say he thought these defects seemed chiefly to lie in the number and clumsiness of the present machinery, and somewhat in the want of definition and distinctness between the powers of the Municipality and the powers of the executive. No doubt the present Corporation was a large body: he believed that there were carried on the list of the Corporation, even since the exclusion of the Justices of Bengal, Behar, and Orissa, some hundred and twenty members. It was not very easy to get together such a large number of Justices, and there were many small details which came before them which, he thought, would be better disposed of by a more compact body; and the result of their frequent meetings was that a great deal of time was spent which could not be spared by many members of the Corporation who would otherwise be happy to attend and be of great help to the Municipality. The merchants were a class of people who could afford great help, but could not spare much of their time. Defects somewhat like these had been felt in Bombay, and led to the enactment of the municipal law which prevailed there now. He would briefly state the main provisions of the Bombay Act. The Corporation consisted of sixty-four members; sixteen, or one-fourth of them, were appointed by the Government; another fourth were appointed by the body of the Justices,—a body which might be of an unlimited number, and were altogether distinct from the Municipality, and had no connection with it further than to appoint their quota of the members. The other thirty-two members were elected by the rate-payers on certain conditions as to qualification. A payment of fifty rupees annually in taxes formed the qualification for voting, and payment of one hundred rupees qualified for election as a member. From these sixty-four members there were then appointed what was called the Town Council, which consisted of twelve members, eight of whom were appointed by the Municipality and four by the Government; the Government having the right to nominate the Chairman of the Town Council. Besides the Chairman of the Town Council, there was a Chairman of the Corporation, whose sole duty was to preside at meetings of the Corporation. The object of the creation of the Town Council was for the due administration of the municipal fund. In addition to this Corporation and the Town Council, there was an officer, unknown to us in Calcutta, called the Municipal Commissioner. In his hands lay the whole executive duties of the Municipality, or, as was described in the Act, in him vested the "entire executive power and responsibility" for the purposes of the Act. The Municipal Commissioner was prohibited from sitting as a member of the Town Council. Of the Corporation itself there were only four quarterly meetings, but there was power reserved to the Chairman to call a special meeting. Practically the functions of the Corporation were confined to laying down rates to be imposed, and to voting the annual budget; while the Town Council saw that the money was properly expended, and that the executive work was done by the Municipal Commissioner. The constitution of a Municipality somewhat upon that principle seemed to MR. SCHALCH a good idea: the only thing was that it should be a matter for grave consideration whether the principle of election should be admitted in Calcutta. If it were not admitted here, then no portion of the Corporation would be elected, and in that

case the present Corporation might be continued. They were selected with a good deal of care and discrimination, and they would form the Town Corporation; but subordinate to them he would suggest the appointment of a Town Council of twelve members. The Town Council might be composed of five members appointed by the Corporation to represent the five divisions of the town; four members might be nominated by what might be called the representative bodies in Calcutta,—the Chamber of Commerce, the British Indian Association, the Trades' Association, and any other body which might be supposed to represent any particular class, such as the Literary Society of the Mahomedans; and the remaining three members might be appointed by the Government to represent their interests, and one of these should be the Chairman of the Corporation, who would also be the Chairman of the Town Council. He would not have a Municipal Commissioner, as at Bombay, to transact the executive duties irrespective of the Town Council, but would combine those executive duties with the proper supervision of the Municipal Fund, and place both duties in the hands of the Town Council. The Chairman, who at present found that the whole duty of initiation devolved upon him, and that he did not very often meet with the support he would desire to meet with from so large a body as the present Corporation, would have very little difficulty in obtaining, in all expedient matters, the support of the Town Council, who would, in fact, take a co-ordinate part in all these executive duties. He thought a scheme of that kind would meet many of the objections now made against the present Corporation. He had himself had the advantage of being for some years the head of the Municipality, and since that period he had been connected with another body, the Port Commissioners, whose duties were carried on very much on the principle of a Town Council. There we had a small body who, in conjunction with the Chairman, conducted the duties of the Corporation. But if it should be thought that a Town Council alone would be too limited a body, and not sufficiently representative of the town, to be entrusted with the entire administration of the Municipality, then if a Town Council were combined with the Corporation, somewhat in the manner he had sketched out, and the duties of the Corporation confined to the settling of the rates on the budget, leaving the minor details to the Town Council, the system would, he thought, be carried on in a much more satisfactory manner. Any expenditure not provided for by the budget would have, of course, to be brought before the Corporation, and a special grant, as in Bombay, would be required to be given for the purpose.

He had thrown out these remarks not for present discussion, but with a view to their consideration in Select Committee.

The Hon'ble Baboo Kristodas Pal said a *quondam* Governor-General of India, alike distinguished for ability and eloquence, once remarked that the Legislative Council of India was a standing committee of changes. If proof was wanted to illustrate the truth of that saying, the history of municipal legislation of Calcutta afforded a notable proof. The first law which gave the present constitution to the Calcutta Municipality was passed in 1863, and within the last twelve years about twelve Acts, including those for markets, had

been enacted, giving on an average one Municipal Act for the town per annum. Thus there were changes almost annually going on in the municipal law of Calcutta. The time had arrived for the consolidation of those laws, and the task could not have been undertaken by a worthier individual than his hon'ble friend in charge of the Bill. He had had experience of the working of the Municipality for the last nine years, and his energy and ability had always extorted the admiration of the community and the Government, though there had been occasional differences of opinion between the Justices and himself regarding his method of action. The present Bill aimed at the consolidation of ten Acts, excluding the Market Acts. The hon'ble mover had said that the question of the incorporation of the Market Acts might be considered in the Select Committee, who might, if they should think proper, include them in the Bill. For his own part, BABOO KRISTODAS PAL thought that the law relating to the Municipality of Calcutta should be one, and that the Market Acts should not be left separate: but the Select Committee would doubtless consider that important point.

The hon'ble mover of the Bill had explained that he had not touched the constitution of the Corporation; but the hon'ble member to his right (Mr. Schalch) had suggested that the present opportunity should be taken to improve the constitution, if practicable. The hon'ble gentleman was the first to inaugurate the present municipal system of Calcutta, and he had considerable experience in the working of it. He was now the head of another Corporation, which, though limited in its scope, had still very important and somewhat analogous functions to perform; and occupying the vantage ground he did as the head of that Corporation, he saw the defects that disfigured the neighbouring institution. He had therefore propounded a scheme for the reform of the municipal constitution of Calcutta. Whatever fell from the hon'ble gentleman on a subject like this was entitled to the attentive consideration of this Council, and BABOO KRISTODAS PAL readily admitted that the suggestions his hon'ble friend had made were very important and worthy of serious consideration. This was not the place to review the history of the Municipal Corporation created by Sir Cecil Beadon's Act of 1863, but one thing he might remark, that whatever the errors and shortcomings of that body, it had done its duty courageously, honestly, and on the whole satisfactorily. With two such hon'ble gentlemen, who were now members of this Council, as Chairmen of the Corporation, and with a body of citizens as members of that fraternity, who were noted for intelligence, practical knowledge, and public spirit, it could not but be otherwise. The object of both was the good of the town, and barring occasional differences of opinion, the Justices and their Chairman had co-operated heartily in furthering the common object. He would not enumerate the many improvements which the Justices had introduced: any one who had seen Calcutta twelve years ago, and who saw it to-day, could at once point to the improvements in question. But at the same time he must admit that those improvements had been effected at an enormous cost. The taxation of Calcutta had increased from nine and a half to twenty per cent., and in addition to the revenue derived from such taxation

The Hon'ble Baboo Kristodas Pal.

the Justices had incurred a very large debt for the construction of works of permanent utility. The establishment had also enormously increased, and indeed there was a general impression that a considerable part of the municipal income was unnecessarily eaten up by the establishment. He believed the hon'ble member in charge of the Bill himself admitted that, if he had the power under the Act, he could considerably reduce the establishment, and combine economy with efficiency. BABOO KRISTODAS PAL hoped that the present Bill would give the Chairman the power to carry out his views in that respect.

Now with regard to the constitution of the Municipality, the hon'ble member who last spoke said that the present machinery was unwieldy. There could, BABOO KRISTODAS PAL thought, be no difference of opinion that it was an unwieldy body; that every member of the Corporation did not devote that attention to municipal affairs which it was his duty to do; and that on many occasions things were carried by the votes of the majority, perhaps not intelligently given. This was more or less the case with large representative bodies everywhere: it was the few who worked, and the many who enjoyed the dignity of office. It was the few working members of Parliament who had made it what it was, and not the six hundred and odd who composed the House of Commons. And the working Justices, the hon'ble mover could testify, spared no labour and trouble to discharge their duties conscientiously and efficiently. If the present constitution was to be changed, he hoped it would not be a half measure. The scheme which the hon'ble member who last spoke had propounded, he was sorry to say, had the character of a half measure. It was borrowed from the Bombay Municipal Act, and hon'ble members were doubtless aware of the violent opposition that Act met with from the citizens of Bombay whilst it was passing through the local Council. Europeans and natives banded themselves together to oppose the passing of the Bill, and they came up to the Viceroy praying that he would put his veto upon it. His Excellency allowed the Bill to pass, upon the ground that it was a merely tentative measure, and BABOO KRISTODAS PAL hoped that a Bill passed under such doubtful auspices would not be made a model for the municipal constitution of Calcutta. If a move was to be made for the amendment of the municipal constitution of Calcutta, he hoped that the right of election on a broad basis would be conceded. He was not prepared to say that the Council was in a position, or that the time had arrived, to concede a thorough elective system to the town of Calcutta; but he must observe that no mere tinkering of the municipal constitution would satisfy the public. If it was thought advisable to give the citizens of Calcutta the right of self-government, they ought to have it fully and unreservedly. But then the question would arise—suppose the elective system be conceded, should the Chairman be elected by the representatives of the town, or should his appointment rest with the Government? Now there could be no thorough elective system unless the Chairman's appointment were also made elective; and with the question of the appointment of the Chairman arose many important questions which it was not desirable to discuss there. He was of opinion that for a long time to

come it would not be desirable to separate the appointment of the Chairman of the Justices from the Civil Service. He had seen the working of the Calcutta Municipality for the last twelve years, and he must confess that, though the proceedings of the Chairman might have been sometimes characterized by an arbitrary spirit, he had proved an honest administrator of public funds and public affairs. There could not be a more trustworthy agent than a member of the Civil Service. If, then, the Council were not prepared to leave the election of the Chairman in the hands of the Town Council, would it be worth its while to constitute a Corporation composed partly of members nominated by the existing Corporation, partly of delegates from the public Associations of Calcutta, and partly of members appointed by the Government? Now with regard to the Associations of Calcutta, although he had the honour to belong to one of them, he must admit that they were not permanent bodies, and that it was therefore open to question as to whether the permanent interests of the town should be committed to bodies who lived on the breath of their subscribers. In the next place the hon'ble member proposed that the Town Council should be formed on the model of the Port Commission, and that its proceedings should be conducted in the manner of those of the Port Commissioners. Now, with every deference to the Port Commissioners, Baboo Kristodas Pal hoped the Council would not pass any measure which would reduce the Town Corporation to the level of the Port Commission. The Port Commissioners, as the representatives of the mercantile interest, were doubtless doing their work well and satisfactorily; but their close borough system, it appeared to him, was not suited to the public interests of Calcutta. The proceedings of the Port Commission were not open to the public; the representatives of the press were not admitted to its sittings. An attempt, be believed, was once made for the admission of reporters to the sittings of the Commission, but the application was refused. No one outside the pale of the Port Commission knew what they did, beyond what they might vouchsafe to state in their annual report. There was, therefore, no check whatever over the proceedings of the Port Commission. On the other hand, the Justices acted in the full blaze of publicity. They did not conceal any thing from the public view; on the contrary they courted criticism, and the public were therefore always in a position to know the history of every question discussed by the Justices, and the measures adopted with regard to it. The policy of publicity, introduced by the Municipal Act, had infused a new public spirit into the citizens of Calcutta, and he could assure the Council that the rate-payers of the town now took a far greater interest in its affairs than they had ever before done. They now read every paper published by the Municipality, they discussed every question, and were ready to give their opinion upon important matters which affected their interests; and he hoped the Council would not take a retrograde step and put an end to that which was one of the redeeming features in the present system of municipal administration of Calcutta.

As for having a small compact body to manage the executive business of the town, he might say that that was now practically done. There were already

standing committees to aid and advise the Chairman in the terms of the law, and although there were two general committees, they practically met together and thus constituted one committee. These committees met on an average once a week, and thus performed the functions of the Town Council which the hon'ble member who last spoke proposed to establish. Of course these committees had not the prestige or the authority of the proposed Town Council, but they did all the executive work placed before them by the Chairman; and as the Chairman had made it a rule not to come before the Corporation with any proposal without, in the first instance, laying it before the committee, there was little friction between him and the Justices. He came before the Justices armed with the recommendations of the committees, and he generally received their support.

In making these remarks, BABOO KRISTODAS PAL wished it to be understood that he did not mean to say that the constitution of the Municipality was not susceptible of improvement. But he hoped that whatever changes it might be thought proper to make, would be made in the right direction, —that was to say, in the direction of greater freedom and greater power to the rate-payers and their representatives than was given under the Bombay Municipal Act. That Act was now under trial, and he did not think it would be wise to follow it here.

With regard to the Bill itself, he begged to offer a few remarks. First with regard to the constitution of the Corporation as defined in Chapter II. Section 4 of that Chapter said—

"All Justices of the Peace for the Town of Calcutta, and such other Justices for Bengal, Behar, and Orissa, resident in Calcutta, as the local Government may from time to time, by order published in the *Calcutta Gazette*, appoint in that behalf, shall, by the name of the Justices of the Peace for the Town of Calcutta, be a body corporate"

It was evidently implied by this section that Justices for Bengal, Behar, and Orissa might be appointed members of the Corporation. He would not trouble the Council with the history of Act VI of 1871, withdrawing the Bengal, Behar, and Orissa Justices from the Town Corporation, which was passed during the incumbency of Sir William Grey. He was ready to admit that the Bengal, Behar, and Orissa Justices would prove a very useful element in the Corporation, if they could be made to take due interest in the business of the town. They were a highly educated body of gentlemen, and from their position they were greatly experienced in public affairs; but unfortunately, as the history of the Corporation showed, they took very little interest in the legitimate business of the Corporation, except where personal questions arose. Their conduct in this way became a public scandal; representations were made to the Government of the day for the amendment of the constitution of the Municipality in that respect; and Sir William Grey, concurring in the views of the memorialists, sanctioned the passing of that law. BABOO KRISTODAS PAL did not think that it was intended that the old law should be revived; but the words would seem to imply that the Bengal, Behar, and Orissa Justices might be appointed to the Corporation as of old. He admitted that there would be no reasonable objection if the Lieutenant-Governor were to appoint such gentlemen

Justices of the Peace for Calcutta independently of their position as Bengal, Behar, and Orissa Justices. There were already several Civilian gentlemen members of the Corporation, but they had been nominated independently of their position as Bengal Justices. But he thought the law should not re-enact that the Bengal Justices should, by virtue of their position, be appointed Justices of the Peace for the town. It might be left to the discretion of the Government to appoint them.

Then, with regard to the Municipal fund. Section 6 declared that the municipal fund might be applied for the purposes of this Act and "for such other purposes as the Justices, with the sanction of the local Government, may direct." This, he submitted, was a direct and, he was obliged to say, a dangerous innovation. If the committee of the Town Band or the promoters of the Zoological Gardens, or any other body or individuals who had some fancy project to serve, went to this milch cow for funds, the Justices in their wisdom might give the grant. But the interests of the rate-payers would be sacrificed, and there would be nothing in the law to prevent such a gross misapplication of the municipal fund. This power, he thought, should not be given, and the objects for which the fund should be expended should be distinctly defined in the law.

He had remarked at the outset that the existing law did not give sufficient power to the Justices to enforce economy in their establishments. Under the present law it was obligatory on the Justices to appoint the following officers, viz., vice-chairman, secretary, engineer, surveyor, health officer, collector of taxes, and assessor. Now the appointment of health officer had often been a subject of discussion in the Municipal Corporation, and on every occasion when the question was raised it produced some irritation. It was felt that the law had unreasonably tied the hands of the Justices, and that they could not appoint an officer on condition that he should give a part only of his time to the work of the office, which would be quite sufficient for the purpose, and devote the rest of his time to whatever occupation he might think best. Baboo Kristodas Pal thought that power should be given to the Justices to make some such arrangement, if they deemed it necessary, with the health officer with regard to the employment of his time. None knew better than the hon'ble mover of the Bill that the work of the health officer was not such as to occupy the whole of his time, and the Justices could save a large sum of money annually if they could effect such an arrangement as the one they did while Dr. Macrae held the office of health officer. With the same object Baboo Kristodas Pal would wish that power should be given to the Justices to double up some of the appointments at any time they might think fit. The Justices might some time obtain the services of an officer who, as health officer, or engineer, might also conduct the duties of vice-chairman, in the same way as the Vice-Chairman of the Port Commissioners performed the duties of engineer-in-chief to that body. Although such an arrangement was not practicable now, it might be practicable at some future time, and he thought the law should give power to the Justices to double up any appointments in their discretion.

He now came to the question of taxation. He observed that the Bill proposed an increase of the lighting rate from two to two and a half per cent., and of the

water-rate from five to six per cent. The hon'ble mover of the Bill had explained his reasons why he asked for an increase of the lighting-rate. BABOO KRISTODAS PAL admitted that the Corporation had to make annual grants of from Rs. 16,000 to Rs. 20,000 to make up the deficit in the lighting-rate fund. He did not believe that the law did not empower the Justices to make such grants, though he was aware that doubts were entertained on that point. At the same time he was not quite sure whether a redistribution of the lamps would not effect a saving which might secure efficiency in illumination, and dispense with the necessity of increasing the lighting-rate. That question had sometimes been urged upon the Justices, but had not been practically carried out. He did not see why this should not be done, particularly when it involved the question of an additional half per cent. rate. It was also observable that the Justices seemed to be powerless in enforcing their contract with the Gas Company with regard to the illuminating power of gas, and that also occasioned a deficiency in the lighting fund. If they could enforce the illuminating power contracted for, the lamps could be posted at greater intervals than at present, and thus a saving could be effected. At any rate, he thought that the present grant of from Rs. 16,000 to Rs. 20,000 from the general funds was not grudged by the Justices, and he hoped that the hon'ble mover of the Bill would drop this additional half per cent.

With regard to water-rate, he readily admitted that the present supply was insufficient, and that if it was to be extended, more money must be had. The water-supply had undoubtedly proved a great blessing to the town, for which the rate-payers were greatly indebted to their first Chairman (Mr. Schalch); and he believed that if there was any act of the Municipality which had the unalloyed gratitude of the rate-payers more than another, it was the adoption of the water-supply system. But the benefit of the water-supply had not been extended to the poorer parts of the town. No less than fourteen miles of bye-lanes still remained to be piped, and the reason given was that there were no funds. He believed that the object of the proposed extension of the water-supply was to lay down pipes in those bye-lanes where the poorer classes chiefly dwelt. In considering the question of imposing an additional water-rate, he submitted that it was worth the consideration of the Council and the Select Committee whether such a scheme could not be devised as would, as far as practicable, relieve the poor of the burden which now existed, and make the rich contribute in proportion to their own demand for, and consumption of water. At present the water-rate was founded upon a most inequitable system. It would be remembered that the high pressure system had been introduced chiefly for the benefit of the rich who dwelt in two and three-storied houses. But, as had been pointed out by his hon'ble friend, the rich and the poor were made to pay alike. The rich man who lived in a palace and wanted water in the third floor of his house, and the poor man who lived in a hut, but who had not been able to lay on water because the water pipes did not run through the bye-lane in which he dwelt, were made to pay equally the five per cent rate. That, BABOO KRISTODAS PAL submitted, was neither fair nor just. When the Act of 1863 was passed, the water-rate was based on a just and equitable

principle. It was this, that a general rate of two per cent. should be levied for water supplied at a height of three feet, and that a graduated scale should be followed for taxing persons taking water at a greater height than three feet. Now, he did not know whether the scheme which had been sketched out by the hon'ble member who spoke last would be practicable, because it would lead to complicated calculations; whereas the principle laid down by the Municipal Act of 1863 was easy and quite practicable. If, for instance, a general rate of four per cent., to cover the present working charges of the water supply, were levied from all persons who received a supply, say at a height of five feet, whether they laid on water or not in their houses, and an additional percentage, graduated according to distance, say of one per cent. for water supplied at a greater height than 5, 10, or 15 feet, respectively, then the collections from this graduated impost or rate would, BABOO KRISTODAS PAL believed, cover more than was expected to be derived from the additional one per cent. rate. The effect of such an equitable adjustment of the water-rate would be the relief of the poor and the proper taxation of the rich.

He threw out these suggestions for the consideration of the Select Committee. The plan of the hon'ble gentleman who spoke last was to measure the water by metre, but BABOO KRISTODAS PAL was not quite sure whether that system would work satisfactorily. Then, with regard to this question of water-supply, he observed that the word "pumps" had been introduced in section 94, he did not know with what object, because stand-posts and *not* pumps were now used. If the object was to prevent wastage, he thought a self-closing stand-post would practically answer that purpose, whereas pumps would cause great trouble and inconvenience to the public.

He would now draw attention to section 188, which involved the question of bustee improvement. The Council were aware that that question now occupied a considerable share of the attention of the Justices, and he believed that some sections of this Bill were intended to cover the recommendations of the Special Committee of the Justices on the subject. Section 188 declared that huts might be removed from any bustee without the payment of compensation. But the present law provided that compensation should be given to the owners of huts for compulsory removal of the same. The provision in the Bill, he thought, would be unfair to the poor tenants.

The procedure for carrying out this provision would be somewhat in this wise. The Justices would require the landlord to remove the hut, he (the landlord) would be compelled to call upon the tenant to remove it, and the tenant would have to bear the loss. BABOO KRISTODAS PAL did not think that it would be fair to burden the tenant with this loss. If the removal of a hut was intended as a sanitary measure for the benefit of the public, justice required that the public funds should bear the cost. Then the same section provided that it would be lawful for the Justices to call upon the landlord to "execute such operations" as they might think fit for the improvement of a bustee, in default of which the Justices would carry out the said operations at the expense of the landlord. Now the power thus given to the Justices was very wide and indefinite. The law ought to specify the operations which it would be lawful for the Justices

to compel the landlord to execute. On reference to some of the reports of the officers of the Municipality on bustee improvements, he observed that one officer had actually recommended that a rivetting wall should be attached to a tank, and another that a ghât should be constructed for washing and bathing in the tank, as sanitary measures intended for the conservation of the health of the locality. It was impossible to say what works might not be demanded from the landlord in the name of sanitary improvement by over-zealous officers, if the law were left so uncertain and indefinite.

Section 196 sanctioned the imposition of what was called in Bombay the *Halalcore* cess. Of course this was a very important work to be done by the Justices, but he thought the cess should be so regulated as not to take the form of a new tax. The residents of the town already bore the expenses of cleansing their necessaries, and if the cost the Justices might levy should not exceed the charges already incurred by them, there would be no objection to the proposed cess. He thought the maximum rate of the cess should be defined in this Bill.

Section 197 required owners to provide privies for their tenants. None knew better than the hon'ble mover of the Bill that the practice in this town was for occupiers to provide latrines for themselves, and that as the women did not generally go to a public latrine, every occupier who had a family had, as a rule, his own private latrine, and he had it built at his own expense. But as this section was worded, it would be incumbent upon the owners of land to provide latrines for each occupier, and the Council could well conceive the cost which would be thus thrown upon the owner for this object. The Engineer to the Justices himself said that public latrines would not be resorted to by the poor inhabitants of bustees. He wrote:—

"There can be no doubt that the wisest plan would be to abolish privies in bustees entirely, and in their place to erect latrines which should be resorted to by all of both sexes. But is this practicable? and would the European poor, who are not imbued with the caste and other prejudices of the native, take readily to such a scheme?"

Such being the feeling of the people, the landlord under the proposed section must provide a latrine for the use and accommodation of every occupier, and the cost which would be imposed upon him would necessarily be enormous. Baboo Kistodas Pal did not say that latrines should not be constructed; but where the occupier was unable to construct a latrine, the Justices should construct it and charge a fee. And as hon'ble members were aware these latrines were a source of profit, the Justices would not suffer any loss by such measure. But as a rule the occupier should be made to construct his own privy.

He had only a few more suggestions to offer for the consideration of the Select Committee. In the first place it was very desirable that the law should distinctly define the powers of the Justices and those of the Chairman respectively. Considerable misunderstanding prevailed with regard to the relative powers of the Chairman and the Justices. In regard to the bustee question itself, the Chairman contended that he had power under the existing law to initiate measures of improvement without consulting the Justices. The Justices, on the other hand, contended that the Chairman had no power to initiate such measures without obtaining their sanction. Now it was very desirable that, as

the law was about to be consolidated, the powers of the Chairman and the Justices should be distinctly defined, so as to prevent future differences and misunderstandings. It might be well worth consideration whether the Chairman, who was the executive head, should not be more in the position of a moderator at the meetings of the Justices and have no power to vote. As the hon'ble member who spoke last had remarked, the Municipal Commissioner of Bombay had no seat in the Town Council. He would not go to that length, but would suggest, for the consideration of the Select Committee, whether the Chairman would not occupy a more dignified position by acting as a moderator than playing the part of a partisan when the measures proposed by himself were under discussion.

With regard to assessment cases and appeals, BABOO KRISTODAS PAL would allow appeals not only in assessment cases, but also in license cases. Though the Chairman under the law was authorised to regulate the license fees, as a matter of fact he had not time to do so, and the work was necessarily left to a subordinate officer in charge of the License Department. It was therefore very desirable that there should be an appeal to a Board of Justices in license cases. This was allowed, BABOO KRISTODAS PAL believed, under the Bombay Municipal Act.

Regarding assessment appeals, the hon'ble member who spoke last had correctly described the course followed in Bombay. The Board of Justices here, BABOO KRISTODAS PAL submitted, very much resembled the quarter sessions in Bombay; and if the law allowed the Chairman or Vice-Chairman to revise assessments made by the assessor, and if appeal was made from their decisions to a Board of independent Justices, the object aimed at by the hon'ble member would be attained.

The hon'ble member had referred to the case of the Port Commissioners. BABOO KRISTODAS PAL might mention that the assessment in that case was made on the principle that the additional buildings should bear the same proportion of assessment at which the existing buildings had been assessed; so there was no absence of principle in the assessment of the additional buildings of the Port Commissioners, as alleged.

Adverting to the water-rate, BABOO KRISTODAS PAL remarked that he could not conceive upon what principle one-fourth of the rate was made payable by the owner and three-fourths by the occupier. The water was laid on solely and exclusively for the benefit of the occupier. If the occupier was made liable for the police and lighting-rates, he thought that the occupier, on the same principle, ought to pay the whole of the water-rate. With regard to the mode of payment of the water-rate, he observed that it was now payable by the owner with power to recoup himself from the occupier. Now the lighting and police-rates were realized from the occupier direct, and on the same principle he thought the water-rate should be recovered from the occupier. He might observe that the law gave power to the owner to recover the water-rate from the occupier as an addition to his rent. Now, in the case of huts, this condition was attended with great hardship, inasmuch as under a recent ruling of the High Court the hut was an immoveable property, but removeable by the tenant. Thus the landlords now laboured under great difficulty in realizing their own

rents, and it was by no means fair to burden them again with the task of collecting the water-rate from the occupiers in addition to their own rents.

Lastly, he would invite the attention of the Council and the Select Committee to this question—Whether there ought not to be some provision in the Bill which would enable the Justices to co-operate with the rate-payers to make improvements, when the latter came forward to bear a share of the cost of such improvements? There had been lately several cases in which rate-payers offered to pay one-half of the cost for the piping of streets and lanes for drainage and water-supply; but the Justices could not be moved, as the law did not give the rate-payers power to demand such improvements on payment of costs. He thought that in such cases facility should be afforded to rate-payers to come forward and contribute. If, for instance, the residents of a bye-lane not supplied with water should combine and pay half the cost of the piping, the Justices ought to be made to pay the other half and carry out the improvement. There were many complaints heard in connection with this subject, and he believed that some such provision as he had suggested would stimulate the rate-payers to co-operate with the Justices to carry out improvements.

The Hon'ble Baboo Doorga Churn Law said, owing to an unfortunate occurrence in his family, he had not been able to go through the Bill. He saw that it was proposed to raise the maximum of the water-rate from five to six per cent.; and considering the benefit derived from the water-supply and the increased demand for water, he had no objection to offer to the increase of the rate. But he thought it should be so adjusted as to be the least oppressive to the poorer classes of the town; and this was a point to which he had no doubt the Select Committee would give their attention.

As regards the lighting-rate, he did not think that power should be given to the Municipality to raise the rate from two to two and a half per cent. It was true that the proceeds of the present rate showed a deficit of some Rs. 16,000 to Rs. 20,000, but the deficiency had been supplied from the general fund, and this had been done without much inconvenience, and he thought that the practice should be continued.

Then, with regard to the question of allowing appeals from the assessments made by the Justices, he quite agreed with the hon'ble member on his right (Mr. Schalch) that provision should be made to allow appeals to be tried by some independent body, and the result, he thought, would be quite satisfactory to all parties concerned.

The Hon'ble Mr. Hogg said he did not propose to detain the Council by following the hon'ble members who had spoken upon the Bill. The suggestions they had thrown forth would be matter for the consideration of the Select Committee, to whom, he presumed, the Bill would be referred for consideration. He was glad to find that there was a general concurrence of opinion on the part of the Council that the water-supply must be increased, and that there would be no great opposition to increasing the rate provided the increased supply could be obtained. He quite agreed with his hon'ble friend to the right (Mr. Schalch), that there would be great advantage to the town if the constant supply could be continued. He would, however, ask the Council to

remember—and he spoke from the practical experience of several years—that to give a constant supply from the existing arrangements would be absolutely impossible. He believed he was correct in saying that this was the only city in the world in which it was attempted to give a constant supply by engine power. Throughout the world, wherever they had a constant supply, it had always been done by gravitation. If a constant supply was to be continued to Calcutta, they must have recourse to gravitation: that was to say, we should have to pump up to a large elevated tank and deliver water from that tank. By that system only would a constant supply be possible. But the cost of constructing a tank that would enable the Justices to supply ten or twelve million gallons of water a day to the town by gravitation on the constant supply system, would be so enormous that it must be put aside as impossible.

As regards assessments, the proposal for an appeal might be advisable in many cases. He could quite understand that the rate-payers could not always be satisfied that an appeal should be made from the Assessor to a Board of Justices. However, it must be borne in mind that to constitute such a Court would be a matter of great difficulty. It was true that it could be declared that an appeal should lie to the Small Cause Court; but he thought so many appeals would be instituted that it would be found practically extremely difficult to dispose of the cases without appointing some special officer for the hearing of such appeals. From his own experience, he must say that he believed that a Board of sitting Justices was a very fair tribunal for the disposal of assessment appeals. He might go farther, and say that he thought that the inclination of a Board of Justices was to fix the assessment at too low rather than at too high a rate. He did not, therefore, himself think that the establishment of an independent court of appeal was a matter of very great importance. The illustration brought forward by his hon'ble friend as regards the assessment of the port property, could hardly be allowed to pass without comment. He had declared that the assessment made upon the port property, if calculated upon the cost of the buildings, would come to the very large amount of twelve per cent. His hon'ble friend had, however, omitted altogether to take into consideration the value of the land belonging to the Commissioners. That land only was worth at least a million of money; and if the value of the land was taken into account, the assessment would not be found to be excessive.

The question of the advisability of altering the constitution of the Municipality had been mooted by his hon'ble friend to the right (Mr. Schalch), but it was one which MR. HOGG approached with considerable hesitation. For a long time he had thought that it would be better that the constitution of the Municipality should be altered; but he begged to say now that he had, after much consideration, arrived at the conclusion that it would be difficult to provide a municipal government for Calcutta which would fulfil all its requirements better than the present one now did. He believed it was admitted that what we required was an intelligent body of gentlemen, and that they should fairly represent public opinion; that all matters should be

discussed by the Municipality in the most public manner possible; and that they should court publicity, the object being to ventilate all measures before they were carried out. And lastly, but not least, he thought that the Government should have a very considerable indirect control over the Municipality. He thought all these requirements were fully met by the existing constitution of the Municipality.

His hon'ble friend Mr. Schalch advocated the creation of a Municipal Board appointed chiefly by the public bodies in Calcutta. MR. HOGG could not support that proposal, on the ground that the public bodies referred to were only in a very limited degree representatives of the inhabitants of Calcutta. Europeans in this country were, as a rule, merely birds of passage, and would often take but a very partial view of all measures brought before them. By "partial" he meant that they would look upon the measures proposed more in the way they affected themselves. He did not mean these remarks to apply to public bodies of native gentlemen: they had a permanent interest in the town, and they would look not only to the direct and immediate advantages to the town, but they would look ahead to the time when their children would occupy their places. The members of the present Corporation, he thought, were carefully appointed, and might be regarded quite as much representatives of the different classes from which they were selected as would the members of a Board constituted on the plan proposed by his hon'ble friend. It was true they had many non-effective members: it was true, also, that they had much speaking—speaking which probably in many cases might well be omitted. However, the way in which the business was transacted did ventilate every subject most thoroughly, and it had induced the native public to come forward and take a direct and immediate interest in the affairs of the town, which he did not think the system of government conducted by a Board would ever do. The natives of particular parts of the town looked to certain Justices as their representatives, and made use of them as such.

However, there were one or two points which might well occupy the attention of the Select Committee; for instance, whether it would not be wise to so far modify the constitution that the Justices who formed the Municipality should not be appointed by the Government for life. He thought that the Justices should be appointed by the Government for a limited period, say for two or three years. If they showed an interest in the affairs of the town, and if they commanded the confidence of the public, then they should be reappointed. If, on the other hand, they were not prepared to devote their time to municipal affairs, they would cease to be members of the Corporation at the expiration of the time for which their appointment was made. This would lead to a gradual reduction of the number of the members of the Corporation, which was much needed; as at present, owing to the great number of Justices—about a hundred and twenty—the Corporation was found to be somewhat unwieldy for the quick dispatch of business.

HIS HONOR THE PRESIDENT, before putting the motion, desired to say that he had listened with great interest to the remarks which had fallen from the hon'ble members on the left, regarding the possible modifications in the

constitution of the Municipality of Calcutta. Well, that no doubt was a difficult subject. We should remember that very great good had been effected under the existing system. At the same time he admitted that if there ever were any constitutional modifications to be made in the Municipality of Calcutta, the present opportunity would be the most fitting they were likely to have for the consideration of such a change. He, therefore, for one should see no objection to the Select Committee, if such Committee should be appointed, taking up the question of any possible modification of the constitution of the Municipality. Indeed, he had already prepared a paper on that subject; and as he perceived that the matter was attracting the attention of various hon'ble members of the Council, he believed he should perhaps be meeting the wishes of hon'ble members who had addressed the Council, if he referred that paper to the Select Committee, if such Committee should be appointed.

The motion was agreed to, and the Bill referred to a Select Committee, consisting of the hon'ble Mr. Schalch, the hon'ble Mr. Reynolds, the hon'ble Mr. Brookes, the hon'ble Baboo Kristodas Pal, and the mover.

The Council was adjourned to Saturday, the 10th instant.

Saturday, the 10th April 1875.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding.*
The Hon'ble V. H. Schalch,
The Hon'ble G. C. Paul, *Acting Advocate-General,*
The Hon'ble H. L. Dampier,
The Hon'ble Stuart Hogg,
The Hon'ble H. J. Reynolds,
The Hon'ble Baboo Juggadanund Mookerjee, Rai Bahadoor,
The Hon'ble T. W. Brookes,
The Hon'ble Baboo Doorga Churn Law,
The Hon'ble Baboo Kristodas Pal,
and
The Hon'ble Nawab Syud Ashghar Ali Diler Jung, c.s.i.

STATEMENT OF THE COURSE OF LEGISLATION.

His Honor the President said: "As the Council is about to adjourn for a time, I think the present will be a suitable opportunity of reminding hon'ble members of the legislative programme which I presented to the Council on the 19th December last, that is about three and a half months ago, and also of calling to the recollection of hon'ble members the progress which we have made in carrying out that programme. Well, the Council will remember that on the 19th December last I had the honor of making a statement, which statement included the following measures:—The amendment of the excise law; the voluntary registration of Mahomedan marriages and divorces; the

alteration of the Jute Warehouse and Fire-brigade Act; the summary recovery of grain advances made by Government during the late famine; the appointment of managers in joint undivided estates; the compulsory registration of possessory titles in land; some additional improvements in the law for the sale of estates for arrears of land revenue; some emendation of the Act for the realization of arrears in Government estates; the simplification and improvement of the law relating to the private partition (or "butwara") of estates paying revenue to Government; the introduction of a law providing for the requirements both of the State and of the people in respect to canals of navigation and irrigation in Bengal, Behar, and Orissa; the consolidation of the laws regarding municipalities in the interior of the country under the Government of Bengal; the consolidation and amendment of the law relating to the municipality of Calcutta; the improvement of the Act concerning boilers and prime-movers; the introduction of a Bill regarding the recovery of the cost of boundary pillars, and other matters connected with village surveys in Bengal; the alteration of the law relating both to regular police and village police; the re-enactment, with suitable modifications, of the old laws regarding the levy, by private persons, of cesses on navigable rivers, high roads, and market-places; and possibly the application of the law regarding port-dues to some of the ports in Orissa and other parts of Bengal.

Well, that being the programme which was proposed for the acceptance of the Council, I will just for a moment remind hon'ble members of the progress which has been made in each and all of the above-mentioned heads, following the order of subjects which was observed in the opening statement. First, then, the Bill regarding the amendment of the Abkaree Acts has received the best consideration of Mr. Alonso Money, the Member of the Board of Revenue who had charge of that department; and after further consideration by the Government, a Bill has been drafted and has been transmitted for the previous assent of His Excellency the Governor-General. The Council will recollect that, under the provisions of the Indian Councils' Act, this Bill being one which relates to the imperial revenue, it is necessary to obtain the previous assent of the Governor-General; that assent has accordingly been asked for.

The next Bill, to provide for the voluntary registration of Mahomedan marriages and divorces, has, as hon'ble members will recollect, received the constant and repeated attention of this Council. The best authorities upon the subject of Mahomedan law, both at Calcutta and in the mofussil, have been consulted. The Council had over and over again considered and reconsidered the wording of every clause which affected the interests or the feelings and sentiments of the people concerned, and it has now, I may say, been finally settled in Council. We have done our best to render it a Bill suitable for the purpose in view, and acceptable to the persons and classes concerned.

The next Bill, for the amendment of the Jute Act, has been passed in Council, and has received the assent of the Governor-General.

The next is a Bill to provide for the summary realization of loans of money and grain advances made by Government during the late famine. It has also been passed in Council after special consideration by the Select

Committee, who had the advantage of having before them evidence obtained from the districts in question.

The next proposed law for appointing managers in joint undivided estates has not yet been submitted to the Council. The reason is that under instructions which we received from the Government of India, which instructions I had the honor to read to the Council in December last, we had to refer the measure back to the districts in the mofussil for the purpose of again consulting the various interests concerned, both zemindars and ryots; and as the Council will imagine, it takes a long time to collect replies from districts so many and so distant. And though we have collected a mass of various opinions, we have not yet been able to weld them into a shape fit for submission to the Council. But the matter is well in hand, and I hope before long we shall be able to submit an appropriate measure.

Then the Bill to provide for the compulsory registration of possessory titles in land has been drafted, and leave has been obtained in Council to introduce it. But it has been thought desirable, before proceeding further, to send the draft for the opinion of several Collectors; and those opinions are now being received, and I hope the hon'ble member in charge of the Bill will soon be able to submit it to the Council.

The next measure is a Bill to improve the sale law. It has not yet been submitted to the Council. The measure will, I think, prove to be not a very large one. The fact is that on consideration we found the sale law does not require very much amendment; but such amendments as can be suggested in justice to the owners of estates that may probably come into this predicament,—these amendments, I say, will be borne in mind, and I hope that shortly a short measure will be submitted to the Council.

The next is a Bill to provide for the realization of arrears in Government estates. It has been passed in Council, and has received the assent of the Governor-General.

Then comes a Bill to make better provision for the partition of estates paying revenue to Government, known as the Butwara law. It has been read in Council, and has been drafted in considerable detail, and with very great care, by the hon'ble member in charge, and is now before a very competent Select Committee.

The next is a Bill to provide for irrigation and canal navigation. It was read in Council, and has been referred to a Select Committee.

The Bill regarding the consolidation of the law relating to municipalities in the interior of Bengal has been also drafted with very great labour to those concerned. Leave has been granted to introduce it into Council, and I hope shortly to hear of its being referred to a Select Committee.

The Bill for the consolidation of the municipal law of Calcutta has also been drafted with great care and pains. It has been read in Council and referred to a Select Committee, and I trust that various additional improvements or possible changes in the constitution of the municipality will be considered by the Select Committee, and some decision will be arrived at in the course of the next session as to whether any changes in the municipal constitution are or are not really required.

The Bill to amend the Bengal Act relating to boilers and prime-movers has been passed in Council, and has been forwarded for the assent of the Governor-General.

Then a Bill regarding surveys and boundary pillars, the main object of which is to provide for the recovery of the cost of these boundary pillars, has been read in Council and referred to a Select Committee.

As regards the amendment of Act V of 1861, the regulation of the police—I mean the regular police as contradistinguished from the village police—nothing has been done in this Council regarding that. As the Council will remember, I explained in December last that it was doubtful whether it would be within the competence of this Council to proceed with legislation in that matter, considering the orders we have received from the Government of India. I have since had the advantage of very carefully considering this subject with the Inspector-General of Police, and I certainly am convinced that some legislation, either in this Council or in that of the Governor-General of India, will be necessary. I hope in the course of a short time to be able to inform this Council as to whether we shall attempt to proceed with legislation here, or whether we shall recommend that the matter be undertaken elsewhere.

As regards the village police, after further consultation with the authorities concerned, we have arrived at the conclusion that it is not necessary at present to trouble this Council with any proposal on the subject. We find that the law passed in 1870 on this subject was a very carefully prepared measure, which received the assent not only of the most experienced officers of Bengal at the time, but also the approval, after some discussion, of several native members of this Council,—gentlemen who represent some of the greatest landed interests in the country. That being the case, we find that this law has been as yet but partially carried out: that is to say, it was brought into operation in only a very few districts or portions of districts, and that a further trial of its working must be had in other districts before I can undertake to say that there are any defects in the law, and before I can venture to propose any amendment of it for the consideration of the Council.

The next measure proposed was the re-enactment of the old laws for the prohibition of the levy of illegal cesses in navigable rivers, high roads, and market-places, and for the regulation of such cesses as may be found equitable and lawful. Here also no measure has yet been submitted to the Council, but the matter has been undertaken by our hon'ble colleague Mr. Schalch, and I have no doubt that, with his knowledge and experience of the subject, he will before long be able to produce a suitable measure, which will simply be a re-enactment of the old law, which dates, I think, from 1790, with such suitable alterations or additions as may be called for by the circumstances of the present day.

As regards the ports of Orissa, the application to them of the law for levying port-dues, regarding which it was thought possible we might have to come here for legislation, the Council will have subsequently perceived that the levy of these dues in all ports in Bengal has been fully provided for by the Ports' Act, passed by the imperial legislature for the whole of British India.

So much for the measures which were proposed in the statement made in December last. We have since found it necessary to prepare Bills on two additional subjects. One has been to provide for a system of reformatory schools in or near the Presidency. I think all persons who feel much interested in the welfare of the rising generation will consider that it is very desirable to prevent so many persons of a tender age from growing up in vice, crime, and ignorance in the neighbourhood of so great and populous a town as Calcutta. The other Bill is to provide a more satisfactory and summary jurisdiction for the decision of suits and disputes regarding rent in cases where agrarian troubles or disturbances may be felt. I think all those who have practical acquaintance with landed affairs and interests in the interior of the country, will admit that when such troubles as those which occurred the year before last in parts of Bengal shall arise, it is necessary that the authorities who are responsible for the order and peace of their districts should have a more complete legal power than they have at command for bringing such disputes to a speedy and satisfactory termination. I hope that before long on both these matters we shall be able to submit measures for the consideration of the Council.

The result, I think, of the statement I have now the honor of making shows that we have passed some measures, and that with many others we have made a certain amount of progress,—a considerable amount perhaps relatively to the shortness of the time. But the statement also shows that we have still many measures in hand, and that constant and assiduous efforts will be required from the Council in general, and from hon'ble members in particular, in order to arrive at a satisfactory position during the next session.

The first Bill for immediate consideration in Council is that relating to canals of irrigation and navigation both in Bengal, Behar, and Orissa. I trust that in the course of a month or two, or three at the most, this measure may pass the Council.

Next after that I hope hat progress will be made by the Council at its sittings from time to time with the Bills relating to excise, surveys and boundary marks, and the sale law. These will not be very long or extensive Bills, and I hope it will not be taxing unduly the time, attention, and patience of the Council if I ask you to proceed with these Bills with as much speed as may be convenient.

There remains the Mofussil Municipal Bill, which I hope will soon be referred to a Select Committee, and perhaps be advanced some stages during the ensuing months, and possibly passed by the Council within a comparatively brief time.

Besides these there are some long and heavy measures, which I believe will occupy the time of the Select Committees during the whole of the summer. These are the measures relating to the management of joint undivided estates, the registration of possessory titles in land, the law of partition of estates, and the Calcutta municipal law. But still I am sure we may trust to the industry of very competent and able Select Committees that have been, or will be, appointed for the consideration of these Bills, to advance them to such a stage that they shall be passed during the ensuing winter session.

And besides these, as I have already said, we may have to trouble you with Bills regarding the regular police, the regulation of private cesses on rivers, high roads, and market-places, the summary jurisdiction of rent suits, and the establishment of reformatories.

This, then, is the substance of what I have to state regarding the present and immediate future of our legislation. I need not say that while we endeavour to do what is necessary in every direction, we shall also carefully avoid anything like over-legislation. It is sufficient for us to take up measures as they appear to be called for either by the state of public opinion, or the actual needs and circumstances of the country. We must bear in mind that this is an old established province, with a settled administration, and that extensive and speedy changes are not likely to be required. We may also bear in mind that of late years a great number of extensive improvements have been commenced. Still we cannot afford to stand quiet without moving. We know that stagnation generally ends in retrogression: and we must therefore vigilantly watch for the means of carrying out such progress and such reforms as may be legitimately called for. The best endeavours of the Government of Bengal will be directed to this object; and I am sure that in giving effect to it, we may count on the assistance and co-operation of the many experienced gentlemen who sit in this Council, and represent such important and varied interests.

I think the progress we have been able to make during the last three months shows how very necessary it was to obtain the exclusive services and undivided attention of our excellent colleague, Mr. Dampier. I am sure we are also much indebted for the learning, assiduity, and constant attention to the several consolidation measures which have been drafted by our learned Secretary, Mr. Millett. As he is going away for a short time, I feel confident that the talents and aptitude of his successor will in some degree fill the gap which will be made by his (Mr. Millett's) departure. And as I am obliged to proceed elsewhere for the present, I am sure during my absence, whenever the Council may have to meet, the experience and ability of our hon'ble colleague Mr. Schalch, as President in my absence and in my place, will be given to the measures that may be pending before this Council."

The Council was adjourned to a day of which notice would be given.

Saturday, the 24th April 1875.

Present:

The Hon'ble V. H. SCHALCH, *presiding.*
The Hon'ble G. C. PAUL, *Acting Advocate-General,*
The Hon'ble H. L. DAMPIER,
The Hon'ble STUART HOGG,
The Hon'ble H. J. REYNOLDS,
The Hon'ble BABOO JUGGADANUND MOOKERJEE, RAI BAHADOOR,
The Hon'ble T. W. BROOKES,
The Hon'ble BABOO DOORGA CHURN LAW,
The Hon'ble BABOO KRISTODAS PAUL,
and
The Hon'ble NAWAB SYUD ASHGHAR ALI DILER JUNG, C.S.I.

SETTLEMENT OF DISPUTES REGARDING RENT.

THE HON'BLE MR. DAMPIER said, at the meeting of the 10th April the Lieutenant-Governor prepared the Council for the measure which MR. DAMPIER had now the honor to lay before them in these terms:—

"The other Bill is to provide a more satisfactory and summary jurisdiction for the decision of suits and disputes regarding rent in cases where agrarian troubles or disturbances may be felt. I think all those who have practical experience with landed affairs and interests in the interior of the country will admit that when such troubles as those which occurred the year before last in parts of Bengal shall arise, it is necessary that the authorities who are responsible for the order and peace of their districts should have a more complete legal power than they have at command for bringing such disputes to a speedy and satisfactory termination. I hope that before long on both these matters we shall be able to submit measures for the consideration of the Council."

This measure was, in the fullest sense of the term, a Government measure. With the progress of events and the increase of knowledge, differences had arisen which from time to time threatened to disturb the peace and good order of large portions of districts. The means which under ordinary circumstances were found sufficient for good government, did not suffice under these special circumstances;—did not suffice when, to use the Lieutenant-Governor's words, whole classes of men were becoming angry with one another. The Government had found it necessary to come to the Council for extraordinary powers to deal with these cases. The Lieutenant-Governor personally had stated at length, in a minute which was in the hands of members, the circumstances which had led to his so coming to the Council, and the nature of the special powers which the Government considered would be best for the peace and good government of the country. Nothing would be gained by MR. DAMPIER's adding to what the Lieutenant-Governor had written, and therefore he begged to move for permission to introduce a Bill to provide for inquiry into disputes regarding the rent payable by ryots in certain cases, and to prevent agrarian disputes.

The motion was agreed to.

The HON'BLE MR. DAMPIER said, the measure which he had the honor to bring to the notice of the Council was not, he supposed, one which took any member by surprise. He might say that public opinion had for some time been occupied with the subject; and there was, he thought, a consensus of opinion that some special measure of this sort was necessary to put an end to what threatened to be a scandal to our Government. The subject had been much ventilated and discussed outside of the Council; and as, from the very nature of the Bill, it was desirable that it should be passed as soon as possible, he had no hesitation in asking the President to suspend the rules for the conduct of business in order that he might get the Bill on one stage farther.

The PRESIDENT having declared the rules suspended—

The HON'BLE MR. DAMPIER, in moving that the Bill be read in Council, said he should lay before hon'ble members the general scheme of it shortly. The Bill provided that the Lieutenant-Governor might set in motion this extraordinary procedure whenever he considered it necessary for the maintenance of peace and for good government generally. When he considered this to be necessary, he would vest the Collector or other officer with the special powers of the Bill.

When a difficulty arose of the character which this Bill was intended to meet, it usually so happened that the dispute between the zemindars and ryots involved some general question which affected each individual ryot, such as in the Dacca instance which the Lieutenant-Governor had given in his minute. The general question there was whether the rise in the value of produce since the last time that rents were adjusted was such as to make it fair and equitable that rents should be raised by four annas a beegha. Another instance of a general question which often arose was as to the length of the *hath* or cubit, or unit of measurement. The zemindars and ryots might be agreed that at a certain point of time the rent paid for certain kinds of land was eight annas a beegha. Unfortunately this agreement did not bring the matter so near to a solution as would seem at first sight. Hon'ble members were aware that every beegha consisted of a fixed number of *luggees* or poles squared, and every *luggee* of a certain number of cubits or *haths*. Unfortunately the cubit did not consist of a fixed number of inches or fingers, and a different *hath* was in vogue in different pergunnahs. In Pubna, where disputes were going on two years ago, the ryots of some estates claimed that their rents were fixed with reference to a beegha measured according to the cubit or *hath* of a certain traditional saint, who was noted for the extraordinary length of his arm. The zemindars denied this, and so the dispute went on. In former times there used to be in a corner of the Collectorate a bunch of sticks, sealed at each end, which represented the standard of measurement in different pergunnahs.

According to the ordinary procedure, there was no way of taking up such general questions and deciding them finally as general questions. The zemindar might single out a representative ryot, and take him through the court of first

instance, and through all the mazes of appeal, and get the point decided by the highest court. No doubt, if the ryots were reasonable, they ought to accept that finding and agree to a settlement accordingly. Unfortunately, when the ryots "got angry" and were in that state of combination which it was one of the objects of the Bill to meet, ryot No. 2 would not accept the decision given in the highest court of appeal in the case of ryot No. 1; and he opposed the zemindar by *vis inertiæ;* and so the zemindar might have to carry on suits against his ryots one by one in detail, and through all the courts.

It would be seen that the remedy which the Bill proposed for this state of things was that when the Lieutenant-Governor was satisfied that such an unfortunate dispute existed, and had determined to bring the machinery of the Bill into operation, he should propound certain general questions for decision, and should require the revenue officers to make a local and personal inquiry, and to come to a general finding upon them. This finding, when formally arrived at and declared, would be binding upon those particular points on the courts in the disposal of cases. The finding on the general questions having been so arrived at, the Bill provided that they might be applied by one proceeding to the cases of any number of individual ryots. The zemindar might bring his suit of enhancement against any number of ryots jointly, or any number of ryots jointly might bring a suit for abatement against the zemindar. The circumstances of each individual would be carefully considered, but the one decision would bind all, defining particularly to what extent it applied to the case of each ryot.

The third point in the Bill was that so long as an estate was under the operation of this extraordinary measure, all suits for rent should be tried by the officers who exercised the special powers of the Bill, and by no other courts. Those who were familiar with the mofussil, would at once see how necessary it was that the hands of the special officers should be strengthened on the one hand; and on the other hand they would be personally on the spot making local inquiries, and this particular work would take precedence of all other work on their hands. Therefore, it was for the good of all parties that, so long as this state of things existed in any estate, the people should have to look to one set of officers only as judges in these rent matters.

The Hon'ble Baboo Kristodas Pal said he regretted the necessity which had compelled the Government to bring in this Bill. It was an exceptional measure, but exceptional circumstances required exceptional remedies. Hon'ble members of this Council were aware that for some years past the feeling between the zemindars and ryots in several districts in Bengal had been far from what was desirable and what ought to subsist between them, and in some cases this feeling had found expression in overt acts of disturbance. In 1873 troubles of a serious character broke out in Pubna, and he was afraid that the contagion would have spread to other districts if the common calamity which threatened us in 1874 did not for a moment prevent the spread of that feeling. The zemindars and ryots were then equally anxious for their own existence as

it were, and angry feelings consequently gave place to the desire for mutual help and protection. But troubles had again broken out in some of the Eastern districts. His Honor the Lieutenant-Governor, in the minute which had been circulated to members, had called attention to certain facts which established the necessity of a measure of this kind. Baboo KRISTODAS PAL had some opportunities of knowing how things were getting on between ryots and zemindars in several districts, and he must say that unless some measures were taken to promote peace and harmony between them, the tranquillity of the country might be endangered, and the Government called upon to take stronger measures than that now proposed. The present law was not sufficient to meet cases of organized combination among the tenantry. The civil court procedure was too dilatory, expensive, and harassing, and it was therefore necessary that there should be a summary procedure for the settlement of rent disputes. The present Bill contemplated a summary settlement; and if it were carried out with care, judgment, and tact, he believed the Government would succeed, as it intended to do, in throwing oil over troubled waters.

There were, however, some points connected with this Bill which involved, he might say, questions of principle, and to which only he would briefly advert. In the first place this Bill left everything to the discretion of the revenue officer. No principle was laid down on which he was to settle the question of rates of rent. Now, hon'ble members were aware that the whole rent question was a question of rates of rent. Until the rise in the price of produce, which dated, Baboo KRISTODAS PAL might say, from the Crimean War, there was little dispute practically between zemindars and ryots. There was not before that active incitement to enhancement of rent which was now in operation. Whatever increase was then made, it was generally amicably settled between zemindars and ryots; the law courts were seldom appealed to. But since the rise in the price of produce, there had been continually going on a struggle between the landlord and tenant as to the proportion which the rent should bear to the produce of the land. This struggle had been intensified, he might say, by the rent law. Act X of 1859, which was justly regarded as the ryots' charter, had unfortunately introduced an element of uncertainty and indefiniteness as to the proportion which the rent should bear to the produce of the land. Many conflicting decisions had been passed by the High Court upon the subject; and from the day the Act was passed to this day, the question of the rate of rent remained unsolved. If some simple rules could be laid down which would lead to the determination of a fair and equitable rate of rent, he thought the present rent difficulty would disappear. It was, he admitted, a very difficult and complicated question; but he might mention that several suggestions had been made by experienced persons on this subject. One was this, that the gross produce of the land should be divided between the zemindar and the ryot in a definite proportion; that was to say, three-fourths going to the ryot, and one-fourth to the zemindar as rent. That was one suggestion. If hon'ble members would

inquire, they would find that in many districts the proportion of rent received by the zemindar was more than one-fourth of the gross produce, and in some districts it was less; but he believed it would be equitable and just, both to the zemindar and the ryot, if the proportion were laid down at three-fourths to the ryot and one-fourth to the zemindar.

The next suggestion was this, that the rate of rent should be fixed on the competitive rate prevailing in the village or pergunnah. The competitive rate meant the rate of rent at which the jotedars or farmers or other holders of land let the land to cultivating ryots. There was a competition for land by the cultivating ryots, and the rate they paid was called the competitive rate. Taking that as the rate of rent, the rate for an occupancy ryot might be fixed at such a rate as would secure him the benefit of the tenant right he enjoyed, and this could be done by allowing him a deduction at a certain percentage from the competitive rate so found and determined. This suggestion was based upon the principle followed in the Oude Rent Act. According to that Act the occupancy ryot was liable to pay the rate of rent minus 12½ per cent., which a tenant-at-will paid.

The third suggestion was this, that the average of the price of the produce of the land for the last ten years might be taken with the cost or outgoings which the ryot incurred, and the proportion which the then existing rate of rent bore to the gross value of the produce, and similarly the average price of the produce at the present day with the outgoings, and the proportion the rate of rent bore to the value of the gross produce at the present day; the difference which might be found between the two rates should be made up by an abatement or enhancement of rent in like proportion. That was to some extent the principle laid down by Mr. Justice Trevor in his judgment in the great rent case.

There might be other suggestions which might meet the difficulty one way or another. But Baboo Kristodas Pal thought that some definite principle ought to be laid down, upon which the revenue officers should proceed under this Bill in settling disputes as to the rate of rent. He believed it was intended that the Board of Revenue should prescribe rules as to the manner in which the Collector should make inquiries and report their proposals for sanction; but he did not know whether it was intended that the Board should provide rules also for the guidance of the Collector in the determination of the rate of rent. If that was the object, he thought the more regular course would be to embody such rules in the Bill.

The hon'ble mover had pointed out the advantage of determining or settling disputes in a pergunnah or in portions of a district in one proceeding or decision. Baboo Kristodas Pal admitted that in cases of measurement such a proceeding would be perhaps desirable; but he doubted whether, in cases of enhancement of rent, such a proceeding would be always convenient; for different ryots might have different pleas, and the revenue officer would be bound to inquire into the different pleas so preferred, and it might greatly complicate matters if one proceeding were to govern the cases of all ryots.

The Hon'ble Baboo Kristodas Pal.

Then the Bill as it was framed provided for no appeal either to the Commissioner or to the Board of Revenue, but left it to the Commissioner and the Board to exercise a general power of supervision over the proceedings of the Collector. BABOO KRISTODAS PAL would divide rent cases into two classes, viz. enhancement cases and arrear cases. In arrear cases, where the question was simply whether the ryot owed a certain amount as rent, he thought it would not lead to much hardship if the right of appeal were taken away, though there might be cases of a certain description in which even arrear cases might involve questions of right indirectly. But enhancement cases were of a different description; and as it was proposed that the rate of rent determined by the Collector should have currency for a period of ten years, he thought it was very important and necessary that an appeal should be allowed from the decision of the revenue officer to the Commissioner and Board of Revenue. Very important questions might be involved in enhancement cases, and much would depend upon the particular idiosyncrasy of the officer who would decide these cases. One officer might be friendly to the zemindar, another might be opposed to the ryots, and *vice versâ;* and thus most important interests of zemindars might be imperilled, or a whole body of ryots might be ruined, by the proceedings of the Collector. In such important cases, BABOO KRISTODAS PAL thought, an appeal should be allowed to the Commissioner and the Board.

The Bill, he thought, was a move in the right direction; and if it were properly revised and amended, he believed it would be acceptable to all classes interested in the land.

The HON'BLE MR. DAMPIER said he had the honor of stating just now that this Bill was in the purest sense a Government measure, and he presented it to the Council, with the exception of a few verbal alterations, in the shape in which it was sent to this Council by the Executive Government. No doubt the Government expected that it would be altered in its details in Select Committee, which would certainly give great attention to such an important Bill as this. There were only two points he wished to notice in his hon'ble friend's speech. The hon'ble member had said it might be objectionable in some cases to join a number of ryots as defendants or plaintiffs, because the circumstances of some of them might be so very different from some of the others. NOW, MR. DAMPIER knew that this particular provision was taken from one of the North-Western Provinces' Revenue Acts. However, he quite saw the difficulty which the hon'ble member suggested. Still it seemed to MR DAMPIER that there should be some way of applying the general finding which had been arrived at by the Collector with the approval of the Commissioner and the Board of Revenue, and giving it the force of a decree, as it were, against any number of ryots or on behalf of any number of ryots against the zemindar by one single proceeding. He thought there should be a power to join in one proceeding all the cases arising in an estate, and to make the same order apply to all those cases, if there were no particular reason against it. It appeared to him that if this Bill should go to a Select Committee, some such modification as this might be made,—that suits might be brought against any number of defendants jointly or by any number of

plaintiffs jointly, and that after making all due inquiry the deciding officer should make his order cover the case of as many of such plaintiffs or defendants as it could conveniently be made to cover, and should leave out others whose cases he thought ought to be considered with reference to their special circumstances.

With regard to the other point, viz. an appeal to the Commissioner and the Board, MR. DAMPIER had pointed out that in the scheme of the Bill the first thing was a general executive finding or declaration upon a general question. This finding being accepted as the datum, the next thing was to apply it to each particular ryot's case and circumstances by a suit. The words used in the Bill were that the Collector should come to the general finding by proceedings under the control of the Commissioner and the Board; but practically the course should be that the Collector would submit, for the consideration of the Commissioner and the Board, the conclusions to which he had arrived, and should declare his finding with their approval, so that that declaration would in fact be in accordance with the views of the higher revenue authorities, and therefore an appeal would be unnecessary to them on the points involved in that finding. As regards the application of the general finding to individual cases, MR. DAMPIER thought it would be necessary to provide an appeal. He did not think there should be a right of appeal to the Board; and whether the right of appeal should lie to the Commissioner with a power of revision reserved to the Board, would be, he thought, a very important matter for the Select Committee to consider.

The motion was agreed to, and the Bill referred to a Select Committee consisting of the Hon'ble Mr. Schalch, the Hon'ble the Acting Advocate-General, the Hon'ble Mr. Reynolds, the Hon'ble Baboo Kristodas Pal, and the Mover, with instructions to report in a month

The Council was adjourned to a day of which notice would be given.

Saturday, the 1st May 1875.

Present:

The Hon'ble V. H. SCHALCH, *presiding.*
The Hon'ble G. C. PAUL, *Acting Advocate-General,*
The Hon'ble H. L. DAMPIER,
The Hon'ble STUART HOGG,
The Hon'ble H. J. REYNOLDS,
The Hon'ble BABOO JUGGADANUND MOOKERJEE, RAI BAHADOOR,
The Hon'ble T. W. BROOKES,
The Hon'ble BABOO DOORGA CHURN LAW,
The Hon'ble BABOO KRISTODAS PAL,
and
The Hon'ble NAWAB SYUD ASHGHAR ALI DILER JUNG, C.S.I.

MOFUSSIL MUNICIPALITIES.

The HON'BLE MR. DAMPIER said, when asking for leave to introduce a Bill to amend and consolidate the law relating to municipalities, he said that we

should take the Bill of 1872 as the general model, throwing out such provisions of it as had not met with the approval of the Governor-General, and against which general opposition was expressed. He said that it would not be the object of the present Bill to increase taxation, and he thought hon'ble members would find that the Bill fulfilled those conditions.

In the first section a new provision was introduced; he meant one which was not in the Bill passed by this Council in 1872. It would be inconvenient that it should be necessary for the Lieutenant-Governor, the moment this Bill became law, again to notify all the municipalities; and therefore the first section provided that this Act should at once be in force in every municipality which was now under the District Municipal Improvement Act of 1864, and in every town which was under the District Towns' Act of 1868. The Bill would at once take the place of those two Acts in the towns in which they were now in force, and the mode of taxation which was in force in each town under those Acts would continue to be in force under the new Act until any special alteration was made. Then clause (*b*) gave the Lieutenant-Governor power to extend the Act to other towns and places.

The second section, with the schedule to which it referred, repealed eleven Acts, and got rid altogether of them from the Statute Book.

Passing on to the 2nd chapter, the 5th and following sections were of importance. The provisions of the old Bill had been adhered to as regards the tracts of country which might be made first class municipalities; there must be a minimum of 15,000 inhabitants, and the average number of inhabitants must be not less than 2,000 to the square mile; for first class municipalities those limits had been adhered to.

The old Bill provided for second and third class municipalities,—rural communes, as the late Lieutenant-Governor called them. The third class had been thrown out altogether in this Bill, and other limiting conditions had been imposed as to the tracts which might be declared second class municipalities. It was provided that such tracts must contain at least 1,000 inhabitants, and the average number of at least 500 to the square mile, or half the density of the population of a first class municipality. It was provided that the majority of the adults must be employed in non-agricultural occupations; and when the nucleus for these municipalities had been obtained under this provision, section 8 provided that other places, not being more than half a mile distant from one another, might be joined so as to form a union. This was to meet the case of places which might be called suburbs of the towns which were created municipalities. It would be seen that, as a consequence of not adopting the third class municipalities of the old Bill, all the provisions of Part XII of that Bill, as to village chowkeedars and chakran lands, which were objected to, fell out of the new Bill, which left the existing law intact upon those subjects.

The third chapter treated of municipal authorities and the constitution of municipalities, of which he would notice the chief points. The Lieutenant-Governor might direct the election of not less than two-thirds of the Commissioners by votes of the rate-payers. He might remove a Commissioner for certain reasons which were specified in section 14, for corruption or continued

neglect to attend the meetings of the Commissioners, or otherwise to discharge his duty as a Commissioner or member of a Ward Committee. The Magistrate of the district or division of a district in which a municipality was situated, as the case might be, was *ex officio* to be Chairman. The Lieutenant-Governor might also appoint other persons, holders of appointments under Government, to be *ex officio* Commissioners, but under the proviso that not more than one-third of the whole number of Commissioners should be persons holding in the Judicial, Police, or Revenue departments of the Government service salaried offices, of which the functions were exercised within the district in which the municipality was situated, unless such persons were elected Commissioners otherwise than by appointment by the Lieutenant-Governor. The 17th and following sections provided for the retirement of the Commissioners by rotation. It was desirable to have new blood among the Commissioners; but it was provided that any retiring Commissioner might be re-appointed, so that the services of any one who was particularly valuable amongst the Commissioners could be retained. The time of service of the Commissioners was limited to three years ordinarily; but it would evidently be very inconvenient to have all the Commissioners retiring simultaneously at the expiration of the third year from the first appointment of the Commissioners, and therefore a mechanism was provided in section 18 by which one-third of the Commissioners should retire in each year up to the end of the third year, so that the Commissioners would only lose one-third of its members in any one year. Section 23 provided that the Commissioners should elect their own Vice-Chairman, subject to the approval of the Lieutenant-Governor, and that such Vice-Chairman might be removed by a resolution of the Commissioners in favour of which not less than two-thirds of the Commissioners should have voted.

The second part of the chapter provided that the Commissioners under the Act should succeed to the rights and liabilities of the Commissioners, Committees, and Punchayets appointed under the old Acts, of which it took the place.

In part 3 of the same chapter, of the mode of transacting the business of the Municipality, it would be noticed that the quorum in a first class municipality was five, and in a second class municipality three. Section 37 defined that the Chairman should, for the transaction of the business of the Commissioners, exercise all the powers of the Commissioners, provided that the Chairman should not act in opposition to, or in contravention of, any order of the Commissioners at a meeting, or exercise any powers which were directed to be exercised by the Commissioners at a meeting.

Part 4 of the same chapter provided for Ward Committees—off-shoots of the municipal body, whom they might cause to be elected or might appoint to perform any duties which the municipal body might delegate to them in any specific parts of the Municipality; such Committees would elect their own Chairman.

Part 5 related to the liabilities of the Commissioners and Ward Committees. It was provided as usual that no Commissioner or officer or servant of the Commissioners should be interested in any contract made with the Commissioners, and so on.

The Hon'ble Mr. Dampier.

Chapter 4 was in regard to the municipal fund and its application. By section 48, the first charge on that fund was the payment of police, such police as, under the power laid down in this Act, should have been fixed by the Government as sufficient for each municipality. This was one of the compulsory charges which the Commissioners must meet. There was also one other compulsory charge, which would be found in the last section of the Bill; it was that entailed by the duty of keeping up such portions of district roads (the lines of road which outside the municipalities were kept up by the Road Cess Committee,) as fell within the municipal limits. The last section of the Bill provided means by which the Government could enforce the performance of these two duties. If the Commissioners did not themselves pay the amount which was due for police, and if they failed to keep up those portions of the main arteries of communication which lay within their own municipality, then the Lieutenant-Governor might take the matter out of their hands, might supersede them *pro hac vice*, and authorize the Magistrate to levy the money and perform the duties himself. With these two exceptions, it was left optional with Municipal Commissioners to spend money on the objects specified in section 49, viz. the construction, repair, and maintenance of roads, wharves, embankments, channels, drains, bridges, and tanks; the supply of water and lighting of roads, and other works of public utility calculated to promote the health, comfort, or convenience of the inhabitants; the diffusion of education, and with this view the construction and repair of school-houses, and the establishment and maintenance of schools either wholly or by means of grants-in-aid; the establishment and maintenance of hospitals and dispensaries; the promotion of vaccination; and for carrying out the purposes of the Act generally. When he said it was left optional with them, he meant that no special procedure was provided in this Act by which these things could be done, or by which the Municipal Commissioners could be forced to do them.

One main difference between this Bill and that of 1872 was that section 168 of the old Bill made it compulsory upon the Municipality to contribute towards vernacular education. That was one of the clauses to which the Governor-General objected, and others also. The clause had been omitted, and it had been left optional with the Municipal Commissioners to contribute to this object of education, whether vernacular or higher.

Another very important item which appeared in the old Bill had been omitted. In the old Bill, one of the objects for which Municipal Commissioners might expend their funds was the support or relief of the poor in times of exceptional distress. That was not considered to be a legitimate object of expenditure of the municipal funds, and therefore it had been omitted from the present Bill.

Then followed the provisions as to the accounts and preparation of estimates. The Commissioners were to send their estimates to the Magistrate, who would pass them on to the Commissioner of the division with his remarks. The Commissioner might return them with any objection which he might have to make, and these would be considered by the Municipal Commissioners at a special meeting called for the purpose, and the decision of the majority of the

Commissioners attending at such meeting would, subject to the provisions of section 56, be final. In other words, there was no power reserved either to the Magistrate or the Commissioner of the division to over-rule the decision to which the majority of the Municipal Commissioners at a meeting might adhere. MR. DAMPIER hoped this fulfilled to the satisfaction of hon'ble members the intention of making the Municipal Commissioners free of control.

The municipal accounts would be audited by such person as the Lieutenant-Governor would direct; and section 59 provided that the municipalities should be bound to contribute towards the cost of such establishment as might be necessary in the offices of the Magistrate and the Commissioner of the division for municipal duties. The work thrown upon them was occasionally very heavy, in such districts especially as the 24-Pergunnahs, where there was a very large number of municipalities.

Chapter 5 was the most important of all, and differed materially from the provisions of the old Bill. He said, in asking leave to introduce the Bill, that it would not be the object to increase taxation, and that they should retain only those taxes which were familiar. Accordingly they had thrown out the following taxes, which appeared as alternative taxes in the old Bill: the tax upon trades and callings, the tax upon processions, the octroi duties, the duties upon boats moored within the limits of municipalities. These four taxes they had thrown out, and the scheme of the present Bill was this. There were two main taxes alternative to one another, either of which the Commissioners might adopt for their municipality. The first was a tax upon persons occupying holdings within the municipality, according to their circumstances and their property within the municipality. This was nothing but the old and most familar mode of municipal taxation in Bengal,—the mode under the Chowkidaree Act of 1856 and the District Towns' Act. It was a rough method of taxation, but there was to be said for it that it was well understood, and that several of the municipalities which were now under the District Municipal Improvement Act,—the more advanced municipalities, in which the more strictly accurate mode of taxation, by a percentage on the annual value of all holdings situated within the Municipality, was in force; several of these municipalities which had this more perfect mode of taxation had cried out that it was not suitable to their circumstances, and had asked for a law which would enable them to impose the more primitive mode, which was called in this Bill a tax upon persons occupying holdings according to their circumstances and property within the municipality.

For those municipalities which preferred the more perfect and more advanced form of taxation, it was allowed, as an alternative, to impose a tax on the annual value of holdings. That was also a well-known mode of taxation now. In the case of both these taxes the Bill adhered to the maximum imposed on each by the existing law; so there was no increase of taxation in respect of them.

Besides these two main taxes, were three minor taxes, one or all of which might be imposed in any municipality,—the tax upon carriages, horses, and other animals, the fees on the registration of carts, the tolls on ferries and roads. Wherever there was a ferry, there must be tolls charged; the Municipal Commissioners could scarcely be expected to incur the cost of maintaining a ferry.

The Hon'ble Mr. Dampier.

for nothing. A toll upon roads was optional, and might be imposed or not according to the discretion of the Commissioners. Then as to the fee on the registration of carts: this was in force in some municipalities now, and would certainly not be adopted by any municipality except those which were towns of some importance, and in which carts were generally employed for purposes of trade. As to the tax upon carriages, horses, and other animals, it was obvious that this was a tax on luxuries, which it was quite right to impose wherever there were enough of carriages and animals to make the imposition of the tax remunerative.

Part III of this chapter contained provisions as to the mode of assessing and levying taxes; these provisions had been rearranged, but it was not necessary to notice them now.

As to Part V, regarding the tax upon carriages and animals, he would only notice that in the old Bill the schedule imposed a tax upon bullocks. He had omitted that as undesirable; and even where a town was of such extent that carts were extensively employed within it for other than agricultural purposes, he thought the fee on the registration of carts was the better way of levying the tax. As it stood in the old Bill, there was no limit whatever as to the class of bullocks to be taxed, and no exception made as to bullocks employed in agriculture or any other.

Chapter 7 related to municipal police. The provisions of Parts VII and VIII of the old Bill had been objected to by the Governor-General, who did not approve of the relations between the Government and the municipality in regard to police being altered so summarily, so that the sections of the present Bill maintained the relations between the Government and the municipality as to the police, and the status of the municipal police, as they stood under existing laws.

The chapter relating to the registration of births and deaths had been omitted. It was a reproduction of the Act which existed upon that subject. The Act could not properly be struck out of the statute book, because it might be made applicable to places other than municipalities. As they could not get rid of the Act altogether, he saw no advantage in reproducing its provisions here; so that in the place of the chapter which appeared in the last Bill, this Bill merely provided in one section that every first class municipality should, and every second municipality might, provide for the registration of births and deaths within the limits of their jurisdiction in accordance with the provisions of *Bengal Act IV of 1873 (for registering births and deaths)*.

Similarly, he had omitted chapter 6 of Part XI of the old Bill, which was a reproduction of the Act relating to the prohibition of inoculation in certain tracts of Bengal. That Act might also be applied, and he believed had been applied, to places other than municipal towns, and therefore could not be wiped off the statute book. As it must remain there, he thought it might as well remain under its own number and year than be imported bodily into this Bill. The Bill provided that vaccination was one of the objects for which the Commissioners might contribute, and left it to the Lieutenant-Governor to exercise the powers, under the special Act, of prohibiting inoculation in any municipality

in which he should think that sufficient arrangements had been made to provide means for vaccination.

Chapter 9, relating to municipal regulations, need not be noticed in detail. He would only call attention to section 155, which was introduced in reference to a case which arose at Serampore, where the Magistrate declared a certain thing to be an illegal obstruction, and the Commissioners proceeded to remove the obstruction, for which they were sued, and it was held that the Magistrate's order did not protect them while carrying it out. Section 155 ran thus:—

"An order made by the Magistrate under either of the two last preceding sections shall be deemed to be an order made by him in the discharge of his judicial duty, and the Commissioners shall be deemed to be persons bound to execute lawful orders of a Magistrate within the meaning of Act No. XVIII of 1850 (for the protection of judicial officers)."

Chapter 11 provided that the Commissioners might make bye-laws, with the approval of the Lieutenant-Governor, and sections 186, 187, and 188 provided penalties for infringements of such provisions of the Act as would not be ordinarily punishable under the Penal Code. He had already noticed the effect of the last section of the Bill, which was to enable the Lieutenant-Governor to direct the Magistrate to do certain things if the Municipal Commissioners should fail to do them.

With these remarks he would move that the Bill be read in Council.

The Hon'ble Baboo Kristodas Pal said, phœnix-like, this Bill had risen from the ashes of the old Bill, which was vetoed by His Excellency the Viceroy for reasons well known to this Council. It appeared from the lucid statement which the hon'ble member had made that he had taken great care in revising it. The old Bill was open to diverse grave objections, and although the hon'ble member in charge of the Bill had removed many of those objections, Baboo Kristodas Pal was not prepared to say that he had been completely successful. He had cursorily compared the new Bill with the old one, and pointed out some of the provisions which he had eliminated from the present Bill. Baboo Kristodas Pal would venture to call the attention of the Council to some of the salient points in the present Bill which he thought required modification and amendment. First, as to the creation of municipalities. The hon'ble mover had explained that he had retained the provision of the old Bill defining first class municipalities. That provision was that first class municipalities should comprise a tract of country containing at least 15,000 inhabitants, and the average of the population to the square mile should not be less than 2,000. Now hon'ble members of this Council, who were conversant with the constitution of mofussil municipalities, were doubtless aware that the formation of municipal unions was productive of great hardship and heartburning in the mofussil. A town was taken as the centre of a municipal union, and all outlying villages were added to it as component parts of that union. Now the municipal fund was generally not so rich as to enable the Commissioners to do equal justice to different parts of the municipal union, and the result practically would seem to be that the poorer rate-payers generally paid for the benefit of the rich. Not to go to a distance, Baboo Kristodas Pal would invite attention to the constitution of the suburban municipality.

The Hon'ble Mr. Dampier.

Now, that municipality comprised some of the outlying villages about the Salt Water lakes, fishermen's hamlets, which, from their position, could receive, and did practically receive, very little attention; and yet the inhabitants of those villages were made to pay in equal proportion with the inhabitants of the more favoured parts of the municipality. The same observation applied to the Howrah municipality. Whilst the town of Howrah was lighted with gas, the village of Satguchia, for instance, which was about four miles off, had no great attention paid to its wants. He believed the inhabitants of Bally not many months ago petitioned the Lieutenant-Governor for separation from the Howrah municipality, because that village did not receive adequate attention. Many other cases might be cited in which it was seen that the inhabitants of the outlying villages comprising the municipal union had, compared with their means, paid more and received less than the residents of the more favoured portions of the municipality. On this ground he would suggest that no village or place should be added to a municipal union which had not at least, in the case of first class municipalities, 500 houses, and in the case of second class municipalities which had not 300 houses in it. It was observable that in some cases some villages might not be fit to be associated with a first class municipality, but might well form the centre or part of a second class municipality. But as the section was worded, it left a wide door for the extension of municipal taxation to these comparatively poor villages. It was also worthy of remark that the definition of the word 'place' gave the Government power to include not only a town or suburb, but any village or hamlet in which the majority of the adult male population was chiefly employed in pursuits other than agriculture, however small the size and sparse the population of such village.

Then he came to the constitution of Municipal Boards or Commissions. He observed that this Bill gave power to the Lieutenant-Governor to extend the elective system to second class municipalities, but not to first class municipalities. It was not for him to discuss here whether the elective system should be indiscriminately introduced into the mofussil, but it struck him that if it was to be introduced at all, it ought to be introduced first into first class municipalities, and then into second class municipalities, if it worked satisfactorily enough in first class municipalities. But section 12 of the Bill said that the Lieutenant-Governor might at any time direct the whole or any number, not being less than two-thirds, of the Commissioners, to be appointed under the last preceding section. Now the last preceding section referred to second class municipalities only. [The Hon'ble Mr. Dampier: That was an oversight.] Well, then, considering it was an oversight, he would not proceed further upon that point.

Then he found that the term of office of Municipal Commissioners was limited to three years. He agreed with the hon'ble mover that it was very desirable to infuse new blood into municipalities, but at the same time he might observe that, as an experienced officer, his honorable friend must be well aware that men capable of intelligently exercising the duties enjoined under the Bill were not very plentiful in the mofussil; and that it was therefore not desirable

that Municipal Commissioners who had just begun to learn their business, as it were, and to prove themselves useful, should be turned out just when their usefulness would be valued. BABOO KRISTODAS PAL would not certainly recommend that they should hold office for life, but he thought it would be advantageous to the Municipality if the term of office were extended to a longer period. He was aware that the Bill gave power to the Lieutenant-Governor to re-appoint those Commissioners who might prove themselves useful; but on this point he was not quite sure whether the Bill would work to the advantage of the municipality. He need not trouble hon'ble members with any remarks as to how the choice of Government in these matters was or would be practically regulated. He believed they were well aware that practically the nomination of Municipal Commissioners rested with the Magistrates, who selected the members and recommended them to the Government for appointment. Now, by this Bill the Magistrate was appointed *ex officio* Chairman of the municipality; and if any member of the municipality should, by his independence, prove obnoxious to the Magistrate as Chairman, he believed it might be taken as morally certain that that Commissioner was not likely to be recommended for re-appointment: so this clause would work to the positive detriment of the Municipal Board and the tax-payers. In fact, the provisions limiting the appointment of Municipal Commissioners to three years, and giving the power to the Government of re-appointment, would together have a tendency to the suppression of independence in the municipal board. He would therefore recommend that where the elective system would be introduced, it should be left as a matter of course to the electors to re-elect any member they liked. But where the Commissioners would be nominated by the Government, he was of opinion that the elective principle might be conceded in so far that the Municipal Commissioners should have the power of re-electing any retiring member they might think fit. In that case the independence of the members would be secured.

Then he observed that whether the Municipal Commissioners were elected by the ratepayers or nominated by the Government, the Magistrate must be *ex officio* Chairman. He thought it would be hardly consistent that where the power of election should be given to the ratepayers, the elected Commissioners should have the right of electing their own Chairman. He must confess that at present the minor Municipalities' Act, which was prepared, he believed, by the hon'ble mover—he meant Act VI of 1868—relating to second class municipalities, was more liberal on this point; for it allowed the Commissioners to elect their own Chairman. Section 36 of Act VI of 1868 said that, subject to the provisions thereinafter contained, every Committee should elect one of its members to be Chairman and another to be Vice-Chairman. Now, if this hon'ble Council thought it proper, and intended to give power to the Commissioners of second class municipalities under Act VI of 1868 to elect their own Chairman and Vice-Chairman, he thought that it would be consistent if they conceded this power also to the first class and second class municipalities under the Bill. He observed that the Vice-Chairman might be elected by the Commissioners; but it was also provided that the Lieutenant-Governor might sanction the

election permanently, or for a term of years, of a salaried Vice-Chairman, and he did not perceive the consistency of that provision. If any unsalaried Vice-Chairman might be elected by the Commissioners, why should not the salaried Vice-Chairman be similarly elected or appointed without reference to the Lieutenant-Governor. This provision was scarcely consistent with the theory of independence, which he believed this Bill contemplated to secure to the Municipal Commissioners.

Then, again, with regard to the removal of the Commissioners, the power given by section 14 appeared most arbitrary. He admitted that this power existed under the present law; but as the present opportunity was taken to amend the law where it was defective, grave defects of this kind ought to be corrected. It provided that the Lieutenant-Governor might from time to time accept the resignation of any Commissioner or member of a Ward Committee appointed or elected under this Act, and might remove any such Commissioner or member of a Ward Committee for corruption or continued neglect to attend the meetings of the Commissioners—it was not mentioned for what period—*or otherwise to discharge his duty* as Commissioner or member of a Ward Committee. He thought that the word 'otherwise' was very indefinite, and the defect under notice should be remedied.

He would now turn to the chapter relating to the application of the municipal fund. Now, the first charge on the fund was the maintenance of the municipal police. He believed hon'ble members were aware that a considerable proportion of the municipal income in the mofussil, particularly in the case of second class municipalities, was appropriated to the payment of the police. This was a standing subject of complaint, and he wished some provision was made to limit the percentage of expenditure for municipal police. If a comparison were made between the sums paid for police and the expenditure for legitimate municipal purposes, he believed it would be found that the bulk of the municipal income in second class municipalities went towards the support of the police. Then he found in section 49 that the Municipal Commissioners, with the sanction of the Lieutenant-Governor, might apply the municipal fund to the construction, repair, and maintenance of roads, wharves, embankments, channels, drains, bridges, and tanks. He did not believe it was intended that that provision of the Bill would be carried out to the letter. But it struck him that, by inserting that clause, some of the obligations which now rested on the provincial and local funds of the Government might be transferred to the municipal fund. Now, as to the construction of embankments, wharves, bridges, or channels, he did not think those were legitimate subjects of expenditure for a local municipal fund. Then clause 3 of the same section was also very comprehensive: it provided for the construction of "other works of public utility calculated to promote the health, comfort, or convenience of the inhabitants." The word 'comfort' might be construed in any way the Municipal Commissioners might like, and thus divert the municipal fund to purposes which were not contemplated by this Bill. Music, for instance, might be considered a subject which came within the meaning of this provision.

Then he noticed that a system of municipal federation was contemplated by section 50, under which a municipality might be allowed to contribute to works executed by a neighbouring municipality on the principle that it would benefit the contributing municipality. Now, if this principle were recognized in the case of the Suburban municipality, all the funds of that municipality might be claimed by the Calcutta municipality. The drainage and water-supply of Calcutta had greatly and sensibly contributed to the sanitary improvement of the suburbs. On the same principle the Port Commissioners might ask the Calcutta municipality to contribute to their fund, because the works executed by the Port Commissioners had greatly tended to the comfort of the inhabitants of the town. He thought a municipality should be considered as a distinct unit, and that all works executed by it should be constructed and maintained from its own fund. In these days of decentralization, he did not understand on what principle such a scheme of municipal federation was justified.

Whilst referring to this chapter, he might refer to section 28, which provided that the Government might make over to a municipality hospitals, dispensaries, schools, rest-houses, markets, tanks, and wells which might be found within the municipality. That meant that the obligation of maintaining such institutions might be thrown upon the municipality. Of course it would be discretionary with the Government and the Commissioners to enter into such an arrangement, but he thought that the provision might be worked to the detriment of municipalities; for it was notorious that the funds of mofussil municipalities were very limited, and it was not therefore just to multiply their obligations. Then he observed that not only were the Commissioners required to maintain their own establishment, but also to maintain the separate establishments for municipal purposes entertained in the offices of the Magistrate and the Commissioner of the division. On that principle the Government of Bengal might as well call upon municipal bodies throughout the country to contribute to the maintenance of the establishment now employed in the Bengal Secretariat for supervising municipal work. The superintendence of municipal administration being a part of the duties of the Magistrate and the Commissioner, it ought to be done by the general establishment of their respective offices, and Baboo Kristodas Pal did not think a separate contribution should be made from the municipal funds. So far as he could judge from the Bill, it appeared that the establishment and police would absorb a considerable portion of municipal income.

Then he came to municipal taxation. The hon'ble member had explained that the Bill did not contemplate an increase of municipal taxation. The tax upon carriages and animals was one to which, on principle, he did not object, as it was a tax upon luxury, and was intended to be imposed upon that class of tax-payers who would be best able to bear it. He thought, however, that it would be but proper and just that this tax should be confined to first class municipalities. It would, he believed, be conceded that there was no room for raising such a tax in second class municipalities. The same remarks would apply to the fee upon the registration of carts. He did not think the hon'ble mover intended that carts in rural towns should be taxed; they were so few and

far between. He had a decided objection to the levy of tolls on roads. It would be perfectly proper to levy tolls on ferries, because they could not be otherwise maintained. It was true that this tax might be imposed at the discretion of the Municipal Commissioners, but he did not think it desirable that such discretion should be given to the Commissioners. As a rule, tolls were not levied now by municipalities, except where ferry funds were applied to the construction of roads. He had received many complaints from persons who had been victims of this system of taxation. He knew a case which had been carried up to the High Court from Howrah. When the Road Cess Bill was before the Council, Mr. Leonard, who was then Secretary to the Government of Bengal in the Public Works Department, wrote an able minute pointing out the objection to tolls on roads, and that was assigned as one of the reasons for the imposition of the road cess He hoped the hon'ble member would see the propriety of omitting the provisions regarding tolls upon roads. The collection of these tolls caused great annoyance, oppression, and hardship, particularly to the poorer classes, who had no means of getting proper redress.

Then, with regard to municipal regulations, he observed that the hon'ble member had made no distinction between first and second class municipalities. If he would kindly refer to his own Act VI of 1868, he would find that he had therein made considerable distinction with regard to conservancy regulations which ought to apply to second class municipalities covered by that Act.

Then he observed that the Bill authorized the Municipal Commissioners to establish municipal markets. Now, considering that the funds of mofussil municipalities were very limited, he thought a municipal market ought to be the last object to which those funds should be applied. The law gave ample power for the regulation and improvement of existing markets; and if the sanitary improvement of private markets could be secured by means of the proper enforcement of the conservancy regulations laid down in the Bill, he did not think it would be desirable to authorize Municipal Commissioners to apply any portion of their funds to the establishment of markets as a speculation, and for competition with private enterprise. He must say, with all deference, that some of the mofussil Magistrates had very queer notions about markets. He heard the other day that a Magistrate wanted to establish a free market out of the municipal funds, and that the private proprietor of a market would suffer a loss of Rs. 500 a year because the Magistrate insisted upon opening a rival free market. With the extensive powers which this Bill would give to Magistrates, he did not know to what extent municipal funds would be diverted to the injury of proprietors of private markets. He would therefore simply confine the provisions of the Bill in this respect to the regulation and sanitary improvement of private markets.

Then it would appear that under section 204 all the proceedings other than judicial proceedings of the Commissioner or of the Magistrate of the district, except as therein specially provided, should be subject to the control of the Commissioner of the division. Now this provision was not consistent with the theory upon which the Bill had been framed, viz. the propriety of giving the people a full control over the administration of their local affairs by the appoint-

ment of Municipal Commissioners. He readily allowed that there ought to be some restriction imposed upon the discretion of the Municipal Commissioners in laying out large sums of money upon works of permanent utility, but as a rule he thought the Municipal Commissioners ought not to be fettered by the supervising control of the Divisional Commissioners. In the case of the Calcutta Municipality, works involving sums of more than Rs. 50,000 had to be sanctioned by the Lieutenant-Governor; in the same way a money limit should be prescribed in matters of that kind for mofussil municipalities. But he thought the Commissioner of the division should not be allowed to exercise control over all proceedings of municipal corporations.

With regard to the last section to which the hon'ble member had referred, which rendered it compulsory upon the Commissioners to maintain roads constructed by the Road Cess Committee so far as they were within municipal limits, he had simply to observe that the Municipal Commissioners ought to be allowed a voice in the construction of these roads. He admitted that when a district road passed through a municipality, the Commissioners should maintain the line of road passing through it, but at the same time they ought to be consulted before that line of road was laid down.

Lastly, he came to the bye-laws. The power given to the Commissioners to frame bye-laws was really very great. In fact, it comprised no less than fifteen subjects, and some of these referred to police matters which did not properly come within the cognizance of the Commissioners; and the powers given were so wide and comprehensive, that practically if these powers were exercised, the Commissioners would be vested with the functions of this Council in very many matters. He would not, however, dwell upon these provisions in detail, which might be fitly considered in Select Committee.

THE HON'BLE BABOO JUGADANUND MOOKERJEE said he had but a few words to say, and would be very short. He thought there were many points in regard to which the Select Committee would form their own opinion, but there were one or two particular matters which deserved the consideration of the Council. In the first place, he thought that where the Bill provided for a minimum number of Commissioners, it ought to provide also for a maximum number. This suggestion he made for the following reason. At present there were a number of Commissioners who seldom took interest in the general affairs of the municipality to which they belonged; and yet when there was some question in which the interest of some particular officer or officers of the municipality was concerned, then, and then only, did we see the faces of those Commissioners. For this and other reasons he thought that a maximum number of Commissioners should be fixed.

Then, again, he found in section 30 that the Chairman had absolute power in all matters except those which were left to be settled by the Commissioners at a meeting. He should like to see provision made for the appointment of sub-committees for assisting the Chairman in the deliberation of all matters, except those of general importance, which should be discussed at general meetings.

He also objected to that part of the Bill which provided for the retirement of Commissioners at the end of every three years. The new law, under which

The Hon'ble Baboo Kristodas Pal.

the Commissioners were to retain their appointment for three years only, was passed in 1873, and we had already seen the result of it in the suburban municipality. There were some most useful Commissioners who had gone out, and some Commissioners who very seldom took an interest in municipal matters had been retained. It therefore appeared to him that the provision relating to the appointment of Commissioners for a period of three years was a subject deserving the attention of the Select Committee. He thought that the term of office ought to be extended to seven years, and not less.

There were other important matters, which would no doubt be considered in Select Committee. He did not therefore wish to take up the time of the Council, but he generally agreed with the hon'ble member opposite (Baboo Kristodas Pal) in the opinions which he had expressed.

The HON'BLE THE ACTING ADVOCATE-GENERAL had a word or two to say in this matter, with reference to the appointment of Commissioners for three years. He was of opinion that the appointment of Commissioners for three years was in ease of the gentlemen who might be appointed. A man might be perfectly willing to accept an appointment and give up a portion of his time for the space of three years, but he might not be willing to undertake the duties of such an office for a longer period. If any gentleman should take a particular liking to the office, and should make himself useful in that department, there was a power of re-appointment given under the Bill. Objection to the comparatively short period of appointment was made on the ground that, in case a Commissioner should render himself obnoxious to the Magistrate, he would not be likely to be re-appointed. With regard to that the ADVOCATE-GENERAL would remark, as he had on a former occasion pointed out, that in the work of legislation we should not look to extreme cases, but should provide for those which occurred in the ordinary course of things.

He had heard a great many objections made by the hon'ble gentleman opposite (Baboo Kristodas Pal), some of which were certainly deserving of consideration. He entirely agreed with the hon'ble member as to the question of imposing tolls upon roads; he thought that that provision should be expunged from the Bill. The provision would probably lead to the oppression of the poor, and he thought it would be a great pity to retain in the Bill a provision which was really objectionable, and which would go but a very little way in augmenting the funds of municipalities.

The HON'BLE MR. DAMPIER said that he had very little to say in the way of opposition in answer to the remarks of the hon'ble members who had commented upon the Bill. On many points, which the hon'ble member opposite (Baboo Kristodas Pal) had mentioned, MR. DAMPIER much inclined to go with him. But as he had told the Council, he had taken up the Bill which this Council had already passed in 1872 as the model of this one; and the various points on which the hon'ble members had commented were points which had been accepted by the Council in the former Bill, of which no disapproval had been expressed by the Governor-General in refusing his assent to the Bill, and against which he was not aware that any general outcry had been raised. He had therefore accepted them in this Bill, not as originating

from himself, but as having been adopted by the Council on the former occasion, and which were at any rate such as should not be departed from without full consideration of the Council. On one of the points to which the hon'ble member opposite (Baboo Kristodas Pal) had commented, MR. DAMPIER would however express his strong dissent. As long as the administration of these provinces was on the present system, and the Commissioners of divisions were responsible for the administration of their division in every respect—as long as the office of a Bengal Commissioner was such that his division sometimes included a population exceeding that of entire whole administrations outside Bengal—so long, he said, it would not be right to exclude a certain portion of his division from the Commissioner's supervision and control—to create *imperia in imperiis;* and therefore upon that point he must differ entirely from his hon'ble friend. He thought the Commissioner's control over municipalities should be reserved, as much as his control over other officials and official bodies working under him.

As to the grievance which was felt regarding the inclusion of outlying villages in municipalities, he was personally aware that this had been felt, and he should be very glad to suggest that the Select Committee should consider such modifications and restrictions as the hon'ble member had proposed.

Then as to the matter of the three years' tenure of office by Commissioners, he felt the force of the hon'ble gentleman's opposition that it strengthened the hands of the official Magistrate as against the non-official Commissioners. This was a sort of point upon which he should be very glad if hon'ble members should take this opportunity of expressing their opinions as a guide to the Select Committee afterwards.

Then as to the bulk of the income of second class municipalities going to the support of the police, he was quite willing to impose a reasonable limit to the amount or proportion of its income which a second class municipality should pay for police. We had found a limit provided by the former Bill; but from the figures which had been supplied to him in respect of existing municipalities and towns, it appeared that the limit imposed by the Bill was so high as to be practically useless.

Then as to section 50, the objection was taken that one municipality should not contribute towards the works of another. It seemed to him a useful provision. He would take as an illustration the suburbs of Calcutta, which were one municipality, and of the adjoining tracts, which had been formed into another municipality or town under Act VI of 1868. Suppose they were to start a scheme of water-supply, and it was desired to make the head of the water-supply in the suburban municipality. He thought the suburban municipality might well say to the adjoining town—"As soon as we have made our head works, you have only to lay your pipes and take water into your streets: therefore we call upon you to contribute a fair share towards the cost of the head-works, of which you will get the benefit." It seemed to him that to meet such a case the section was a good one; because it might come to this, that if there were no section empowering the two municipalities to share expenses in such cases, both would have to go without some benefit which both desired to have.

Then as to the establishment of the Magistrate and Commissioner's offices being paid for out of the municipal funds. Municipal administration, as they hoped, was an improved form of administration, and more to the advantage of the people than the ordinary system, which was sufficient for the rural parts of the country in general. Now, to give to a town this improved administration, a more expensive machinery was required. The immediate effect of creating a number of municipalities was that the Magistrate came up for an establishment for the extra work thrown on his office, and so did the Commissioner of the division, who might require one or two clerks in addition to his establishment. He did not think in any case more than this had been asked for.

The necessity of the additional establishment arose out of the arrangements made for giving improved administration to the municipalities or urban populations; and it appeared to him, under these circumstances, that they should expect to pay for these establishments, and not expect payment of these establishments from the general revenues, which was in effect to throw a portion of the charge on the rural population, which did not benefit by the more advanced form of administration.

As to the tax upon horses and carts being limited to first class municipalities, he was inclined to agree with the hon'ble member.

As to the matter of tolls on roads, the question was one which had been widely discussed. He supposed they all agreed, as a general principle, that turnpike gates should be wiped off the face of the earth. Under certain circumstances, however, it might be that want of money would entail on municipalities, in the earlier stages of their existence, evils even worse than turnpike gates. He should be inclined, therefore, to leave it to the option of Commissioners, who could not raise money enough in other ways, to adopt this plan.

As to bazars and markets, the provisions were taken word for word from the Bill of 1872, and that was another point upon which he thought hon'ble members might take this opportunity of giving the Select Committee the advantage of their individual views.

Again, as to municipal regulations. The hon'ble member opposite had suggested that a distinction should be made between first and second class municipalities. In this also he agreed with the hon'ble member: rather he should say that it should be declared that such and such sections were applicable to each municipality, as had been done in the law of 1868, to which the hon'ble member had referred. It had appeared to MR. DAMPIER that there were certain provisions in the municipal regulations which were rather matters of police, but they were provisions which had been adopted by the Council in the last Bill. It was more easy for the Council now to throw them out than for an individual member to do so.

As to the maximum number of Commissioners, he thought there was something in the objections of the hon'ble member to the right (Baboo Juggadânund Mookerjee); not that he (MR. DAMPIER) feared that there would be any likelihood of having too many Commissioners in mofussil municipalities. Still he should be willing to fix some limit, such as perhaps a number of Commissioners in proportion

to the population of the municipality. He did not think that the Chairman should be assisted by sub-committees, as he did not think that this would work in most mofussil municipalities, though it might do so in the suburbs and other places where there were large numbers of Commissioners. He did not see that the Act would bar the Chairman from calling in the advice of sub-committees, but an express provision might perhaps be introduced making the system of sub-committees optional with the Commissioners in large first class municipalities.

He would repeat that he would be glad if any other members would favour the Council now with an expression of opinion for the guidance and assistance of the Select Committee as regards the general questions of markets, tolls on roads, &c.

The motion was put and agreed to.

The Hon'ble Mr. Dampier moved that the Select Committee should contain two gentlemen, who had much experience in municipal affairs, and whose services had not been made as much use of in Select Committees of the Council as those of some other gentlemen. He would propose that the Select Committee be composed of the hon'ble Mr. Hogg, the hon'ble Baboo Juggadanund Mookerjee, and the mover.

The motion was agreed to.

The Council was adjourned to a day of which notice would be given.

Saturday, the 29th May 1875.

Present:

The Hon'ble V. H. Schalch, *presiding.*
The Hon'ble G. C. Paul, *Acting Advocate-General,*
The Hon'ble H. L. Dampier,
The Hon'ble Stuart Hogg,
The Hon'ble H. J. Reynolds,
The Hon'ble Baboo Juggadanund Mookerjee, Rai Bahadoor,
The Hon'ble T. W. Brookes,
The Hon'ble Baboo Kristodas Paul,
and
The Hon'ble Nawab Syud Asighar Ali Diler Jung, c.s.i.

ABKAREE REVENUE.

The Hon'ble Mr. Dampier said, it might be in the recollection of those members then in Council, that in 1873 Mr. Beaufort introduced two Bills for the amendment of the Excise Law. Both Bills were referred to a Select Committee, and on both the Select Committee had reported; the one was passed by the Council, and the consideration of the other was postponed in accordance with the following recommendation of the Select Committee:—

"The other Bill proposes to amend the Excise Law of Calcutta and of the mofussil in various particulars. It appears to us that such amendments, with certain modifications which

we have made in the Bill, might be introduced with advantage; but these are not matters of pressing importance, and our attention has been drawn to various other matters relating to the law and the system of excise now in force, the consideration of which would involve much time and research. We think, therefore, that the further consideration of this Bill should be postponed until sufficient materials for a complete revision of the law have been collected, and we recommend that it be not passed until the whole law has been reviewed."

Hon'ble members were aware that a review of the system of administration of Abkaree in Bengal had taken place accordingly. Mr. Money's exhaustive Minute, and the correspondence which had passed on it between the Governments of India and Bengal, left no room for doubt as to what was the declared policy of the Government in its Abkaree administration. The papers had been recently published in the *Gazette*. The outcome of that discussion had been that certain amendments were considered necessary in the law,—generally in the direction of strengthening the hands of the executive in preventive and restrictive measures.

Mr. Money prepared a draft Bill, which was printed amongst the documents in the *Gazette*, and which, it would be seen, contained most of the amendments which the Select Committee of this Council had before them and dealt with. But certain other amendments had also been suggested, which MR. DAMPIER proposed to lay before the Select Committee for their consideration. Two only of these were so important as to deserve a few words in this place. It would have been noticed in the correspondence that there was an impression that chemists and druggists, under color of their business, sold liquors, not for medicinal purposes, but for ordinary consumption. He had prepared certain clauses, which he would lay before the Select Committee, for the purpose of placing such sales under restriction. The plan was to compel chemists and druggists to register such sales, making the registers open to inspection. The idea was taken, as Mr. Money said in his Minute, from a draft laid before the Legislature of Massachusets.

The second novelty which had been suggested was that contained in a letter from Mr. McEwen, a Judge of the Small Cause Court at Calcutta, addressed to the Government. This had already attracted some public attention. The principle of the measure which he suggested was that no debt for liquor supplied should be recoverable in court unless the quantity supplied on the occasion amounted at least to the specified minimum value, exception being made in favour of residents in hotels. The result of this measure would be that no sale by the glass on credit would be made except to approved and trusted customers. Mr. McEwen told the Government in his letter that cases for the recovery of such small debts were very frequent in the Small Cause Court, and chiefly against Europeans. The provisions he suggested were taken from the English Statute which was known as the "Tippling Act." MR. DAMPIER had considered the question a good deal, and he must say that, however good the provision might be for the circumstances of England, doubts seemed to gather more and more thickly round the question whether any such provision would be suited to the circumstances of this country. He should ask the President to allow Mr. McEwen's letter to be published in the *Gazette*, and the matter would come before the Select Committee for their consideration.

The Select Committee which reported on this Bill consisted of Mr. Beaufort, Mr. Schalch, Mr. Wyman, Rajah Jotendro Mohun Tagore, and Moulvy Abdool Luteef, out of whom (Mr. Schalch) only remained in the Council. It was necessary, therefore, to reconstitute the Select Committee. He found that the Select Committee had reported; therefore his motion would be that the Bill be recommitted for consideration, and that the Select Committee consist of the following members—the Hon'ble Mr. Schalch, the Hon'ble Mr. Hogg, the Hon'ble Baboo Doorga Churn Law, the Hon'ble Baboo Kristo Das Pal, and the mover, Mr. Dampier, who was now in charge of the Bill.

The motion was agreed to.

CALCUTTA MUNICIPALITY.

The Hon'ble Mr. Hogg moved that the time prescribed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to the municipal affairs of Calcutta be extended for two months, which would extend the time from the 3rd May to the 3rd of July.

The motion was agreed to.

SETTLEMENT OF DISPUTES REGARDING RENT.

The Hon'ble Mr. Dampier moved that the time prescribed for the presentation of the report of the Select Committee on the Bill to provide for enquiry into disputes regarding the rent payable by ryots in certain estates, and to prevent agrarian disturbances, be extended for two months. One month was allowed to the Committee, and the first thing the Committee did was to invite, by letter, the opinion of such officers as were likely from their experience to be able to give valuable advice. The Bill had also been published, and hon'ble members were aware that it was a subject which was exciting very much attention. It would not be of any use for the Select Committee to begin to consider the Bill until the opinion of the public bodies who might be expected to address the Council, and the reports of the chief officers of the Government, were received. One or two reports had just come in, which were drawn up in a way which showed that officers were taking very great interest in the matter. It would take at least two months before the Committee could present their report to the Council.

The motion was agreed to.

MOFUSSIL MUNICIPALITIES.

The Hon'ble Mr. Dampier moved that the time prescribed for the presentation of the report of the Select Committee on the Bill to amend and consolidate the law relating to municipalities be extended for three months. No special time had been named in this case, and therefore, according to practice, one month was assumed to be the time. The month was well over, and there was no prospect of the Select Committee being able to touch the Bill, at any rate for two or three weeks.

Perhaps the Council would allow him to take the opportunity of mentioning what was going on in the working of the Select Committees. The Committee

on the Survey Bill had reported, and the members would have seen the report published in the *Gazette*. The publication of the report might elicit some further remarks for the consideration of the Council. The Irrigation and Canal Navigation Bill, the Select Committee would have been in a position to report upon in a day or two, but they thought it right to postpone their report, as Colonel Haig, the Secretary in the Irrigation Department, was returning to his post in a few days, and it would be better to have the advantage of any suggestions he might wish to make to the Select Committee than to receive them after the report of the Select Committee had been presented to the Council. As soon as Colonel Haig came back, the Committee would report, and the President would be asked to allow the report and the Bill, as amended by the Select Committee, to be published in the *Gazette*. Thus these two Bills (the Survey Bill and the Irrigation Bill) would have been about a month before the public by the first week of July, when he hoped the Council would take them up and deal with them. MR. DAMPIER knew that Mr. Hogg's Committee had also made good progress with the Calcutta Municipal Bill. Of the Agrarian Disputes' Bill he had said that the Committee must wait until they got a certain number of reports which they expected before they could properly deal with it. That was the next Bill he should like to take up in Select Committee. Meanwhile he should ask the Committee to take up this Abkaree Bill, on which he had spoken that day. After that was the Mofussil Municipal Bill; that, he hoped, they should be able to take up in about a month.

He had made these remarks not only for the information of the Council, but he hoped that the public bodies and the officers of Government who were going to favour the Committees with any suggestions would note the programme and endeavour to send in communications in the order he had mentioned, so as to facilitate matters for the Select Committee. He thought the Bills he had mentioned would find occupation for hon'ble members of Select Committees, at the rate of three or four meetings a week, for the next two or three months. Then there would be the Bill for the Partition of Estates, the Registration Bill, and several other Bills which formed part of the year's programme; and as there seemed to be a growing opinion that the holidays were too long, perhaps some hon'ble members would like to employ their leisure time in the holidays in pushing on these Bills. However, there was time enough to arrange what should be the plan of operation after the Municipal Bill should have been dealt with.

The motion was agreed to.

The Council was adjourned to a day of which notice would be given.

Saturday, the 7th August 1875.

Present:

The Hon'ble V. H. SCHALCH, C.S.I., *presiding.*
The Hon'ble G. C. PAUL, *Acting Advocate-General,*
The Hon'ble H. L. DAMPIER,
The Hon'ble STUART HOGG,
The Hon'ble H. J. REYNOLDS,
The Hon'ble BABOO JUGGADANUND MOOKERJEE, RAI BAHADOOR,
The Hon'ble BABOO DOORGA CHURN LAW,
The Hon'ble BABOO KRISTODAS PAL,
and
The Hon'ble NAWAB SYUD ASHGHAR ALI DILER JUNG, C.S.I.

SURVEY AND DEMARCATION OF LAND.

THE HON'BLE MR. DAMPIER moved that the report of the Select Committee on the Bill to provide for the survey of land and for the establishment and maintenance of boundary marks, be taken into consideration in order to the settlement of the clauses of the Bill. When this Bill was referred to a Select Committee, the Committee called for opinions and suggestions from those most qualified to give them. They amended the Bill, reported upon it preliminarily, and suggested that their report be published in the *Gazette*. Further suggestions were then received, and after considering them carefully, the Committee had submitted the Bill in this form. Considerable alterations had been needed in the Bill since it went into Committee, and he would now state briefly the scheme of the Bill and the shape in which it now appeared.

The second Part of the Bill provided that the Lieutenant-Governor might order a survey of any tract of land and the demarcation of its boundaries; that he might appoint a Superintendent of Survey and assistants—special officers—if the proceedings to be taken were large enough, otherwise the Collector of the district would perform the functions of the Superintendent of Survey. Section 5 provided that a proclamation should be published, addressed to the occupants of the lands which were about to be surveyed, and of the conterminous lands, and to all persons employed on or connected with the management of, or otherwise interested in the lands, calling upon them to look after their own interests and to give assistance. This was only a general proclamation, and non-compliance with its directions was not attended with any penal consequences: there was no legal obligation to obey the order. But by a subsequent section the Collector was empowered to issue a special notice on any persons interested whose attendance he required, and then such persons would be legally bound to attend and do the things mentioned in section 5 (namely, give all necessary information, point out boundaries, and so on) which were necessary for the prosecution of the survey. Sections 8 to 10, however, distinctly enacted that the materials provided, and the laborers supplied, should be paid for. It had been represented to the Select Committee that one

of the causes of the unpopularity of surveys was that the people were compelled to give their labor and supply petty materials without payment. The Committee hoped that this section would remove that ground of dissatisfaction.

Sections 11 to 13 were intended to obviate the great delay which occurred in these survey proceedings from the unfortunate habit which those interested in the land in this country seemed to have of not taking objections at the time when objections ought to be taken, and when they could most easily be inquired into, and then at the last stage coming forward with some objection which would re-open the whole proceedings. The object of the sections was to enable the Collector, when he had reason to believe that any person had any objections to make, to compel him to come forward with them. The penalty was not summarily to exclude the person from objecting if he did not do so within the time appointed; but if the objections were not brought forward till a subsequent stage, to throw on the objector the expenses of any further inquiry that might be necessary, and this whether his objections were valid or not.

The proviso of section 11 was one which had been introduced at the request of their colleague, the representative of the zemindars, on the ground that very often the local agents of zemindars did not like finally to pledge themselves to accept boundaries on behalf of their absentee principals without sending maps and papers to them for approval. That seemed a natural objection, and in deference to it the Committee provided that when the Collector called upon the local representative of the zemindar to agree to the boundaries laid down, or to state in their objections within fifteen days, the zemindar's agent might either signify his agreement or might say:—"Before giving a formal consent, I must send the maps and papers to my principal in Calcutta; and as a pledge that I am in earnest about it, here, within the time allowed, I deposit the price of making copies of the maps, and I will give the answer of my principal within the time fixed by law."

Part III contained the germ from which this Bill sprung. It enabled the Collector to erect boundary marks and to recover the expense of such erection from the zemindars and tenure-holders. When the Bill was introduced into Council, its history was fully explained and was on the records of the Council, and it was unnecessary for MR. DAMPIER to go into that again. He would only explain the system the Committee had adopted for apportioning the expenses of the boundary marks. In the process of a survey the first thing required was generally temporary boundary marks. The ameen or other survey officer traced out and went over the boundaries first, and put up small mounds of earth or similar marks, which served to guide those who came afterwards. Section 14 provided that these marks should be preserved and kept in order until the permanent marks were erected. But the work was trifling, and would be so much more readily done by persons on the spot than by absent zemindars, that it was thought better to give the Collector power to call upon any occupant, even a cultivating ryot, to look after the temporary marks put up until the survey operations should be concluded and a final award given as to disputed boundaries, or until permanent boundary marks were erected.

Sometimes it was found convenient to put up permanent boundary marks before the survey had passed over the ground; but whether before or after, permanent boundary marks had to be put up, and they consisted generally of pillars, about two feet high, or of rough pieces of unhewn stone: and to look after these was a duty imposed upon the zemindars, farmers, or tenure-holders. It was their duty to protect these boundary marks, to give notice to the Collector if any were removed or injured, or required repairs, if of masonry. Having had these permanent marks put up, the Collector was to recover the expense of erecting them from the parties interested. Under the original Bill, the recovery of expenses was to be made from zemindars only. The Select Committee had included tenure-holders, because it was often the case that the zemindar really knew nothing of his estate, and had very little interest in its local circumstances. For instance in Midnapore, where the survey was now going on, Watson & Co. were putnee-holders of large estates, and the zemindars had but little interest in them, and it would not be fair to throw the whole expense upon the zemindars in such cases. Therefore the Committee had provided for the apportionment of expenses between the zemindars and tenure-holders. The provisions for apportioning those expenses would be mentioned further on.

In section 17 the Committee had followed the Road Cess Act. The Collector was to recover the expense from the zemindars, and the zemindars were empowered to recover from their tenure-holders. But the Council was aware that the country was studded with unregistered lakhiraj holdings, of which the position was not clearly defined. The Government had not recognized them as being free from the general liability for the payment of revenue. In these cases, following the procedure of the Road Cess Act, it was provided that any lakhiraj holding, which was not registered by the Collector, should be considered to be part of the estate within which it was geographically situated; and that if it was not geographically surrounded by the lands of one estate, that the Collector should arbitrarily order that the lakhiraj holding should be included within estate A or estate B for the purposes of the Act. No rights would be affected. It was merely a mechanical contrivance for the purposes of this Act.

There had been some difference of opinion as to whether the Collector should put up the boundary marks by his own men or require the zemindar or tenure-holders to do so. Arguments had been urged on both sides, and the Committee had provided that the Collector should ordinarily put up the boundary marks through the agency of his own men; and then in section 21 they had provided that where the persons concerned preferred it, the Collector might leave it to the zemindar and occupiers of land to put up pillars in the places indicated by the Collector.

He now came to the fourth Part of the Bill, "of apportionment and the recovery of expenses." It had been very strongly pressed upon the attention of the Select Committee, in communications which they received, that this apportionment of expenses was disposed of in the North-Western Provinces' Act and in the Bombay Act by two short sections, of which the summary was that the

Collector was to apportion the expenses at his own discretion. Both the Committee and the mover personally had been strongly urged not to go into the tedious and elaborate details which Part IV now contained. But the system of subinfeudation which prevailed in Bengal, whether it were good or bad, made a marked distinction in this respect between Bengal and Bombay or the North-Western Provinces. There were also other considerations which influenced the Committee; one of which was that the zemindars, the class mainly affected by the Bill, and who were watching its progress most anxiously, would look upon such summary provisions with extreme disfavor. The hon'ble member opposite (Baboo Kristodas Pal) would support that statement. The provisions in the Bill had entailed a good deal of more trouble in drafting than would have been caused if the form of the Bombay and North-Western Provinces' Acts had been adopted. But if the Committee had succeeded in removing some ground of distrust among those affected by the Bill, he thought the trouble taken had been well bestowed.

He would first explain the most elaborate procedure which could be entailed in any case that could occur. The Collector having made up his account of the expense of putting up the boundary marks in any convenient tract, would first proceed to apportion those expenses between the different estates concerned without regard to the tenures which they contained. This he would do upon a general consideration of the number of boundary pillars put up on the boundaries of each estate. Having apportioned the amount accordingly, he would issue a notice to the zemindars, telling each of them how much of the expense had been thus provisionally apportioned to him. Then came the section which gave the fullest opportunity of objecting to the zemindar. If any zemindar objected, the Collector must listen to him before he passed the final order of apportionment.

The apportionment on the estate having been finally made, the zemindar might then give in a list of the tenures on his estate and ask the Collector to apportion, say the Rs. 1,000 which had been allotted as the share to be paid by his estate, between him and his tenure-holders. Then the Collector would make a provisional apportionment in accordance with the zemindar's statement, and serve notices upon the tenure-holders concerned, and any one might make objections before the Collector passed the final order. If no objections were preferred, or when they were decided, the Collector would make the final apportionment between the zemindar and the tenure-holders.

This was the most elaborate and lengthy process that any case could go through; and it was lengthy enough there was no doubt. It would meet the case of a captious zemindar, of a Collector who unfortunately had not the confidence of the people with whom he was dealing, and cases of really intricate and difficult apportionment, if any such should arise. But the Committee hoped, from the experience of the Embankment Act, that not in one case out of twenty would these proceedings be required. The apportionment of expenses between the estates was a mere matter of calculation when you knew the number of boundary pillars put up on each estate. Therefore the Committee believed that not in one case out of twenty, or even fifty, would the zemindar

object to the apportionment made by the Collector. Assuming this, the Committee had endeavoured to shorten the general procedure with regard to dividing the expenses between the zemindar and his tenure-holders. They found that the Collector had in his office a mass of information regarding under-tenures which had been collected in connection with the Road Cess Act and other matters. Therefore they had provided that simultaneously with the Collector's first provisional apportionment of the expenses on the zemindars of the different estates, he should, whenever he had sufficient information to do so, also issue a summary provisional apportionment of the amount apportioned to the estate between the zemindar of the particular estate and his tenure-holders. The Committee were assured by local officers, who had experience of these things, that in a great majority of cases this summary apportionment of expenses would end the proceedings; neither the zemindar nor the tenure-holders would have any objection to make. In short, then, having provided all that the most distrusting zemindars would require as a protection for themselves, the Committee believed that in nine cases out of ten the distribution of expenses would be settled as summarily as under the Bombay or North-Western Provinces' Acts.

When the apportionments were finally concluded, the Collector would issue a notice—if the zemindars wished him to do so, and deposited the cost—requiring the tenure-holders to pay the amounts due to the zemindar; the zemindar having the same power of recovering as for the recovery of arrears of rent.

Section 39 was a provision of the old Bill, declaring that the money which had been advanced for putting up the boundary pillars by the Government since November last was to be recovered under this law. The money was advanced by the Government of India for the erection of boundary pillars in Midnapore and in the Ganges Dearahs on this understanding.

In Part V the Committee had dealt with boundary disputes. In the original Bill it was proposed to give survey officers the same powers as were given to officers making settlements by Regulation VII of 1822; but those provisions had been so overlaid by subsequent legislation, that the Committee had thought it better not to refer to Regulation VII of 1822, but distinctly to lay down the powers which survey officers should exercise. The ordinary rule was that when a case occurred of a boundary dispute, the survey officer should decide it on the ground of possession: that was the present practice, and that decision, according to possession, would have the effect of a declaratory decree of a Civil Court until it was upset by the Civil Court itself. In section 44 there was another provision, which was to facilitate executive working. When a survey officer came across a boundary which he found was laid down some time ago either by a competent court or a settlement officer, but found that possession was not in accordance with the boundary as so laid down, he might relay that boundary and show in his map its relative position to the boundary which actually existed according to possession. This would have no effect on possession; but was merely to facilitate matters in any future suit or inquiry, by recording the position of the boundary as previously laid

down while the professional and competent officers were on the spot, rather than leave it to be done by a Civil Court Ameen at a future time. It was merely a local inquiry to assist the future judicial decisions. MR. DAMPIER thought that such a provision would be useful and good: it would help the person who had been wrongfully dispossessed, and would simplify matters if he chose to go to the Civil Court to recover the land of which he had been dispossessed. It would be well understood that relaying the old boundary did not affect the right to possession in any kind of way. It was merely a local inquiry by the survey officer instead of by means of the Civil Court Ameen.

Then came the miscellaneous provisions, with regard to which there was not much to notice. Section 51 provided a daily fine, which was already imposed under the existing law, for delay in supplying information and papers. Section 57 provided that every amount due to the Collector under the Act in respect of any expenses incurred should be deemed to be a demand under Bengal Act VII of 1868. Then followed the appeal and control sections. The Committee had provided that there should be no right of appeal, except in special cases which were detailed in sections 59 and 60, but that the higher revenue authorities had a power of control and supervision over all proceedings. The last section provided that the Lieutenant-Governor might lay down rules generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken under the Act.

The motion was agreed to.

On the motion of Mr. Dampier the clauses of the Bill were considered in the form recommended by the Select Committee.

Sections 3 to 8 were agreed to.

Section 9 was agreed to, with a verbal amendment.

Section 10 was agreed to.

The HON'BLE MR. DAMPIER said, before the Council proceeded to the consideration of section 11, he proposed to introduce two new sections, 10*a* and 10*b*. As he had explained before, sections 11, 12, and 13, were intended to prevent delay, and to compel the parties interested to make their objections before the Collector within a reasonable time; but it had been brought to his notice by the Superintendent of Survey at Midnapore that great difficulty had often been felt on the spot before the papers got to the Collector. People pointed out the boundaries, the ameen laid them down in his maps and field-books, and then, when he called upon those who pointed them out to sign the papers, they were *non inventi:* they neither came, nor signed, nor objected. The Ameen sent in his papers, and two or three months afterwards the people who were on the spot, and who might have stated their objections then, made them before the Collector. The Superintendent of Survey had urged MR. DAMPIER to introduce sections such as these, by which the people who pointed out the boundaries should be required either to sign the papers before they were sent to the Collector, or else to state their objections and their reasons for them. The penalty for not doing so was not that the party was precluded from making objections, but that if he did not do so at the time which was most convenient,

he must bear the cost of any future inquiry. The sections which MR. DAMPIER proposed were as follows:—

"10*a*. When the demarcation of a village or other convenient tract has been completed, the ameen or other survey officer shall, before sending in to the Collector the maps and papers relating thereto, call upon the persons who have pointed out the boundaries on behalf of those interested to inspect the maps, field-books, and similar papers in which any boundary pointed out by any such person has been represented, and by signing such maps and papers to certify that the boundaries have been laid down in accordance with the boundaries pointed out by them.

Any person so called upon, who may object to sign the maps and papers as aforesaid, shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract, and shall be submitted to the Collector together with the maps and papers.

10*b*. Whenever any person, being required by the survey officer to sign any maps or papers, or to give in a written statement of objections as provided in the last preceding section, shall fail so to sign, and shall give in such statement of objections before the papers are sent in by the survey officer to the Collector;

and whenever any such person, having both failed to sign and to give in such written statement, shall subsequently prefer any such objection:

the Collector may cause to be made such further inquiry, and shall pass such order thereon, as he shall think fit.

Provided that if such objection is preferred for the first time to the Collector, and not made in writing to the survey officer before the papers were sent in to the Collector, as required by the last preceding section, the Collector shall make such further inquiry at the expense of the person so objecting; and if the objection shall seem to the Collector not to be well founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the inquiry, and of any necessary expenses incurred by any other person on account of such inquiry"

The HON'BLE BABOO KRISTODAS PAL said he did not object to these sections, but it struck him that if they were carried without modification, they would practically override section 11, in which provision had been made to furnish copies of maps and other papers to the zemindar or his representative, if his representative did not agree to sign the maps before they were sent to the Collector. Section 11 was discretionary, and if the proposed sections 10*a* and 10*b* were introduced as now framed, practically the discretion vested in the Collector by that section would not be exercised, and the concession made by the Select Committee, to which his hon'ble friend had referred, would therefore be practically nullified. He would ask the hon'ble member to consider whether some modification might not be made in these two sections so as to preserve the principle recognized in the proviso in section 11. If that point were conceded, he had nothing to say against the amendment.

The HON'BLE MR. DAMPIER said he was not prepared at that moment to say off-hand how the alteration suggested by his hon'ble friend could be made; but if the hon'ble member would be good enough, as MR. DAMPIER did not propose to ask the Council to pass the Bill at that sitting, to prepare such an amendment as would meet his wishes, he thought they would be able to come to an agreement upon the point.

The further consideration of the proposed sections 10*a* and 10*b* was then postponed.

Sections 11 to 57 were agreed to.

Section 58 having been read—

The HON'BLE MR. DAMPIER said the general provision was that the Commissioner of the division heard appeals, and he had also a power of general control and supervision over the proceedings of the Superintendent of Survey and his subordinates. That had been found to be sometimes inconvenient. In fact it had been the universal practice, throughout the survey of Bengal which had taken place, not to give the Commissioner this power of control and supervision, but simply to give him the judicial power of hearing appeals, and to leave the power of supervision and control to the Board of Revenue. The object of the proviso which MR. DAMPIER proposed was to enable the Government to eliminate the Commissioner out of the chain of authorities, and to let the Board of Revenue have a control direct where the proceedings were large enough, and where it was found necessary to do so. He therefore moved that the following proviso be added to section 58:—

"Provided that the Government may order that in the course of any survey under this Act, the functions of the Commissioner shall be restricted to the decision of appeals under Section sixty, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Board of Revenue directly."

The motion was carried, and the section as amended was agreed to.

Sections 59 to 63 were agreed to.

The further consideration of the Bill was then postponed.

AMENDMENT OF THE ABKAREE ACTS.

THE HON'BLE MR. DAMPIER moved that the report of the Select Committee on the Bill to amend Act XI of 1849, Act XXI of 1856, and Act IV of 1866 (B.C.), be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee; and in so moving he would remind the Council that the Bill was referred to a Select Committee in 1873; it was then brought before the Council, and by general consent its consideration was postponed to give the Government an opportunity of looking thoroughly into the excise administration of Bengal, and of adopting such measures as might be considered advisable to improve it. Hon'ble members had seen the interesting correspondence which had taken place on the subject, the memorials which had been presented, the minute of Mr. Money, the conclusions of the Lieutenant-Governor and those of His Excellency the Governor-General in Council. These conclusions were referred to the Select Committee, and in proceeding to deal with them he found that the Committee, as originally constituted, had dwindled away almost to nothing. Therefore a few weeks ago he proposed that certain members be added to the Select Committee, and the Committee so reconstituted had given full consideration to the correspondence which had been recorded in the matter. The Bill was practically divided into four Parts. The Part numbered two contained amendments of the Calcutta Abkaree Act; the next Part contained amendments of the Mofussil

Abkaree Act; the third Part contained a correction of an erroneous wording in the Calcutta Police Act; and the fourth Part contained general provisions which were common to Calcutta and the mofussil, or to Calcutta and a part of the mofussil, *i.e.* to Calcutta, the Suburbs, and Howrah.

In the amendment of the Calcutta Act, the object of the new sections 4, 8, and 16, was to make the manufacture of spirituous and fermented liquors in Calcutta illegal without a license. Apparently, by an oversight in the old Act, the manufacture of spirituous and fermented liquors was not restricted by the necessity of obtaining a license. These new sections therefore made such manufacture without a license illegal, and gave the same powers for detecting illicit manufacture, and so on, as the abkaree officers and the police possessed under the old law in cases of illicit possession and sale.

The amended section 19 was simply to give police officers the same powers of detention and arrest as the old Act gave to the abkaree officers for the detention and arrest of people who held possession of contraband liquors and drugs.

The amended section 20 contained an important addition which would strengthen the hands of the executive. Under the old law, even under a warrant from the Collector, the abkaree officer could only enter a house, in cases of suspected illicit possession or sale, between sunrise and sunset. Of course their efforts were often frustrated by not being in a position to enter at night The amended section empowered the Collector to cause a search to be made at night as well as in the day.

Sections 33 and 34, as amended, were not of very great importance; they were merely to facilitate the working of the law in a matter which had caused some difficulty. The law now provided that the Magistrate who decided a case of illegal possession or sale should direct the amount of the fine levied and the value of the article seized to be divided between the informer and the captor in equal proportions. Evidently that might, on occasions, prove inconvenient. A case was before the Board of Revenue at the present time where the Magistrate had awarded the whole to one and the same person, whom he considered to be both the informer and the seizer, and the legality of his decision had been questioned. The existing section contained a compulsory provision that the whole value of the thing seized and the fine should be given away by the Magistrate, and that nothing should go to the Government; the whole must be given to those who were instrumental in causing the seizure. That compulsory provision had been retained. But it had been found in practice that one of the essentials to make rewards effectual was to give them promptly, and not to keep the informer and seizer waiting until the prosecution was concluded and the fine levied; therefore the new section provided that the Collector might give any reward he liked immediately upon the capture being made, and that any amount so awarded should be deducted from the amount which was subsequently awarded by the Magistrate.

Section 4 of the Bill was new. Under the old Act the Collector might, under his warrant to an abkaree officer, cause him to search a house. Section 4 gave precisely the same powers to the Commissioner of Police, to be

exercised by warrant addressed to his own police officers. This would of course strengthen the hands of the executive to a great extent.

Then he came to the amendment of Act XXI of 1856. The amended section 33 was to give the Board of Revenue power to subject drugs, when cultivated, to such restrictions and supervision as might be necessary. The powers given by the present Act were not sufficiently stringent; the wording of the law limited the powers in such a way that control could not be sufficiently exercised by the Board.

Section 50, as amended, merely contained a verbal alteration of the present section necessitated by the substantive alteration in section 33, to which he had already referred.

The amended section 74 was one which would not be overlooked. Under the present Abkaree Act those who committed certain offences could be imprisoned in the civil jail only. But some of these offences were of a nature which deserved imprisonment in the criminal jail; and therefore it was proposed, in the case of such offences, to give the option of imprisoning either in the civil or in the criminal jail.

The amended sections 75 and 76 made corresponding alterations to those which he had mentioned in connection with the Calcutta Act in regard to the distribution and levy of fines and rewards.

Part IV was an amendment of the Calcutta Police Act IV of 1866 (B.C.); it was merely to correct a verbal inaccuracy. Section 40 of that Act spoke of certain conditions in a license granted under a certain section. It so happened that the particular section specified did not provide for the grant of licenses at all, and the amendment was merely to put the wording of the section right.

Then came general provisions common to Calcutta and the mofussil, or part of it. Section 10 of the Bill was new, and provided that it should not be lawful for any person to cultivate plants from which intoxicating drugs were produced without a license. At present there was no law under which the revenue authorities could prevent any ryot from cultivating what he chose to call drugs for his own consumption. It was obvious that any attempt to restrict the illicit sale of drugs whilst this liberty was in force was futile. As soon, for instance, as the cost of ganja was found to be inconveniently high, every ryot in certain districts would grow a sort of bastard ganja as if for his own consumption, but really for clandestine sale. But under these sections the Collector would be able to supervise such growth, and if a man wanted to cultivate an intoxicating drug he must get a license to do so.

Section 11 merely applied to cases under the Act the measure of imprisonment which the Penal Code applied generally in default of payment of fine. It provided that a certain amount of fine should be commutable to a certain amount of imprisonment.

There was not much to add to what was already before the Council with regard to the provisions contained in section 12 of the Bill. They were taken from the Tippling Act in England, and had been suggested by Mr. MacEwen, a Judge of the Small Cause Court, who was good enough to attend a meeting

of the Select Committee. He showed that there were many suits brought in the Small Cause Court, mostly against Europeans, for comparatively long scores run up for drinks; sometimes five or six drinks in the course of the day. Every time some men passed the drinking-shop they seemed to take a drink. The Committee had taken some pains to ascertain what the effect of this section would be, and the general feeling was that it would impose some sort of check, and that many of these drinks would be abstained from if it were necessary to pay for them down on the spot. Different opinions were held on the point, and there was a good deal to be said on the other side. The principal objection seemed to be that Europeans in this country did not carry about money with them, and some inconvenience might arise from that fact. But the Act had been in existence in England for years, and had worked satisfactorily, and those who had given attention to the subject in this country thought that the good it would do would outweigh the small inconvenience it might sometimes cause. The balance of opinion was in favour of this provision.

Section 13 of the Bill provided that there should be no pawning of articles for the payment of liquor.

The Select Committee had adopted almost all the conclusions which the Government had arrived at in the correspondence which had taken place, but they had not thought it necessary to adopt the recommendation made by Mr. Money, that the wholesale trade in Calcutta should be subjected to license. It was true that in the mofussil it was necessary to take out a license for the sale of liquors wholesale, but the license fee was trifling, only Rs. 16 a year. In the North-Western Provinces and in Oudh, as had been stated to the Council by Mr. Beaufort, these wholesale licenses were known, and were in force; and so far it was an anomaly that a license should not be required to cover wholesale dealings in Calcutta, while it was levied in the interior. But MR. DAMPIER had communicated with the Madras and Bombay authorities, and he found that in those presidency towns no licenses were required for wholesale; and therefore, on the whole, it was thought better that the Calcutta practice should be uniform with that of the other sea-ports and importing presidency towns, rather than that it should be uniform with that of the interior and of the inland provinces.

There was one other point on which the Select Committee had not adopted the suggestions which were made by Mr. Money, namely, on the question of dispensaries. A good deal had been said about this matter; it had attracted much attention, and a petition had been presented to the Lieutenant-Governor which had been handed on to MR. DAMPIER, and from which he would read an extract:

"That your memorialists need not repeat the reasons which suggest the necessity of some provisions of the kind introduced in the draft Bill [referring to the draft Bill which Mr. Money drew up]. The Select Committee argue that the existing law (Act XI of 1849) is sufficiently stringent to meet the evil complained of; but whatever the case may be theoretically, it is notorious that practically it has entirely failed. For more than a quarter of a century that law has been in operation, but the evil under notice, far from being checked, is flourishing in full luxuriance. The executive authorities have not evidently considered the dispensaries to come under it, from the simple fact that prosecutions have been almost *nil*.

The Hon'ble Mr. Dampier.

It is observeable that possibly the Legislature, in enacting Act XI of 1849, had not then this evil in view, inasmuch as it had not then assumed such a formidable magnitude."

And then the memorialists urged the Lieutenant-Governor to cause sections to be introduced,—

"That even if it be supposed that the existing law covers dispensaries, your memorialists beg to submit that it does not provide what quantity of liquor may be stored in a dispensary for *bonâ fide* medicinal purposes; that, when it is sold, it should be sold upon a duly authenticated medical prescription; that a register of such sales should be kept; that such register should be open to inspection by authorized officers; that liquor passed clandestinely as medicine with a false label, as is now the practice, would be considered an unlicensed sale. If these regulations and restrictions were imposed by law, the duties of the executive officers and the Magistrates would be well defined: there would be no pretext for either evading or ignoring the law, and the temptation to, or opportunity of, drinking would be minimised for those who supply themselves with liquor under a cloak, who are restrained by a wholesome feeling of self-respect to resort to liquor-shops or open accounts with them"

It seemed to have been assumed, in some of the comments which had appeared, that the Select Committee had treated this matter rather cavalierly; that they had not paid sufficient attention to it. His hon'ble colleagues on the Committee knew well that this was a mistake; that the Committee considered the practicability of introducing restrictive provisions in the sense desired at two meetings; and that on the whole the majority of the Committee did not think anything that could be devised would impose a practical check. It was agreed, however, that the matter should be brought before the Council by one of the minority, and instead of passing it over and paying no attention to it, the Committee had drawn up the best sections which they thought could be drawn. The majority of the Committee thought that even those sections would not be of any practical use. The introduction of those sections would be proposed, as would be seen from the notice of amendment given by the hon'ble member opposite (Baboo Doorga Churn Law). MR. DAMPIER would reserve his remarks as to the present state of the law, and the view the Committee took until the hon'ble gentleman proposed his amendment.

The motion was then agreed to.

Sections 3 to 10 were agreed to.

The HON'BLE BABOO DOORGA CHURN LAW said, before the Council proceeded to the consideration of the next section, he would make a few remarks. The native community, who were alarmed at the spread of drunkenness, and were anxious for its suppression, seemed to be disappointed at the absence of any provision in the amended Bill for the prevention of clandestine sales of spirituous liquors by chemists and druggists. That some of those people did sell spirituous liquors, was an undoubted fact, and they did so with perfect impunity under cover of their profession. He admitted that the law, as it at present stood, provided for the punishment of these persons if detected, but there was nothing in it which afforded facilities for detection. He did not say that the proposed system of registry would afford a complete check against such clandestine sales; but he thought the introduction of these provisions in the Bill would operate as a wholesome check on the vendors, and the inspection from time to time by police and abkaree officers would open up oppor-

tunities for detection which were entirely absent at present. Under these circumstances he proposed that the following sections relating to the sale of spirituous liquors by druggists and chemists, which were rejected by the majority of the Select Committee, be inserted in the Bill after section 10 :—

"10*a*. Notwithstanding anything in this or any other Act contained, chemists, druggists, and apothecaries, not being licensed vendors, may sell spirituous and fermented liquors and intoxicating drugs for *bonâ fide* medicinal purposes only ;

Chemists, &c., may sell without license for medicinal purposes only.

provided that no such chemist, druggist, or apothecary, shall sell such liquors or drugs unless they have been mixed with other ingredients as a medicine, except upon the prescription of a medical officer holding a degree not below that of a licentiate of medicine ;

and every sale made by a chemist, druggist, or apothecary otherwise than as in this section provided, shall be deemed to be an illegal sale, and the person making such sale shall be liable to all the penalties prescribed for making an illegal sale by the laws in force.

10*b*. Every such chemist, druggist, and apothecary, shall keep a register in such form as the Board of Revenue may prescribe, in which he shall enter the date and quantity of every sale of such liquors or drugs which have not been mixed with other ingredients as a medicine, and the prescription given in respect thereof, and the name and residence of the purchaser, which register shall at all times be open to the inspection of the Collector, or any excise officer above the rank of jemadar, who may be deputed by the Collector for the purpose of such inspection, or of any other person duly authorized in that behalf.

Register of sales to be kept.

10*c*. Every such chemist, druggist, and apothecary, who shall neglect to keep such register, or to enter the required particulars regarding any such sale made by him ;

Penalty for not keeping register.

or who shall make an incorrect entry thereof ;

or who shall refuse on demand to produce such register for the inspection of the Collector, or other officer duly authorized to inspect it,

shall, for every such offence, be liable to a fine of two hundred rupees"

The Hon'ble Mr. Reynolds said he fully sympathized with the hon'ble member in the motives which had actuated him in proposing this amendment ; and if he believed the amendment calculated to effect the end for which it had been proposed, it would have no more cordial advocate than himself.

They had been told, by those who might be supposed to be well informed on the subject, that the practice of drinking was spreading among the upper classes in Bengal. That intemperance should prevail among any class of the people must be admitted to be a national calamity ; and the evil was intensified when those who yielded to the vice belonged to the higher and educated classes, to whom others naturally looked up for example and guidance. It was said that in England intemperance was the national besetting vice, but he trusted, it might be observed, that it was gradually becoming confined to the lower classes. A hundred years ago an English gentleman would have felt it no disgrace to get drunk, whereas now there was scarcely one of the upper or middle classes who would not feel it to be a degradation ; and among the more respectable even of the lower classes, the same influence was making itself felt. But the condition of Bengal was very different from this. The great mass of the people were remarkably temperate, and he trusted that they might always remain so ; but there were grounds for fearing that a habit of indulgence of drink was extending among the higher classes, and this must naturally give

The Hon'ble Baboo Doorga Churn Law.

rise to serious apprehensions that the evil would spread from the educated few to the uneducated many. Any rule or law which would tend to check this most deplorable tendency deserved the cordial support of any one who had the interests of this country at heart.

Nevertheless he was unable to accept the amendment of the hon'ble member. In the first place, it seemed to him that the amendment came in the wrong place. It was an old legislative maxim that the legal remedy should not go beyond the evil which it was intended to remove. Now, he believed that it would be admitted that this evil—the sale of spirituous liquors at dispensaries under the guise of medicine—prevailed only in Calcutta, or at most only in Calcutta and in three or four large towns in the interior. The amendment should, therefore, have been introduced in the Part of the Bill which related to Calcutta, and not among the general provisions of the Bill.

Passing to the words themselves of the amendment, he observed that it was provided that no chemist should sell spirituous liquors unless they had been mixed with other ingredients as a medicine: but was the hon'ble member prepared to say what constituted a medicine? There was a mixture of which some of them had doubtless occasionally partaken, made by mixing a wine glass full of brandy or whisky with hot water, sugar, and lemon. That was a spirituous liquor mixed with other ingredients, and it was impossible to deny that it might be taken as a medicine, and that, under some circumstances, it might be a useful and valuable medicine. The amendment of the hon'ble member would legalise the sale by a chemist of such a mixture as this without any restrictions.

The amendment went on to provide that liquors, even when not mixed with other ingredients, might be sold on the prescription of a medical officer holding a degree not below that of a Licentiate of Medicine. In England such a provision as this would be logical and intelligible; for in England there was a medical body duly recognized by the law, and enjoying a complete monopoly of medical practice. No one was allowed to practice medicine in England unless he possessed a qualifying certificate from the College of Surgeons, or the Society of Apothecaries, or I think from one or two other bodies; but we had no such recognized body of medical practitioners in Bengal. The status of a Licentiate of Medicine was, he believed, entirely unknown to the law, and he thought this Council should pause before agreeing to recognize it in the manner proposed by this amendment.

The next clause declared that every sale made by a chemist, otherwise than as in this section provided, should be deemed to be an illegal sale. He ventured to think that the hon'ble member had not fully considered the effect of enacting a law in such words as these. It appeared to him that the result would be that Messrs. Bathgate & Co. would render themselves liable to a fine of Rs. 500 every time they sold a bottle of eau-de-cologne.

He was aware that it might be said that in such matters we ought to assume that people were possessed of ordinary common sense, and that complaints such as he had suggested would never be made, or, if made, would not be entertained by the Magistrate. But in legislation we had no right to