responsibility of fixing the size of the ferrules should be taken out of the hands of the Municipal Commissioners; that the Act itself should lay down the scale of ferrules according to the mathematical formulæ, so calculated that during the hours the pressure is kept up every man in Calcutta would be capable of receiving an amount of water which the rate he paid entitled him to receive. There was no intention to deprive a single person of a gallon of water which his rate entitled him: but it was determined that he should take his allowance so as not to deprive others. We were at the same time prepared to allow that in exceptional cases, where from houses being situated at a distance from the centre of the water-supply or from other exceptional circumstances, the proper supply could not be given from the standard ferrule, the Commissioners should have the power of altering and enlarging the ferrule to suit the peculiarities of the locality, and I understood that a clause to this effect would be appended to the schedule. I would strongly urge that this is the better course to adopt, and that the section now under consideration should stand as it is; but when we come to consider the schedule, it may, if necessary, be altered, and a clause may be inserted, entitling the Commissioners, with the approval of the local government in exceptional cases and for special reasons, to enlarge the ferrule.

The Hon. Dr. Gooroo Dass Banerjee said:—After the admission made by the hon. member in charge of the Bill that the formula upon which the schedule of ferrules depends is not strictly correct, and that experiments are being made to test its accuracy, I think it will be very unsafe to pass this section of the Bill as it stands; for the result of the testing may show that the standard we have adopted as the basis of the schedule, viz., a supply of 16¼ gallons per minute through a ferrule half inch in diameter, is nothing near the truth, and that the real quantity is about the eighth part of that. In that case there will be no justification for saying that what we call the normal standard is the normal standard. Either the consideration of this question should stand over, or if the Council prefer to dispose of it now, we must accept the amendment of the Hon. Babu Kali Nath Mitter.

The HON. SIR HENRY HARRISON said in reply:—I do not see any substantial difference between the action which I now propose to take and what I did in Select Committee. If the Council, looking to the representations made by all classes of the community, wish to settle this question now, they must settle it by themselves prescribing a standard. What I have said to-day is that, so far as the Executive will have difficulty in getting the consent of the Commissioners to a proper scale of ferrules, I am willing to undertake the task of getting it passed. I think that in the long run when the matter is threshed out, the Commissioners will adopt a reasonable scale of ferrules; but it will be much more difficult to convince them than it has been to convince the Select Committee. As regards the proposal to postpone the consideration of this question. I have only to say that what I know now the Council will know a month hence. A formula which requires normal conditions cannot apply strictly to concrete cases. There is scarcely a single house in the town to which the formula will absolutely apply. In some cases the supply will be more abundant, and in other instances less than the standard quantity. I am afraid the Council will not find themselves in a better position by postponing this question, but if they wish to do so I have no objection. I think there can be no objection to a standard schedule so long as it is perfectly clear that there is power to alter it; and so far as the alteration applies to individual cases that power must be left in the hands of the Commissioners. Provision is made for such cases in section 158, clause 2, which provides that if the house is so situated that the size of the ferrule prescribed is insufficient to pass the daily supply of water which the occupier of such house is entitled to receive, the Commissioners shall permit the use of a ferrule of such size as shall be sufficient to pass such supply. That is the section which applies to particular cases, but we also agreed to give a power to revise the schedule as a whole. That might be left to the Commissioners in meeting with the approval of the Local Government.

The HON. BABU KALI NATH MITTER said in reply:—I do not propose to take up much time in replying, after the hon. member in charge of the Bill has expressed his willingness to accept my second amendment: at any rate he has no objection to offer to it, and that being so, I hope the Council will adopt that amendment, which I think is right in principle. The question of the reduction of the ferrule has never been raised before the Commissioners in any shape

whatever; but after the enquiry which is now being made it may be necessary to do so. As the whole matter of the water-supply of the town is in the hands of the Commissioners, it is only right that the question of the size of ferrules should also be left to them. If my amendment is not accepted, I shall be willing to adopt the suggestion of my hon. friend Mr. Macaulay, and allow the consideration of the question to stand over.

His Honour the President said:—It seems to me that the proposals before the Council are getting a little mixed. As it stands we have a scale of ferrules in the schedule, and we have a proposal that a scale should be laid down with power to the Commissioners to modify the scale in individual cases. On the top of that the Hon. Babu Kali Nath Mitter proposes that the arrangement of the scale of ferrules should be left entirely to the Commissioners, and that the Legislature should take no part in it. Again, until the enquiry of which we have heard is completed, we have been told by the Hon Mr. Macaulay that it will be better to hang up the question altogether. But the hon. member in charge of the Bill tells us that the enquiry will not be completed for another month, and that when it is completed we shall know little more about it than we do now; so a further proposal is made for us nominally to adopt the scale of ferrules now in the schedule, but at the same time we are to say that the Commissioners need not adopt it unless they like. It seems to me that if we are to leave to the Commissioners the power to alter the schedule at their pleasure, it is better to leave it to them at once. If you cannot trust your scale, and if the enquiry is not likely to throw any real light on the way in which the working of the formula differs from the practical discharge through the ferrules, it seems to me that as you cannot lay down a scale which you can trust to work easily, it will be better not to take the responsibility of laying down any scale at all. The first question is whether we shall adopt the section in the Bill as it stands, leaving, as the hon. member in charge of the Bill suggests, the schedule which contains the scale an open question; in which case it can be considered at another sitting of the Council, or any other scale can be inserted in the Bill; and we can at the same time discuss the provision which Sir Henry Harrison proposes that it should be in the power of the Commissioners in meeting, with the sanction of the Local Government, to alter or vary the

schedule from time to time. These two motions will be proposed when we come to the schedule. If that is lost, then we come to the proposal of the Hon. Babu Kali Nath Mitter that the scale of ferrules be determined by the Commissioners in meeting.

The HON. BABU KALI NATH MITTER'S motion that, in section 155, the words "five thousand gallons" be substituted for the words "three thousand gallons" was put to the vote and negatived.

The consideration of the HON. BABU KALI NATH MITTER'S second amendment, that the words "through a ferrule, the size of which is to be determined by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth Schedule," was postponed till the Ninth Schedule of the Bill comes up for consideration.

The HON. DR. GOOROO DASS BANERJEE moved that, in lines 6 and 7 of section 186, the words "every person present at the death, or in case of their default" be omitted.

He said:—The object of this section is to have correct and complete registers of deaths, and that object, I submit, will be fully secured by imposing an obligation to register deaths on the relatives and persons in attendance during the last illness of any persons dying in Calcutta, and also in case of their default, on the occupiers of the houses in which the death takes place. It is not only unnecessary, but unfair and unjust, to impose the duty on every person present at the time of the death. Many of the persons may be mere casual spectators; and the injustice of this provision will appear all the more clearly when it is borne in mind that a breach of this duty is made punishable under section 188.

The HON. SIR HENRY HARRISON said:—This is an obligation which has been imposed by law for some years past, but how far it has been of use I cannot say: people are not present at deaths unless they have some interest in the person dying.

[HIS HONOUR THE PRESIDENT pointed out that the wording of the existing Act is "some one of the persons present."]

[The HON. DR. GOOROO DASS BANERJEE saw no objection to the wording the existing Act.]

The amendment was put to the vote and negatived.