

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

they are to be at liberty so to overcrowd a house as to render it dangerous and injurious to the health of their neighbours. It may be to the interest of the members of a family to take the risk of disease to themselves, but why should they be allowed to endanger the health of their neighbours? Birds when they overcrowd the nest are thrown out by the old birds, but the people of this country will not imitate nature. It is nonsense to say that they harm nobody but themselves: it is impossible they can overcrowd a house so as to render it dangerous to the health of the inmates and not affect their neighbours. The disease generated there must spread. There was never a doubt that the fact of being a source of danger to one's neighbours constitutes a nuisance, but there might have been a doubt whether people who voluntarily live in a house overcrowded so as to be dangerous to themselves created a state of things which amounts to a nuisance, and therefore this section says it does. It should be remembered that it is the Commissioners who will have to abate nuisances, and no doubt they will deal tenderly with cases of overcrowding by members of the same family. The Hon. Member opposite (Moulvie Abdul Jubbar) urged strongly the obligations of charity. That is mean charity which will provide for its objects by overcrowding a house so as to make it dangerous and injurious to health. That is no true charity, but an attempt to combine economy with ostensible charity. If a person wishes to be really charitable, let him provide proper quarters for his relatives and friends, so that their health will not be endangered. What is the use of charity except to keep a man alive, and what is the use of keeping a man alive by means which afflict him with disease? Let them practice true charity, and then they will have no objection to this clause.

The Hon. Member on my right (Dr. Gooroo Dass Banerjee) objects to this clause, because he says the same object is already provided for. If that is so, what is his objection to let the clause stand? A double-barrelled gun has a great advantage in shooting: one barrel may miss, and you kill with the other. I cannot see the force of his opposition to let a section stand which he says is already in the Bill. That objection might lie in the mouth of the hon. member in charge of the Bill, on the ground of symmetry.

The Hon. Sir Henry Harrison said:—As far as the objection on the ground of symmetry is concerned, I am bound to say that this will not meet

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

the same cases as the other section. The special object of the insertion of these clauses here is that any person who may feel himself aggrieved may give information to the Commissioners. We have had many cases in which persons have complained of nuisances in neighbouring houses, and there has been no way to help the complainants. We have had to tell them, if it is a nuisance you can institute a prosecution. But this section gives the Commissioners the power of themselves prosecuting. In the first instance a notice will be served, and if the person complies with the terms of the notice, well and good. If not, the matter will come before a Magistrate. That will be an easy, convenient, and just way of bringing to an issue the matter between the complainant and the person complained against.

THE HON. BABU KALI NATH MITTER said:—I have failed to understand the distinction which the hon. member in charge of the Bill has tried to introduce between section 320 and this section, apart from the general question whether the persons overcrowding belong to the same family or not. The distinction is this, that under this section the power lies in the Commissioners on the complaint of any person. What does section 320 say? "If it shall appear to the Commissioners." That includes cases where information is sent to the Commissioners, and in pursuance of such information they come to the conclusion that the building is overcrowded. Therefore, as regards the two sections, apart from the question of the inmates being members of the same family, there is no distinction. I certainly understood when we were discussing section 320 that Your Honour pointed that out. You styled what we advanced in support of our contention as hypercriticism based on a misapprehension of the meaning of the section, and, if my memory serves me rightly, the hon. member in charge of the Bill also referred to that section as being only intended for the cases mentioned by Your Honour [Sir Henry Harrison—I said that is how the section would ordinarily work.] The proceedings of the last meeting are not before us, but from the nature of the discussion the impression left on my mind was that, so far as the meaning of the section is concerned, it would apply to lodging-houses and places of that sort where overcrowding occurred. If that is so, then what the learned Advocate-General advanced is met by the existence of section 320 in the Act. He referred to a case which is precisely a case contemplated under

[*Babu Kali Nath Mitter; The President*]

section 320; therefore as section 320 exists, there is no necessity for clause (c) of section 385, unless members of a joint family are intended to be included. If they are included, then undoubtedly this section gives larger powers. As regards the rest of the clauses, not a single argument has been advanced against my contention, and the case is left where it was when I moved my amendment. I said that in regard to most of these matters the Commissioners have the fullest power; they can put a stop to those nuisances at the expense of the owners; they can inspect; they can repair, and they can improve. And that being so, it is unnecessary to provide for prosecution in respect to those offences.

• HIS HONOUR THE PRESIDENT said:—As I have been personally appealed to, I should like to state, as far as I can recollect, that what I said on the subject of section 320 was that I did not doubt for an instant that the words of that section could be made to cover the case of a Hindu joint-family, but that if you look at the wording of what the Magistrate has to do (the wording of the declaration which the Magistrate has to make) it makes it perfectly clear that what is aimed at in the section is not the houses of Hindu families, but lodging-houses and such like. • The order which he has to issue is an order to reduce the number of lodgers, tenants or other inmates, and I take it that the first two words would give the lines on which the order was to be based, and that the rest would be interpreted on the principle of *iusdem generis*. I admit that they can be taken beyond, but I was giving my own interpretation of the section. So far as to that. It does seem to me that the ground covered by section 320 and the ground covered by clause (c) of section 385, which we are now discussing, is practically identical. On the whole I have some sympathy with the motion of the Hon. Dr. Gooroo Dass Banerjee in regard to clause (c), partly because the object, though not the method, is already provided very clearly and broadly by section 320, and because I think there is a good deal of force in the arguments which he has used, and which the Hon. Moulvie Abdul Jubbar has advanced on the part of the Mahomedan community, that to a great extent they cannot help themselves. But the reply to that really is that the Commissioners are the people who will exercise the authority which this section gives, and I think we may fairly trust to them to exercise it wisely and well. I am inclined to agree with what fell from the hon. member in charge of the Bill on another matter before

the Council to-day—that the time when this section will really be brought into force is not yet; that they will come into force by very slow degrees; and I believe the value of these sections for present purposes—I am sorry to believe it—is more educational than practical. I hope that in time the Commissioners will work up to them, but I cannot expect they will be very strongly carried out. The learned Advocate-General threw out a suggestion to the hon. mover of the amendment to alter the section in a way in which the power of prosecution will not be altogether lost. Section 320 does not give power to prosecute, but only to get a declaratory order of a Magistrate. As he said, we want to retain some power to prosecute in cases where a deliberate nuisance is created by lodging house keepers and people of that kind. If any form of words to cover that can be framed, I shall vote for him.

THE HON. SIR ALFRED CROFT said:—I would ask leave to move that the words “whether or not members of the same family” be omitted, so as to leave the clause general and in the same state as section 320.

THE HON. THE ADVOCATE-GENERAL said:—What I pointed out was that it would be hard to prosecute persons who cannot help themselves, for in such cases they would necessarily incur penalties they cannot avoid. I think that if section 320 is carefully read, it will be found not to apply to overcrowding by members of the same family. It deals with landlords and tenants. It requires the owner to abate the nuisance by reducing the number of lodgers or tenants, and the second clause of the section provides that where the owner has sublet the building, the landlord of the lodgers or tenants or other actual inmates shall be deemed to be the owner of the building.

THE HON. BABU KALI NATH MITTER's motion to omit clauses (a) to (e) of section 385 was put to the vote and negatived.

THE HON. DR. GOOROO DASS BANERJEE's motion to omit clause (e) of section 385 was also put to the vote and negatived.

THE HON. SIR ALFRED CROFT's motion that from clause (e) of section 385, the words “whether or not members of the same family” be omitted, was put to the vote and carried.

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

THE HON. BABU KALI NATH MITTER moved that section 390 be omitted.

He said :—This section authorizes a Magistrate to declare a house unfit for human habitation and to prohibit it being used for such purpose. The section is almost precisely the same as section 319, and as that section has been passed, I do not see the use of enacting it again in section 390. It practically leaves everything to the discretion of the Magistrate. The only difference is that here it is included in the chapter of nuisances, and section 319 is in the chapter relating to inspection and sanitary regulation. I believe the confusion has arisen from one section having been borrowed from the English Act, and the other from the Bombay Bill. I believe that the Bombay Bill has been borrowed from the English Act.

THE HON. SIR HENRY HARRISON said :—This section did not come in by accident. We very carefully considered it in Select Committee, and we were within an ace of taking out one or the other, but it was eventually found that they are not identical. It is desirable to make out quite clearly that the Magistrate has similar power whether the complaint is made to him under the procedure of this section or under the chapter relating to sanitary inspection. The sections are not taken one from the Bombay Act and the other from the English Act, and therefore reduplicated. This nuisance section has, I think, been adopted on the suggestion of the Health Society; it is a judicial procedure, and therefore it is left to the discretion of the Magistrate. It gives the same power to the Magistrate whether the question comes up on this procedure or the other, and it also annexes a penalty. Anyhow I cannot see any objection to it.

The motion was put to the vote and negatived.

THE HON. SIR HENRY HARRISON moved that, for section 418, the following be substituted :—

“Every prosecution under this Act may be instituted by the Commissioners before any Magistrate having jurisdiction, who may summon the person charged to appear at a time and place to be mentioned in the summons; and if such person do not appear, the Magistrate may, upon proof of service of the summons, if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence. If such person do appear, then the procedure laid down in the Code of Criminal Procedure of 1882 from section two hundred and forty-two to section two hundred and forty-eight shall be followed.

[*Sir Henry Harrison.*]

“All fines imposed by a Magistrate under this Act shall be levied under the provisions of sections three hundred and eighty-six, three hundred and eighty-seven, three hundred and eighty-eight, and three hundred and eighty-nine of the said Code.”

He said.—This constitutes in fact two amendments. The gentleman who conducts the criminal prosecutions of the Corporation pointed out the desirability of making it clear whether anybody can prosecute, or only the Commissioners. I do not think it is desirable that any person except the Commissioners should have power to inaugurate prosecutions under the Act. That is the object of the first amendment. The second amendment is to add the words in the second paragraph. It was suggested by the same authority, who pointed out that it is very desirable to make it clear how the fine is to be levied.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, after the first paragraph of section 429, the following proviso be inserted :—

* Provided that, if the projection be a verandah supported by pillars or props resting on the public street, the Commissioners may, in lieu of a fee, charge an annual rent not exceeding Rs 1 per square yard of the public street covered by such verandah, if a verandah of only one storey, or Rs 1-8 per square yard, if a verandah of two or more storeys in height. It shall not be lawful to shut in the sides or front of such verandah so as to obstruct the air, whether with brick-work, wood-work, mats or any other materials.”

He said —I now come to an amendment to which I would ask the careful attention of the Council. I do not profess to say that it certainly ought to be adopted; but on the whole I think it is fair in the interests of the public, and I ask the Council to consider it from the point of view of justice to the public and the individual. Section 429 authorizes the construction of verandahs and projections. Under that section the Commissioners are allowed to charge a fee not exceeding Rs. 100, which has been increased in this Bill to Rs. 500 to meet special cases. A very few years ago only overhanging verandahs were sanctioned. Subsequently some one asked for leave—I do not think the Great Eastern Hotel started it—to put up a verandah over the pathway with supports on the footpath. The Town Council were not entirely agreed whether this should be allowed or not, but eventually the argument prevailed that as such verandahs would give shelter to the public from

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

sun and rain, leave should be granted subject to certain safeguards. They are improvements of the finest possible description to the houses themselves, and having once given sanction we have now about twenty of these in the town. I will not say they are not advantageous to the town itself; but to the owners of the houses they are an enormous advantage, and they pay only one fee in all. It seems to me fair that when a person gets a very great advantage he should pay something commensurate for it; and therefore I think that when a verandah is built with props or supports on the street, the form of charge should be an annual rent instead of the payment of a single fee.

The HON. THE ADVOCATE-GENERAL said:—I oppose this amendment. I happen to know the circumstances out of which this question has arisen. I think the charge proposed will be exorbitant. These verandahs are admitted to be a benefit to the public, and yet the enhanced fee of from Rs. 100 to Rs. 500 will not satisfy the Municipal Commissioners! They want to levy an annual fee for what? For allowing the owners of houses to occupy a few inches or a few feet of ground on which pillars are placed, and they want to charge a rental on the whole of the area covered by the verandah. The area is not occupied by them, passengers pass underneath, and are sheltered from the sun and rain; the charge appears to me exorbitant. I am surprised to hear the hon. member in charge of the Bill say that it is a matter of justice: from my point of view it is a matter of injustice.

The HON. BABU KALI NATH MITTER said:—The Commissioners have nothing to do with this; my hon. friend brings this proposal forward at his own instance. I have to point out, in addition to the argument of my hon. friend, that it is an improvement and a benefit to the public; that the man not only pays a fee, but has to pay rates on an increased assessment of his property by way of a permanent charge. It was pointed out that a fee of Rs. 100 is a very small fee for all cases, and the Select Committee fixed Rs. 500 as a maximum. That should be ample for all purposes. We had no intimation from the Hon. Member that he was not satisfied with that, and that he would bring forward a further amendment. If he wanted to impose this additional charge, he should have informed the Select Committee of it. But apart from that, I shall oppose the amendment.

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

The HON. MR. REYNOLDS said:—I am not in favour of this amendment. Instead of putting obstructions in the way, there are many parts of the town in which the construction of such verandahs should be encouraged, as they afford both shelter and shade to the public. It would be a great benefit if the foot-paths in Government Place and Old Court House Street were covered with verandahs of this sort, so that people might walk from one end to the other in the shade under a colonnade such as exists in some parts of Bombay. There is a further objection to the form of the amendment. If an annual rent is to be charged for the portion of the street covered by the verandah, it will practically encourage the person paying the rent to look upon that part of the street as a part which he is entitled to use as he pleases.

The HON. SIR HENRY HARRISON said in reply:—I do not look upon this amendment as a matter of much consequence, except that I believe it to be a principle of real injustice that the individual should get a very great advantage without paying adequately for it.

The motion was put to the vote and negatived.

The HON. SIR HENRY HARRISON moved that, in line 2 of the second paragraph of section 435, for the words “are known to the Commissioners” the words “are registered under section one hundred and twenty-eight” be substituted; and that, in line 2 of the third paragraph, for the words “not known” the words “not registered” be substituted.

He said:—It seems to me that this amendment not only makes the meaning more definite, but more fair. The section provides a mode of service when an owner is known to the Commissioners. What is to constitute knowledge? He may be known to one or two of the servants of the Corporation. Is the head of a department to go round and find out whether any department of the municipality knows the owner? On the other hand, there is a plain and direct means by which an owner can bring his residence to the knowledge of the Commissioners, viz., by registration. I think this amendment will be an improvement, and will also be just and equitable.

The HON. BABU KALI NATH MITTER said:—There are many house-owners whose names are not registered, and yet they are well known to the Corporation, whereas the amendment proposes to say that if a man's name is not

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

registered he is not to be considered to be known. One mode of knowing is by registration ; another may be by actual experience.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, in line 9 of section 443, for the words "such of the owners as are known" the words "such of the owners as are registered under section one hundred and twenty-eight" be substituted.

The motion was put to the vote and carried.

The HON. SIR HENRY HARRISON moved that, in lines 9 and 10 of section 453, for the words "Chapter VII shall have effect within the boundaries so declared" the words "the provisions of Chapter VI of this Act shall take effect one month after the publication of such notification" be substituted.

He said:—This amendment is suggested by the Secretary, who considers the wording a little ambiguous. It is well to say precisely when the provisions relating to water-supply shall take effect in the portions of the environs to which they may be extended by the Local Government.

The motion was put to the vote and carried.

The HON. BABU KALI NATH MITTER moved that clause (b) of section 456 be omitted. The clause empowers the Local Government to include within Calcutta any local area in the vicinity of Calcutta.

He said:—This provision has been introduced at the instance of the Government of India. So far as the exclusion of any portion of the added area is concerned, if for any reason it is considered necessary to exclude it, I have no objection to give the Local Government the power conferred by clause (a). But to include, it may be, large tracts of land without consulting the Commissioners and without making adequate provision for funds for making improvements, will not be for the good of the town. I contend therefore that clause (b) of section 456 should be omitted.

HIS HONOUR THE PRESIDENT said:—I need only say that this has been inserted under instructions from the Government of India, the object being to bring this Act into conformity with other Municipal Acts all over India and elsewhere ; but it is a procedure which, speaking for myself, I should be very unwilling to utilise without the consent of the Commissioners.

[*Sir Henry Harrison*; *The Advocate-General*; *Dr. Gooroo Dass Banerjee*.]

THE HON. SIR HENRY HARRISON said:—In France and England this power is usually given to the Government only on the application of the Municipality concerned.

THE HON. THE ADVOCATE-GENERAL said:—I think this is a really objectionable power, and unless there is any imperative necessity for giving it, I submit that provision of this kind should not be made. I remember that the Indian Trusts Act contains a clause that the Local Government may from time to time extend it to any part of British India. Bombay would not have it, Calcutta would not have it, and it was made in the first instance to apply to Madras, Coorg, and other places where it would be of little or no use, power being reserved to the Local Government to extend it to the rest of India at some future time. Surely that is not a proper method of legislation. Under clause (b) of section 456 of this Bill, the Government may include within the Municipality of Calcutta any area it chooses. Suppose the Government want to include within Calcutta any place outside the limits, such as Barranagore, Chitpore, or Cossipore, the inhabitants of these places cannot be heard? The mere presenting of a memorial is scarcely tantamount to a hearing.

THE HON. DR. GOOROO DASS BANERJEE said:—I will also support this amendment, and for this reason: It is clear from the discussion of the question as to what the boundaries of the Municipality should be, that we included all that is and can be desirable to be included for some years to come. It will not be until full twenty years or more that anything like proper municipal management can be introduced in the area included, and further inclusion of additional area should, I submit, be left to future legislation.

THE HON. SIR HENRY HARRISON said:—Having omitted to give notice, I ask leave to insert the words “at the request of the Commissioners in meeting” at the beginning of clause (b). Then if the Government wishes to add any local area without the request of the Commissioners, they must do it by legislation. This is in accordance with the practice in other civilised countries. In France the Government is not allowed to make alterations in the boundaries of cantons without legislation: in England the Government can only do it at the request of the Council of the borough.

[Sir Henry Harrison.]

The Hon. Babu Kali Nath Mitter's motion to omit clause (b) of section 456 being put, the Council divided :—

Ayes 4.

The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Babu Kali Nath Mitter.
The Hon. the Advocate-General.

Noes 9.

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

So the motion was negatived.

The Hon. Sir Henry Harrison's motion was put to the vote and carried.

The Hon. SIR HENRY HARRISON moved that, in the last line of clause (a) of Schedule II, *Class* IV, after the word "merchandise" the words "every person not coming under *Class* III who purchases goods in Calcutta for transport and sale beyond the limits of Calcutta" be inserted.

This and the two following were mere verbal amendments.

The motions were put to the vote and carried.

The Hon. SIR HENRY HARRISON moved that, in clause (a) of *Class* V, for the words "every broker" the words "every broker or dalall" be substituted.

The motion was put to the vote and carried.

The Hon. SIR HENRY HARRISON moved that, in clause (a) of *Class* VI, for the word "shop" the words "shop or place of business" be substituted; and that in clause (b), for the words "every dalall" the words "every petty dalal not included in *class* V" be substituted.

The motions were put to the vote and carried.

The Hon. SIR HENRY HARRISON moved that the following be inserted as the first rule under *Class* VII :—

"The agent of a Joint-stock Company having an agency in Calcutta, but not registered therein, shall be liable to take out a license on behalf of such Company."

He said :—This is a question of principle which ought to be settled by the Council. There are many Joint-stock Companies which are not established

[*Sir Henry Harrison ; The Advocate-General ; Mr. Moore ; Mr. Allen.*]

in Calcutta, but have their agents here. Some of these agents take out licenses on behalf of the Companies for which they are agents, but others refuse on the ground that, being foreign Companies, they are not liable to take out licenses.

The HON. THE ADVOCATE-GENERAL said:—I do not think an amendment of this kind ought to be accepted at this late stage of the Bill without notice. These gentlemen pay the tax on their own account as agents; and I see no reason whatever to require them to take out licenses for the Companies established in Europe or America for which they act as agents.

The HON. MR. MOORE said:—There are in Calcutta a number of small agencies of Insurance Companies established and working elsewhere; most of them do little or no business here, and some of them have agents here only for the purpose of paying claims. It would be hard to tax such Companies.

The HON. SIR HENRY HARRISON said in reply:—My chief object is to get the point settled. The question is, should a Company which carries on business in Calcutta through an agent—and some of them carry on a large business—pay the tax or not? At present the point is unsettled. Of course the agent takes out his own license.

The HON. MR. ALLEN said:—I do not see why a Company should pay a tax in Calcutta merely because it has an agent here, any more than every ship which comes to this port should pay because its cargo is sold here.

The motion was put to the vote and negatived.

The following verbal amendments were put to the vote and carried on the motion of the Hon. Sir Henry Harrison:—that, in line 5 of rule 3 of *Class VII*, after the words “his own account” the words “or with other partners” be inserted; that, in line 5 of clause (a) of rule 7, the words “and is resident in Calcutta” be omitted.

The Hon. Sir Henry Harrison moved that, after clause (d) of rule 7, the following be inserted:—

“If a person is summoned for not taking out a license, and service of notice under clauses (c) and (d) is not proved, it shall be incumbent on the Commissioners to prove that the person summoned is liable to take out a license, as well as to prove the class under which he is liable.”

[Sir Henry Harrison; Babu Kali Nath Mitter.]

He said:—Suppose service of the notice required under clauses (c) and (d) of rule 7 in Schedule II cannot be proved, the object of this amendment is that, in such cases, the Corporation must prove their case. Generally notices are served, and if the person fails to object, it becomes binding upon him, and upon service of notice being proved the matter is settled. But suppose he successfully denies receipt of the notice, then the onus must be thrown upon the Corporation?

The motion was put to the vote and carried.

The following verbal amendments were put to the vote and carried on the motion of the Hon. Sir Henry Harrison:—that, in clause (c) (2) of rule 7, after the words “to a Court of Small Causes” the words “having jurisdiction in the place in which the profession, trade or calling is said to be carried on” be inserted; also that, after clause (f) of rule 8, the following be inserted:—

“The Commissioners may, if they think fit, extend the period of an appeal under clause (1).”

The HON. SIR HENRY HARRISON moved that, at the end of Schedule III, the following be inserted:—

“The Local Government may, at any time, on the recommendation of the Commissioners in meeting, by a notification to be published in the *Calcutta Gazette*, alter the number of wards and the boundaries of any ward as prescribed in this schedule.”

He said:—This is an amendment of some importance. It may be necessary sometimes to alter the boundaries of wards. There is no power in the existing law to make such alterations, but I think the power should exist.

The HON. BABU KALI NATH MITTER said:—If the number of wards is altered under this proposed power, what becomes of the proportion of elected Commissioners prescribed by the Bill? Under section 15 two Commissioners are to be elected for each ward; with 25 wards, therefore, there will be 50 elected Commissioners. But suppose the number of wards is reduced to 8, which is the number the hon. member in charge of the Bill prefers, then there would be only 16 elected Commissioners to 25 nominated Commissioners. I have no objection to conferring the power to alter the boundaries of wards.

The motion was put to the vote and carried in the amended form proposed, viz., by omitting the words “the number of wards and.”

THE HON. SIR HENRY HARRISON moved that, at the end of Schedule IX, the following words be inserted:—

“Or any other scale which the Commissioners in meeting may from time to time prescribe.”

He said:—This is an important amendment, and it revives the discussion which took place at a previous meeting. I was able to circulate only yesterday a note by Mr. Kimber, giving the result of his experiments, with a schedule of ferrules proposed by him. These experiments show that in some cases the mathematical formula gives an under-estimate of the quantity passing through the ferrule, but in very many cases the ferrule will not work up to it; there is something which prevents the proper working, such as the pipes being too small, or a number of bends, or a dead end, so that the water is backed or stopped; and Mr. Kimber comes to the conclusion in paragraph 10 (page 5) of his note that for practical purposes the co-efficient 13 should be reduced to 9; it gives four-thirteenths less draught as the average result all over the town, and the diameter of the ferrules should be reduced in the same proportion, viz., 13 is to 9.

The question is, how should we deal with this? He gives a scale of ferrules which is one degree more liberal all the way up. He commences with houses valued at Re. 1 to Rs. 5, and the next in the scale from Rs. 5 to Rs. 10, and the result is that he proposes to give a slightly larger ferrule in all the grades. The question for the Council to determine is—first, will they take Mr. Kimber's scale as given in his note, or the scale in the schedule as it stands, or will they leave the scale to be fixed by the Commissioners in meeting, or by the Government on the recommendation of the Commissioners? I have adopted the suggestion that a scale should be laid down in the Act as a sort of indication to the Commissioners upon which they should act. It seems to me that, looking to the probabilities of error, it should be left to the Commissioners to fix the scale from time to time.

HIS HONOUR THE PRESIDENT said:—When this subject was discussed before an amendment of the Hon. Babu Kali Nath Mitter was under consideration. His amendment was to omit Schedule IX, and to leave the fixing of a scale of ferrules to the discretion of the Commissioners in meeting.

[*Babu Kali Nath Mitter ; The Advocate-General ; Mr. Macaulay ;
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THE HON. BABU KALI NATH MITTER said:—I have no objection to the amendment of the hon. member in charge of the Bill, the wording of section 155 is altered. I think the hon. member's amendment should be in the body of the Act, otherwise there will be a great deal of ambiguity. I think his amendment will practically leave the matter in the hands of the Commissioners, and a good deal of the time of the Council will be saved if we adopt his amendment.

THE HON. THE ADVOCATE-GENERAL said:—If the schedule is amended in the way proposed by the hon. member in charge of the Bill, the wording of section 155 must be altered also. I think it will be preferable to have a scale in the schedule and to amend section 155 as proposed. But it appears to me that there should be some limitation on the discretion of the Commissioner's as, for instance, by making the approval of the Local Government necessary. This is my principal objection.

THE HON. BABU KALI NATH MITTER said:—In that case I shall have to move my amendment.

THE HON. MR. MACAULAY said:—In the Select Committee it was decided that we should recommend, as a compromise, to allow the Commissioners an exceptional power of altering the size of the ferrule to meet special cases, but that apart from that we should fix something beyond which the Commissioners should not go. If, however, any sliding scale is to be allowed at all, then I think it should be made subject to the approval of the Local Government, the Commissioners being left to recommend any alteration in it.

THE HON. SIR HENRY HARRISON said in reply:—The Hon. Member is quite right as to what was decided in Select Committee. But as this is a matter of much difficulty, and there being so many disturbing elements to be taken into consideration, I think the Executive should not avoid the obligation of satisfying the Commissioners. Mr. Kimber gives his opinion unhesitatingly that the present scale is too liberal; therefore, after indicating a scale, the Council ought to leave it to the Commissioners to vary it as occasion may arise.

HIS HONOUR THE PRESIDENT said:—It seems to me from what the Hon. Mr. Macaulay has said, that the Select Committee decided that a scale

[*The President ; Sir Henry Harrison ; Mr. Macaulay ; Dr. Gooroo Dass Banerjee ;
Dr. Mahendra Lal Sircar.*]

should be fixed in the Act, but that the Commissioners should have power to escape from it in exceptional cases.

THE HON. SIR HENRY HARRISON said in reply :—The exception was to depend on proof that the ferrule would not give the exact supply ; but beyond that the Commissioners, with the sanction of the Local Government, were to have the power to alter the general scale of ferrules.

THE HON. MR. MACAULAY said :—I am quite sure that there was no question whatever in Select Committee of the scale being altered with the approval of the Local Government.

HIS HONOUR THE PRESIDENT said :—There is in Schedule IX a scale of ferrules and an improved scale has been prepared by Mr. Kimber. As the Bill stands the schedule will have to be enforced by the Commissioners, and they will not have the power of altering it. Originally the motion of the Hon. Babu Kali Nath Mitter was that the law should be altogether silent on the point, that it should fix no scale, and that it should be left to the Commissioners to fix any schedule they pleased. The compromise suggested by the hon. member in charge of the Bill to meet that is that the scale should remain in the schedule as an indication for the Commissioners, but that they should be at liberty to alter it from time to time on their own authority. And now it has been suggested that the Commissioners should only have power to alter the scale with the sanction of the Local Government.

[THE HON. DR. GOOROO DASS BANERJEE asked whether it was proposed to retain the scale in the ninth schedule, or to adopt the scale suggested by Mr. Kimber ?]

THE HON. DR. MAHENDRA LAL SIRCAR said :—The scale as it stands in the schedule is based on calculations which have been proved to be incorrect by the experiments made by Mr. Kimber himself. I would beg to observe that the formula given by the hon member in charge of the Bill is not the formula given by the most recent authorities on the subject. I would rather have Mr. Kimber's scale of ferrules than the scale given in the Ninth Schedule. I move that the scale of ferrules given by Mr. Kimber in his note be substituted for Schedule IX.

[*Mr. Reynolds ; Dr. Gooroo Dass Banerjee.*]

The HON. BABU KALI NATH MITTER'S motion that, in lines 9 and 10 of section 155, the words "through a ferrule of the size indicated by the Commissioners in meeting" be substituted for the words "through a ferrule of the size indicated in the ninth schedule," was put to the vote and negatived.

The HON. SIR HENRY HARRISON'S motion that the words "or such other scale as the Commissioners in meeting may from time to time approve" be inserted after "ninth schedule" in line 10 of section 155, being put, the Council divided:—

Ayes 4.

The Hon. Dr. Gooroo Dass Banerjee.
The Hon. Babu Kali Nath Mitter.
The Hon. Sir Henry Harrison.
His Honour the President.

Noes 9.

The Hon. H. Pratt
The Hon. C. H. Moore.
The Hon. Dr. Mahendra Lal Sircar.
The Hon. Moulvie Abdul Jubbar.
The Hon. Sir Alfred Croft.
The Hon. T. T. Allen.
The Hon. C. P. L. Macaulay.
The Hon. H. J. Reynolds.
The Hon. the Advocate-General.

So the motion was negatived.

The HON. MR. MACAULAY'S motion that the words "or such other scale as the Local Government may on the recommendation of the Commissioners in meeting approve" be inserted after "ninth schedule" in line 10 of section 155, was put to the vote and carried.

The HON. DR. MAHENDRA LAL SIRCAR'S motion that the scale of ferrule given by Mr. Kimber in his note be substituted for the scale given in the ninth schedule, having been proposed for consideration,—

[The HON. MR. REYNOLDS asked whether the adoption of Mr. Kimber's schedule would require the Commissioners to refuse all future applications for connections?]

The HON. SIR HENRY HARRISON said:—It would certainly not have that effect.

The HON. DR. GOOROO DASS BANERJEE said:—I submit that the adoption of Mr. Kimber's scale amounts not to liberality, but only to the correction of an error. The scale given in Schedule IX is based on the supposition that 16

[*Dr. Gooroo Dass Bageerjee ; Dr. Mahendra Lal Sircar ; Sir Henry Harrison.*]

gallons a minute can be drawn from a ferrule half an inch in diameter, and that is obtained by adopting 13 as the co-efficient on the formula. But we have now the opinion of Mr. Kimber, who is an expert, and he says that for the figure 13 we ought to have taken the figure 9, so that we cannot have 16 gallons per minute from a half-inch ferrule. If the standard is found to be incorrect, it is but fair and just that we should alter our scale accordingly.

THE HON. DR. MAHENDRA LAL SIRCAR said :—In making these calculations only the normal pressure has been taken without reference to the distance of the taps from the place of pressure, and that accounts for the difference between the calculations and the actual results of the experiments; therefore there is no question of liberality in Mr. Kimber's scale. If he went further he would find reason to reduce the co-efficient to a lower figure still.

THE HON. SIR. HENRY HARRISON said :—Mr. Kimber himself took the same formula as he did. There are a number of other formula which entail elaborate calculations, but the one which has been taken is simple and sufficiently accurate for all practical purposes.

THE HON. DR. MAHENDRA LAL SIRCAR'S motion was put to the vote and carried.

THE HON. SIR. HENRY HARRISON moved that, after section 459, the following new section be inserted :—

"460. The provisions of Schedule XIII shall apply to the budget for the year 1889-90, and to the rates and taxes which shall be levied during that year; and the provisions of Act IV (B.C.) of 1876, so far as they are inconsistent with the provisions of the said schedule, shall be repealed so far as they relate to preparing and passing such budget, and to fixing the rates and taxes to be levied during the year 1889-90."

He also moved that, after Schedule XII, the following new schedule be inserted :—

Thirteenth Schedule.

1. The budget for 1889-90 shall show what expenditure it is proposed to incur in the Town, as well as in the area added to the Town by this Act during that year, and the manner in which it is proposed to meet such expenditure.

2. Such budget shall at a special general meeting of the Commissioners of the Town of Calcutta to be held in the month of February 1889 be referred to a Special Committee of eighteen members, of which twelve shall be chosen by the Commissioners of the Town of

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

Calcutta at the special general meeting which shall order the reference, and six shall be chosen by the Commissioners of the Suburbs of Calcutta.

3. Such Committee shall meet at such times and places as the Chairman, subject to the decision of the Committee, may appoint, and shall, within twenty-one days of its appointment, return the budget to the Commissioners of the Town of Calcutta with such modifications and comments as may seem expedient.

4. The Commissioners of the Town of Calcutta shall, at a special general meeting to be held in the month of March, consider such budget as modified by the Special Committee, and pass it subject to such further modifications or additions as may be thought fit. The said Commissioners shall thereupon at the same meeting, or if such meeting be adjourned, at an adjourned meeting, fix, with reference to the budget as passed, the rates at which the rates and taxes mentioned in this Act shall be imposed for the year commencing the 1st April 1889; and the rates and taxes so fixed shall have the same force in Calcutta for the year 1889-90 as if they had been fixed by the Commissioners in meeting for any subsequent year under section seventy-one of this Act."

He said:—This motion explains itself. The budget has to be prepared during the last two months of a year for the year succeeding. How is a valid budget to be passed which will apply to the enlarged area from 1st April next? Will a budget framed under the present Act be legal? I suggest that what I propose will be a legal and equitable solution. I have suggested that the Suburban Commissioners should have a voice on the Budget Committee, but I thought it would be too complicated to allow them also a voice at the meeting of the Commissioners which will discuss and pass the budget. If the Council thinks that should be done, I have no objection, but the fact is that the real work is done by the Budget Committee; the Commissioners in meeting generally accept the budget with one or two amendments: this year, which was an exceptional one, three amendments were made.

The HON. BABU KALI NATH MITTER said:—As the budget has to be framed before the 1st of April, it is necessary that some provision should be made for its preparation. So far as the Town Commissioners are concerned, I am sure there will be no objection to some of the Suburban Commissioners assisting in the passing of the budget.

The motions were put to the vote and carried.

The HON. SIR HENRY HARRISON said:—The Council has now to dispose of the definitions, and I shall be glad of a short delay to look through the Bill in order

[*Sir Henry Harrison ; The President.*]

to see whether any alterations are needed to meet the modifications which have been made by the Council. I would also ask whether it will be possible at the same time, supposing it should appear that any sections require reconsideration, to bring forward any such proposals. It is obvious that any attempt to reconsider the whole Bill will be preposterous, but the preparation of a Bill of this kind is a very serious task, and no doubt there are a great many flaws in it; but if any such are found between this time and the passing of the Bill, I hope I shall be at liberty to bring forward the necessary amendments for their correction.

HIS HONOUR THE PRESIDENT said:—I quite recognise the fact that a Bill of this kind, after being amended in Council, requires careful revision from the draftsman's point of view, to see that the amendments which have been made are so worded as to amalgamate and fit in with the rest of the Bill; and that is not the kind of work that can be done in a day. And as the hon. member in charge of the Bill has pointed out, it will be well to take the opportunity of pointing out any errors that may exist and making suggestions for the correction of such errors. I propose that the Council be adjourned for this purpose for a fortnight; but for the work which the Hon. Mr. Macaulay has in hand I shall have to ask the Council to meet again on this day week.

The Council was adjourned to Saturday, the 5th May, 1888.

CALCUTTA ;
The 8th May, 1888.

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

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

THE Council met at the Council Chamber on Saturday, the 5th May, 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, K.T.

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

THE HON. BABU KALI NATH MITTER.

THE HON. DR. GOOROO DASS BANERJEE.

THE HON. H. PRATT.

BENGAL MUNICIPAL ACT, III of 1884, AMENDMENT BILL.

THE HON. MR. MACAULAY presented the Report of the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884.

THE HON. MR. MACAULAY said:—By inadvertence notice was not inserted in the list of business of my intention to move that the Report of the Select Committee be taken into consideration. I ask His Honour the President to grant me permission under Rule VII of the Rules for the conduct of business to make that motion now.

HIS HONOUR THE PRESIDENT having granted the necessary permission—

THE HON. MR. MACAULAY moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put to the vote and carried.

[*Dr. Gooroo Dass Banerjee.*]

The HON. DR GOOROO DASS BANERJEE said:—I ask permission to move an amendment, which is sufficiently indicated in the note I have appended to the Report of the Select Committee, viz., that at the end of section 2 of the Bill, the following words be added: “after making reasonable compensation to such municipality for any loss of income resulting from such exclusion.” My reasons for moving this amendment are these. In the first place, the exclusion of lands or buildings from the limits of any municipality will not necessarily relieve such municipality of the burdens it has to bear on account of such lands or buildings. For instance, it will have to maintain in proper condition the drains necessary for the surface drainage of such lands or buildings. Then, again, it will have to maintain in proper condition the roads that are necessary only for the purposes of such lands or buildings. It is therefore, I submit, but fair that, when municipalities are not likely to be relieved of such burdens, some compensation should be made. In the next place, wherever there are Government buildings within the limits of a municipality, it is well known that the amount of income derivable from rates on such buildings is by no means inconsiderable; so that, if the exclusion of such lands or buildings be not compensated for by a reasonable sum paid to the municipality, it will suffer a sensible diminution in its income. And as we all know there is hardly any municipality in the mofussil the funds of which are more than sufficient to meet its expenses, the result of such exclusion will leave municipalities to which the operation of this Bill may be extended with funds insufficient for the necessary expenditure. That is a result which I am sure Your Honour’s Government, which has always shown itself most anxious to promote the cause of local self-government, and the hon. member in charge of the Bill, who is justly considered one of the best friends of local self-government, will never desire. Nor is it the object of this Bill to exempt such lands or buildings from rates. The object of the Bill, as far as I understand it, is to prevent any unseemly and inconvenient collision arising between the municipal authorities and the Government departmental authorities in immediate charge of such buildings; and so far as that is concerned, it may be secured on payment of reasonable compensation. I therefore respectfully submit, for the indulgent consideration of the Council, the amendment I have suggested.

[*Mr. Macaulay; The Advocate-General.*]

THE HON. MR. MACAULAY said:—I regret I am unable to recommend the Council to accept this amendment. In the first place, I think my hon. friend has lost sight of a very important consideration. When I obtained leave to introduce the Bill, I stated that it was not intended that the Government should have the power of excluding civil buildings and lands generally from municipal taxation, but that it was intended to take power only in regard to the very exceptional cases of military and naval buildings. What possible application then can there be of the argument that mofussil municipalities generally will lose their incomes? The number of municipalities to which the Bill can apply is extremely small. In any case I should object to the form of the amendment. This would force Government to give compensation in every case without exception for loss of income. Now we all know perfectly well that if lands and buildings exist in a municipality, they are liable to certain rates; that if they are excluded, for however good a reason, there must be a loss to the municipality. I cannot conceive, however, that the Government should in every case be forced to make good the loss on account of rates on lands and buildings excluded. The third consideration—and I think it is one which will satisfy the Council—is that, in the case of buildings in the occupation of the State for military or for naval purposes, the taxation is paid by the Supreme Government. It is not within the province of this Council to dispose of Imperial funds. But I do not suppose that my hon. friend would expect the Local Government to pay the compensation out of Provincial funds.

THE HON. THE ADVOCATE-GENERAL said:—The proposal seems to me to imply that the assessment on Government lands and buildings is an unfair assessment, and unduly made at a very much higher rate than those lands and buildings ought to be rated. It is suggested if there had been an equitable assessment, there would have been no objection raised. Consequently the objection seems to me to resolve itself into this. A municipality has obtained a large benefit by the accidental inclusion of that which ought to have been originally excluded. The mistake having been discovered, the Government should clearly be relieved by excluding such lands and buildings from municipal limits. The burden having been once cast on the Government, the argument that it should not be altered, except on payment of compensation, seems to me fallacious.

[*The President; Mr. Macaulay.*]

His Honour the President said:—I may just say one thing in regard to what has been touched upon by my hon. friend to the left (Mr. Macaulay), and that is, that the original proposal of the Government of India was to take power to exclude all buildings and lands in the occupation of the Government, of whatever kind, from municipal limits. How far that might have been justified on financial grounds, I am not in a position to say, because the letter of the Government of India does not discuss it. It was put on the ground that in all other Municipal Acts in the different provinces in India similar power is taken. But it was partly on account of the financial effects which might have followed to such exclusion that I requested the Government of India to confine their proposal to what seemed to me strictly unobjectionable and necessary, namely, to buildings which are in the possession of the Government for military or naval purposes. As to these, I do not think the question of compensation can very well arise. Certainly I do not think it arises in the particular instance which gave rise to the Bill. But if it were to arise, the question is one which I think had much better be dealt with by the Local Government than by a hard-and-fast law, because it certainly may be the case that there ought to be no compensation, and the amendment proposed leaves no possibility of avoiding payment in such a case. It assumes that compensation is to be given in every case. The other argument touched upon by my hon. friend, namely, that we have no power to deal with Imperial funds, is of course well understood by the Council, and I do think that, in order to remove Imperial buildings from the governance of municipalities—and I do not believe there are more than two in the whole province—it will be very hard that the Provincial funds should pay compensation.

The motion was put to the vote and negatived.

The Hon. Mr. Macaulay said:—Although the Council has adopted my motion and taken the Report of the Select Committee into consideration, and although under the Rules the Bill might at once be passed, I ask permission to postpone that motion till the next meeting of the Council.

The motion that the Bill be passed was accordingly postponed.

[*Mr. Macaulay.*]

HOWRAH BRIDGE ACT, IX OF 1871, AMENDMENT BILL.

The HON. MR. MACAULAY asked permission to make a representation to the Council on a subject not on the notice paper regarding the amendment of the Howrah Bridge Act. He said:—At the meeting before last, I obtained permission to introduce the Bill, and I proceeded in the ordinary course to prepare a Statement of the Objects and Reasons, and these were in course of circulation for consideration at the last meeting, when a telegram was received which intimated that the Government of India had certain objections to offer to the Bill. The circulation of the papers was accordingly stopped, and it was considered desirable, before placing the matter further before the Council, to await the letter of the Government of India, and to see what objections really were taken. That letter has just been received, but there has been no time to prepare an amended Statement of Objects and Reasons. The Government of India has taken objection to the third proposal in the Bill to make over from the surplus bridge funds two lakhs of rupees to assist the Calcutta Municipality in making a road from the bridge to the Sealdah Railway station. The Government of India object to this on two grounds—first, they do not think the Calcutta Municipality has any claim to a share in the surplus, which has been in the main contributed from the general funds of the East Indian Railway by the terminal charges on goods and passengers carried by them; but even if that were desirable, the Government of India are of opinion that it would be more prudent, in view of possible dangers which might arise from the temporary nature of the bridge, that the whole of the surplus should be added to the reserve fund. We must of course defer to the decision of the Government of India, and it is therefore necessary to bring in a Bill differently constructed. I think in the circumstances that it will conduce to the despatch of business if the Council will now receive the Bill as it has been prepared, with the Statement of Objects and Reasons, and refer it to a Select Committee, and leave it to the Select Committee to make the necessary alterations in accordance with the wishes of the Government of India. The reason why I press this on the Council is that, until the Local Government is invested with the necessary power, local tolls must go on being levied. The Howrah Bridge Act having made the levy of local tolls compulsory, the levy of such tolls must continue until an Act is passed and sanctioned by the Government of India. I therefore ask that the Bill be now read in Council.

[*The President ; Mr. Macaulay.*]

HIS HONOUR THE PRESIDENT said:—I have given permission to bring this matter before the Council, and will be guided by their opinions as to the action to be taken. The position seems to be this—that the present Bridge Act as it stands does not permit the local tolls being taken off without fresh legislation. At the same time the Act declares that these tolls are to be in force until the requisite sum is accumulated. That sum has now been accumulated, and we are going on levying tolls, which, as my hon. friend explained, ought, to a certain extent at all events, to be taken off at once, and the sooner the better. For that reason, instead of postponing the reading of the Bill, I thought it necessary to bring the question before the Council; and what the Council will have to consider is, first, whether the Bill may be read now and referred to a Select Committee, and then whether the procedure suggested, namely, that the cutting out of the third section, which deals with the grant of two lakhs of rupees to the Calcutta Municipality for the purpose of constructing the new road, may be dealt with by the Select Committee. These are the points which the Council will have to consider. If any Hon. Members object to the proposed facilities being now given, that will be a point for consideration.

The motion was put to the vote and carried.

The HON. MR. MACAULAY also moved that the Bill be referred to a Select Committee, consisting of the Hon. Mr. Reynolds, the Hon. Babu Kali Nath Mitter, the Hon. Mr. Pratt, and the Mover, with instructions to report upon it at the next sitting of the Council.

The motion was put to the vote and carried.

The Council was adjourned to Saturday, the 12th May, 1888.

CALCUTTA ;
The 15th May, 1888.

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

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

THE COUNCIL met at the Council Chamber on Saturday, 12th May 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, K.T.
THE HON. SIR ALFRED CROFT, K.C.I.E.
THE HON. BABU KALI NATH MITTLER.
THE HON. DR. MAHENDRA LAL SIRCAR, C.I.E.
THE HON. DR. GOOROO DASS BANERJEE.
THE HON. H. PHATT.

BENGAL MUNICIPAL ACT AMENDMENT BILL.

THE HON. MR. MACAULAY moved that the Bill to amend the Bengal Municipal Act, III of 1884, be passed.

The motion was put and agreed to, and the Bill was then passed.

HOWRAH BRIDGE ACT AMENDMENT BILL.

THE HON. MR. MACAULAY presented the Report of the Select Committee on the Bill to amend the Howrah Bridge Act, IX of 1871.

THE HON. MR. MACAULAY also moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill be considered in the form recommended by the Select Committee.

The motion was put and agreed to.

THE HON. MR. MACAULAY also moved that the Bill as amended be passed.

The motion was put and agreed to, and the Bill was then passed.

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

**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 in the form recommended by the Select Committee

The motion was put and agreed to.

THE HON. BABU KALI NATH MITTER moved that such of the sections of the Municipal Bill to which objections have been taken by those residents of Calcutta who have memorialized His Honour the Lieutenant-Governor on the subject, and which had been passed previous to the receipt of their memorial, be reconsidered.

He said:—On the 17th of April last a memorial was presented to Your Honour by a deputation appointed by a public meeting in the Town Hall, and in answer to that memorial Your Honour was pleased to say:—

“Your memorial will, however, be duly laid before the Council, and if the Council should wish to have any of the points enumerated re-opened and reconsidered, I shall not allow a technical objection to stand in the way.”

If my memory serves me right, at the meeting of the Council on the 18th April, Your Honour referred to this memorial, and also then said pretty nearly the same thing as you stated to the deputation which waited on you. Availing myself of what Your Honour then said, I thought the practical way to give effect to it was to bring forward this motion, because the matter could not otherwise be discussed and considered. The memorial, I think, was circulated to the Council before the meeting of the 21st April, and the first section of the Bill which was considered on that day was section 235, so that, if this motion of mine is now carried, the sections prior to 235 would have to be reconsidered. I do not mean that all those sections would be reconsidered, but only those to which exception has been taken by the memorialists. In going through the memorial, it seemed to me that only a small number of sections would require reconsideration, such, for instance, as the sections which relate to the constitution of the Municipality, the section about the appointment of the Chairman, the sections about the control which the Local Government should exercise over the Municipality, and the section about the general Committee, and that about

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

the assessment of house property. I think these are all the sections which would have to be reconsidered if my motion is carried. I do not wish to take up the time of the Council by entering into those matters now, because in the course of the various amendments which I moved I fully discussed those questions. I will only remind the Council that the body which presented the memorial belong to an important community, and that being so, their representations should have some effect on the Council. To my mind the result will be clear. I do not for a moment anticipate that the result will be in any way different from what it has been, or that any amendments I may bring forward will share a better fate than those I had the honour to place before the Council at its earlier meetings. But still I think it my duty to take advantage of the statement made by Your Honour that you will not allow any technical objections to stand in the way of reconsidering these questions if the Council so desire; and I therefore make this motion for discussion by the Council.

HIS HONOUR THE PRESIDENT said:—I think that what the hon. member has just said is perfectly correct, and that he is quite within his right under the special circumstances of the case in asking for an opportunity of getting an expression of opinion from the Council on the question he has raised. In deference to the important body that deputed the gentlemen referred to with the memorial, I said on that occasion that, though a great many of the sections of this Bill to which they objected had already been considered by the Council, I should not, if the Council wished to reconsider them, let any technical difficulty stand in the way. The question has practically been left dormant from that time to this, and now the hon. gentleman takes the opportunity of raising the question whether the Council does or does not mean to reconsider these sections. I think, in consideration of what I said before, that the most respectful way I can deal with this question is simply to put it to the Council.

THE HON. SIR HENRY HARRISON said:—Being the member in charge of this Bill, I can have no objection to any reconsideration of the Bill, because it is my conviction that the overwhelming force of argument and reason is on the side of the decisions to which the Council has already come in respect of the several matters to which the hon. member has referred; and a rediscussion would only serve to bring out that preponderance of argument and reason

[*Sir Henry Harrison; the Advocate-General; Dr. Gooroo Dass Banerjee*]

still more forcibly. But looking at the motion from the point of view of the Council, I would ask whether any useful purpose can be served by re-opening the consideration of these questions. My hon. friend has himself made a statement which, I think, closes the door to any further discussion, namely, that it will make no difference in the result. If he rightly diagnoses the effect of the rediscussion of these questions, which would occupy at least one or two sittings of the Council, what useful purpose would be served by further discussions in which the same arguments would be repeated, and the result of which the hon. member himself virtually acknowledges would be inevitably the same as before?

The HON. THE ADVOCATE-GENERAL said:—The hon. mover of the motion before the Council himself took a most prominent part in the discussion of these sections and stated fully his arguments, and I take it that we ought not to be asked to reconsider the sections or arguments which have already been adduced. Unless the hon. member can adduce additional arguments, throwing further light on the discussions which have taken place, I don't think we ought to re-open the consideration of these questions. I have not heard a single additional argument in respect of any of these questions, and that being so, we are not in a position to take the matter into consideration again. That an important section of the community has taken objection to these provisions is no doubt a matter of significance, but that taken by itself, without any additional arguments being adduced to support those objections, affords no sufficient reason for reconsidering matters which have already been fully discussed. Are we to discuss questions again on grounds which have already been discussed? I apprehend that is not a procedure we should be called upon to adopt. No fresh grounds having been put forward, I shall therefore vote against the motion.

The HON. DR. GOOROO DASS BANERJEE said:—I wish to say one word in support of the motion. Although it may be quite true that the speculative reasons which may be advanced for and against any of the matters which have already been settled may be the same as before, still as many of the points which were discussed involve matters of opinion more than matters of mathematical demonstration, the views and sentiments of a large and important section of the community ought properly to be taken into consideration.

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

The fact that the Council has now before it the formulated expressions of opinion of a very large and important section of the community is of itself a reason why, if the Council be so disposed, these questions might be reconsidered in the light of those opinions, and with the additional information that those views convey to us. The parties who are most likely to be affected by the provisions of the Bill have also a right to say what they think about those provisions; they have said something, and we may fairly take into consideration what they have said.

The HON. BABU KALI NATH MITTER said:—In reply I will simply point out that the very fact that an important section of the community has taken serious objection to many provisions of the Bill is a strong argument in favour of their reconsideration. It is one thing to discuss and decide a matter without knowing the views of the community which are most affected by the provisions of the Bill, and it is another thing to discuss them in the light thrown on the discussion by that community coming forward and making a representation before Your Honour. Therefore it is not necessary for me to advance any argument in favour of this motion in the way pointed out by the hon. and learned Advocate-General. No doubt, if I have to argue these sections again, I would argue them in the same manner as I did before, adding thereto the opinions and representations submitted by the memorialists; and therefore the mere fact that I do not advance any fresh arguments now is, I submit, not a sufficient reason for refusing to consider this matter. For after all, who are the persons most interested? They are the persons who have come forward to offer suggestions. As far as this Council is concerned, it may pass the Bill, and there its responsibilities and its duties cease; but as far as the outside public is concerned, they will be affected by these provisions almost daily, and therefore I submit it will only be gracious on the part of the Council if they accede to this motion. The hon. member in charge of the Bill complains that there would be one or two additional sittings of the Council; but considering the amount of time we have spent upon the consideration of this Bill, I do not think that argument should at all influence my colleagues. If for the interests of the public there should be two or three or even four meetings more, I do not think we should grudge them. My hon. friend referred to my own sentiment on the subject. I have formed the impression that as far as the present Council is concerned, I do not think it will be possible to have modifications

[Babu Kali Nath Mitter ; Sir Henry Harrison.]

introduced in the sections which have already been passed. I have formed that impression after careful consideration: but that is neither here nor there. Certain persons have come forward and raised serious objections to several very important sections of the Bill, and it would only be gracious on the part of the Council to yield to these representations and to reconsider those provisions.

The motion being put, the Council divided:—

Ayes 3.

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

Noes 8.

The Hon. H. Pratt.
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.

THE HON. SIR HENRY HARRISON said:—I have now to move a series of amendments in the Bill before the motion finally to pass it is brought forward, and I must ask the indulgence of the Council, and remind them that in a large measure of this kind there must be a number of flaws, and the object of these amendments is simply to remove some of them. The first of these amendments was brought to my notice by the Hon. Mr. Reynolds, who pointed out that section 460, which provides for the preparation of the budget in anticipation, is in a part of the Act which will not come into force before the 1st of April. It is therefore necessary to provide that that section and the schedule appended to it shall come into force on an earlier date, and with this object I move that, to section 1, the following be added:—

“And section four hundred and sixty and the schedule referred to therein, shall come into force from the 1st January 1889.”

The motion was put and agreed to.

THE HON. SIR HENRY HARRISON said:—The next amendment has reference to a certain difficulty, especially in the added area, owing to the fact of there being owners and sub-owners in possibly two or three grades, and possibly also occupiers, though that does not come in here, and is of less importance.

[*Sir Henry Harrison.*]

The present Act places the liability of ownership on the person who receives the rent; but several persons may be receiving the rent. In the Mofussil Act the words are "every person who is entitled to receive any rent in respect of land"—not as proprietor, for that is already met, but in the various grades of sub-proprietors, such as a mokuridar, darmokuridar, as well as a lakhirajdar, and in that case each one of them would come under the definition of "owner," because each would be receiving rent from the land. I therefore move that in line 2 of clause (a) of the definition of "owner" in section 3, for the word "rent" the words "any of the rent" be substituted.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON moved that, in line 4 of section 8, for the words "resident in Calcutta" the words "residing or paying rates in Calcutta" be substituted; also that, in line 11 of section 4, for "residing, carrying on business, or personally working for gain in Calcutta" the words "residing or paying rates in Calcutta" be substituted; also that, in line 4 of section 9, after "resides" the words "or pays rates" be inserted.

He said:—I shall explain to the Council that *some* amendment is necessary here, and it is for them to say whether these or any other amendments should be made. According to my view it is desirable first to amend section 8, and therefore I preferred to put this amendment first. But the difficulty may also be met by altering the section in another way. I will first refer to section 14, which provides that any person qualified to vote under any of the preceding sections shall, subject to the provisions of section 32, be qualified to be elected a Commissioner. So the qualification to be elected is the same as the qualification to vote. But by section 4 the seventy-five members shall be male persons, "residing, carrying on business, or personally working for gain in Calcutta," while by section 8 the electors must reside in Calcutta. How are these two sections to be reconciled? First the qualification to vote and the qualification to be elected are the same; but the qualification to vote requires residence, whereas the qualification to be elected may be either residence or working for gain or carrying on business. The reconciliation I propose is to substitute for "resident" the words "residing or paying rates." That seems a fair and not embarrassing way of reconciling the difference; and if that is done, we must put in the same words in

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

section 4. If, on the other hand, we take the words of section 4 and put them in section 8, we shall have to alter several other sections. A person who pays no rates at present is not supposed to vote; if he resides in Calcutta, he can be qualified by paying taxes. But the section which provides for the place of voting says that a person qualified under clause (d) of section 8, which refers to the payment of the trades and professions tax, shall, if he pays rates directly to the Commissioners for his place of business, vote in the ward in which his place of business is situated, or if he does not pay rates for any place of business directly to the Commissioners, he shall vote in the ward in which he resides. That presumes that he must do one or the other. The amendment which I propose will meet the difficulty, and seems on the whole reasonable and fair. A person who resides out of Calcutta and only comes to his office and does his work there has the smallest possible interest in the town, but a person who either resides in the town or pays rates on account of property has a substantial interest. That is the reason why I have selected this solution of the difficulty.

The HON. MR. ALLEN said:—I wish to ask the hon. member in charge of the Bill whether there is such an antagonism as he supposes. The qualifications for election are laid down in section 8, and I understand these are exactly the same qualifications which are required in respect of the persons to be elected and those who are to elect them, and therefore so far the Bill is perfectly harmonious. The discrepancy is supposed to be between sections 4 and 8. But section 4 lays down a rule not only for the 50 Commissioners to be elected, but also for the other 25 Commissioners to be nominated. That is a wider rule. It allows the 25 Commissioners not elected to be qualified in a different manner. [The Hon. Sir Henry Harrison—“That may be the meaning, but that is not intended.”] It is quite easy to give effect to the two sections; for before a person can be proposed as a candidate for election, he must fulfil the conditions prescribed in section 8, which are quite consistent with the qualifications further on in the Act. But the 25 Commissioners to be nominated, which is the difference between 75 and 50, do not require such strict qualifications. It would be open to the Government to nominate a person who may be carrying on business or personally working for gain, even though he does not reside in Calcutta. I do not see that there is any inconsistency or that there is any necessity for making any change.

[*Sir Alfred Croft; the President; Dr. Gopuro Dass Banerjee,
the Advocate-General.*]

THE HON. SIR ALFRED CROFT said:—This very point was discussed and decided in the opposite sense. An amendment was proposed that instead of “male persons resident in Calcutta” it should be “male persons residing or paying rates in Calcutta,” but the hon. member in charge of the Bill was opposed to the change.

HIS HONOUR THE PRESIDENT said:—I think the Hon. Sir Alfred Croft is right in saying that the literal point contained in this amendment was decided before, but it was decided without any reference to those grounds upon which the hon. member in charge of the Bill now proposes to amend what appears to be a contradiction between the two sections. I do not think there is any objection to the question being discussed now. It is a technical amendment,—really an amendment in drafting,—although it does involve a change of the rule on general grounds.

THE HON. DR. GOOROO DASS BANERJEE said:—I submit that there is really some antagonism between sections 4 and 8 of the Bill; but supposing that there were none, the argument of my hon. friend on my left (Mr. Allen) would go to show that the ground upon which the two sections are proposed to be reconciled is itself a most objectionable ground, and if that ground holds good, this amendment is the more necessary. It is as regards the fifty elected Commissioners that the qualification of residence applies, but as regards the remaining twenty-five Commissioners that qualification is unnecessary. If that is so, you will give greater latitude of selection to the special constituencies, such as the Chamber of Commerce, the Trades' Association, and the Port Commissioners, than you do to the general body of electors. Is that fair?

THE HON. THE ADVOCATE-GENERAL said:—It may be said in one sense that section 8 cuts down the meaning of section 4, because it is a subsequent section. Every one of the seventy-five Commissioners must be qualified as in section 4, and then section 8 says that the fifty Commissioners to be elected must come from a more limited class. But, as the hon. member who spoke last has said, all the Commissioners should be of the same class, whether they are elected Commissioners, or Commissioners nominated by the Government or the other special constituencies. If the hon. member in charge of the Bill is right, that a person who comes to Calcutta merely to work at a Government office during so

[*The Advocate-General; Babu Kali Nath Mitter; Sir Alfred Croft.*]

many hours in the day can be said to have only a transitory interest in the town, the qualification should be so defined that only those should have votes who have a permanent interest in the town.

The HON. BABU KALI NATH MITTER said :—Section 4 provides that the seventy-five members shall be male persons, residing, carrying on business, or personally working for gain in Calcutta, and section 8 says that of the remaining members fifty shall be elected as hereinafter provided by male persons resident in Calcutta. Why should not this section be on precisely the same footing as section 4? The words “carrying on business” have a recognised meaning; there are many decisions of the High Court which have given them a special meaning, and they are better understood than the words “paying rates.” I therefore submit that if there is to be any modification at all, it should be on the lines of section 4. But I would point out that an amendment of this sort is not a verbal amendment. It is an amendment which goes to the merits of the section. [His Honour the President—“It has been decided on the merits, but the ground for the amendment is the discovery of a contradiction.”] This matter was fully discussed, because my hon. friend opposite (Dr. Gooroo Dass Banerjee) brought forward amendments on all these sections, and the hon. member in charge of the Bill objected to all of them, as he would do to every amendment which might be brought forward. [His Honour the President—“I don’t think this particular point was brought forward. We were then not aware of the contradiction in terms. If the fact was as you say, you are right in objecting on a point of order.”]

The HON. SIR ALFRED CROFT said :—On the 4th of February last, the hon. member opposite (Dr. Gooroo Dass Banerjee) proposed to substitute the words “residing or paying rates in Calcutta” for the words “resident in Calcutta,” in section 8, defining the qualification of voters. Upon this the hon. member in charge of the Bill said :—

“I do not attach any very great importance to this question, but on the whole I think it better to leave the Bill as it stands. As long as the the Suburbs and Calcutta were under entirely different bodies, a very large number of persons came into Calcutta from the Suburbs for purposes of business. Now these persons will be in Calcutta, and therefore the amendment will be inoperative; but under the amendment some persons living out of the enlarged Calcutta, such as Howrah or up the line, would still get a vote for the business which they

[*Sir Alfred Croft; Sir Henry Harrison.*]

carry on in Calcutta, and it is on the whole but fair that those who do not reside within the limits of the Municipality should leave the administration of its affairs to those who do."

The business which they carry on includes, I presume, business premises for which they pay rates, and I myself voted in favour of the amendment. I think that only fair; because a man who sleeps out of Calcutta, but carries on his business in Calcutta all day, has just as great an interest in the good government of the town as the man who lives in Calcutta, but carries on his business in the railway yard across at Howrah. On that ground I support the present amendment, as I did the previous one. But when I take the amendment in connection with what the hon. member proposes to move in section 9, I find a difficulty. By that amendment he proposes that any person qualified to vote under clauses (a) to (v) of section 8, shall vote in the ward in which he resides or pays rates. Clause (e) of section 8 says "having paid on his sole account and in his own name not less than Rs. 24 either in respect of rates levied under Chapter IV or in respect of taxes under Part I and Part II of Chapter III." Now Part II of Chapter III refers to the carriage tax and the license tax. We have already discussed the question whether a person who pays the license tax but resides out of Calcutta should vote, and it was decided that he should not vote. So that unless it is clearly understood in section 9 that paying rates does not include paying taxes, this amendment will include a number of persons as qualified to vote who were declared to be disqualified under the previous amendment.

THE HON. SIR HENRY HARRISON said:—I think it is more than ever necessary that the Council should accept this amendment; not only because it is the only key by which a number of locks in the sections which follow can be opened, but because what my hon. friend has just pointed out was specially taken into consideration. I myself do not see any contradiction. Clause (e) of section 8 gives everybody who pays taxes to the amount of Rs. 24 a right to vote, provided he is otherwise qualified. Now that qualification will not accrue unless he resides in the town, or pays rates. He can help out his qualification by the payment of taxes, and that was always intended, but the essential qualification must be that he must either reside in Calcutta, or pay rates: if he does not reside, he must pay rates for property. If the Council adopts this amendment, all the subsequent parts of the Act will work consistently, as far as I have been able on a careful investigation to make out. The Chairman has a list of the owners

[*Sir Henry Harrison ; Sir Alfred Croft.*]

and occupiers of houses, and prepares the list of voters from that. He does not know whether a particular person resides in the town or not; and if the payment of rates does not give the qualification, the list will contain the names of a number of persons who are non-resident. I maintain that, when the amendment was previously rejected, it was exactly on the opposite ground. The hon. member opposite (Dr. Gooroo Dass Banerjee) wanted to introduce the words "or carrying on business," to which I objected: if a man is a mere bird of passage, I purposely did not want to give him a vote. The whole tenor of the voting qualification is the payment of rates; and if you do not insert payment of rates in these sections, it will throw them out of joint; but if the words are inserted, it will bring them into joint again. It may be discussed separately whether this qualification should apply to the fifty elected Commissioners only, or to the whole seventy-five.

The motion that in line 4 of section 8, for the words "resident in Calcutta" the words "residing or paying rates in Calcutta" be substituted, was then put and carried.

The HON. SIR HENRY HARRISON said:—With regard to section 4 in particular, I don't see any good reason why there should be a larger scope for the selection of the twenty five nominated Commissioners than is given for the fifty elected Commissioners. It is admitted by the vote just taken that the fifty Commissioners must be persons either residing or paying rates. I am free to confess that, if a wider qualification is given to the twenty-five Commissioners, it will work; but that is not the intention, and I think it is better that all the Commissioners should have the same qualifications.

The HON. SIR ALFRED CROFT said:—I think there is a very good reason for making a distinction between the elected and the nominated Commissioners. The qualification to be a Port Commissioner does not consist in residence or the paying of rates, but in being closely connected with the trade and commerce of the port; and the same is true of members of the Chamber of Commerce and of the Trades' Association. In these cases there is no need to impose restrictions which are necessary in the case of elected Commissioners.

The motion that in line 11 of section 4, for "residing, carrying on business, or personally working for gain" the words "residing or paying rates" be substituted, was put and carried.

[*Sr Alfred Croft ; Sir Henry Harrison.*]

The motion that in line 4 of section 9, after "reside" the words "or pays rates" be inserted, was put and carried.

The HON. SIR HENRY HARRISON moved that the clause newly added to schedule III be transferred to the end of section 15. He said:—This is really an enacting clause, and ought rather to be attached to the section than to the schedule appended to it.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON moved that in line 12 of section 31, after "two electors" the words "in each ward in which he proposes to stand" be inserted; and that in line 14, after "eight electors" the words "in each such ward" be inserted.

He said:—This amendment is intended to remove an awkwardness in the wording of the section, from which it might be inferred that a person, who gets two electors to propose and eight others to approve his nomination may start as a candidate for several wards; but the words in the section are based on the assumption that he stands for only one ward. It was certainly intended that he should have two electors to nominate and eight others to approve his nomination in each and every ward for which he may wish to stand. I think it is only right that no man should be allowed to stand for a ward unless he can get the electors of that ward to bring him forward.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON moved that, in line 7 of section 39, after "Local Government" the words "at its discretion" be inserted. This, he said, is really a verbal amendment. It has been pointed out by high authority that as the section stands the Local Government would have no authority to remove a Chairman unless on the recommendation of the Commissioners. I should not have thought that it would have that effect, but as there is no reason for leaving doubtful what is intended, it is better to insert the words proposed in order to remove all doubt.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON moved that, in Chapter IV and elsewhere wherever the expression occurs in the Bill, for "halalkhor rate" the words "sewage rate" be substituted. He said:—I place myself in the hands of the

[*Sir Henry Harrison.*]

Council in this matter. We took the word "halalkhor" from the Bombay Act, but after doing so we adopted a definition of "sewage" which exactly meets the case. To my mind the term "sewage rate" is a better phrase.

The motion was put and agreed to.

The HON. SIR HENRY HARRISON moved that, in line 4 of section 108, the words "by the occupier" be omitted, and that in line 7, for "from the occupier" the words "from the person who pays him rent" be substituted; and that in line 13, to the end of the section, for "rent payable by the occupier, and shall be recoverable by the owner for him" the words "added to the rent and shall be recovered by the owner from the person liable for the payment thereof" be substituted. He said:—The object of these amendments is very much the same as the amendment already adopted in the definition of "owner." The section assumes that there is only one owner and one occupier. If the owner lets his house for Rs. 200, and the assessment is fixed at Rs. 300, the owner can say to the occupier, you only pay Rs. 200 as rent, you must pay the owner's rate on the other Rs. 100, as well as the occupier's rate. That has always been the rule. It is intended that the owner shall not pay the tax on a higher assessment than that for which the house is let. But in the area to be added, especially, the owner may not be the sole owner, but we may have sub-owners. The amendment is intended to save the case which may occasionally occur of a person not being an occupier who pays rent to the owner.

The motion was put and carried.

The HON. SIR HENRY HARRISON moved that, in line 13 of section 122, for "estimated cost of building" the words "estimated present cost of building the house" be substituted. He said:—This is the most important amendment on the list, and in regard to it I must throw myself on the indulgence of the Council, inasmuch as this is a motion which I made before and which was lost. Ordinarily such a course would be unjustifiable, and in fact I do not propose to take it in reference to any of the other motions which I made and were lost, because I have no sufficient reason to offer in regard to them. But for the motion which I now make there are very strong reasons, and if those reasons are considered sufficient, I hope the Council will accept this motion rather than allow the Act to go forth with a serious blot in it. This

[*Sir Henry Harrison.*]

section of the Bill, it is well known, has caused more heart-burning than any other of its provisions, and the main cause of this is the fact that a certain class of the community have got off hitherto by paying from one-third to one-half of what they will have to pay under this section, which still will make them pay only about five-sixths of what the rest of the community are paying as rates. We have no reason to be surprised that a provision of this kind should create strong opposition. It is an opposition which would be met with under similar circumstances in any other country in the world. In France, for instance, the old French aristocracy, rather than submit to be taxed, brought on a revolution and their own ruin. It is obviously a self-interested opposition which must be experienced from any class which may be similarly situated. But as a matter of principle, it is the bounden duty of the Legislature to tax all classes alike. But while, as regards the justice of the case, I could not ask the Council to re-open a question which has been previously discussed and decided, when we come to apply the principle which has been adopted we are confronted with real difficulty. We find in England political economists like Mr. Mill and practical statesmen like Mr. Goschen, as well as the Courts of law, recognizing the necessity of some interpretation being put by the Legislature. The reasons given by them are in favour of one of two interpretations, either that the assessment shall be on the market value or upon the present cost of rebuilding the house; but no authority can be found in favour of taking the original cost of building; and so little was I prepared for the possibility of the Council adhering to the latter view that I scarcely directed a single argument against it. I directed my arguments to the principle that either the market value or the cost of rebuilding should be taken. I have the more reason to ask for the reconsideration of this question because I have reason to believe that at least one vote against the amendment was given on the ground that the hon. member thought the section as it stands means estimated present cost, and immediately after the vote was taken the learned Advocate-General drew the attention of His Honour to the fact that the decision was an extremely embarrassing one, because the interpretation which the Courts would be likely to put upon the words "estimated cost of building" would be the very same which the Council had rejected. I hope the Council will see that, having regard to the proper interpretation of these words, we shall

[Sir Henry Harrison]

put ourselves into an extremely embarrassing position, because the Courts may still attach to them the meaning which we rejected. On the other hand, the Courts may say, how are we to put a meaning which was rejected by the Legislature? If, therefore, the Council wishes the words to bear the meaning which they intended, that meaning should be made clear.

Now as regards the arguments on the subject. There is a great deal to be said in favour of 5 per cent. on the market value being the test of the assessment. My own impression, after reading much which has been written on the subject, is that this in itself would be the better test; and if we decided to take the market value we should not require the exception which follows. But at the same time we have been advised by those who are experienced in the interpretation of laws that we should be introducing the greatest possible trouble, and therefore on the previous occasion that proposal was abandoned in consequence of the difficulty of rating property, and I will not ask the Council to re-open that question. But when we come to consider the other two proposals, then it is necessary that we should put in the section a defensible instead of an indefensible principle. The more the section is attacked, the more necessary it is that it should not be vulnerable on a point of this kind. Those who oppose the section naturally wish to see a principle incorporated in it which they will hereafter be able to find fault with because it fixes a wrong standard of assessment, but those who approve of the section ought to be on their guard against this danger. A house was built, say, a hundred years ago when materials and labour were cheap; it has been thoroughly repaired several times. What is the money spent upon that house? The original cost would be the cost of building the house *plus* the cost of repairs from time to time, *minus* the amount of depreciation, and that is a completely impracticable test. If labour and materials become dearer, there is no reason why the house should remain at the lower instead of the higher value. It is altogether an indefensible principle. The question for consideration is the worth of the house to whoever gets it. Suppose by some means a person builds a house at 50 per cent. less than any one else could build it. It is evident it will be worth to the owner the whole hundred per cent. The proper test, therefore, is what will the house now cost to rebuild it in its present condition after making the fullest allowance for depreciation. I daresay I shall be excused for again

[*Sir Henry Harrison ; The President*]

pointing out the grounds upon which Mill rejects the market value as a fair test. He says—

“When the occupier is not the owner and does not hold on a repairing lease, the rent he pays is the measure of what it costs him, but when he is the owner some other measure must be sought. A valuation should be made of the house, not at what it would sell for, but at what would be the cost of re-building it, and this valuation might be periodically corrected by an allowance for what it had lost in value by time, or gained by repairs and improvements.”

This is a much more practical test, and the assessor, who is an experienced officer of the Municipality, could easily estimate according to this rule. If the estimate is disputed, builders and contractors can be brought in who would perfectly well know what the cost would be. But suppose the question is what did that house cost to build 40 years ago? It is perfectly evident that that must be a matter of pure guess work, and even worse, because it would open the door to all sorts of accounts being produced of what the actual cost was, in order to prove that the cost was considerably less than the surveyor's valuation. Whereas if the Legislature puts a proper interpretation, viz., what would be the estimated present cost of rebuilding the house, then you will have a test which can be applied without any extraordinary difficulty, making of course due allowance for depreciation. If the Council will adopt this principle, then I think, with the exceptional clause to which I have referred, we shall hold a defensible position, because on the one hand we take a true and proper test, namely, the actual amount of money in the house, and secondly we say that if a valuation of 5 per cent. upon the estimated present cost is excessive, a less rate can be taken. But if this interpretation of the meaning of the section is rejected, then I think the section will be altogether vulnerable, and it will not be reasonable to hold me responsible for the section which, without this interpretation, I admit will be indefensible. I therefore submit that I have shown sufficient grounds for asking the Council to allow the consideration of this question to be re-opened.

HIS HONOUR THE PRESIDENT said:—I rather regret that the hon. member in charge of the Bill, in bringing this question before the Council, should have done so in such a way as to re-open the whole policy of the section and invite discussion on the section generally. I think he has very good ground for bringing

[*The President; Mr. Allen.*]

the particular point before the Council, which is this. Does the Council mean that the estimated cost of the building should be the present estimated cost, or the estimated cost at the time when the house was built? The reason why I say he has good ground for bringing the question before the Council is that the outside opinion, as well as the opinion of experts generally, is that there is a blot in this section; that you are leaving a question open which ought to be decided; that the probability is that on reading the words "estimated cost" the courts would take the present estimated cost, but that the discussion which has taken place in this Council places a difficulty in the way, and you should say what the interpretation is. Under these circumstances, I think the hon. member has fair ground to ask the Council to decide which of these two views it will take. But if we open up the whole question of this rating clause, I cannot prevent hon. members from discussing it at equal length and with equal seriousness from another point of view. I would ask the hon. members of the legal profession to help us in this matter, both as to what course should be adopted, and also as to which interpretation should be adopted.

The HON. MR. ALLEN said:—In voting against the hon. member's former amendment I was influenced by the conviction that the words as they stand at present "estimated cost of building," truly interpreted, could refer to no other time than the time when the estimate is made. If any other time was pointed at, some indication of the time should have been introduced. If the intention had been to look back to the time when the building was put up, the clause should have run thus—"estimated original cost;" or if it was intended to refer to some future time, some words implying futurity should have been inserted. But the words "estimated cost of building" in their simplicity, to an unsophisticated mind could convey a reference to no other period of time than the time at which the estimate is being made. For that reason, partly, I voted against the amendment. But there was also another reason, namely, this. The amendment as originally stated was to substitute the words "present estimated cost;" but when the hon. member proposed it, he did not seem quite sure whether it should be "present estimated cost" or "estimated present cost," and he kept see-sawing from one to the other, and I was within my right in recording my protest against such vacillation. After having had ample time to consider the point, the hon.

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

member had not been able to make up his mind. But I am free to confess that now the question stands upon a different footing. The fact that the amendment was lost may be used as an argument for putting on the words of the section a construction different from what I still consider their proper meaning, and therefore I am quite willing to vote for the present amendment; but I think the hon. member would obtain all he desires by simply prefixing the two letters "re" to the word "building," so that it should read—the estimated cost of *re-building*.

The HON. BABU KALI NATH MITTER said:—I must oppose this motion. This question was fully discussed by the Council, and the Council deliberately rejected the amendment proposed by the hon. member in charge of the Bill. The question was fully discussed, and we came to the conclusion that this amendment would be worse than the provision which is now in the Bill. We understood the meaning of the section to be the estimated cost at the time the house was built. Several hon. members of the Council met together, discussed the question, and came to the conclusion that they should oppose the amendment. Two of our hon. colleagues are now absent, and I think it extremely unfortunate that a matter of this sort should be brought forward again at this time. On that ground I also oppose the amendment, because it will not now have that amount of attention which it would have otherwise received, and which it received before. Who can say on what grounds those two gentlemen voted against the amendment. The cost of rebuilding now the large buildings erected in former times would be simply fabulous, and under the method of assessment proposed here, the owners of those houses would not think of building them. There are old buildings in the town which cover from five to ten bighas of land, and how unjust would it be to assess such buildings at 5 per cent. on the estimated present cost of building them, which would perhaps be a hundred times more than when they were built. I submit that a proposal of this kind should not be allowed to be brought at this time, especially as the matter was thoroughly discussed at a full meeting of the Council, and also because it has been brought forward without the slightest previous intimation. All the intimation the Council has had is that the hon. member has obtained Your Honour's permission to bring forward verbal amendments. But this question, I submit, has already been settled, and that it is not competent for the Council to re-open it,

[*Babu Kali Nath Mitter*; *Dr. Gooroo Dass Banerjee*; *the Advocate-General*,] principally on the ground that two hon. members who voted against it before are not now present.

THE HON. DR. GOOROO DASS BANERJEE said:—While I fully admit the necessity of having certainty in the law, and of avoiding uncertainty or any possible chance of it, I am still bound to oppose the amendment, and for this simple reason. Unless the question is discussed fully in the Council, and unless the Council is prepared to go fully over the same ground again, we cannot do justice to this particular amendment. The remarks of the hon. member in charge of the Bill clearly went to show that this amendment imperceptibly glides into the other amendment, viz., whether we ought to have the market value instead of the estimated cost. It has been said that the use of the word “value” applied to anything, is what it is worth to the owner just now, and not the money which it cost him years ago. If that is so, that brings us very near the other matter, namely, the market value. If we do not adopt the market value, there is hardly any reason why we should have the present estimated cost rather than the actual cost of the building or house when it was built. Then there are other difficulties in the matter. With regard to old buildings to which one of these provisions would apply, the materials of which they were built are practically historical now. Some of these houses were built of bricks only six inches long, none of which kind are now to be found, and it would be very difficult now to say what the value of those six-inch bricks would be. Then, again, we have many old houses with low windows and small doors which are of no value now, and if we are to apply the present cost of building with reference to these houses, we shall be exaggerating their value beyond measure. Would it be fair to apply the present raised standard value to houses which would not agree with the tastes of the present day at all? These are all serious objections which I have pointed out.

THE HON. THE ADVOCATE-GENERAL said:—I have to submit that those who oppose this amendment are making a mountain of a mole-hill. As I understand this matter, the amendment has arisen entirely out of a mistake which the hon. member on my right (Mr. Allen) acknowledges, at all events to this extent, that in voting against the inclusion of the word “present” he did it for the reason that this section as it stood read as if the word “present” already existed, and that that word was superfluous. That was the main

[*The Advocate-General.*]

ground on which he voted, and I believe I am right in thinking that my hon. friend Mr. Reynolds was actuated by the same reason. It is clear, therefore, that these two hon. members, if it had been brought to their notice that the omission of the word "present" introduced an ambiguity, considering that they were voting for the section as against the opposite view, would undoubtedly have voted for the inclusion of the word "present." At the time this motion was lost, I immediately perceived that a mistake had been made. Every member who voted for it intended that the rate should be on the present estimated value, and yet the word "present" was struck out. There were two questions before the Council then, as I understood the subject. The hon. member in charge of the Bill, who presented, I think, very forcibly and very fully a fair view of the case, said this:—In assessing a house we must proceed on the present value of the house: the present value of the house and land will determine the amount of the assessment. He said there were two ways of determining the present value. One is the market value; the other is the present estimated value deducting a certain amount for depreciation. These were the two questions he formulated. The estimated letting value was excluded altogether, because it had been found to be a fallacious test. The test of the market value was, I think, rightly abandoned for the reasons stated by the hon. member on my right (Mr. Allen). He pointed out that there was no market value, which is a value obtained by a certain multiple of the letting value, which is an unknown quantity. Under the Land Acquisition Act, the Courts had decided that the value of house property in Calcutta is sixteen times the letting value; but as these buildings have no letting value, the assessment on the market value was abandoned. I submit, therefore, that the market value cannot be taken as the basis of assessment. We are thus forced to accept the present value as the basis. Any one who in opposition to that basis supports the position that the original cost should be the test, would in my opinion be dreaming of applying a test next to impossible, for it would be idle to suppose that at this present moment you could get evidence of what the original cost of a house built 50 or 60 years ago actually was. Such an idea I believe never entered the mind of any hon. member; those who oppose the amendment are trying now to support a view which was not thought of before. If you consider the two principles,

[*The Advocate-General; Sir Henry Harrison.*]

whether the assessment should proceed on the original cost of the building or upon the probable letting value, the test of the original cost would land the Commissioners in as great a difficulty as the letting value. That test being left out of consideration, the Council clearly intended that the assessment should be on the present estimated value. But the wording of the section created an ambiguity; and that being so, the hon. member in charge of the Bill, when he found that the wording was ambiguous, deemed it his duty to remove all ambiguity and to render the meaning of the section clear and definite. Can that be said to be a re-opening of the whole discussion? I submit not; and I therefore contend that this is only a desire on his part to do that which he was bound to do. There is a great difference between re-opening a discussion, and simply asking the Council to express that which it really meant: there had been an unfortunate omission, and he desired to correct it; and it is as much in the power of the Council to do that as to correct a word which has been misspelt or a wrong word which had crept into the Bill.

THE HON. SIR HENRY HARRISON said.—I regret if I have in any way opened out the discussion in a wider sense than Your Honour thought it desirable; if I did so, it is due to an obscurity in expressing myself. What I did intend to press upon the Council was that, seeing that this has been such a controverted section on grounds which are perfectly explicable, seeing that it is the one section in the Bill on which attention will be concentrated more than on any other, its meaning and intention should be made as clear as possible. The only question I intended to open out is this. I think this discussion has abundantly proved that in reality the majority of the Council did recognise the proper test to be the estimated present cost of building the house, and in fact the hon. and learned Advocate-General seems to consider that it is utterly impossible to interpret the section in the opposite view. And I also pointed out that the vote took me by surprise. It occurred to me that the whole of the motion I brought forward on the previous occasion might be rejected, that the majority of the Council might be in favour of taking the market value as the test; but it never occurred to me that the test of taking the original cost would be adopted as against the estimated present cost. I assumed that if the test of the market value was rejected, the estimated present cost would be adopted, because those were the only two intelligible and defensible solutions of

[*Sir Henry Harrison ; the President.*]

the difficulty. I regret very much that two hon. members of the Council are absent ; but it seems hardly right that we should send this Bill out to the public with an admitted blot in it, a blot which my hon. friends would be the first to press upon us. They would fasten on this and drive us into a corner in consequence of the indefensible wording of this clause. It therefore seems to me that the Council would be acting in a very unreasonable manner if, on a question of interpretation, it refused the indulgence of re-opening the question with a view to state clearly what the section is intended to mean. I admit that I am asking the Council to do something very exceptional, something not justifiable except on irrebuttable grounds ; but I think I have really made out the strongest ground for what I ask the Council to do.

HIS HONOUR THE PRESIDENT said :—I feel myself in a position of some little difficulty as to putting the question before the Council, for I think the hon. members opposite have a strong argument to urge that they have not been allowed to re-open, in their own interest, the discussion of the whole question. But in this particular matter we ought to look at what really happened in the Council on the occasion to which reference has been made. Then, the substitution of the words “estimated cost of the building” for these words “estimated present cost,” was proposed by the hon. member in charge of the Bill, and not a word was said about it. Neither was the question of the actual interpretation of the law considered in the previous discussion as to what would be the interpretation of the words “estimated cost of building.” We have learned that at least one hon. member voted against the amendment, not because he considered that the interpretation the hon. member in charge of the Bill wished to put upon it was wrong, but because he thought the amendment was superfluous, and that the section could mean nothing but what it was desired it should mean. How many hon. members followed and took the same ground is more than I could say. But I have to point out, with reference to the observation of the hon. member opposite (Babu Kali Nath Mitter) that two hon. members who voted against the amendment were now absent, that I have before me the division which was then taken, and I find from it that the Hon. Moulvie Abdul Jubbar voted for the amendment and the Hon. Mr. Moore voted against it. Practically those two votes cancel each other, and the question therefore concerns not the members who are now

[The President; Sir Henry Harrison.]

absent, but those who are present. I have to choose between two unpleasant alternatives—to let the Bill go forth with a very great blot in it, leaving an ambiguity which the Council know is an ambiguity, and which, if not corrected, will lead to great trouble in the future; or, I will not say to strain a point, but at all events to bring before the Council the reconsideration of a point which I confess is a little more than technical. Under these circumstances, I think it is my duty to let the motion go to the vote.

The motion was then put to the Council and carried on the following division—

Ayes 6

The Hon. Mr Pratt.
The Hon. Sir Alfred Croft
The Hon. Sir Henry Harrison.
The Hon. Mr Allen.
The Hon. Mr. Reynolds,
The Hon. The Advocate-General

Noes 4.

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

THE HON SIR HENRY HARRISON moved that between clauses 4 and 5 (line 29) of section 138, the following be inserted:—

“When there are gradations of owners or occupiers, and doubt exists as to who is entitled to be registered as owner or occupier of any premises, the Commissioners shall determine which of the several owners or occupiers is entitled to be registered as such, and their decision shall remain in force for the purposes of this Act till set aside by the order of a competent Court.”

Also that, after section 448, the following new section be inserted:—

“Whenever by this Act any right is conferred or duty imposed on the owner or occupier of any premises, and doubt arises owing to there being gradations of owners or occupiers as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Commissioners may, after due enquiry, determine from time to time which of such persons is thus entitled or bound:

“Provided that, if one of the persons regarding whom doubt exists is registered under section one hundred and twenty-eight as owner or occupier, such person shall be entitled to exercise such right or bound to perform such duty till his name has been duly removed from the register.”

He said:—The Bill is full of rights conferred and duties imposed on owners and occupiers. They have the right to vote; the Corporation has the right to compel them to take certain order with their premises, &c.; but at the same time in the area now to be added to Calcutta we may have difficulty in determining

[*Sir Henry Harrison.*]

who is the person where there are several grades of owners, and similarly in the case of occupiers. Suppose a house is let to A, who leaves Calcutta and lets the house to B, which of the two is the "occupier"? There should be some mode of solving the difficulty. I propose in the first instance to give power to the Commissioners on due enquiry of deciding who is, for the purposes of this Act, the owner, or who is the occupier, amongst the various grades of owners and occupiers. Subject to certain limitations, if one of these owners has registered himself as owner, we hold him to be the owner for the purposes of rating and performing the duties required of him; but suppose more than one person has so registered himself, then it is necessary to have some means of deciding which of these is for the purposes of the Act to be considered the owner, and therefore I propose to introduce a clause providing that the Commissioners shall decide which of them shall be considered the owner, leaving the owner who thinks himself aggrieved to go to a competent Court and establish his right to be registered. If we have the owner and occupier registered, we can deal with them in the first instance. It is obviously necessary that there should be some means of deciding, in case of doubt, which of several grades of owners is to be considered the owner, and I therefore ask leave to move these two sections as the best solution which I can suggest.

The motion was put and agreed to.

The Hon. SIR HENRY HARRISON moved that the words "so far as may be reasonably practicable" be transferred from line 4 so as to stand after "Commissioners" in line 1 of section 153. He said:—It has been pointed out that these words are so placed in the section as to make a great anomaly, because the easier task of supplying water at low pressure is only made obligatory so far as may reasonably be practicable, but that condition will not apply to the keeping up of high pressure at 30 feet, which will be a far more difficult task under certain circumstances. Therefore it will be better to put the qualification into the forefront of the section, so that it shall apply to the whole section, instead of only to the supply of water at low pressure. So far as is practicable we are now bound under the present Act to supply water at a pressure of 50 feet, and although at the pressure gauge that pressure can easily be kept up, the pressure in houses even to half that extent cannot be maintained, and yet no one has brought any suit against the Corporation, and the section might probably stand as it is without any fear of our being molested.

[*Sir Henry Harrison; the Advocate-General; Sir Alfred Croft.*]

But the fact of attaching the qualification to what is by far the easier task and leaving it out in respect of what is more difficult, is an anomaly which, I think, ought to be corrected.

The HON. THE ADVOCATE-GENERAL said:—I shall oppose this amendment. I think the Commissioners are bound to give water at a pressure of 30 feet between 6 o'clock and 8 o'clock in the forenoon. I think a discretion may be allowed to the Commissioners in respect to one of the modes of supply, but I think one portion of the requirements of this section should be imperative. I therefore object to transferring the words "so far as may be practicable." The hon. member in charge of the Bill has advocated very forcibly the interests of the Corporation in raising taxation, but he should also bear in mind the interests of the public.

The HON. SIR ALFRED CROFT said:—The whole discussion on this subject outside the Council has understood these words as applying to the second clause of this section equally with the first, and I was surprised to find that the hon. member in charge of the Bill allowed the words to remain in what was evidently the wrong place. The sword of Damocles has been hanging so long over the head of my hon. friend, that he has lost all fear of its falling upon him; but it will clearly be better to protect him against the consequences of an accident.

The HON. SIR HENRY HARRISON said:—If this provision is going to be put into force, it will in some cases be found impossible to drive the water to all houses up to a height of 30 feet, especially after the occurrence of a fire, when as much as half the day's supply may be consumed in the course of a few hours. I do not think I am unreasonable in asking the Council to adopt this amendment.

The motion was then put and carried on the following division:—

<i>Ayes</i> 7	<i>Noes</i> 4.
The Hon. Dr. Gooroo Dass Banerjee.	The Hon. H. Pratt. o
The Hon. Baboo Kai Nath Mitter.	The Hon. Dr. Mahendra Lal Sircar.
The Hon. Sir Alfred Croft.	The Hon. T. T. Allen.
The Hon. Sir Henry Harrison	The Hon. the Advocate-General.
The Hon. C. P. L. Macaulay.	
The Hon. H. J. Reynolds.	
His Honour the President.	
So the motion was carried.	

[Sir Henry Harrison.]

THE HON. SIR HENRY HARRISON moved that section 112 (c) be worded as follows:—

“The deposit, whether in the public street or otherwise, of rubbish and offensive matter, the removing and carrying away of the same and charging the person responsible for such deposit with the expenses of removing it.”

This, he said, is an amendment regarding the framing of bye-laws. We are entitled to make bye-laws for the removal of refuse, and especially trade refuse; and a bye-law was passed making the deposit of trade refuse on the streets without a license punishable; but it was held that the passing of such a bye-law was *ultra vires* under the present Act, and we are in some cases driven to the necessity of removing such refuse from the houses of traders, or of leaving it there as a nuisance to the neighbours. That especially happened in the case of a certain large cow-house, the owner of which would not pay for the removal of the refuse, and would not throw it out on the streets, because it was pointed out by some that the word “deposit” in the section would be read as depositing it on the streets, and therefore the bye-law would not hold good. It is therefore, I think, desirable to amend this section so that the word “deposit” shall be interpreted to apply to deposit whether on a public street or otherwise. I think this a perfectly reasonable proposal. There is no reason why a tradesman should escape because he keeps the refuse within his house.

The motion was put and agreed to.

THE HON. SIR HENRY HARRISON moved that the Bill be now passed. He said:—After the discussion we have had to-day, and having regard to this late hour, I daresay the Council will think it unnecessary for me to make any long speech on this occasion; but if it is necessary for me to do so to meet any objections which may be raised, I shall have an opportunity of doing so before the vote is taken. For myself I know that the Bill has caused a great deal of vexation and irritation, but I can only say that I have endeavoured to be studiously fair in the provisions bearing on the questions of taxation or of the public burdens, and I believe also that with regard to the constitutional question we have carefully considered the claims of all sections of the community and have steered a fair middle course, guiding ourselves mainly by the experience gained in the past. I do not think the Bill at all deserves the imputation of a one-

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

sided Bill, and I believe that, as far as possible, it is fair to all parties and interests in the Corporation. I admit that in the sections regarding building regulations and bustees new burdens are placed upon the owners of property, but these I believe to be necessary. It is undoubtedly necessary that the owners of property should discharge their duties in connection with that property. It is well known that the value of land has increased to an enormous extent, partly on account of the trade and commerce of Calcutta, and partly on account of the improvements which the municipality has effected. The fresh burdens imposed on owners by this Bill are a mere drop in the ocean as compared to the additional value which the land has acquired in recent years. Therefore, as far as concerns the operations of the municipality on the value of property, it is clear that we are making a fair and legitimate claim if we ask owners to perform such duties as are performed in all civilised communities by the owners of property for the well-being of the community. The true objection to the sanitary sections of the Bill is that they will be found to be almost inoperative. They should not be so, but the difficulties for some years to come will be very great. I am hopeful that the working of this Act will in a very short time tend to diminish the apprehension with which it is now viewed. Of course in regard to those whose apprehension is that they will have to pay an equal share of taxation it cannot do so, but in all other respects I am sanguine.

THE HON. BABOO KALI NATH MITTER said.—I am constrained to raise my opposition to the Bill being passed in its present form. I am quite aware that my opposition is a feeble one and will be of no avail; still I deem it my duty to place upon record, in the most distinct terms possible, my opposition to the passing of the Bill. Perhaps Your Honour is aware that to some extent, if not to a material extent, I aided in the passing of a resolution in favour of the amalgamation of the Suburbs with the Town. After that resolution was forwarded to Your Honour's Government, a Committee was appointed to prepare a scheme for the amalgamation, of which I was one of the members, and in that Committee also to some extent I aided the scheme. Again when this question was brought up in Council, I gave my vote in favour of the introduction of the Bill. But at the time I did all this I had not the remotest idea that the series of amendments I subsequently brought forward would meet with the fate they

[*Babu Kali Nath Mitter.*]

did: I thought some regard would be paid to the opinions expressed by persons capable of forming opinions on matters of this kind. I thought that the opposition raised by communities which are capable of judging in matters of this description, would weigh with the Council. But I find that the clauses of the Bill have been adopted in total disregard of the representations made by the Municipal Commissioners, the members of the British Indian Association, the Indian Association, and the residents of Calcutta who called a public meeting and presented a memorial on the subject. The various amendments which I moved have shown the nature of my opposition to the Bill; but it does not follow that I ever expected that all these amendments would be carried in Council. It may be that I have been very unreasonable: so unreasonable that out of a series of amendments extending over a hundred and fifty, only some minor and unimportant amendments (I think there were three) should be carried. But my experience is that in other places, when I have the privilege of moving amendments, more than seventy per cent. of them have been carried, and therefore it was a perfect surprise to me that this Council should have thought fit to reject amendment after amendment which I had the honour to lay before them. Of course my hon. friend the mover of the Bill is responsible for it, and the responsibility will rest with him so long as this Bill remains law. I have, however, every hope that before many months elapse the Municipal Law will have again to be placed on the anvil of legislation. I have no doubt that, so long as my hon. friend is at the head of the Municipal Corporation, he will, if this Bill is passed, do his utmost to work the law in the best manner possible. But will his successor do the same thing? That is a point on which I have serious doubt. The innovations which have been introduced in the constitution of the Corporation, the various duties which the Commissioners will have to perform, the inadequacy of the funds placed at the disposal of the Commissioners, are all matters on which amendments were proposed by me. It will be useless to take up Your Honour's time and that of my hon. colleagues by referring in detail to the various matters which have been discussed. All I need say is that the Bill in its present form will be unworkable; many of the sections passed will remain dead-letters, but if they are not allowed to remain a dead-letter, the hardship and oppression that will result will be intolerable. The sanitary provisions introduced into this Bill will, if carried out, bring about a change which is to be deplored. It will be possible also to interfere with the religious

[*Babu Kali Nath Mitter.*]

sentiments of the people under the provisions of this Bill; it will be possible to interfere with private rights beyond all measure; it will be possible to deprive people of their property where even there is no absolute necessity for it; it will be possible to put parties to endless trouble and annoyance when they apply for sanction to build a house in Calcutta; and it will be possible to open a wide door for the levy of blackmail. I will remind Your Honour that, during the administration of one of your predecessors, a Municipal Bill was passed by this Council in total disregard of public opinion and in total disregard of the opposition raised in different quarters; and the fate of that Bill was that it was vetoed by the Viceroy. The noble Statesman who then ruled over the Empire, in vetoing the Bill, said this:—After enumerating his objections to the several new taxes sanctioned by the Bill, His Excellency said:

“Apart from these objections to particular portions of the Bill, His Excellency can only regard the whole measure as calculated to increase municipal taxation in Bengal, and he believes that such an increase is unnecessary and inexpedient at the present time.” His Excellency added: “It is true that many of the provisions of the Bill to which His Excellency objects are permissive, and depend for their introduction upon the exercise of the powers committed to the Lieutenant-Governor of Bengal. The present Lieutenant-Governor has expressed his intention to use with great caution and reserve the power which would be placed in his hands; and His Excellency cordially agrees with the sentiments expressed by His Honour that it is unwise ‘to push far sanitary and other regulations which may affect some future good at the cost of great individual vexation;’ and that in introducing such regulations we must recollect ‘not only that our knowledge of these subjects is yet imperfect, but also that much regard must be had to the habits and feelings of the people, which, even in Europe and still more in this country, are opposed to great innovations in matters affecting their daily lives in their homes and neighbourhood;’ but, while entirely concurring in these views, His Excellency must, in dealing with the Bill, look rather to the powers which it confers than to the extent to which for the present it is proposed to make use of those powers. If he objects to any material provisions contained in a proposed law for which his assent is required under the Indian Councils Act of 1861, it is not sufficient for His Excellency to be informed that the officer invested with discretion as to their introduction considers that action should be suspended or deferred. No feeling of confidence in the discretion of any one man, in whose power the administration of a law may for the time being be placed, would, in His Excellency’s opinion, justify him in assenting to a measure, to any essential provisions of which, if fully brought into operation, he entertains such serious objections as he does to some of those which are contained in the Bengal Municipalities Bill.”

[*Babu Kabi Nath Mitter ; Dr. Gooroo Dasa Banerjee.*]

I hope and trust that when this Bill is submitted to His Excellency the Viceroy it will meet with the same fate as did the Municipal Bill of 1874. For myself I cannot be a party to an Act which, under the garb of law, sanctions the spoliation of private property. I cannot be a party to an Act which is likely to interfere with the religious feelings of the people, which will materially affect the inherent rights of private property, which authorises legal presumptions being raised contrary to all the principles of the law of evidence, which authorises the forcible detention of private property after it has been improved by municipal agency, and, above all, which authorises a method of assessment which is unknown and which will injuriously affect the owners of property who are also occupiers of them. Under all these circumstances, I cannot refrain from emphatically entering my protest against the Bill being passed in this form.

The HON. DR. GOOROO DAS BANERJEE said :—I regret that I also am constrained to oppose this motion. I am fully sensible of the fact that the objections I have to urge against several provisions of the Bill have all been considered by the Council, and though I have not been more successful in my amendments than my hon. friend, still I deem it my duty to thank Your Honour and my hon. colleagues for the patience and attention with which my feeble words have been heard. If I have been unsuccessful in my amendments, the only thought which oppresses me is that the objections I have urged had not a better advocate ; for so strong is my conviction as to the justice of my objections that I cannot help thinking that they would have prevailed if only my case had been better put. I say this with all respect for my hon. colleagues. I may add that in the compensating economy of nature I have had an advantage which perhaps my hon. colleagues had not, for my respect for their judgment and my diffidence in my own have made me devote the most anxious attention to every point in which I differed. But I should be wanting in sincerity if I were not to say that the result has been to confirm me in my own opinion. And the reason is not far to seek. I and my hon. colleagues have viewed matters from very different points of view. An ideal standard of improvement and progress has been the sole aim of my hon. colleagues, while I, on the other hand, though yielding to none in my earnest desire for sanitary and other improvements, have had much of my eagerness for improvement restrained by the stern realities of our situation, of which,

[Dr. Gooroo Dass Banerjee; Sir Alfred Croft.]

I venture to think, I can form some opinion. I find, for instance, that with our limited funds, with only a doubtful and very remote chance of the duty on petroleum being allowed to be levied, the amalgamation scheme is not likely to prove a success, while it will prove oppressive by raising the taxation on the poor population of the Suburbs without giving them a *quid pro quo* in the shape of municipal improvement. I find, again, that the reduction in the popular element in the constitution of the municipality which will result from the operation of the scheme of plural votes and special constituencies, will not only interfere with the popularity of our municipal administration, but will render the enforcement of the new stringent building and other regulations attended with considerable hardship. I find, again, that some of the provisions of the Bill are characterized by an utter want of regard to private rights. Then, again, I find that there are certain sanitary regulations in the Bill which will interfere so largely and so minutely with the daily life of the rate-payers as to be wholly unsuited to the circumstances of the country, and to be repugnant to the feelings and sentiments—religious, social and domestic—of several large sections of the heterogeneous population of the metropolis. I find that the Bill has these and many other objectionable features, which are so strong to my humble apprehension that I think I shall not be doing my duty if I were not to record my respectful but emphatic protest against the passing of this Bill into law. My only apprehension was lest by so doing I might stand in the way of improvement and progress; but I am relieved of that apprehension from these considerations. I think the existing law is quite sufficient for the present, and for a quarter of a century to come, for Calcutta; and if something is wanted for the Suburbs, it is not so much a new law as additional funds; and if therefore Your Honour's Government grants to the Suburban Municipality the pecuniary help that is offered to the amalgamated municipality, improvement in the Suburbs would follow as fast and as efficiently as under any scheme of amalgamation.

The Hon. SIR ALFRED CROFT said:—I think that the significance and importance of the opposition to this Bill which has been expressed by the two hon. members who have just spoken can hardly be overrated; representing, as they claim to do, that community whose interests are chiefly affected by the measure. Still, it seems to me desirable to examine a little closely the objections which they have raised and the charges which they have brought against the Bill. The objections which have been raised are of two kinds, representing

[*Sir Alfred Croft.*]

two different and even inconsistent sets of ideas. One class of objections condemns the Bill because it allows too much power to the municipality; the other class condemns it because it allows too little power to the municipality and gives the Government too great a power of control. The first class of objections refers to such provisions as the building and bustee regulations, regulations to prevent overcrowding and the spread of infection, the right to acquire land for the public benefit, and matters of that kind. The course of debate on all these questions involving an increase of the powers of the municipality, has been marked by one special character, which is no doubt present to the minds of members of this Council. It is that to which reference was made by the hon. member on my left (Baboo Kali Nath Mitter), when he said that he did not expect his amendments to be carried because of the persistent majority in the Council. I must say that it was not altogether a pleasant thing for the members of that majority to find that on so many occasions when a division on these questions was taken, there were eight European members on one side and four native members on the other. This was by no means uniformly the case, but it occurred often enough to give the fact significance. The fact is a perplexing and painful one when we consider that this Bill affects the interests of natives of this country much more widely than it does those of Europeans. But what is the explanation of that majority? I have read the public papers, and I see that it is sometimes called the official majority. It is only necessary to mention that, in order to discard the idea that there has been anything in the least degree approaching to official coercion or influence exercised. The true reason of that majority I take to be that those who constitute the majority are Europeans who really believe in municipal government, while you who oppose it do not believe in it, or at any rate not to the same extent. Looking at it in that light, I see no difficulty in finding an explanation of the majority. Belief in municipal government is natural to Englishmen from their birth; they have been fighting and struggling for it for five or six centuries. With the people of India, on the contrary, it is an exotic; it has been only recently introduced among them; it has not grown with their growth, nor strengthened with their strength. And if they are reluctant to press it on too quickly, if they are inclined to put off for a quarter of a century what we regard as necessary reforms, it only shows the difference between those who believe in municipal government,

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and those who are reluctant to believe in it because it is not a part of their birthright. What we understand about municipal government is this, that people who live in a municipality must learn to subordinate their individual interests to the general good, and that this subordination has to be enforced not only in matters of private freedom, but also in respect of private property. That is of course not peculiar to municipalities, but is common to every form of civil government. The practical question is, where will you stop? With regard, for example, to the provision as to overcrowding in private houses, we maintain that we are doing what the Legislature has a right to do; while hon. members opposed to the Bill deny that. Therefore the question comes back to this: what are the limitations to municipal freedom? The opposing members maintain that a municipality has at any rate no right to interfere in private and personal matters of that kind; and in support of their contention they declare that their opposition is shared by the whole of those who will be affected by the Bill. I very much doubt whether they have any solid ground for making such a claim; and on that point I will read to the Council an extract from a Bengali paper called the *Sanjivani*, which, next to the *Banyabasi*, has perhaps the largest circulation amongst the vernacular papers in Bengal. That paper says:—

“Section 122, which imposes a 5 per cent. rate upon the estimated cost of dwelling-houses, is a very good provision. It will do away with every anomaly now existing in connection with the assessment of rich men's houses; for those houses are now assessed more lightly than the houses of poor and middle class men, and it is very surprising that the poor rate-payers of Calcutta have joined with the rich in protesting against a provision which is so equitable from their own standpoint. Objection has also been taken to this provision by saying that it may serve as a deterrent to those who would otherwise build spacious rooms to live in, and that the cause of sanitation may thus suffer harm. But if the best way of improving the sanitary condition of the town be to clear bustees of all their poor occupiers and to build thereupon palatial residences and let those that build those residences pay only half as much in the shape of taxes as had been paid by the evicted poor, why not abolish the Municipality altogether, and declare the few rich men of the town its absolute proprietors?”

So much for the rights of private property. Then with regard to personal freedom it goes on:—

“The sanitary sections, which will invest the Executive with the power to declare buildings to be overcrowded or unfit for habitation, are also very good and reasonable.” If the provision as to overcrowding be condemned on the ground that its working may be attended

[*Sir Alfred Croft.*]

with hardship to the poor people, the very taxation of poor people must also be condemned; and if it be considered wrong not to allow a man to live in a house which is unfit for habitation, it must also be wrong to prevent the man from committing suicide who is about to do so, or to punish him for attempting to kill himself."

These are reasonable arguments, put forward by a paper which is the representative of a large and influential class of the population of Bengal; and in face of these objections I do not see how it can be contended that the inhabitants of Calcutta are unanimous in their opposition to the Bill.

Next, there is the other class of objectors—those who base their objections to the Bill on the ground that it confers too great powers of control on the Government, and needlessly limits the powers of the Corporation. The sections now objected to are those which relate to the proportion of nominated Commissioners, to the appointment of the Chairman by the Government, and also more particularly the control sections; and it is claimed that at this stage of its history the Municipality of Calcutta should be left, if not entirely, yet to a great extent free from the control which these clauses impose. The question, therefore, arises, should we be safe in allowing this claim? For my part, I confess that I see no ground for any strong expression of dissatisfaction with the Corporation of Calcutta during the years it has been in existence. Speaking as an occupier, I should say that the Municipality is well governed, it is well watered, well lighted, well drained, well watched; in fact in all those points by which one can judge of the success and value of a Municipality, the Municipality of Calcutta comes out well. But successful as the Corporation has been in the past, the Calcutta Municipality is still a young institution. It has not had an existence of five hundred years as municipalities in England have had. Its life extends only to a period of ten or twelve years as an elective municipality; and however thriving it may be, whatever promise of future strength and stability it may give, it is still in the stage in which it is liable to infantile diseases and infantile caprices, and to that liability it will be subject until it has taken far deeper root in the convictions and the daily life of the people. There is every reason to hope that it will go on improving; but still the Government would be neglecting a clear duty if it abandoned those functions of supervision and control which are necessary to keep the Calcutta Municipality in the straight path in which it is going. The conditions of Calcutta are indeed so exceptional that it is essential for the

[*Sir Alfred Croft; Sir Henry Harrison.*]

Government to exercise a watchful control over its sanitary state. To refer to a recent incident, a few weeks ago Sir Donald Wallace accompanied the Viceroy when His Excellency went to see some of the less wholesome parts of Calcutta. A day or two after, Sir Donald Wallace had symptoms of cholera. Some people because they believed it, others perhaps because they were glad to have a fling at the Municipality, attributed the attack to the fact of his having accompanied the Viceroy to these unsavoury places. But if, instead of His Excellency's Private Secretary, it had been the Viceroy himself who had been attacked, the name and reputation of Calcutta throughout Europe are not so secure but that you would have found every newspaper in Europe ringing with indignant denunciations of the supineness and folly of the Government in allowing a plague-spot like this to remain uncleansed. Therefore I say it is imperative on the Government to retain the powers of control which are given to it in this Bill. I have referred already to those objections which have been raised to the Bill because it gives the Municipality too much power in enforcing sanitary arrangements. That implies a want of faith in municipal government; and the fact that these objections have been raised seems to me to supply another reason for insisting upon those powers of control which the Bill provides. Those who hesitate to give the Municipality large powers in sanitary matters are not the persons who may be trusted to work them as vigorously as the case requires. Municipal institutions are one of those advantages which India owes to the foreign government of England; and no discredit attaches if they have not as yet advanced to that degree of stability that is found in the country of their origin. But the effect of the introduction of municipal government has been that sanitation and everything else has improved, and I hope will go on improving; and as regards the objections to this Municipal Bill I trust they will soon disappear. The most violently abused reforms of yesterday are the accepted principles of to-day.; Look at the stormy opposition which was raised to the introduction of the water-supply and the under-ground drainage, and now these are looked upon as the greatest of blessings. And I have good hope that when in the course of years this Bill again comes under revision, the inhabitants of Calcutta will have found that it has worked smoothly and well; and that the objections which are now raised to it will have altogether disappeared.

The HON. SIR HENRY HARRISON said:—In closing this debate I only wish to say two things. *First*, I thank Sir Alfred Croft for reminding us that this is

[*Sir Henry Harrison.*]

not the first occasion on which a very large and influential community in Calcutta has been extremely bitter against a certain proposal. We had in the opposition to the water-supply an exact counterpart to the opposition which is now raised by the identical community who were willing to do everything in their power to prevent it, and now they admit that there has never been any more beneficial work than the water-supply of the town. In the same manner, leaving aside the question of individual interest, I am strongly in the hope that, as years roll by, the other provisions in this Bill which have excited so much opposition will be found to have worked for the well-being of Calcutta. But apart from that I but give expression to my inmost conviction when I say that the impression that I have formed, more than anything else from my seven years' connection with Calcutta, is that the wealth and prosperity of the town are absolutely bound up with its commercial prosperity. It is absolutely by its trade, its commerce, and its industries, that Calcutta is what it is. Throughout these protracted proceedings all the objections which have been taken really turn on this, that the Bill has carefully watched the interests of the industries of Calcutta in their widest sense, and the contention has usually amounted to this, that those interests ought to give way. And, besides that, there is another very large class whose interests deserve to be carefully watched. I mean those thousands of the labouring community who are in a lower degree the life-blood of Calcutta, and who, it is only true to say, have entirely gone to the wall in the municipal arrangements of the town. I believe this is the only town in the world in which we take rates on the almost rack-rents paid for huts and make them the foundation of assessment, and in addition to that we have another system by which we impose a rate on huts for one kind of service which amounts to no less than 10, 15, or 20 per cent. on the rent. I know that these classes have no voice. I shall get no thanks from them, and they will probably follow their natural leaders in the opposition, which has been raised to this Bill. But though these classes have no voice, and will probably not be conscious of the benefits done to them, yet I felt bound to think of their interests. The whole system of the consolidation of the rates has been framed largely with the view of relieving them of the burdens from which they suffer. The Bill itself is no doubt beset with difficulties. The amalgamation is perforce a work which cannot be carried out without great friction and dissatisfaction. To suppose, therefore, that the passing of the Bill will lead to immediate

[*Sir Henry Harrison ; The President.*]

amendment or satisfaction is absurd. A new Bill like this, introducing a variety of new elements and, above all, largely increasing the jurisdiction of the town, must necessarily at the first start lead to embarrassment and friction in many ways; but when those particular difficulties have been overcome and the machinery of the new Act has been brought into fair working order, it will lead to considerable improvement in the municipal administration of the town, and, impressed as I am with that hope, I ask Your Honour to put the motion to the vote that the Bill do now pass.

HIS HONOR THE PRESIDENT said:—Before putting the question to the vote, I wish to be allowed to say a few words on the general aspects of this Bill, and on the remarks that have fallen from the Hon. Members opposite. It were idle to deny that the Council is in regard to this Bill by no means in harmony with a large body of native public opinion in Calcutta. There is no doubt that to one very influential element of the community the Bill is distasteful, because it does not go far enough in relaxing the bonds of Government control and interference; it does not reduce the proportion of nominated members; it does not provide for an elected Chairman; it does introduce a power of effective control by the Government. Another large and influential body object even more strongly to those provisions of the Bill, which give the Commissioners power to interfere with private property for the benefit of the community; the power of regulating buildings and enforcing sanitation, and above all, probably, the provision to which exception is most generally taken is that which fixes the annual value of houses, whose letting value cannot be ascertained, at 5 per cent. of the estimated cost of building. To me it is a matter of great regret that a Bill, which was initiated for no other purpose than that of providing the amalgamated municipality with a better system of government, and which was drawn out under the auspices of such a proved friend of self-government as the distinguished Chairman of the Municipality, should have given rise to so much irritation and dread. I may and do consider much of the apprehension groundless, but I do not deny that it exists. I can even sympathise with the irritation which a large section of the public must feel, at finding that their opinions, which in the Municipality are largely dominant, are here both in Select Committee and in Council resisted by a compact phalanx of opposition consisting not solely of the official element by any means (for the line of cleavage is not between official and non-official), but of one which is, at all events, non-

[*The President.*]

Hindu. Now no one can set more value than I do on legislating in harmony with public opinion, and I should always advocate making concessions where this can be done without sacrificing vital principle, and where it will have the effect of disarming opposition. But I think a little consideration will show that the Council are justified, notwithstanding this feeling of hostility, in maintaining their own views, and in declining to modify the main lines of the Bill in accordance with the wishes of those of whom I speak.

For, as I have already pointed out, this Bill has been threshed out twice in Select Committee—a Committee which latterly consisted of three-fourths of the Council. This Committee had before them not only the various memorials received from public associations and bodies. They had also the views of the opposition most ably enforced by their two principal representatives in this Council. But they had also the views of another and very important section of the community—those who represent the Commerce, the trades, and in a general way the European element of the community. They had also before them the views of the Health Society—a body that can make its voice heard elsewhere than in Calcutta. Now it is well known that if the representatives of the Hindu community thought the powers of control and of interference with individual liberty went too far, it is equally certain that the other section of which I speak thought the Bill does not go nearly far enough in providing for effective sanitation and for the interests of the minority. Both these opposing influences were brought to bear on the Committee. The Committee, as Sir Henry Harrison pointed out at an early stage of the debate, took up a line between the two sections, and though on the whole, no doubt, it leaned to the views of the latter section as more in accordance with the requirements of the times, they rejected what they considered the extreme demands of both parties, and what they presented to the Council was practically the irreducible minimum beyond which they were not likely to go in rediscussing the matter in Council. I would wish, however, in considering those questions of control and sanitation together, to look at the matter from a somewhat broader point of view. Now it can scarcely be denied—in fact it is one of the main arguments of the opposition—that neither the habits nor the views of the Hindu community on the subject of sanitation are in touch with those accepted at the present day by public opinion in Europe, and it will be said “then why force on the Hindu community your western ideas and practices for which

[*The President.*]

admittedly the former are not prepared?" Well, the reason is that the Government is responsible in this matter to a much wider public opinion than even that of the Hindu community in Calcutta. It must be remembered that Government in its dealings with the local municipality is not negotiating with an independent potentate, whether friendly or hostile. In the long run the Government is itself responsible for the administration of the Calcutta Municipality. It has delegated its powers to a certain extent to the local community on the just and wise principle that a local body can best deal with local affairs, but this principle has its limits. From this point of view the municipality is a part, a department so to speak, of the Government, and the Government as I have said is responsible for the way its affairs are managed, responsible in the first instance to the people themselves, but secondarily responsible to the much larger public in Europe, who may either be, or may fancy themselves to be affected through the commerce of Calcutta, by the sanitary condition of the city; and that public opinion, let me tell you, has in the Suez Canal quarantine regulations a very potent and effective method of making its voice heard. So potent that it may almost be said to hold the existence of your commerce and therefore of the prosperity of this city in its hands. I have put forward this argument first, as it is based on the utilitarian grounds which appeal to everybody. But if some of these reasons did not exist, I should still say that it was the duty of Government, in spite of opposition, to keep in its hands the power of maintaining an effective control over the sanitation of this great city for the health of which it is responsible, and that in this matter it is the duty of Government to lead and not to follow the less instructed public opinion of the time and place. I am not one who would treat with ridicule or with anything but respect sincere prejudices even when in my opinion quite unfounded, but I have great faith in the faculty of adaptation to environment, and as Hindu feeling has successfully adapted itself to much more perilous changes, such as the abolition of suttee, travelling by rail, medical tuition, the Calcutta water-supply, about all of which the prophets of evil had many hard things to say, so I believe will it very readily reconcile itself to the removal to a hospital of a houseless wayfarer when stricken with an infectious disease, and to compelling a landlord to purify an infected chamber before letting it out to a fresh lodger. At the same time I feel sure that the powers with which the munici-

[*The President*]

pality is armed in dealing with private property will be exercised with all leniency, and that Government in exercising its powers of control will not lose sight of the prevalent feeling on the subject.

Turning now to the new rating section, I am bound to say that the principle which underlies that section is manifestly so fair and so reasonable that as an abstract principle it cannot be gainsaid. It is manifestly unjust that if A and B live in houses of equal value they should be unequally taxed. A, whose house is a rented one, should not pay double what B does, merely because B's house is his own, or even his ancestral property. So far I suppose we are all agreed, but when we come to apply this principle and try to discover a reasonable method of ascertaining the real value of B's house, then the difficulties begin, and denunciation is apt to take the place of argument. I do not wish to add to the irritation prevalent on the subject, so I shall not notice the hard words and exaggerated language used concerning it. But I would point out that the argument founded on the danger of fraudulent and *benam* leases being multiplied, comes with bad grace from those who are at the same time urging the more complete emancipation of the Municipality from Government control.

I think, too, there may be in the public mind, not perhaps in the minds of the few who lead, but of the many who are led, some real misapprehension about this matter. I was much astonished to hear the rate denounced by a gentleman for whom I have a sincere respect, as a 5 per cent. *cess* on the capital value of the house, and to learn that it was supposed by many, that people living in their own houses would have actually to pay the sum of 5 per cent., instead of this being merely an assumed value for rating purposes. This very morning one of the Calcutta dailies published a letter in which the tax was denounced because impoverished tenants "would have to pay 5 per cent. on the present cost of the building." No doubt if such a mistake as this is general, it would account for a much more vehement expression of indignation, than that which we have already met with. But even where there is no misunderstanding, I fear there is a good deal of vexation. With those who merely want to escape paying their fair share of the rates, I have no sympathy; but with the very numerous cases of impoverished descendants of good families who cling to the ancestral home, as a matter of sentiment almost as deep as religion. I have a very real sympathy. I trust the

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saving clause which Sir Henry Harrison has introduced will be effective in protecting this class, and even if it should be found in practice to cover more cases than those on whose behalf it was invented, I should look on this as a lesser evil than leaving the latter altogether unprotected. I do not say that even with this safeguard the rating clause as it now stands is a satisfactory solution of the problem, but I do say that of all the methods of solving it laid before the Council, this seems to me the least unsatisfactory.

I will not detain you now by touching on other parts of the Bill. It is a matter of no small grief to me that the attitude which the Council has been bound to maintain should be one which to many of my personal friends and representatives of the Hindu community appears one of unyielding hostility. I am convinced that it is not so, and that we have all of us given the most attentive, and in some cases sympathetic, consideration to the views and arguments of the minority. But constituted as the Council is, and legislating as the Government must do in accordance with the views not of one class, but of the most enlightened general public opinion of the day, the result could not be otherwise. I have carefully considered the question whether by postponing the passing of the Bill I should in any way help to arrive at a better understanding. I have quite satisfied myself that nothing is to be gained by such a course. It is quite certain that the views held by three-fourths of the Council after the full and ample debate which the whole subject has undergone both in Council and Committee will not be changed, and I am equally hopeless of any change being effected in the views of the minority. To postpone the Bill will therefore only be to keep open an irritating sore without any prospect of arriving at a better understanding, and it is better that the arguments and appeals of those whom the minority represent should be at once addressed to higher authority with whom the question ultimately rests. '*Interest reipublice ut sit finis litium*'. The controversy is disposed of as far as this Council is concerned, and the sooner it is brought to the consideration of a higher tribunal, the better, and I will gladly facilitate this.

Before I sit down, I trust I may be permitted to bear testimony to the indomitable perseverance and the unflinching courtesy with which the losing side have fought their uphill battle. These qualities are not so invariable in some assemblies of which we read, that they should fail to receive honor where they

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exist. And now I will only thank the Council collectively for their regular and steady attendance throughout an unusually prolonged session, and trust that the Bill, if passed, may be fruitful of good government, and undarkened by the train of evils which its opponents have prophesied for it.

The motion was then put to the vote and carried on the following division:—

Ayes 8.

The Hon. H. Pratt.
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.

Noes 3.

The Hon. Dr. Georoo Dass Banerjee.
The Hon. Dr. Mohendro Lal Sircar.
The Hon. Baboo Kali Nath Mitter.

The Bill was then passed.

The Council was adjourned *sine die*.

CALCUTTA ;
The 1st June, 1888.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.