assume anything of the kind. There was nothing more dangerous than to enact a law in wide and general terms, and to trust that it would only be put in force in a cautious and guarded manner. An instance which occurred the other day in England was a note-worthy example of this. There was an old Statute of George II which was originally intended to check seditious and treasonable meetings. It had long been obsolete, but had never formally been repealed. This statute was brought forward and put in force for the purpose of compelling the proprietors of the Brighton Aquarium to close that institution on a Sunday. Nothing could have been further from the object of the original Act; but it was impossible to deny that the complaint came within the wording of the Statute.

The Judge before whom the case was brought said that he would gladly have found a loophole in the law which would have enabled him to dismiss the complaint, but he was unable to do so, and he was compelled to convict and fine the defendants. This case showed the extreme danger of couching enactments in general language, which included indeed what it was desired to prohibit, but included also a number of other things which were perfectly harmless and unobjectionable.

For these reasons he was unable to support the amendment of the hon'ble member, and he must express a hope that it would not be assented to by this Council.

The HON'BLE MR. HOGG said he entirely agreed in the remarks of the hon'ble member who had just addressed the Council. MR. HOGG submitted that the section as drafted, instead of placing a check on the sale of liquor, had precisely the opposite effect, namely, licensing the sale of liquor; whereas now it was absolutely illegal for a chemist or druggist to sell any liquor. That was the ground upon which he opposed these sections in the Select Committee, and that was the ground upon which he opposed them now.

The HON'BLE Mr. DAMPIER might begin by saying that when the memorial which he held in his hand was handed over to him by the Lieutenant-Governor, it was accompanied by an intimation that His Honor thought that more stringent measures were necessary to suppress the sale of liquors in medicine shops. MR. DAMPIER agreed entirely that more restrictive measures, if practically effectual measures could be devised, were desirable. In this belief the Select Committee approached the subject, and in looking into it they found that in the opinion of the majority nothing practical could be devised which would be more efficient than the preventive provisions of the existing law. He would lay those provisions before the Council.

The Calcutta Act in section 4 provided that any retail sale of spirituous or fermented liquors without a license was illegal, and provided a penalty of Rs. 500. Section 15 provided that any person not being a licensed dealer having a greater quantity than that specified in section 5 in his possession was to be fined Rs. 500. To that there was an exception, "except in the case of English and Foreign spirits and beer." That touched the present case. Under section 16 such articles were liable to confiscation, and under section 20 any house in which it was supposed that such articles were kept might be searched

from sunrise to sunset according to the present law; but under this Bill the power of search and seizure would be further extended to any time, whether in the night or day.

In the mofussil, Act XXI of 1856, section 28 provided that there should be no manufacture or sale of spirituous or fermented liquors except under the Act; section 48 provided a penalty of Rs. 500 for illegal manufacture or sale; section 49 provided for the confiscation of any such liquor or drug which any person might possess, except English and Foreign wines and beer purchased for private use and not for sale, and for the imposition of a penalty on conviction; section 58 provided that a house might be entered and searched if suspected of containing illicit liquors or drugs between sunrise and sunset extended by this Bill to any time either day or night; and section 59 gave police and customs officers all such powers of search and detention.

So that as the law stood, chemists and druggists, both in Calcutta and the mofussil, were precisely in the same position as any other individual as regards the possession and sale of spirituous or fermented liquors: that was to say, that under a strict interpretation of the law they could not sell any spirits or spirituous liquors without incurring a penalty, and they could not possess above a certain quantity of country-made liquor and drugs, but they might have an unlimited quantity of imported spirits or beer on their own premises, just as a private individual might have. The question was, were the Council prepared to restrict the personal rights of those persons who carried on the trade of chemists and druggists within closer limits than the rights of any private individual? Were they prepared to enact that those who had chemists and druggists shops below, and lived with their families above, should not enjoy the same right as any other private individual enjoyed of keeping spirituous or fermented liquors in their houses? And MR. DAMPIER did not think the Council would be prepared to pass such a measure as that. One thing had occurred to him, that where a dispensary was not used also as a private dwelling, the Council might summarily impose the maximum of imported spirits which should be kept on the premises at one time. He had made inquiries, and he believed that one bottle of brandy would be sufficient for the business purposes of a dispensary. Now, if the Council were to pass any restrictive measure, it seemed to him that they should go much farther than the amendment of the hon'ble member; and where premises were used as a dispensary apart from a private dwelling-house, they might impose such a maximum. But where the dwelling-house of the chemist was on the same premises as the dispensary, it was evident that a man who wished to evade the law would keep the stores of liquor in his private apartments or in his bed-room, and when necessary he would produce a bottle to the customer. With all the willingness in the world to provide something that would check the illicit sale of liquors at dispensaries, MR. DAMPIER had not been able to devise any reasonable measures that would in his opinion further the object in view. The Council would see that the Government only desired to have some measure suggested which should provide an effectual check on such illicit sales; and if any one could suggest a measure which would be useful for the purpose, and

not trench too far on the rights of the public in general, who happened to deal in drugs and medicine, he should be the first to support it.

As for the amendments before the Council, he had said that they had been considered in Select Committee. Every one of the difficulties pointed out by the hon'ble member on his right (Mr. Reynolds) had been fully considered. What was a medicine? Who were authorities competent to give prescriptions, and the like? But the Committee had not been able to devise any provisions which should be less defective and less open to objection. They believed the only effect of introducing these provisions would be to create a kind of satisfaction that in deference to the public wish something on the subject had been introduced into the Bill.

As to one point which the memorial urged, that the executive had not considered that the provisions of the present law applied to dispensaries, if there was any one present who was responsible for that reading of the law by the executive in Calcutta, perhaps he would explain whether they entertained such views, and if so, the grounds on which they were based. It seemed to MR. DAMPIER that the executive had enormous legal powers for the suppression of the illicit sale of liquors by chemists and druggists if they chose to exercise those powers; and it was only in consequence of their powers being exercised with a reasonable discretion in allowing dispensaries to sell liquor really for medicinal purposes, that it was possible for chemists and druggists to carry on their trade at all. He believed that an hon'ble member had some amendment on the anvil restricting the amount of spirituous liquors to be kept in a dispensary at one time, in cases where the person keeping the shop did not reside on the premises. MR. DAMPIER doubted whether anything effective could be devised even in that direction. Something must be allowed to be kept on the premises; and even two bottles would provide sufficient for a drinking bout of a few friends, such as, it was said, were held in dispensaries after the licensed liquor-shops were closed; and even two bottles would fill many phials labelled "medicine." Still, if his hon'ble friend would propose something to that effect, the Council might be able to adopt it. As to any interference of that kind with chemists who lived on the premises on which they kept their shops, he could not agree. He could not agree to any thing which would restrict their rights because they happened to have druggists' shops below the premises in which they resided. He would oppose the amendments proposed, simply on the ground that they were impotent to effect the object desired. It seemed to him that the real way to meet the evil was to make a strong executive movement—a sort of revival in this direction.

The HON'BLE BABOO KRISTODAS PAL said, whatever difference of opinion existed as to the detailed provisions which had been moved by way of amendment, it seemed to be the unanimous opinion in the Council and out of it that the evil complained of did exist. That opinion was first pointed out in some of the memorials to Government; it was admitted in Mr. Money's Minute; it was admitted in the Resolution of the Government, and in its letter to the Board of Revenue; and it was admitted in the letter of the Government of India to the Government of Bengal. Thus there was a consensus of opinion

in regard to the existence of the evil complained of. The hon'ble member in charge of the Bill was perfectly justified in stating that this question was fully considered in Select Committee, and that the difficulty was how to make a practical provision for meeting the evil. BABOO KRISTODAS PAL admitted the difficulty, and he was not himself quite satisfied that the provisions prepared by the hon'ble mover of the Bill, and since adopted by the mover of the amendment before the Council, would go to the extent desired in checking the evil. But he felt satisfied that if those provisions would not fully check the evil, they would prove very useful in counteracting it to a great extent. It was true, as observed by several hon'ble members, that the present law was stringent and comprehensive enough. But the fact that the law had all along remained a dead-letter as it were, and that the clandestine sale of liquors in dispensaries had been going on without let or hindrance, and that it had now become a sort of a public nuisance, was, he thought, proof sufficient that the law was not sufficiently strong, or that the executive had not been sufficiently strong under that law. For if that was not the opinion of the executive, surely Mr. Money, the member in charge of the Excise Department in the Board, would not have recommended fresh legislation, nor would the head of the Government have adopted that suggestion and recommended its adoption by the Council. BABOO KRISTODAS PAL agreed with the hon'ble member opposite (Mr. Reynolds) that the evil, whatever it was, was confined chiefly to Calcutta and four or five other towns, and that it was not therefore necessary that these clauses should apply to the provinces generally. In fact, he thought it would be better to confine the operation of the provisions to Calcutta and its suburbs by way of experiment only; and if that suggestion were adopted, then the proposed clauses might come under the other Part of the Bill.

As for the question as to what was a medicine, that objection he thought was met by the provision that the sale was to be made on medical prescription.

[The HON'BLE MR. DAMPIER pointed out that if the liquor was mixed with other ingredients, then no prescription was required. A prescription was only necessary when the liquor was to be sold pure. Hence the difficulty, at what point did it become mixed ?]

The HON'BLE BABOO KRISTO DAS PAL continued.—Then came the question who was to be the authority to give a prescription ? and whether the Council should recognize a Licentiate of Medicine. He was a functionary recognized by the Government, by the medical faculty, and by the University. In fact the Licentiate of Medicine was usually known by the name of Sub-Assistant Surgeon, who passed the Medical College and held a diploma. In Calcutta the native medical profession chiefly consisted of these Licentiates of Medicine, who were authorized members of the medical profession. It was true that there were many who could not afford to pay for European medicine, or who had not faith in allopathy, and had recourse to the Hindu system of medicine, or to homeopathic treatment. But where allopathic medicines were prescribed, they were usually prescribed by a graduate in medicine, or other medical gentleman holding a diploma. So he did not think

the Council would be acting contrary to any recognized rule of the Government by recognizing those who held the diploma of Licentiate of Medicine and Surgery.

He entirely agreed with the hon'ble member in charge of the Bill as to the difficulty of regulating the sale of liquors in dispensaries where the owners had also their private residences on the same premises. But the number of such dispensaries, he thought, was very limited in the town; and if the Council could not reach them, he thought they could very safely reach those dispensaries which were kept merely as medicine shops. He also agreed with the hon'ble member that the provisions contained in the amendment would fail in effect if there were not a special provision also for restricting the quantity of liquor to be kept in store in medicine shops, and with that view he had prepared an amendment to the following effect. He proposed to add a proviso to the new section 10*a* after the words "Licentiate of Medicine:"—

"Provided also that no such chemist, druggist, or apothecary, shall keep more than two bottles of brandy or other spirituous or fermented liquor in any such shop."

The hon'ble member in charge of the Bill had made inquiries as to the quantity of liquor necessary to be kept in a dispensary, and he had ascertained from one of the most respectable dispensaries in the town that one bottle of brandy at a time would be quite sufficient. To be on the safe side, BABOO KRISTODAS PAL had laid down a maximum limit of two bottles, and then, by way of penalty, he would add at the end of section 10*c* the words "or who shall keep more than two bottles of brandy or other spirituous or fermented liquor." If these amendments were accepted, he thought they would meet the object of the hon'ble member on his right (Baboo Doorga Churn Law), and, with the other sections, to a great extent meet the views of those who petitioned the Government for some legislation on the subject.

The HON'BLE MR. DAMPIER thought that before the amendment was put, the wording should be very carefully considered, so as not to interfere with premises which were used for private occupation as well as for dispensaries, and therefore he thought the Council should vote upon the amendment subject to careful reconsideration at the next meeting, supposing that they should be inclined to accept the general principle of it.

The original motion that sections 10*a*, 10*b*, and 10*c*, be introduced, was then put and negatived.

Sections 11 to 13 were agreed to.

The HON'BLE MR. DAMPIER said it was urged upon the Select Committee that they should insert in the Bill a section making over the duty of licensing liquor-shops (at any rate in Calcutta) to the municipal bodies. A good deal of discussion had taken place on that proposal, but the Select Committee were not then in a position to adopt such a provision. It was not a matter on which it would have been right to act in opposition to the Government. Since then the views of the Government had been ascertained, and the result was that under the authority of the Lieutenant-Governor MR. DAMPIER proposed a section by which the Government took power to make over to the municipal

body, in any place, the duties connected with the granting of abkaree licenses. He moved the introduction of the following section after section 13 :—

"13*a*. Notwithstanding anything in this or in any other Act contained, it shall be lawful for the Lieutenant-Governor to assign to the Justices of the Peace for the Town of Calcutta, or to any other Municipality, such functions and powers as he shall think fit in respect to the granting, withholding, and withdrawal of licenses for the sale of spirituous or fermented liquors and intoxicating drugs (being functions and powers which, but for such assignment, might legally be exercised by any officer of Government), to be exercised by such Justices or by such Municipality within the limits of their respective jurisdictions, under such conditions and subject to such rules as the said Lieutenant-Governor may impose; and the Lieutenant-Governor may at any time withdraw and revoke any functions and powers which he has assigned under the provisions of this section."

The Hon'ble Mr. Hogg said he had not seen a copy of the notice of the proposed amendment before he came into the Council that morning, but it seemed to him to be open to question how far it would be fair to pass a section for imposing peremptorily on the municipality the conduct of Abkaree business, subject to such rules and conditions as the Lieutenant-Governor might prescribe. It might happen that the Justices or other local bodies might not desire to take over the duties connected with the licensing of liquor-shops subject to the conditions imposed by the Government. He therefore thought that some provision should be added by which the rules and conditions referred to should be made subject to the consent of the municipality concerned. If the hon'ble mover had no objection to add some words providing for such consent, Mr. Hogg would have no objection to offer to the section.

The Hon'ble Mr. Dampier observed that he believed there would be no objection to provide for such consent, and he thought it would be advisable also to make such transfer of functions subject also to the sanction of the Governor-General in Council.

The Hon'ble Baboo Kristodas Pal said he would support the addition proposed by the hon'ble mover of the Bill, as he had taken the initiative in this matter, although the proposed addition did not seem to him to go far enough. It simply vested the Government with discretion to make over the power of licensing liquor-shops within the town to the Justices. Still he accepted it as a concession, because he assured the Council that there was a strong opinion among the public that municipalities were the best authorities to regulate the liquor traffic, inasmuch as they had a direct interest in the consumption of liquor within the limits of the municipalities. And it was fairly argued that if local bodies were considered fit to exercise control over matters relating to conservancy, surely they were fit to act in a matter so vitally affecting the morals and health of the people in the municipality. He therefore hailed with pleasure the concession made by the Government, and also supported the suggestion made by the hon'ble member on his right (Mr. Hogg), that if the power of granting liquor licenses be conceded to the municipalities, it ought not, without their consent, to be made subject to any conditions or rules, particularly in a town like Calcutta, where the Justices had full control over their own affairs, and they ought not to be fettered by any rules beyond the requirements

of the law. Therefore he hoped the hon'ble mover would make the alteration suggested by the hon'ble member who spoke last.

The further consideration of the proposed section and of the Bill was then postponed.

CALCUTTA MUNICIPALITY.

The HON'BLE THE PRESIDENT, before adjourning the Council, said he hoped that at the meeting of the Council on Saturday next they should be able to take up the consideration of the Calcutta Municipal Bill, and he would take this opportunity of drawing the attention of hon'ble members to the eighth rule of the Council, which required that members who wished to make any original motion at any meeting must give notice of their intention three days before the day of the meeting at which they intend to make the motion. The Bill was a long one, and he thought it would tend much more to the better and early disposal of it if hon'ble members would think of it and give notice of the amendments which they intended to move.

The HON'BLE BABOO KRISTODAS PAL asked whether he was in order in stating that he believed it was understood that the report of the Select Committee on the Calcutta Municipal Bill would not be taken into consideration by the Council until November next. He had reason to believe that some of the public bodies who intended to submit representations were under the impression that the Bill would not be taken up until that time.

The HON'BLE the PRESIDENT thought that the public business required that the consideration of the Bill should be taken up much earlier, and now, with this notice, he hoped that the public bodies referred to would give the Council the benefit of their assistance before the next meeting, or at latest the meeting after.

The Council was adjourned to Saturday, the 14th instant.

Saturday, the 14th August 1875.

Present:

The Hon'ble V. H. SCHALCH, C.S.I., *presiding.*
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,
and
The Hon'ble BABOO KRISTODAS PAUL

SURVEY AND DEMARCATION OF LAND.

The HON'BLE MR. DAMPIER moved that the Bill to provide for the survey and demarcation of land be further considered in order to the settlement of the clauses of the Bill.

The motion was agreed to.

The Hon'ble Mr. Dampier said, at the last meeting certain amendments which he proposed to introduce after section 10, and which were then marked sections 10*a*, 10*b*, and 10*c*, were reserved for further consideration. Having reconsidered those sections, and having considered the criticisms then made, he had redrafted the sections, and they were now numbered 11, 12, and 13. Notice of this amendment was given, and he had now to propose that the sections which were circulated as proposed amendments do stand as sections 11, 12, and 13 of the Bill in lieu of those which now bear the same numbers in the printed Bill. The sections were as follows:—

"11. 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, by a general notice in which the names of all persons required to appear shall be specified, and which shall be posted up at a convenient place in the village or tract, call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publication of the said notice for the purpose of inspecting 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; and every person so called upon shall be legally bound to attend before such, Ameen or Survey Officer, and to inspect the papers, in accordance with such requisition.

Ameen or Survey Officer to call upon persons to sign maps or papers.

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.

Statement of objections.

The signature affixed to any maps or papers under this section shall be in attestation of the fact that the boundaries thereon represented, or any of them, have been represented in accordance with those pointed out by the person signing; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section."

Effect of signature.

"12. On receipt in the Collector's Office of the maps or papers showing any boundaries which have been demarcated, the Collector shall cause a notification to be posted in his Office, and in such other places as he may think proper, informing all persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection; and requiring any person who may have any objections to prefer, to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purposes of the survey.

On receipt of maps, Collector to post notification in his Office.

Whenever the Collector shall have reason to believe (either from the failure of any person interested or his representatives to sign the maps and papers on the spot when required by the Survey Officer to do so under the last preceding section, or for any other reason), that any zemindar or person interested is likely to object to any boundary as laid down, or as represented in the said papers, the Collector shall cause a special notice requiring such zemindar or other person to attend personally or by duly authorized agent before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such zemindar or other person is interested, or of stating in writing

Collector when to issue special notice.

the substance of any objection which he may wish to prefer against the correctness of such maps or papers; and if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act.

Provided that if within the time specified any such duly authorized agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared; and as soon as they are prepared, shall cause a notice to that effect to be posted at his Office; and the said agent shall be allowed such time as may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections.

If agent deposits expenses of making copies, Collector shall order them to be prepared.

When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further inquiry which he may deem necessary, shall pass such order in respect of such objections as to him shall seem fit; and if the objections shall seem to him not to be well founded, shall direct that all expenses of such further inquiry, and all expenses entailed on any other person by such inquiry, shall be recovered from the person who made the objection."

Procedure when objection is stated.

"13. Whenever any person having failed to sign the maps and papers, or to give in his objections in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which such notification or notice was issued, the Collector shall require him to deposit the estimated costs of any further inquiry which it may be necessary to make in respect of his objection; and if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers. If the costs of any inquiry which may be deemed necessary be deposited, 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 in excess of the sum deposited, and of any necessary expenses incurred by any other persons on account of such inquiry.

Person making subsequent objection, may be required to deposit costs of further inquiry.

Provided that no person so making an objection after the prescribed time shall under any circumstances be entitled to recover the expenses which he is required to deposit before any further inquiry is made in respect of such subsequent objection."

The Hon'ble Baboo Kristodas Pal said, as the sections proposed by his hon'ble friend at the last meeting were postponed at his instance, he had much pleasure in saying that he accepted the amendments now proposed.

The motion was agreed to.

In the postponed section 2, the following amendments were made on the motion of the Hon'ble Mr. Dampier:—

(1.) The interpretation of "Collector" was altered so as to provide that "Collector" meant every Collector of a district, and included every officer either generally or specially vested with the powers of a Collector under the Act.

(2.) The definition of "tenure" was amended so as to include "Ghatwáli holdings."

The preamble and title were agreed to, and the Bill was then passed.

AMENDMENT OF THE ABKAREE ACTS.

The Hon'ble Mr. Dampier moved that the Bill to amend Act XI of 1849, Act XXI of 1856, and Act XXIII of 1860, be further considered in order to the settlement of its clauses.

The motion was agreed to.

The Hon'ble Mr. Dampier said that a few of the sections which were passed at the last meeting of the Council must engage their attention again. Sections 12 and 13 of the Bill, the tippling sections, referred to Calcutta, its suburbs, and Howrah only. As they now stood, they were in the general part of the Bill; but although they applied to the Suburbs and Howrah (which strictly speaking were mofussil), as well as to Calcutta, he thought on the whole—and that appeared to be the sense of the Council at the last meeting—that it would be better that the sections should be transposed so as to stand at the end of Part II, which contained the alterations in the Calcutta Abkaree Law.

The motion was agreed to.

The Hon'ble Mr. Dampier moved that the words "twenty-five, twenty-six" be inserted after "twenty" in line 3 of section 3, and that in page 3, line 21, the following sections be inserted after the words "Fort William:"

"**25.** Any Abkaree Officer who shall delay carrying to the Collector, and any Police Officer who shall delay carrying to a Magistrate of Police, any person arrested, or any illicit articles seized under this Act; and any Abkaree or Police Officer who shall neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter, shall be liable to a fine not exceeding two hundred rupees."

Penalty for Abkaree and Police Officer delaying to carry person arrested or articles seized to Collector or Magistrate.

"**26.** Any Abkaree or Police Officer who shall vexatiously and unnecessarily seize the goods or chattels of any person on the pretence of seizing or searching for illicit spirituous or fermented liquors, or intoxicating drugs, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty under this Act, shall be liable to a fine not exceeding five hundred rupees."

Penalty for Abkaree or Police Officer vexatiously seizing goods or arresting any person

The object of the amendment was simply to carry out the principle adopted elsewhere in the Bill of giving Police Officers the power which the existing law gave to Abkaree Officers. It was proposed to insert here two new sections amending sections 25 and 26 of the old law, by merely putting in such words as were necessary to place Police Officers in the same category as Abkaree Officers with reference to the powers conferred by those two old sections of the law.

The motion was agreed to.

The Hon'ble Mr. Dampier said he must explain the next amendment which stood in his name, and which referred to Act XXIII of 1860. That was a short Act of five sections, which was referred to in the Bill as it stood when introduced. His attention had recently been drawn to this Act, and he found that it afforded an illustration of the great necessity of codifying the Bengal Acts. Every section of the Act, with the exception of part of the first section, had been either superseded or expressly repealed by an Act of

1863; section three was superseded by a section of this Bill, section four was obsolete, and so on. The extant part of the first section was the law which empowered the Government to impose a duty on *doasta*, or country-made spirits, up to Rs. 3 a gallon; and it so happened that in the new Customs Tariff Act, which had just been passed by the Council of the Governor-General, there was a section which overrode that provision and made it obsolete. The new law recited that as it was desirable that country spirits should be taxed in some proportion to imported spirits, the Government was authorized to impose such tax as it thought proper, not exceeding the duty on imported spirits; and thus this Council were enabled to wipe out Act XXIII of 1860 altogether from the Statute Book, and accordingly an amendment was necessary in the present Bill.

On the motion of MR. DAMPIER verbal amendments were then made in Section 7 and the Schedule, with the object of repealing the unrepealed portion of Act XXIII of 1860.

The HON'BLE BABOO KRISTODAS PAL said as he observed that public attention had been drawn to an amendment of which he had given notice, he thought it was desirable that he should take time to consider the amendment before bringing it forward. He would, with the permission of the President, postpone the consideration of his amendment until the next meeting of the Council.

The further consideration of the Bill was then postponed.

CALCUTTA MUNICIPALITY.

The HON'BLE THE PRESIDENT said that in the list of business the Bill to consolidate and amend the law relating to the municipal affairs of Calcutta was placed to be taken into consideration. However, applications had been made to the Council from the Justices of the Peace, the Trades' Association, and the British Indian Association, for the postponement of the Bill, and he had referred the matter to the Lieutenant-Governor. He therefore proposed to let the consideration of the Bill stand over until the orders of the Lieutenant-Governor were received upon the subject.

The Council was adjourned to Saturday, the 21st instant.

Saturday, the 21st 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,
and
The Hon'ble BABOO KRISTODAS PAL.

AMENDMENT OF THE ABKAREE ACTS.

THE HON'BLE MR. DAMPIER moved that the Bill to amend Act XI of 1849, Act XXI of 1856, Act XXIII of 1860, and Act IV (B.C.) of 1866, be further considered in order to the settlement of the clauses of the Bill.

The motion was agreed to.

The HON'BLE MR. DAMPIER said that at the last meeting the sections which were now printed as Sections 12 and 13 of the Bill were transposed so as to come immediately after Section 6. He now proposed that those sections should stand as the last two sections of Part II, and that the following section, of which notice had been given, should come immediately after Section 6, and stand as Section 7 of the Bill:—

"Any chemist, druggist, apothecary, or keeper of a dispensary, within the town or suburbs of Calcutta, or Howrah, who shall, between sunset and sunrise, allow spirituous or fermented liquors, which have not been *bonâ fide* medicated, to be drunk on his business premises by any person not employed in his business, and any such person who shall between sunset and sunrise drink such liquors on such premises, shall be liable to a fine of two-hundred rupees, in addition to any other penalty to which he may be liable under this or any other Act; and any Abkaree or Police Officer above the rank of peon or chuprassee, who may have reason to believe that the provisions of this section are being infringed, may enter upon such premises and seize and carry away such liquors, and, in case of resistance, break open any door, and force and remove any other obstacle to such entry or seizure, and arrest and detain the owner or occupier of the said premises, with all parties whom he suspects to be concerned in such unlawful drinking; and upon such seizure or arrest as aforesaid, the Abkaree Officer and Collector shall deal with such liquors or persons as provided in Section 22 of Act XI of 1849, and the Police Officer and a Magistrate of Police shall deal with them as provided in Section 5 of this Act."

This clause was the outcome of the discussions which had taken place in the Council, in the Select Committee, and elsewhere; and it seemed to him that the form in which it stood was the one which would be most effective for the purpose in view, and on the whole the least likely to open the door to harassment and vexation to respectable persons. It would be observed that the law as it stood made it absolutely illegal for the chemist or druggist who had no license to sell spirituous or fermented liquors either in the day or night time. The clause he now proposed to introduce went farther, and came to this, that in the night

the chemist or druggist should not be able to *give* his friend a glass of liquor on his business premises (even without selling it). The clause took away from the chemist, who was detected in the malpractices against which it was directed, the power of escaping the penalty of the law by the false excuse that he was not selling liquor, but merely giving a glass to a friend. It made penal the fact of giving or consuming spirits on the business premises of chemists between sunset and sunrise.

The latter part of the section provided that any abkaree or police officer above the rank of a peon, who had reason to suspect that spirits were being illegally consumed, might enter upon the premises, seize the liquor, and arrest the people consuming it. There was no great fear of privacy being intruded upon under this clause, as it only referred to the business premises, and not to the private dwelling place. And if hon'ble members would look to the amending Section 25 which was in the Bill, they would see that heavy penalties were prescribed against abkaree and police officers who should be guilty of any excess in the exercise of their powers under the law.

The Hon'ble Mr. Reynolds said he thought the hon'ble member who had moved the amendment might be congratulated upon having hit upon a form of words which would be generally accepted as satisfactory. He would not say that the proposed law could not be evaded. It was perhaps impossible for human wisdom to frame a law which it should not be in the power of human ingenuity to evade. But, generally speaking, he imagined that the effect of the enactment would be practically to remove the evil complained of without any unnecessary interference with what was legitimate, necessary, and useful.

There was only one point in which he would wish to see the wording of the amendment modified. He referred to the introduction of the words "between sunset and sunrise." It seemed to him that if there was to be any limitation at all, the words "between sunrise and sunset" would have been more appropriate. He would not himself accept such an argument, but it might be argued with some plausibility that those who required spirituous liquors for medicinal purposes ought to be allowed to get them from chemists at times at which they were not obtainable from the ordinary shops. But for the limitation in the amendment he could see no sufficient reason, and he thought the words an injurious restriction of what was otherwise a useful and valuable provision. He therefore appealed to the mover of the amendment to exclude those words from his motion.

The Hon'ble Mr. Dampier said he was unable to accept the suggestion of his hon'ble friend. The fact was that as regards a person who was really ill,—who, for instance, had a fainting fit, or had met with an accident and was taken into a chemist's shop,—the law was left precisely where it was before. Under such circumstances the chemist would certainly give the person a glass of brandy, if necessary, and might charge for it; and Mr. Dampier hoped no Magistrate would be found in India to convict the chemist of an offence for so doing under the existing law or under the Bill before the Council. The evil against which the clause was directed occurred, he believed, principally at night, after the licensed liquor-shops were closed; when people went to the chemist's

premises, and either drank the liquor there or carried it off clandestinely. He did not think it was necessary, in order to meet this, to preclude a chemist from giving a glass of beer or of brandy and water to a friend during the day, provided it was not sold to him. It would be quite sufficient to make it illegal to do so during the night.

The HON'BLE BABOO KRISTODAS PAL said he supported the amendment on the principle that something was better than nothing He did not find his way clear to a satisfactory solution of the difficulty connected with the sale of liquors in dispensaries; and as such sale could not be prevented without interfering with the legitimate business of druggists, he accepted the amendment of his hon'ble friend and hoped it would be passed.

The motion was agreed to.

The HON'BLE MR. DAMPIER said, passing to the other printed notice of amendment, he would move that the following section be introduced as the last section of the Bill:—

"Notwithstanding anything in this or in any other Act contained, it shall be lawful for the Lieutenant-Governor, with the sanction of the Governor-General in Council, to assign to the Justices of the Peace for the Town of Calcutta, or to any other Municipality, such functions and powers as he shall think fit in respect to the granting, withholding, and withdrawal of licenses for the sale of spirituous or fermented liquors and intoxicating drugs (being functions and powers which, but for such assignment, might legally be exercised by any officer of Government), to be exercised by such Justices or by such Municipality within the limits of their respective jurisdictions under such conditions and subject to such rules as the said Lieutenant-Governor may impose; and the Lieutenant-Governor may at any time withdraw and revoke any functions and powers which he has assigned under the provisions of this section.

"Provided that such functions and powers shall not be assigned as aforesaid without the consent of the said Justices or the Municipality concerned:

"Provided also that no such conditions or rules shall be imposed by the Lieutenant-Governor after such assignment has taken place without the consent of the said Justices or the Municipality concerned."

The section had already been before the Council, and he had made such alterations as seemed to be necessary in consequence of the remarks which had then been made.

The motion was agreed to.

Section 1 was passed with the date of the commencement of the Act fixed as that on which it might be published with the assent of the Governor-General.

Section 2 was agreed to.

The preamble and title were passed after the omission from them of all mention of Act XXIII of 1860.

On the motion of the HON'BLE MR. DAMPIER the Bill was then passed.

CALCUTTA MUNICIPALITY.

THE HON'BLE THE PRESIDENT said that the consideration of the Calcutta Municipal Bill had been postponed till after the holidays: it would probably be taken up very shortly after the holidays, and he trusted that the Justices and other public bodies, as well as private individuals, who might wish to submit any representations, would do so as soon after the holidays as possible.

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

Saturday, the 13th November 1875.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding*,
The Hon'ble V. H. Schalch, C.S.I.,
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,
and
The Hon'ble Baboo Kristodas Pal.

STATEMENT OF THE COURSE OF LEGISLATION.

His Honor the President said, "Before calling upon the hon'ble members to speak to the motions which stand in their names, I will, with the permission of the Council, make a very brief statement of the condition of our legislative business. It will be in the recollection of the Council that on the 19th of December last I laid before the Council a programme of the various measures which we proposed to bring before the Council. Again, on the 10th of April last, I made a further statement, showing how far that programme had been carried out, and what additions had been subsequently made to it. I now desire briefly to remind the Council of the measures which have been passed into law since the 10th of April last, and of the measures which are still pending before the local legislature. Since that date the Council have passed, under the presidency of the Hon'ble Mr. Schalch, two Bills, one to provide for the survey and demarcation of land, and secondly, a Bill to provide for the amendment of the Abkaree Acts. The first of these two Bills has already received the assent of the Governor-General in Council, and the second, viz., that referring to the Abkaree, still awaits His Excellency's assent. This leaves the following Bills which are still requiring the consideration of the Council.

"The first is a Bill to provide for the voluntary registration of Mahomedan marriages and divorces. That measure will, we hope, be taken up by the Council this day, and perhaps finally passed.

"The next is a Bill to consolidate and amend the law relating to the municipal affairs of Calcutta. That Bill also stands among the list of motions this day, and will, I hope, be proceeded with. Well, that Bill has passed through the Select Committee. The number of its clauses is great, amounting, I think, to some 350, and in passing through this Council much time will be required. Recently, various propositions have been afloat for making constitutional changes. Now, it will be in the recollection of the Council, that the Government of Bengal is not averse to any moderate or any judicious changes in the constitution of that

Municipality which may commend themselves to the majority of interests concerned, and also to the majority of this Council. That being the case, in April last I put forth a Minute upon this somewhat important object, stating the various possible changes and improvements, some of them, however, alternative improvements, which, if passed by this Council, would commend themselves to my concurrence and approval. These improvements having been referred to the Select Committee, the Committee reported that no constitutional changes were in their opinion necessary. From that I should be inclined to infer that the sense of the Council is perhaps adverse to the introduction of any important changes in the constitution of the Calcutta Municipality; still, if any hon'ble member should have any specific motion to bring forward, any definite change to propose, all I can say is that I am still willing to consider patiently and carefully any such suggestion, and I believe I may answer for the Council generally that it would be pleased to do the same; and, in reference to my own opinion, for what it may be worth, as to possible changes or possible alternatives, I would refer hon'ble members to the Minute which I have referred to.

"The next Bill relates to the provision of irrigation and canal navigation in the provinces subject to the Lieutenant-Governor of Bengal. That measure has been carefully considered by the Select Committee, and certain questions referring thereto were referred by the Select Committee to the Government of Bengal. I have myself conferred with the hon'ble member in charge of the Bill regarding these references, and I have been able to give such replies as will enable my hon'ble colleague to proceed with the business of the Select Committee upon this subject; so I hope that this measure will soon be submitted to the Council in such a shape that it may be speedily passed. I need not add, perhaps, that at the present time there is a particular reason why this Bill should be passed into law as soon as it may be possible, for although the southern canals are not much called into play, owing to the abundant rains which have been vouchsafed to that part of the country (Orissa), yet the northern canals in south Behar will be most urgently required to save both the autumn and spring crops from ruin.

"The next Bill is for the purpose of making better provision for the partition of estates paying revenue to Government in the Lower Provinces. That Bill also has been carefully considered by the Select Committee; at least it was put down as being under the consideration of the Committee, and I know, and the Council knows, that a great deal of valuable opinions—a mass of opinions—has been collated upon the subject; and I think that if the hon'ble member in charge of the Bill shall have sufficient leisure during the present sessions of the Council, he will be able to bring the measure forward in such a shape as to have it passed before the close of the session.

"The next Bill is that for amending and consolidating the law relating to Municipalities in the mofussil or interior of the country. That also has received, as we all very well know, the most excellent, patient, and able consideration on the part of the hon'ble member in charge of it (Mr. Dampier). A variety of important references has been made by him to Government upon the various points involved. These references are under our immediate consideration, and

I hope very soon to be able to give replies thereto, and thus there is a chance of these matters being brought by the Select Committee in a complete shape before the Council. It will be in the recollection of the members of the Council that this is one of those Bills which is not only an important Bill, but a lengthy Bill, and contains some hundreds of sections.

"The next Bill is one to provide for inquiry into disputes regarding the rent payable by ryots in certain estates, and to prevent agrarian disturbances. That also, as the Council will recollect, was referred to a Select Committee, but during their deliberations certain legal difficulties were encountered, and they appeared to the Committee to be of so grave a nature that I have submitted a reference on the subject to the Government of India, to which a reply has not yet been recieved. I hope that a reply in some way or another will be soon received, and that if any measure is to be submitted to be passed by the Council on the subject, it might not occupy any great length of time.

"The next Bill is one to provide for the compulsory registration of possessory titles in landed estates. That Bill has been drafted by one of our hon'ble colleagues, and it is believed that various modifications and alterations will have to be made, and I am not able to say now as to when the measure will be fit for acceptance by the Council.

"So much for what may be called the Bills actually pending before the Council. Besides these, there are several projects of law, which have been mentioned by me at different times in the Council, and upon which Bills yet remain to be drafted.

"The first of these is to provide a law for the appointment of managers in joint undivided estates. I believe that some progress has been made in the drafting of that Bill, as its importance is very considerable, and I hope that perhaps this measure will be completed during the present session.

"The next project is a proposal for certain improvements in the sale law, that is, a law for the sale of estates paying revenue to Government on account of default in the payment of revenue. This proposal has been forwarded for the consideration of the British Indian Association, which may be taken as representing to a very great degree the important interests concerned, and a reply from the Association is awaited.

"Then comes a proposition for the amendment of the General Police Act V of 1861. Upon that subject I may explain that a very careful Bill has been drafted, with the concurrence of the principal Police authorities, and has been submitted for the general approval of the Government of India. It seemed necessary to do this, inasmuch as whatever is done, supposing anything is done, in Bengal, may be taken to affect in the same way neighbouring local Governments. I have not yet received a reply to the reference which has been made to the Government of India.

"The next proposal is one for the establishment of reformatory schools. It will be in the recollection of the Council that in April last I mentioned this as one of the measures that may possibly require to be taken into consideration. This question was also referred to the Government of India, and we have

received a reply that, as the matter appears to be one of general interest, and one affecting all local Governments in India, it should better be taken up by the Council of the Governor-General, and a measure for this purpose has been actually introduced into the Council of the Governor-General. So this project may now be struck off from the list of the business pending before the Bengal Council.

"The next is a proposal for the prohibition of the levy of illegal cesses in navigable channels, high roads, and market-places. Upon this subject a Bill was drafted by our hon'ble colleague, Mr. Schalch, and has since been referred by the Government of Bengal to the British Indian Association, and upon this subject also the reply of the Association is awaited. I have no doubt it will soon be received.

"The next measure is the consolidation of the Abkaree Acts. That is a matter requiring a great deal of care, and it has been taken up by our learned Secretary, and I understand that it has been partially prepared.

"The last project is one of merely local importance, hardly affecting any considerable portion of these provinces, viz., some alteration in the rent law for the Chota Nagpore Province. The main object of that is to exclude that province from the operation of certain sections of the general rent law of Bengal, which are considered by well-known authorities, and especially by the late Commissioner, Colonel Dalton, as not applicable to the circumstances of that province.

"Thus much for the pending business. I have no particular additions to make to-day to the programme which was made a year ago, and which, as hon'ble members will see, has been steadily kept in view. But it will be clear that there are four important measures which have really to be taken up;—I may say five. First, there is the matter of such immediate importance in respect of the city of Calcutta, viz., the Calcutta Municipality Bill. But besides that, there is the Municipal Bill for the mofussil or the interior of the country generally, upon which the health and comfort of the inhabitants of the towns and large villages of these great provinces so much depend in future. But besides these, there are three great measures intimately affecting what I must regard as the greatest of all the great interests in these provinces, viz., that relating to the tenures of land. One of these Bills relates to the partition of estates, the second relates to the compulsory registration of possessory titles to lands, and the third relates to the appointment of managers for joint undivided estates. These three very important measures have for now nearly a year been before the Council; much labor has been bestowed upon them, and at one time or another much careful consideration has been devoted to them. I must confess to some disappointment in that these measures should not yet have been ready for submission in a complete shape to the Council; but it must be remembered that they are in themselves difficult, and require much deliberation. Still, I must again urge them very much upon the attention of all hon'ble members whose experience lies in that direction, and I will express the most earnest hope of the Government of Bengal that the Council may succeed in passing these measures into law during the present session: and

I hope that if we shall succeed in obtaining the undivided care, attention, and time of the hon'ble member (Mr. Dampier), we may hope to succeed in bringing these measures into completeness within a little time. If, during the course of the session, further projects of law shall appear to be called for by the circumstances of the country, I will then lose no time in announcing them to the Council. But my immediate object in making these remarks is to entreat the attention of hon'ble members to those important measures which have been for a long time, and still are, pending before the Bengal legislature.

"I will now call upon the Hon'ble Mr. Dampier to speak to the motion which stands against his name."

REGISTRATION OF MAHOMEDAN MARRIAGES AND DIVORCES.

THE HON'BLE MR. DAMPIER said, the Council would remember that the Bill for the voluntary registration of Mahomedan marriages and divorces was considered and finally settled in Council on the 25th March last, but the final passing of the Bill had been delayed until now at His Honor's request. MR. DAMPIER had since looked over the Bill for the last time, as usual, and he found that there were three verbal additions that he wished to make before the Bill was passed, namely, to insert headings in the Schedule to the different forms of registers required to be kept. The object of the amendment was merely to bring the schedule more into conformity with the substantive provisions of the Bill. The amendments were to prefix the following headings to the forms of registers specified in the schedule, namely—

"Form A, Book I.—Register of marriages (as prescribed by Section 6 of the Act for the voluntary registration of Mahomedan marriages and divorces)."

"Form B, Book II.—Register of divorces other than those of the kind known as 'khula' (prescribed by Section 6 of the Act for the voluntary registration of Mahomedan marriages and divorces)."

"Form C, Book III.—Register of divorces of the kind known as 'khula' (prescribed by Section 6 of the Act for the voluntary registration of Mahomedan marriages and divorces)."

The amendments were agreed to.

The HON'BLE MR. DAMPIER then moved that the Bill be passed.

HIS HONOR THE PRESIDENT said—"Before putting the motion to the Council, I desire to explain that this Bill having been carefully settled in Council during last spring, I asked the Council to be good enough to allow a short delay before it was finally passed, in order that, as the matter is one very much affecting the domestic concerns of a large portion of the people of these provinces, I might have time to see whether any substantial objections would be started in any quarter against the measure, and also that I might have time to visit some of the principal centres of Mahomedan intelligence and education in these provinces in the interior of the country, and to see whether the measure is likely to meet with the general approval of those classes whom it concerns. As the Council knows, no material or substantial objection of any kind from the classes concerned has been received since the publication in April last of the Bill as it

now stands. I have had the benefit of visiting both Patna and Dacca, the western and eastern Mahomedan capitals in Bengal, and of learning the feelings of the Mahomedan gentry there. At Patna I found that the majority of educated Mahomedans are in favor of the Bill, but there were some objections made by certain gentlemen there; but these objections I found are based upon what I must call misapprehension of the Bill, to the effect that the Bill is supposed to prescribe things which it does not prescribe, and to interfere with matters with which it really avoids interference.

"Then at Dacca I found but one opinion as to the expediency and necessity of passing this Bill into law, and carrying it into effect as soon as possible. So I can only say that if the Council now should be pleased to pass the Bill, I for one am prepared to give my most entire concurrence and approval to it. The Council will recollect the grave social disadvantages which the Bill is intended to meet. First, the difficulty of registering the celebration of marriages among the poorer classes of Mahomedans, and secondly the difficulty of proving them; then the looseness of the marriage tie. Constant disputes break out in that respect, and the social demoralization therefrom arising lead to disputes and feuds, which are attested not only by general repute, but also by the records of the courts, and especially by the criminal courts. All these evils are well known to the Council, and I need not dwell upon them; and I think it will be the opinion of all hon'ble members who have experience of the working of these courts that registration of this kind will provide, to a considerable degree, a remedy to remove these evils, and become more and more effectual year by year. The registration, it will be remembered, is purely voluntary. Those Mahomedans who live in places where there is a certain amount of religious organization will be able to celebrate their marriages in the most orthodox manner, and they will not require registration; whereas their poorer brethren in the remoter localities, who constitute the vast majority of the Mahomedan population, and who do not enjoy those advantages, will now have the means of registration if they choose to avail themselves of it: and it seems to me very hard upon the poorer and humbler classes of Mahomedans if any rich or fortunate individual among the community, who does not want registration, shall be allowed to object to those who wish to avail themselves of the advantages to be conferred by this Bill doing so if they choose. The question is, do the Mahomedans, or do they not wish to have this registration? If they do, then why, in the name of everything that is sensible and humane and considerate, should the Council not give them the benefit of it? The utility of the measure will be perfectly tested by the number of registrations which will be effected. If a good number of registrations are effected, then those who object to the Bill will not be able to say that it ought not to have been passed; and if there are few registrations, it is perfectly clear that at all events no harm will be done. Under these circumstances, believing that the Bill, if passed, will be of great social benefit to several millions of people living under this Government, I have great pleasure in putting before the Council the motion which has been made, viz., that the Bill be passed."

The motion was agreed to and the Bill passed.

CALCUTTA MUNICIPALITY.

THE HON'BLE MR. HOGG said, when he asked permission to introduce the Bill to consolidate the Municipal Acts relating to the affairs of Calcutta, he explained to the Council that the measure was brought forward owing to the urgent necessity for consolidating the municipal laws affecting the town of Calcutta. The original Municipal Act had been passed in 1863, and since that time there had been fourteen or fifteen amending Acts. Owing to the multiplicity of the Municipal Acts the law was now on some points not quite clear, and difficulty was experienced by the public in understanding the municipal law under which they were living. Permission to bring in the Bill was given on the 3rd of April, and, when bringing it forward, he briefly explained the amendments in the law as it now stood which he should ask the Council to adopt in this consolidation Bill. The Bill was referred for consideration and report of a Select Committee, who submitted their report on the 19th June. Since then the Bill and the report of the Select Committee, together with the partial dissent of two members of the Committee, had been published with the view of eliciting an expression of public opinion as to the proposals contained in the Bill. Although four months had elapsed since the publication of the amended Bill, the Council had only received one report from any of the public bodies on the provisions of the Bill. The report to which he referred had come from the Justices, which body might be assumed to be the one most interested in the Bill now before the Council. The Justices at a largely attended meeting unanimously recorded their approval of the general principle of the Bill, subject only to their desire to support the dissent of the Hon'ble Mr. Brookes and the Hon'ble Baboo Kristodass Pal. They said that there were many points of detail connected with the wording of the Bill which might be improved; but as their Chairman, Mr. Brookes, and Baboo Kristodass Pal, were members of the legislature, they were content to leave the consideration of those amendments to them.

The report of the Select Committee explained fully the amendments proposed by the Committee, and MR. HOGG would not therefore take up the time of the Council by recapitulating what was recorded in the report, which was in the hands of hon'ble members. There was one point upon which he thought some remarks would not be out of place, and it was to explain why he, as a member of the Committee, together with the other members of the Committee, did not propose any constitutional changes in the Bill. The Council would remember that the Lieutenant-Governor, at the time of the Bill being referred to a Select Committee, recorded a Minute, in which His Honor drew the attention of the Committee to the opinion recorded by the late Lieutenant-Governor as to the necessity of altering the constitution of the Municipality; and His Honor intimated that he was prepared to accept any moderate measure for the municipal government of the town of Calcutta which the Council might approve of. Speaking for himself, the reason why MR. HOGG had arrived at the opinion that it was not advisable to recommend constitutional changes, was that he thought it inexpedient to disturb the present

well organized system, which was in complete working order, unless he was satisfied that it was to be superseded by one which would prove to be more efficient and more popular. Against the existing corporation it was alleged that it was not a representative body. That might be readily conceded as a fact. It might further be conceded that the conduct of municipal affairs was not such as the masses of the population would select if the privilege of unrestricted self-government was accorded to them. But the question then arose—Is Government, is this Council, prepared to concede to the inhabitants of Calcutta a system of real self-government? and MR. HOGG thought this question must be answered in the negative. No doubt the Council was prepared to grant to the citizens of Calcutta a reasonable measure of independence; but he thought it open to question whether the people of this country, and of Calcutta, were in a state to have real self-government conceded to them. It must be remembered that the views of the masses of the population of this city were in many municipal matters at variance with the views of the governing authorities, and also of the European citizens and rate-payers of Calcutta. The wish of the mass of the population—he said the mass as distinguished from the intelligent portion of the native community, who in a measure agreed with the Europeans—was that they should be left alone, and be permitted to live after the manner of their forefathers. Their idea of good government was a minimum of taxation accompanied by complete immunity from all sanitary control. They objected to be called on to adopt those measures of sanitation which were accepted and acted upon by all nations who had arrived at an advanced stage of civilization. That, he thought, was briefly the view of the mass of the native population.

As regards the views of those responsible for the government of the city, they considered it to be their duty to insist on all the primary rules of sanitation being observed and enforced, and also to press forward works which they knew from experience would be a benefit to the city, and, moreover, be hereafter appreciated, if not by the present generation, certainly by their successors.

That works of high sanitary importance had been pushed on rapidly during the last twelve years under the present administration was an admitted fact, and one which those who were foremost in denouncing the present Municipality would not venture to deny. It was, however, no use ignoring the fact that these works of improvement had been carried out by the Justices with the cordial support of the local Government, not only without the concurrence of the mass of the population, but in direct opposition to their strongly expressed wishes; and not only the expressed wishes of the native population, but also of a section of the European community as represented by at least one English paper, which had strenuously opposed both the drainage and water-supply schemes If, then, the Calcutta of to-day was a far superior place of abode to what it was twelve years ago, and if many sanitary reforms had been successfully carried out during the last few years, it was all to be attributed to the wisdom of Government in not having accorded to the citizens of Calcutta a too large measure of self-government. These being his views he certainly should not be prepared to support any measure which would, by placing too much power in the hands of the people, stop the progress of sanitary reforms.

He held that what was required for Calcutta and other towns in India was a scheme which, while affording every facility for the views of all classes of the community to be fairly represented in the governing board, should reserve to Government the potential voice in the decision of matters of great importance, and should also provide a strong executive head for the administration of municipal affairs.

The present system, MR. HOGG thought, whatever its defects might be, did in a great measure meet the above conditions; for while providing a strong executive head appointed by Government, it associated with him as many intelligent gentlemen from all classes of the community whom the local Government might be pleased to appoint as Justices.

Then came the question whether selection was better than election. In MR. HOGG'S judgment the Government was in a better position to select native gentlemen who would really represent in an intelligent way the views of the different native classes of the community in Calcutta than the public would be if the principle of election was adopted. The objections to the present system, it appeared to him, might be briefly stated as follows :—

1*st*.—That owing to the number of Justices of the Peace, the Municipal Corporation had too many members, and that therefore individual responsibility was not felt.

2*nd*.—That the Justices being created for life, they had not that sense of responsibility which might be secured if they held office for a fixed term of years, say for one, two, or three years.

3*rd*.—That the Municipal Meetings led to much waste of time, as some Justices availed themselves of the opportunity to indulge in long speeches far wide of the points at issue, and thereby kept away European gentlemen of position whose presence would be of great value to the Municipality.

The last objection was far the most serious one, as there could be no doubt that the Municipality did much lack the presence and support of independent European gentlemen.

The remedy which should be applied was not easy to suggest, as MR. HOGG believed that European and Native opinion was at direct issue on the question of the best form of municipal government.

The majority of Europeans advocated a Municipal Board, constituted of members returned by a system of representative election; whereas the Natives, as a body, were strongly opposed to any system which would not encourage the most complete publicity in all matters which came before the Municipal Board; and they argued, and with justice, that the discussions by a small Municipal Board would not be as public as formal debates by a larger body.

To reconcile these conflicting views was almost impossible. Such being the case, it had to be decided whether the views of the European or the Native community should be adopted. On this point MR. HOGG was of opinion that the wishes of the Native community should take precedence of those of the European citizens of Calcutta; for the Natives, besides being far the most numerous, had an abiding interest in the city to which no European could attain.

The Hon'ble Mr. Hogg.

MR. HOGG would by all means force on the Natives of India sanitary improvements, but whilst doing so, he would afford them, in the way they liked best, every possible facility for expressing their opinions, and for ventilating their views in the most public manner possible. He agreed with the Natives that publicity could best be obtained by public debates and subsequent press criticisms; consequently he would continue the existing system of debates at the municipal meetings, even though it led, as it undoubtedly did, to great waste of time, and, what was still worse, deprived the Municipality of the support of gentlemen whose counsels were much to be desired.

He would now ask the Council to proceed with the Bill in its present form, leaving out one or two sections which defined the constitution of the corporation of Calcutta, and as the Bill passed through Council, any member who might have a scheme would be able to bring it forward.

But because the constitution of the Municipality was left an open question, that was no reason why the other sections of the Bill, which would be equally applicable to any form of Government, should not be proceeded with and settled.

The Council had received a representation from the Port Commissioners, urging that the Legislature should not, in the case of assessment on property, allow the decision of the Justices to be final. To meet this reasonable request, the Committee had provided in the amended Bill that any person dissatisfied with the amount at which the Chairman of the Justices might assess his property, should be entitled to appeal either to a Board of Justices or to the Small Cause Court.

This, he thought, entirely met the objections urged by the Port Commissioners. Another important amendment introduced by the Committee into the Bill was the provision that there should be an appeal allowed to a Board of Justices, other than executive officers of the Municipality, against the decision of the Chairman of the Justices determining under what class a trade or profession license was to be granted. There was another very important amendment, which affected the lighting and police rates. At present those rates were payable at the close of each quarter; in future it was proposed that they should be collected in advance. The Committee had also introduced into the amended Bill sections to enable the municipality to exercise more strict supervision over the consumption of water in houses, which was most necessary in order to check the present reckless waste of water.

With these remarks he would move that the Bill be taken into consideration in order to the settlement of its clauses.

The HON'BLE BABOO KRISTODAS PAL said that the hon'ble member in charge of the Bill had explained to the Council the reasons which induced the Select Committee not to recommend any change in the constitution of the Municipal Corporation of Calcutta. He certainly agreed with him that although the Bill had been before the public for such a long time, there was not any very decided expression of opinion as to whether any material changes were wanted in the present constitution of the Municipality. Not until only a month ago was any voice heard on the subject, and he believed the hon'ble member was not far wrong when he said that when the Bill was first laid before the Council, there

was such harmony among the several component elements of the Corporation that no change whatever was wanted by any one section of the community. Unfortunately, there had been some friction within the last few months between the executive and the independent members of the Corporation, which had led to somewhat warm discussion, and which in a manner had brought about the present agitation. But independent of that, he thought the subject was well worth the consideration of the Council. The British Government in this country was a progressive one, and the institutions founded by it were essentially progressive in their nature; and as the people were imbued with Western knowledge and ideas, they longed for the Western mode of government, and for the introduction of Western institutions for the protection of their liberties and the advancement of their welfare. It was therefore not at all unnatural that the people of Calcutta, who were admittedly in the van of intelligence and enlightenment, should ask for that measure of self-government which had been accorded to other countries which owned allegiance to the British Crown,—he meant the British colonies and dependencies.

If hon'ble members would look back to the history of municipal government in this city, they would find that about twenty years ago there was an elective system in force. It did not work fairly for many reasons, and was therefore abandoned. Then came the municipal triumvirate. That system also worked for some years, when the public cried for a change. Next came the present Municipality. It was true that this Municipality was not representative in the sense in which that word was usually understood; still it represented, to a great extent, the intelligence, wealth, and respectability of the local community. He admitted that the Corporation, as at present constituted, had undergone changes since,—he meant its *personnel*,—and that the later nominations had to a certain extent (he did not mean to reflect upon individuals) detracted from the character of the Corporation. The Corporation had, however, done a large measure of good. Apart from the many measures of improvement which had been carried out under the present system, and to which reference had been made by the hon'ble mover, it had proved a good school of political training for the people of Calcutta. He might say that since the Corporation had been created, the rate-payers had evinced a lively interest in all its proceedings, and that was simply because the fullest publicity had been given to all that had been done by it. Both when the elective Board used to sit, and when the triumvirate was constituted under the Act of 1856, the proceedings of the Corporation were not published to the same extent as they were now. Then an abstract of the proceedings of the Municipal Commissioners was given to the newspapers, and the public were left to draw their own inferences from that meagre statement. Now the meetings of the Corporation were open to the public. The Press reported the proceedings *verbatim* for the information of the public, and thereby a healthy public criticism was evoked among all classes who paid rates and took an interest in the affairs of the town. If the proceedings of the Justices were so widely discussed by the Press and the public at large, it was due to the present wholesome practice of publicity. The people of Calcutta being thus trained, and having acquired a proper appreciation of their own

The Hon'ble Baboo Kristodas Pal.

interests, naturally enough asked for a further extension of municipal privileges. They wanted, in fact, a larger measure of self-government. It was true that opinion was very much divided as to the scheme of local self-government best suited to the varied interests of the town; still he believed that opinion was unanimous upon this point, that there ought to be some sort of selection in the election of those who governed the affairs of the town, and that there ought to be a greater freedom of action in the Corporation. The hon'ble mover of the Bill had stated that he doubted whether Government was prepared to give real self-government to the people of this town. He thought it was rather bold on the part of the hon'ble member to make such an assertion in the face of the declaration from the Hon'ble President that His Honor was prepared to consider any reasonable and judicious measure of self-government. · BABOO KRISTODAS PAL admitted that, constituted as Government was in this country, their rulers were not prepared to surrender the municipal government of the metropolis to the natives of the country; but he believed that when the people wanted a measure of self-government, they did not mean that they should have the whole thing in their own hands. What they meant was that they should be associated with their European fellow subjects in the task of local self-government. He might observe that the people of this country, if they were in any way to be useful to themselves and the nation at large, could only be so by associating themselves with their European fellow-subjects. They must learn a great deal, and under the direction and guidance of their rulers might prove themselves equal to the task which they might be called upon to perform. Since England had planted its flag in this country, there had been many important changes in its political organization and its internal administration, and the people had been invited to an active share in the administration of the country; and he believed the Government would admit that they had not been found wanting in taking advantage of that honorable and responsible position which it had pleased the Government to confer upon them. He believed that if the people of Calcutta were associated with their advanced European fellow-subjects in the government of the affairs of the city, they would not be found wanting. As matters now went, even if the Corporation was not considered a representative institution, still it was, to a great extent, a free institution, and he believed it would be admitted that his countrymen had done their part of the work well, and to some extent creditably. Looking to the success which had in some measure attended the attempts of the people of this city to work under and with their European rulers and fellow-subjects, he thought the further extension of the experiment of local self-government might be safely made in the administration of its municipal affairs.

He did not at all agree with his hon'ble friend that the views of the masses were opposed to improvement: that they wanted only the minimum of taxation and no improvements in the town whatever. The mass of the tax-payers of the town certainly did object to excessive taxation, simply because it was often succeeded by excessive expenditure. His hon'ble friend had pointed to some of the improvements which had been carried out in the town, and which had proved highly beneficial in spite of, or rather against, the wishes of the native

community, and also in spite of the opposition of a portion of the European community. He believed the hon'ble member would admit that opposition to the measures referred to did not proceed so much from any desire to obstruct improvement as to prevent excessive expenditure or extravagance; and say what his hon'ble friend might, it could not be denied that, however successful had been the administration of the Municipality under the present system, it had been most costly, and in some cases the expenditure had been unjustifiably extravagant. He believed that were it not for the healthy control exercised by public opinion and by the working Justices upon the executive action of the Municipality, there would have been much greater extravagance and much more addition to taxation.

The hon'ble member in charge of the Bill had been pleased to remark that he would not, and he hoped the Government would not, consent to delegate the executive duties of the Municipality to the *bonâ fide* representatives of the masses. He did not clearly understand what the hon'ble member meant by the phrase "*bonâ fide* representatives of the masses." He believed that many of the Justices professed themselves to be representatives of the mass of the rate-payers in the town, and if such Justices had not abused their privileges and position, he could not understand why his hon'ble friend should object to the *bonâ fide* representatives of the masses. He thought that any person who took his seat in the Corporation, but did not seek to represent the mass of the rate-payers who bore the bulk of the taxation, did not deserve a place in that body.

Then his hon'ble friend had discussed briefly the comparative merits of selection and election, and was satisfied with the present mode of selection. Baboo Kristodas Pal had already said that the selections made by the Government had not been always happy ones. He believed he would not be far wrong were he to say that there were members of the Corporation who were not even acquainted with the English language, although that was the language in which the proceedings of the Corporation were conducted. Could it be expected that gentlemen who were not acquainted with English would be able to appreciate the merits of the measures proposed for discussion, or realize the character and gravity of the questions brought before them. Under any system, then, he would support the principle of election before selection. He admitted that the present Municipal Corporation was an unwieldy body; and if it was unwieldy, he was constrained to say that it was so owing to the action of the Government. As originally constituted, the Corporation was somewhat unwieldy; but when the Government of Sir William Grey saw that the influx of the Bengal, Behar, and Orissa Justices hampered the action of the independent Justices, he eliminated that element; but again additions had been frequently made to the body, perhaps at the instance of the executive head of the Municipality—he could not say with what object—and the Corporation had again gradually become very unwieldy and ill-assorted. He thought it was of the highest importance that the number of members of the Corporation should be limited by law. As matters at present stood, any Chairman who should consider that there was not a sufficient following at his command might recommend the appointment of additional members, and the Government

might assent to the recommendation, and thus the independent Justices might be swamped, and the Corporation might be made more and more unwieldy and less efficient. He thought that in the interests of the town the number of members of the Corporation should be limited. He also agreed with the hon'ble member in charge of the Bill that the tenure of office of the Justices as members of the Corporation should be limited to a term of years. At present the Justices were regarded in the light of life-peers. It was very desirable that there should be an infusion of new blood in the Corporation from time to time. But if there was to be an infusion of new blood, it ought to be done with the consent and support of those who were vitally interested in the working of the Municipality. He meant that the nomination and election of the new members ought to rest in the hands of the rate-payers, or in a body of their representatives. If the Government had the nomination, and if the Justices were to go out by rotation every three years, as proposed, then perhaps the most useful Justices, who in reality rendered the most substantial assistance to the Chairman, but who might be considered obnoxious by reason of their constitutional opposition, might be made to vacate office to the detriment of the best interests of the town.

Reference had been made to the waste of time at the meetings of the Corporation, which had kept away European gentlemen of position and influence, whose presence would be most desirable. He had closely watched the working of the Municipality for the last twelve years, and he was sorry to say that the European residents of the town as a body at the best took very little interest in the business of the Corporation. He generally found the meetings of the Municipality, when personal questions came to the fore, better attended than when lakhs and lakhs of rupees were voted away, on which occasions many of the European Justices were conspicuous by their absence. And he could well understand the reason. The Europeans came to this country as birds of passage, and, as his hon'ble friend expressed it, they had no abiding interest in the land; and so long as they saw that their own wants and comforts were attended to, BABOO KRISTODAS PAL was not surprised to find that they could not afford time to busy themselves with matters which did not immediately interest them. The Europeans in this country were quite willing to give their time to the promotion of public business, if it did not lead to much self-sacrifice; but, as had been pointed out, the municipal debates occupied much time, and as their time was valuable, they could not attend those meetings. But what would you have? Would you have a close borough system, with a view to promote the convenience of a few members of the European community? or would you have the widest publicity for the sake of the hundreds of thousands who were interested in the business of the Municipality? He fully subscribed to every word which fell from his hon'ble friend in charge of the Bill on this part of the subject. He had taken a broad and liberal view of the question, and it was gratifying to BABOO KRISTODAS PAL that his hon'ble friend, as the head of the Corporation, should advocate the widest publicity. If anything was criticised in these debates, it was his own proceedings; and BABOO KRISTODAS PAL fully appreciated the feeling that had prompted his hon'ble friend to advocate

the freest publicity. If the municipal debates unfortunately led distinguished members of the European community to avoid the Corporation, he confessed that that was a matter of deep regret; but in no civilized country was public business of that kind conducted without debates, and the debating of questions meant the employment of a certain quantity of time for their discussion from all points of view.

He thought he had touched upon most of the important points which had been urged by his hon'ble friend in his opening speech, and although BABOO KRISTODAS PAL was not prepared to submit a scheme of general election for the municipal local government of Calcutta, he had some ideas of his own on the subject, which he ventured to place before the Council not without the greatest diffidence. He had started with the proposition that there ought to be election and not selection, and, entertaining that view, he proposed that the municipal Corporation of Calcutta should be made self-elective. His plan was this. Let the number of the Justices who were to compose the Corporation be limited or fixed by law. Make it 100, 80, or any number you think reasonable. He might remind the Council that the City of London had a body of 200 Common Councilmen. He would, then, first limit the number of Justices to compose the Corporation, would next provide that one-tenth of them should retire annually or every two or three years, and that the remaining members of the Corporation should elect from amongst the rate-payers successors to those who would go out by rotation,—that was to say, the remaining members should form a sort of Board of Electors. The first election might be made by the present Justices from amongst their own body, or the first members might be nominated by the Government. Thus, if the Council should agree to limit the number to 100, these might be elected from amongst the 153 Justices of which the Corporation now consisted, or the Government might select the first 100, and one-tenth of this body, that is 10, should go out annually, and the remaining 90 should elect successors to those 10 from amongst the rate-payers, and any rate-payer possessing the necessary intellectual qualifications should be considered eligible to election. He would also fix by law the number of representatives of each section of the community, so that there might be no misunderstanding or confusion hereafter. That number should of course be regulated by a consideration of the number of the population of the various sections of the community, of their stake in the city, and of the amount of their contributions to the municipal fund. These were matters of detail. If the general scheme was approved of by the Council, it might be considered in Committee. If such a system of a self-elective Corporation should prove successful, it might be considered hereafter whether the basis of election might not be extended. He proposed the scheme as a tentative measure only, but he was not prepared to propose any amendments at present. If the views which he had ventured to express should meet with any support in Council, he would submit the necessary amendments for the consideration of the Council.

The motion was then agreed to.

On the motion of the HON'BLE MR. HOGG the clauses of the Bill were considered for settlement in the form recommended by the Select Committee.

The Hon'ble Baboo Kristodas Pal.

The consideration of Sections 1 to 4 was postponed.

Section 5 was agreed to.

Section 6 provided that the municipal fund should be applied by the Justices as trustees for the purposes of the Act.

The HON'BLE MR. HOGG moved to add to the section the words "and for such other local purposes as the Justices at a special, general, or quarterly meeting, with the sanction of the local Government, may direct." The reason he proposed the addition was that in his opinion the Justices were now confined too much in regard to expenditure: they could only expend money for purposes of conservancy and the improvement of the town. It frequently occurred that proper and legitimate expenditure which ought to be borne by the Municipality was unable to be done owing to the wording of this section, which was taken from the law as it now stood. It was of course desirable that the Justices should be prevented from expending money upon objects which did not fall within the legitimate concerns of the town, but such a check he proposed to impose by making all expenditure sanctioned by the Justices at a special, general, or quarterly meeting subject to the sanction of the local Government.

The HON'BLE BABOO KRISTODAS PAL said he considered it his duty to oppose the amendment. He thought the power of the Justices to expend money could not be too much guarded. He had just now alluded to the extravagence which sometimes characterized the operations of the Justices, and if this additional power were vested in them, he feared it would lead to considerable waste of the hard-earned money of the tax-payers. His hon'ble friend had said that sometimes the Justices themselves regretted their want of power to expend money for what they considered legitimate objects. BABOO KRISTODAS PAL was not aware that the Justices had found themselves fettered from granting money for a single object which properly came within the legitimate scope of the Municipality. The only question which he remembered to have been raised was in connection with the reception of His Royal Highness the Prince of Wales, but that was an exceptional case, and by a stretch of the law provision had been made by the Justices for the purpose. But if the desire of his hon'ble friend for the introduction of the words he proposed were acceded to, BABOO KRISTODAS PAL could not conceive the variety of subjects that might be brought within this drag-net. As his hon'ble friend was well aware, the municipal fund was charged with a very heavy debt, the interest and sinking fund for which was nearly equal to the ten per cent. house-tax, or ten lakhs per annum. The Justices had, besides, an expensive establishment, the drainage works were not completed, and required a further expenditure of more than thirty lakhs. The water-supply was insufficient and might have to be doubled up. So that the legitimate wants of the town could not be met from the funds available, and he was of opinion that it would be a prostitution of the power of the Justices if they were permitted to apply their funds at their discretion, of course with the sanction of the Government, which, as experience showed, could be easily obtained, for objects not directly connected with the health and comfort of the people.

The HON'BLE MR. HOGG said he could not agree with the objection which had been urged. He would call to the recollection of the Council what

occurred in 1866, when paupers were pouring into the town and the Justices were unable to make any grant in order to assist in supporting the famished stricken people. Surely, even looking at the matter as a question of sanitary protection of the inhabitants of Calcutta, that was a fair subject of expenditure. Again, there was another project just started, namely, for the establishment of a zoological garden. That, in his opinion, was also a fit subject of municipal expenditure. The amendment did not propose to impose any expenditure upon the Justices arbitrarily: it left the initiative to them, and then placed a check upon their discretion by requiring the sanction of the local Government. Surely the Legislature could trust the Justices, when controlled by the sanction of the local Government, to make expenditure for local purposes. For these reasons he trusted the Council would adopt the amendment, and pass the section as proposed to be altered by him.

The HON'BLE MR. SCHALCH said he certainly thought the purposes to which the municipal fund might be applied should be distinctly stated in the Act. They had seen that his hon'ble friend considered the proposed zoological gardens a fit subject for municipal expenditure. The garden might be an improvement to the neighbourhood of the town, but MR. SCHALCH did not think that the establishment of a zoological garden was a purpose for which we could compel the rate-payers to pay. He thought the words in the law "for the improvement of the town" should serve for all necessary purposes. He would ask the Council not to insert any general clause authorizing expenditure, but to confine the power of expenditure to such special purposes as were strictly necessary to the wants of the town.

The HON'BLE BABOO JUGGADANUND MOOKERJEE said, it appeared to him that the amendment was not only reasonable, but necessary. The reason why he thought it necessary was that it gave power to the Justices, who had the general control over the municipal fund, to do as they pleased, and it was they only, with the sanction of the Government, who could apply the municipal fund to any particular purpose. The control which the Justices at present possessed over the municipal fund they would retain, and the additional power of expenditure which was proposed to be given to them would be subject to the check of the local Government. Under these circumstances he would support the amendment.

After some further conversation, the Council divided:—

Ayes.	*Noes.*
Hon'ble Baboo Juggadanund Mookerjee.	Hon'ble Baboo Kristodas Pal.
„ Mr. Reynolds.	„ Baboo Doorga Churn Law.
„ Mr. Hogg.	„ Mr. Brookes.
„ The President.	„ Mr Dampier.
	„ The Advocate-General.
	„ Mr. Schalch.

So the motion was negatived, and the section agreed to.

Section 7 related to the appointment of the Chairman, and provided that he should be "removable" by the local Government if his removal were recommended by a resolution in favor of which not less than two-thirds of the Justices present at a special general meeting should have voted.

The Hon'ble Baboo Kristodas Pal moved the substitution of the word "removed" for "removable." If a majority of two-thirds of the Justices recommended the removal of the Chairman, he thought that his removal should be made absolute, and not left to the discretion of the Government. When the Chairman should forfeit the confidence of two-thirds of the Justices, surely it would not be right to force him upon them.

His Honor the President explained that the adoption of the amendment would make a great difference in the tenure under which the office was now held, as it would make the Chairman removable by the Justices, whereas at present he could only be removed by the Government.

The Hon'ble Baboo Kristodas Pal observed that he proposed the amendment in order to give effect to the vote of two-thirds of the Justices, for when there should be such a decisive majority the Government ought to act in conformity with it.

The Hon'ble Mr. Hogg thought that as the Chairman was appointed by the Government, he ought to be removed by the Government, and the law should not make him removable even by the unanimous vote of the Justices.

The Hon'ble Mr. Schalch considered that the Chairman should not be removable by the Justices: it would be inconsistent with the due discharge of the duties of his office if he were liable to removal by a bare majority.

The motion was negatived, and the section passed as it stood.

Section 8 provided for the appointment of a Vice-Chairman.

The Hon'ble Mr. Hogg moved the insertion of the words "for such period as they may think fit" after "appoint" in line 4. He said the amendment would enable the Justices to fix the period during which the nominee should hold the office of Vice-Chairman. It might occur that a gentleman advanced in years would be nominated, and it would be advisable not to appoint him for life, and to throw on the Justices the disagreeable duty of compelling him to retire on account of old age. He thought it would be well for the Justices in such cases to recommend to the Government to appoint such an officer for a fixed term of years, and it would be optional with the Justices to re-nominate him.

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

In Section 9 an amendment was moved by the Hon'ble Mr. Hogg and carried with the object of giving the Government a general supervision over the appointment of the chief officers of the Municipality.

Section 10 provided that the Chairman might hold certain other specified offices in addition to the office of Chairman.

The Hon'ble Mr. Hogg moved the addition of the following words to clause (*b*)—"and may perform such other duties as the local Government may from time to time assign to the Commissioner of Police." He need hardly point out that, as Commissioner of Police, the Chairman was frequently called upon to perform other duties besides those specified in the section, such as Visitor of the Presidency Jail and President of the Commission for the Inspection of Boilers. The question had arisen how far it was legal for the Chairman to perform such duties, and he proposed this amendment to remove doubts.

After some conversation as to the advisability of postponing the consideration of the section with reference to the constitution of the Municipality, and the separation of the offices of Commissioner of Police and Chairman of the Justices urged by the Hon'ble Kristodas Pal, the motion was agreed to.

The Hon'ble Mr. Hogg also moved the adoption in clause (*d*) of the same section (which provided that the Vice-Chairman might be appointed to hold any other office in addition to his own), of an amendment with the object of making the sanction of the local Government necessary before the Vice-Chairman could be appointed to any other post by the Justices.

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

Sections 11 and 12 were agreed to.

Section 13 related to the appointment, remuneration, and removal of subordinate officers.

The Hon'ble Baboo Kristodas Pal moved the insertion, after the word "meeting" in paragraph 3 of line 5, of the following words, "and the dismissal of officers of the Justices in receipt of monthly salaries below Rs. 200 shall be reported to the Justices in meeting." Under the present law it was left to the Chairman to appoint or dismiss officers with salaries under Rs. 200, but their appointment and dismissal were not to be reported to the Justices at meeting. He thought it advisable that the Chairman should be required to report the dismissal of such officers. There was an appeal to Government from the acts of departmental heads dismissing Government servants with salaries much less than Rs. 200, but the fate of subordinate municipal officers was left absolutely to the pleasure of the Chairman. He did not believe that the acts of the Chairman in this respect would be ordinarily or unreasonably interfered with; but if there was any glaring case of injustice, it was much better that the Chairman's power should be curtailed than that injustice should be done.

The Hon'ble Mr. Hogg thought it was not desirable to weaken the hands of the executive. The subordinate officers of the Municipality must look to their chief alone, and if he had to report the removal of such officers to the Justices, it might give rise to undesirable and disgreeable discussions between the Justices and their Chairman.

The Hon'ble Mr. Schalch thought that the Chairman should have full power to remove any subordinate officer with a salary under Rs. 200. An appeal to Government, which consisted of one or two individuals, was quite a different thing.

The motion was put and negatived.

Section 14, empowering the Justices to grant leave of absence to their officers, was agreed to with a verbal amendment.

Sections 15 to 30 were agreed to.

Section 31 related to the mode of making contracts.

The Hon'ble Baboo Kristodas Pal moved the insertion of the words at the end of paragraph 2—"and no such contract shall be made without inviting tenders thereon, and without the approval of a Committee of the Justices."

The Hon'ble Mr. Hogg considered that it would be detrimental to the despatch of business if any petty contract above Rs. 500 in value were to be subject to the inviting of tenders and approval of a Committee of Justices.

The Hon'ble Baboo Kristodas Pal said that after the discussions about contracts which had been going on, he thought the hon'ble mover would be the first to accept the amendment which was now proposed. The law required two other Justices besides the Chairman to sign every contract above Rs. 500, but as the business was now transacted, they simply did so *pro formâ*. By way of illustration of the manner in which contracts were given away by the Justices, he mentioned that the contract for the construction of four new filter tanks at Pulta at a cost of a lakh and a half of rupees had been, he was told, settled by private arrangement without inviting any tenders from the public.

The Hon'ble Mr. Dampier observed that if the amendment was passed as it stood, no doubt there would be room for the objection that in some instances it would not be possible to postpone matters by inviting tenders. He thought that these petty contracts would be practically engineering details; it seemed that there would be such contracts in the nature of things which need not be submitted to competition and the decision of a Committee of Justices.

The Hon'ble Mr. Hogg said that it would depend upon what was held to be a contract; if, for instance, petty engagements with masons to carry out small sections of the drainage works did not come within the meaning of the term "contract," he would have no objection.

The Hon'ble the Advocate-General suggested that the amendment should be agreed to subject to the raising of the minimum amount of the contracts referred to from Rs. 500 to Rs. 1,000.

The suggestion was adopted, the amendment carried, and the section as amended agreed to.

Sections 32 and 33 were agreed to.

Section 34, which related to the budget of expenditure, was passed with the addition, on the motion of the Hon'ble Mr. Hogg, of the following proviso:—"Provided that nothing in this section shall preclude the Justices in meeting from sanctioning expenditure not provided in the budget."

Section 35 was agreed to.

Section 36 was carried with the omission, on the motion of the Hon'ble Mr. Hogg, of the following words:—"The Justices in meeting, other than an ordinary meeting, subject to the sanction of."

Sections 37 to 54 were agreed to.

Section 55 was passed with a verbal amendment.

Sections 56 to 64 were agreed to.

The Council was adjourned to Thursday, the 18th instant.

Thursday, the 18th November 1875.

PRESENT:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*
The Hon'ble V. H. SCHALCH, C.S.I.,
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,
and
The Hon'ble BABOO KRISTODAS PAL.

CALCUTTA MUNICIPALITY.

THE HON'BLE MR. HOGG moved that the Bill to consolidate and amend the law relating to the municipal affairs of Calcutta be further considered in order to the settlement of its clauses.

The motion was agreed to.

Section 65 provided for the levy, amongst other rates and taxes, of a water-rate not exceeding six per cent. when the houses and lands were situated in streets supplied with filtered water, and not exceeding five per cent. in other parts of the town.

The HON'BLE MR. HOGG explained that the 6 per cent. rate could only be levied in streets which were supplied with filtered water, as provided in the Act: that was to say, that no portion of the street should be at a greater distance than 150 yards from a stand-pipe. The object the Committee had in view, in raising the tax in certain cases from 5 to 6 per cent., was to increase the supply of water, which was acknowledged to be insufficient. It was the earnest desire of the Justices to double the supply, and they would not be able to do so unless they were authorized by legislative enactment to raise the rate. At present the Justices had, for the following year, made arrangements for, in a measure, providing the town with a more plentiful supply by increasing the number of filters at Pulta. But it was expected that sooner or later the supply would have to be doubled, and what was proposed to be done was only one step in that direction.

The HON'BLE BABOO KRISTODAS PAL moved the substitution of "five" for "six" in paragraph one, clause (*b*), line one. He said that in Select Committee they had agreed to a rate of 6 per cent., because the information then before them showed that without the additional 1 per cent. it would not be practicable to carry out any extension of the water-supply. But the subsequent increase in the assessment of lands and houses in the town had brought in a large accession of revenue, about Rs. 65,000 for 5 per cent., and he believed that when the whole town should be re-assessed, the yield would be much greater. At present there was an increase of about Rs. 58,000 for 4½ per cent., and on referring to the

budget for next year, he found that the Justices were enabled, after providing for interest, sinking fund, and working charges, to set apart Rs. 45,000 for extra works, viz. Rs. 30,000 for extension of the water-supply, Rs. 10,000 for the flooring of Pulta tanks, and Rs. 5,000 for additional hydrants, and all that with the rate proposed to be fixed at 4½ per cent. And if we took the other half per cent., the total addition to the water-supply revenue, over and above the usual yield of that tax, would be about one lakh and ten thousand rupees. He did not therefore think it fair to increase the maximum of the water-rate from 5 to 6 per cent. He believed that the arrangements already contemplated for the increase of the filter tanks at Pulta, to which his hon'ble friend had referred, coupled with the additional supply of the Chandpal Ghât scheme, would, to a great extent, meet the wants of the town; but if the new filters would not completely meet the want expressed on all sides for an additional supply of water, the funds which would be derived from the levy of the full 5 per cent. rate would enable the Justices to go on further increasing the supply. If, however, notwithstanding the large accession of revenue by increased assessment, the Justices still found the funds at their disposal insufficient to meet the demand, it would then be time to consider whether the rate should be increased.

The Hon'ble Mr. Schalch said this was a matter in which he took a great interest. The demand for the supply of water had very largely increased. The water-supply scheme was originally constructed to meet a demand of 6½ millions of gallons a day; but the demand had far exceeded that quantity. The consequence had been that although by good management the water supplied had been somewhat in excess of that quantity, or about 7½ millions of gallons a day, the demand still exceeded the supply, and to meet that further demand considerable expense had been incurred by the Justices in enlarging the supply of unfiltered water from Chandpal Ghât; consequently the additional supply of unfiltered water had led to an expense of from 4 to 5 lakhs of rupees beyond what was expected, and must be paid from increased taxation. In the same way it had been found necessary to increase the number of filters at Pulta at a cost of Rs. 1,50,000, and the two sums together would amount to from 5½ to 6½ lakhs of rupees, for which additional interest would have to be paid. The interest on 6 lakhs at 6¼ per cent. would be about Rs. 40,000 of annual increased interest. The hon'ble member who had last spoken had alluded to the increased revenue from increased assessment. Mr. Schalch was assured that the increase from revised assessments would be only about Rs. 40,000, so that an increase of revenue of Rs. 40,000 would but cover the increase actually incurred for interest by the Justices. There was no reason to suppose that the demand for water would remain as at present. The demand was increasing every day. More houses were being brought in connexion with the mains, and year after year the demand would continue to increase. Therefore they might safely say that even with the increased revenue received from increased assessment, the water-supply fund would stand on no better footing than before. Therefore he felt quite sure that a rate of 5 per cent. would not hereafter prove sufficient; and it would be a great pity if we did not take the present opportunity of giving the Justices

a sufficient margin of taxation to meet future demands. It would be entirely within their discretion to impose the additional rate or not.

The Hon'ble Baboo Kristodas Pal said the hon'ble member who had just addressed the Council seemed to think that the interest on the capital of the Chandpal Ghât scheme was not covered by the present revenue, and that the remaining half per cent. would be required to meet it. But Baboo Kristodas Pal would beg to remind the hon'ble member that the budget of 1876 covered all charges, interest, sinking fund, working expenses, and the cost of new works to the tune of Rs. 45,000. The rate was now taken at 4½ per cent., so that there would still be a margin of half per cent. if the maximum were fixed at 5 per cent., and that half per cent. would bring in about Rs. 60,000, taking 1 per cent. to yield Rs. 1,18,000. Taking, then, Rs. 60,000 and the extra charges incurred in the present budget, which were not of a recurring nature, an additional revenue of more than a lakh of rupees from 5 per cent. water-rate would be available to the Justices.

The Hon'ble Mr. Hogg observed that the present rate was sufficient to cover all existing expenditure, but he thought the legislature should look ahead and provide for the future wants of the town. If they desired to increase the water-supply, the present rate would not be sufficient.

His Honor the President said he would ask the Council to bear in mind that this rate was not to apply to the whole town, but only to those particular streets in it which were provided for in the manner specified in Section 106. In those streets the Justices had to do a great deal of work at a very great expense, which afforded great conveniences to the householders in those streets, and must save them a certain amount of domestic expenditure. Then he would ask the Council to consider that it was not obligatory on the Justices at once to impose this increased rate. If, as the hon'ble member on the left (Baboo Kristodas Pal) considered, the present rate was sufficient to provide for the wants of all the inhabitants, then the enhanced rate need not be imposed, and His Honor presumed the Justices would not impose it. Possibly the arguments addressed to the Council would be addressed by his hon'ble friend to greater effect at a meeting of the Justices, and he would be able to convince them that the increase was not, under present circumstances, required. But still the question remained whether the present opportunity should not be taken to take power to increase the rate if circumstances should render that course necessary. They all knew the immense importance of supplying the city with pure water. Notwithstanding all that might be said to the contrary, none of them doubted that this supply had been conducive to the public health. They also knew that the present rate was barely sufficient even within a certain limited area of the town, and that sooner or later additional expense must be incurred if all the poorer inhabitants of the town were to get the benefit of the water-supply. Sooner or later there must be increased expenditure. Either there must be increased expenditure, or a large portion of the inhabitants, particularly *the poorer portion, must be deprived of the inestimable benefits of a pure* water-supply. That seemed to be the whole horns of the dilemma, either the one or the other, and it seemed to him best to adopt the former alternative.

At the same time he quite agreed that the Council should avoid all additional taxation which they could possibly avoid. Therefore he hoped, if this increased rate were passed, the Justices would exercise the greatest caution and consideration in imposing additional taxation. But if such imposition should become absolutely necessary, there was no alternative but to ask the Council to give the power to impose this increased rate.

The Council then divided:

Ayes 4.	*Noes* 6.
The Hon'ble Baboo Kristodas Pal.	The Hon'ble Mr. Brookes.
The Hon'ble Baboo Juggadanund Mookerjee.	The Hon'ble Mr. Reynolds.
The Hon'ble Baboo Doorga Churn Law.	The Hon'ble Mr. Hogg.
The Hon'ble the Advocate-General.	The Hon'ble Mr. Dampier.
	The Hon'ble Mr. Schalch.
	His Honor the President.

The motion was therefore negatived, and the section agreed to as it stood.

The Hon'ble Baboo Kristodas Pal moved amendments in paragraphs 3 and 4 of the same section with the object of making the water-rate payable by the occupier instead of by the owner. He was of opinion that in equity the water-rate ought to be paid by the occupier. Strictly speaking, it was the occupier who derived benefit from the water-rate, and therefore it was right and proper that he should pay it. In another amendment he proposed that the occupier should be charged with the whole of the water-rate. But even if that point was not agreed to, still he was of opinion that the water-rate ought to be paid by the occupier, as he had to pay three-fourths of the rate, and he should be empowered to recover one-fourth from the owner by deduction from the rent paid by him.

The Hon'ble Mr. Hogg said he could not agree that the whole burden of the water-rate should be borne by the occupier. As the law stood, the rate was levied from the owner, and he was empowered to levy from his tenant three-fourths of the rate paid by him, which Mr. Hogg thought was reasonable and proper. As the introduction of the water-supply throughout the town of Calcutta very greatly benefited his property, the owner should bear the cost of conservancy of the town, such as the watering of streets and the cleansing of drains; it was but fair that the owner should pay the rate for water, recovering three-fourths from his tenant.

The Hon'ble Mr. Dampier said he should like the hon'ble mover of the Bill to explain why, in his opinion, the owner should pay the water-rate, and not the occupier. If the arrangement was that the occupier was ultimately to bear the burden of three-fourths of the rate and the owner was only to bear one-fourth, why should you ask the man on whom the smaller portion of the burden would ultimately fall to pay the rate in the first instance? Why should you not make the occupier pay the whole rate, and then let him deduct the owner's share of it out of the rent? It seemed to Mr. Dampier that that was the simplest arrangement.

The Hon'ble Mr. Hogg explained that it was very difficult to levy the rates from the occupiers of property, seeing that they constantly moved about,

and in some cases actually left the town before the tax bill could be presented, and therefore a large amount of revenue was lost to the town on account of the police and lighting-rates. Therefore it was thought advisable that the whole onus should be thrown upon the owner, leaving him to collect the tenant's portion at the same time that he recovered the rent from the occupier of his house. It was also thought by very many, and by the majority of the Select Committee, that there would be very much less danger of oppression if the owner were called upon to pay all the rates and subsequently recover from the occupier the rates payable by him.

The HON'BLE MR. DAMPIER said that he understood that the difficulty of collecting from occupiers in consequence of their frequently removing during the currency of the quarter was met with regard to other taxes in the Bill by making them leviable in advance.

The HON'BLE THE ADVOCATE-GENERAL said he would support the amendment. He certainly was not satisfied with the reasons given by the hon'ble mover of the Bill for imposing this rate on owners. It was said that the law now stood so. This Municipal Bill was not only a Consolidation Bill, but also an amendment of the existing municipal law, and the present was therefore a fitting opportunity to make amendments which were required in the interests of justice. With regard to the argument that the principle upon which the water-rate was imposed on the owner was that he benefited by the introduction of a water-supply, as it tended to increase rents, he would say that the owners of most houses knew that every tax had a tendency to diminish the rents of houses, and consequently if the tax was put on the ground that it was a benefit to owners, all he could say was that his experience was directly opposed to such a conclusion. He would support the amendment, although it was opposed to the principle of the former Municipal Act.

The HON'BLE MR. HOGG said that if the Council would agree to allow the police, lighting, and water-rates to be all collected in advance, he would not oppose the amendment.

The amendment was then carried, and the section as amended was passed.

Section 66 was agreed to.

The HON'BLE MR. HOGG said they should now consider the principle whether occupiers of houses should not have the right to deduct from the rent, in the event of their paying the water-rate, the portion appertaining to the owner, one-fourth, which may have been paid by them in advance. As the Bill stood, the rate was collected from the owner, and he had the right of recovering three-fourths of it from the occupier. In consequence of the amendment which had just been accepted, every one of the sections in this Part would require formal alteration.

The HON'BLE BABOO KRISTODAS PAL said, one of the amendments of which he had given notice involved the principle that the whole of the water-rate ought to be paid by the occupier. Under the existing law three-fourths were paid by the occupier and one-fourth by the owner. He considered that the principle on which this division of the incidence of the water-rate had been made was unsound in theory and inequitable in practice. The water-supply had been

introduced immediately for the benefit of the occupier, and it was but fair and just that the occupier should bear the full burden, just as the lighting of the town was intended for the benefit of the occupier, who paid the lighting-rate. The police also was for the protection of the occupier, and he paid the police-rate. For the same reasons he thought the whole of the water-rate should be borne by the occupier, who received a *quid pro quo*. It had been urged that water was used by the Municipality for general purposes, such as watering the streets and the conservancy. He could not understand that the occupier had less interest in conservancy and the watering of streets than the owner. In fact the occupier had a greater interest than the owner in the whole of the improvements carried on by the Municipality. It might be said that these improvements enhanced the value of house property which undoubtedly benefited the owner, and that therefore he ought to contribute towards the cost of the improvements. But the owner was paying, or under the law was liable to pay, half of the municipal rates; BABOO KRISTODAS PAL meant the house-rate at the maximum rate of ten per cent. Under the present law it was true he had been made to pay one-fourth of the water-rate, but that, he submitted, was unjust. In discussing this question of the water-rate, the Council ought to remember the class of people who bore the greater part of the burden. It was the class of owner-occupier, who formed the majority of the population of the town: the bulk of the native population, nine-tenths, were owner-occupiers, and they paid the whole of the water-rate. So that, strictly speaking, there would be no change made in respect of this class of occupiers. With regard to those occupiers who occupied houses belonging to others, if they derived the whole and immediate benefit of the water-supply, it was fair that they should be made to bear the whole burden. His motion would be that the whole of the water-rate be made payable by the occupier.

The HON'BLE MR. HOGG said he confessed that the arguments advanced did not dispose him to accept the proposal that the whole of the water-rate be payable by the occupier. The owner benefited by the water-rate, as it increased the value of his property, and it seemed to him therefore that the owner should pay his quota of the rate. For these reasons he would oppose the motion.

The HON'BLE THE ADVOCATE-GENERAL said he would support this proposition, as he had supported the previous amendment. It appeared to him that no sufficient reason had been advanced to make the owner of the house liable for any portion of the water-rate. It had been said vaguely that the laying down of water benefited landlords. If it benefited landlords, it must produce a return in some substantial way, such as an advance of rent. He had tendered his experience on the subject of rents; further evidence might be obtained; and he believed it would be found that increase of taxation diminished rent. The law imposed a portion of the water-rate on the owner, and if only a portion was imposed, would the hon'ble member inform him on what principle one-fourth was imposed? Why not one-eighth or one-twelfth, or the whole? If the owner derived a certain amount of benefit, let us have the measure of that benefit; but one-fourth was an arbitrary measure, supported on no data.

With regard to the argument that for purposes of conservancy and other similar purposes to which water was applied, the owners of houses should pay, he would submit that since water was laid down and the rate levied, the landlord had to repair his house as often as he did previously, and had to pay a somewhat onerous house-rate. He could not see that any benefit accrued to the landlord; but it was clear that conservancy purposes, such as watering streets, abundantly conduced to the benefit of tenants who lived in particular streets. If legislation was conducted on principle, there was no reason why the landlord should pay a portion of the water-rate any more than the lighting-rate. The one benefited the streets in the day; the other at night by lighting the streets, and by preventing the commission of acts which might otherwise take place. He had often thought on the subject, and had tried to find out on what principle the existing law was based. He could discover no principle. The practice was arbitrary, and should, he thought, be discontinued.

The Hon'ble Baboo Doorga Churn Law said he did not see why the owner should be saddled with a quarter of the water-rate. He derived no benefit from it, the whole benefit being derived by the occupier; and those who consumed the water and derived benefit therefrom ought to pay the whole of it. As to the opinion that rents had risen by the introduction of the water-supply, in his knowledge and experience he had not seen that this had been the case, and it was quite inexplicable to him how this one-fourth had been imposed on the owner.

The Hon'ble Mr. Dampier said, without committing himself to vote one way or the other, he wished to ask for information. It was said that the supply of water did not enhance the value of rent. But with respect more particularly to European residents, he would ask whether it was not the case that houses in the suburbs were now less sought after than before, because filtered water was not procurable there? It would be found that out of a given number of people whose avocations bound them to Calcutta, a larger proportion now elected to reside in Calcutta. In that way there was a larger number of competitors for houses in Calcutta, and did competition mean increase in rents or not?

The Hon'ble Mr. Hogg said he was just about to make the same remark. It was an undoubted fact that since the water-supply, houses in Calcutta were sought after considerably more than they used to be before, and owners more easily found tenants for their houses.

He would also join issue with the learned Advocate-General as to whether rents had not considerably increased. That had been demonstrated as an absolute fact. The late assessments were made in 1864. The revised assessments had been raised nearly 10 per cent., which proved necessarily that owners realized more from house rents. Consequently, it was proposed next year, instead of keeping the house-rate at 9 or 10 per cent., to impose an 8 per cent. rate, owing to the considerable increase in the value of property, mainly attributable to drainage, and also to the pure water supplied to the whole town. This was a fact which could not be controverted, and could be proved. He certainly considered that owners were being much benefited by the introduction of water, and that they

should pay a reasonable amount by way of contribution for the water used for conservancy, the cleaning of drains, and watering of streets, and it seemed to him that the Council should not impose the whole of the tax and put the burden entirely upon the occupier. Another argument was that the water-supply had been introduced now for more than five years, and owners of property had doubtless fixed the rent of their houses on the supposition that the landlord was to pay his share of the tax; and MR. HOGG presumed that if we relieved owners from the burden of the water-rate they would not reduce their rents consequent on such additional taxation being imposed on the occupier. He would therefore move by way of amendment that the principle be accepted that the occupier be entitled to recover a portion of the water-rate from the owner by deduction from rent.

The HON'BLE THE ADVOCATE-GENERAL observed that the fact that the assessment of a house had been increased was not conclusive, nor even sufficient, evidence of the fact that the rent had increased. The assessment was not upon the rental, but on the reasonable amount upon which a house might be expected to be let For the above reason the experience of the Chairman of the Justices did not satisfy the ADVOCATE-GENERAL that his representation was not correct—that, in point of fact, houses had not increased in letting value.

The HON'BLE BABOO KRISTODAS PAL observed that the increase in the assessment was also due to the construction of new buildings.

HIS HONOR THE PRESIDENT said it appeared to him, as the learned Advocate-General had said, difficult to fix a principle which was not more or less arbitrary. Even assuming that on the principle of the police and lighting-rate no portion of the water-rate ought to be borne by the owner, nevertheless, allowing even that, was it not reasonable to say that on the same principle that we imposed on the landlord the house-rate, should we not impose upon them some proportion of the water-rate also? What were the grounds on which the house-rate was put upon the owner? He presumed this, that the proceeds of the house-rate were devoted to improvements which permanently added to the value of property. If that was the ground upon which that rate was imposed, did it not equally apply to a portion of the water-rate? Did not the introduction of a water-supply improve the place generally? Did it not add to the general value of property? He presumed it did; and if so, a portion of the water-rate should be borne by the owner on the same ground as the house-rate. Furthermore, was it not a fact that the water-supply did save a certain amount of domestic expenditure? Did it not benefit the occupier, and was not the occupier willing to pay slightly more for a house which had the advantage of a water-supply, than for a house which had not that advantage? It might not be a very great difference, but some slight difference it must make in the long run. On these grounds, despite the argument of the learned Advocate-General, HIS HONOR thought a small proportion of the water-rate was justly chargeable on the person whose property was benefited. For the rest he agreed with the Advocate-General, that on the ground on which we imposed on the occupier the burden of the police and lighting-rates, we should impose upon him the greater portion of the water-rate. So he ventured to suggest that the existing

law, which imposed three-fourths of the water-rate on the occupier and one-fourth on the owner, did fulfil a certain rough sort of justice. If it were asked by what estimate did you make out the exact proportion of three-fourths and one-fourth, it would be almost impossible to say. That difficulty was necessarily incidental to all legislation. The whole principle was that the greater portion was charged to the one, and the less to the other. But when you came to define the exact proportion, you must take a rough and arbitrary line: without an arbitrary line all legislation would be impossible.

The HON'BLE BABOO KRISTODAS PAL'S motion, that no portion of the water-rate should be chargeable to the owners of houses and lands, was put and negatived.

The HON'BLE MR. HOGG'S motion, that the occupier be entitled to recover from the owner a portion of the water-rate, such recovery to be made by means of deductions from the rent payable by the occupier to the owner, was then put.

The Council divided:—

Ayes 5.	*Noes* 5.
The Hon'ble Baboo Kristodas Pal.	The Hon'ble Mr. Reynolds.
The Hon'ble Baboo Doorga Churn Law.	The Hon'ble Mr. Hogg.
The Hon'ble Mr. Brookes.	The Hon'ble Mr. Dampier.
The Hon'ble Baboo Juggadanund Mookerjee.	The Hon'ble Mr. Schalch.
The Hon'ble the Advocate-General.	The Hon'ble the President.

The numbers being equal, the President gave his casting vote with the noes.

So the Hon'ble Mr. Hogg's motion was carried.

The HON'BLE BABOO DOORGA CHURN LAW moved that one-eighth of the water-rate be chargeable upon the owners of houses and lands.

The HON'BLE THE ADVOCATE-GENERAL said, as there was no measure for finding out the degree of advantage derived by the owner from the supply of water, and as the benefit derived by the landlord was comparatively very small, he did not see why one-eighth should not be substituted for one-fourth. He would therefore support the motion.

The HON'BLE MR. SCHALCH observed that when the municipal law was passed, this question was very much discussed, and at that time one-fourth was taken to be the proper proportion. He did not see any reason why the Council should now alter it.

HIS HONOR THE PRESIDENT observed that there was one argument in favour of the one-fourth rate, which first fell, he thought, from the hon'ble mover of the Bill, viz. that that rate already existed, and on the strength of it, and on that understanding, current arrangements between the landlord and tenant already existed in the city. Perhaps that was one argument in favour of the one-fourth rate.

The HON'BLE BABOO KRISTODAS PAL supported the amendment. The present proportion had been made very arbitrarily. He could not perceive any principle upon which it was founded. There was, however, some principle upon which the amendment was based. The Chandpal Ghât scheme cost the

Justices about Rs. 40,000. Now, one-eighth of the water-rate would cover more than that sum. The water obtained from the Chandpal Ghât engine was used for street-watering and the flushing of drains. Those were the only two objects for which the owner was considered liable, and the proportion of one-eighth, as he had said, would cover more than the expenditure incurred for those purposes.

The HON'BLE MR. HOGG said it was true that the Chandpal Ghât water was used for watering the streets and for drainage, yet it was equally true that a considerable portion of the street-watering was done by means of filtered water.

The HON'BLE BABOO DOORGA CHURN LAW's amendment was negatived.

HIS HONOR THE PRESIDENT then put the question that one-fourth of the water rate be recovered by the occupier from the owner by deduction of rent.

The motion was agreed to.

The consideration of Sections 67 to 80 was then postponed.

Section 81 provided how the annual letting value was to be ascertained.

The HON'BLE BABOO DOORGA CHURN LAW moved the insertion of the following words at the end of the first paragraph of the section—"and when the rent realized is proved by documents and accounts, the same shall be deemed to be the annual value of such house or land." He said that there were cases in which agreements had been produced, and yet the Municipality had thought proper to assess the owner at a higher value than the rents stated in the lease. The object of this amendment was to prevent such an anomaly.

The HON'BLE MR. HOGG said he was unable to accept the amendment. If it became a part of the substantive law that whatever amount was entered in the lease should be conclusive proof of the rent that was derived, it might possibly give rise to private understandings between unscrupulous landlords and tenants, and the whole rents would not be stated in the lease. It was to prevent collusion that the law had been so worded. It was the law which prevailed in England, and it did not seem desirable, in this country, to make the measure of taxation depend upon the amount of rent actually payable under a lease. Unless they had reason to suspect collusion, the Justices always accepted the amount of rent entered in a lease as conclusive proof of the letting value.

The HON'BLE BABOO DOORGA CHURN LAW said that he himself, from personal experience, knew that leases of which there was not the slightest doubt were not accepted. If there had been fraud in the matter, the municipal officers would of course be quite justified in rejecting such leases, but to his certain knowledge they had done so in many *bonâ fide* cases.

The HON'BLE THE ADVOCATE-GENERAL observed that the assessments were for three years, and many leases were for one year. It was possible that the Municipality might consider that on the expiration of a lease for a year, a higher rent might be obtained. It was not only in cases of fraud or collusion that the Justices were entitled to reject a lease, but also in cases in which they had reason to believe that a higher rent could be obtained.

The HON'BLE BABOO KRISTODAS PAL remarked that the cases to which reference was made were cases of short leases for a year or nine months, and

the Justices thought that as the assessments were for three years, they had a right to reject short leases as not affording sufficient evidence of the letting value. At the same time, great complaints existed about the arbitrary manner in which the assessments had been raised; that, however, was not the place to discuss that question.

The HON'BLE MR. DAMPIER observed that he thought the amendment could not but be rejected in the form in which it stood. If the Council passed this amendment, all he could say was that when he renewed his lease, he should give a handsome bonus to his landlord and take his house on a rental of one-tenth its letting value. He should then be able to show his lease as proof of the rent paid, and the real fact would be that the landlord and tenant would settle the matter between themselves, so as to evade the taxes under the protection of this provision of the law.

The HON'BLE MR. SCHALCH said he remembered assessing the property of a very wealthy firm. He believed they paid a rent of Rs. 400 on what was known as a repairing lease, and the consequence of that was that the rent was very low, the lease being for a very long period. When it came before the Justices, they looked to the letting value of the house by a comparison with the corresponding buildings, and they raised the rent to Rs. 1,500, and the occupier admitted that he could not say that the decision was wrong. The Port Commissioners strongly objected to the Justices being vested with the final decision in cases of assessment, and on their representation a condition had been imported into the law to allow an appeal to an independent body, namely the Small Cause Court.

HIS HONOR THE PRESIDENT said he felt it his duty to say, with all respect to the hon'ble mover of the amendment, that he earnestly hoped the Council would not accept the amendment. It would afford very great temptation to many people to enter into collusive transactions. It was very important that all matters of taxation should be so regulated as to avoid any temptation for the evasion of just dues, or a tendency to demoralization, and on that ground he thought the proposed provision would have a very bad effect.

The amendment was then, by leave, withdrawn.

The HON'BLE MR. SCHALCH said, in the third paragraph of this section, it was provided that all the unoccupied lands, roads, and slopes of the Port Commissioners, should be rated at the rent for which they might reasonably be expected to be let, in the same manner as if they were used for other than public purposes, and belonged to persons other than a public body. He might say that the Port Commissioners had no objection at all to that provision, so far as related to all unoccupied land which they could reasonably expect to get occupied. The form, however, in which the provision was worded would unjustly impose a heavy expenditure upon the Port Commissioners. Some time back the Port Commissioners had purchased land from Aheereetollah Ghât as far as the Chitpore canal for the purpose of affording facilities for the landing and shipping of goods from native boats; but a considerable portion of the land so purchased was devoted by the Port Commissioners to the formation of two roads at an expenditure of about 10 lakhs of rupees. The roads in question had been thrown open to the use of the public, and

therefore could not be appropriated to any other purpose. These roads were a considerable improvement to the town, and greatly improved the old bank of the river, which was very much broken up, and they afforded increased ventilation to a portion of the town which was thickly occupied. The Port Commissioners thought, therefore, that as the Municipality had never been asked to subscribe a penny towards the construction of these roads, and they afforded great advantage to the town, the Port Commissioners should not be called upon to pay any rate for that part of their property. It might be said that by the destruction of houses the Justices had lost the assessment thereon fixed. On the 1st January 1872, when the Port Commissioners took possession of the river bank, the taxation on their property amounted to Rs. 1,35,000; on the 1st January 1875 the assessment had risen to Rs. 3,40,000, an increase due almost entirely to improvements made by the Port Commissioners; and the additional improvement now made had largely increased the value of property in the neighbourhood. Land which used to sell for Rs. 700 a cottah, was now selling for Rs. 1,500. Therefore the loss of revenue from the land occupied by these roads would very shortly be made up by the increased value of land and the improved style of houses now being constructed in the locality. He trusted, therefore, that it would not be considered that the Port Commissioners were asking too much in claiming that that portion of their land which had been thrown open as a public road should be declared to be free from all assessment. With these remarks he would move that the following words be added to the section:—

"Save and except the road extending from the northern boundary of the premises occupied by the East Indian Railway Company at Armenian Ghât to the Chitpore Canal, and the road extending from the Chitpore Road to the River Hooghly at Koomartollah Ghât, for a width not exceeding seventy feet and sixty feet respectively, shall be exempted from assessment of any rate under this Act."

The Hon'ble Mr. Hogg said, looking at this question in the interests of the town, and to the fact that the two bodies, the Port Commissioners and the Justices, were working for the common good of the town, he thought that the claim of the Port Commissioners was a reasonable one. The road had improved the river frontage enormously, and to all practical intents and purposes, although the road remained the private property of the Commissioners, yet it was a public road to which the public had full access, although the town was not called upon to pay the expense of repairing the road or lighting it. He thought the Commissioners had conferred a great benefit on the town, and that they could not be called upon to pay any tax in respect of these two roads, but he would suggest that the width of the two roads to be exempted from taxation be uniformly fixed at sixty feet each.

The Hon'ble Baboo Kristodas Pal concurred with what had fallen from the hon'ble mover. He considered that the roads in question were a decided improvement, and that the population of the northern portion of the town derived great benefit from it. If the amendment before the Council did not include the slopes from which the Port Commissioners derived a revenue, he was quite willing to support their claim for exemption from assessment for

the roads in question. He might observe that the sides of the road were used by the Commissioners for the storage of goods, and therefore he thought only the portion of the road actually used by the public should be exempted. Perhaps exemption on account of the two roads might be given to a uniform width of 60 feet, instead of 70 feet for one and 60 feet for the other.

The HON'BLE MR. SCHALCH said that any deposit of materials on the sides of the road now existing was only temporary. He thought that for the road on the river side over which the traffic was very great, a width of 70 feet ought to be allowed, and 60 feet for the other. If the width of 70 feet was reduced, it would be necessary to remodel the whole road and the foot-path.

HIS HONOR THE PRESIDENT said, if the Council were disposed to accept the hon'ble member's amendment, they had better take his figures in full reliance of his local knowledge as Chairman of the Port Commissioners; and, furthermore, he thought the Council would do well to accept the principle of the amendment, because the roads in question were made by the Port Commissioners much to the benefit of the town, and they could derive no particular revenue from it. They were roads that were open to the public; therefore HIS HONOR hoped the Council might be pleased to accept the amendment as it stood.

The motion was carried, and the section as amended was passed.

Sections 82 and 83 were agreed to.

Section 84 provided for the reassessment of a house when substantial injury had occurred to it during the currency of any assessment.

The HON'BLE BABOO DOORGA CHURN LAW moved the insertion in line 6, after "civil commotion," of the words "or suffers material depreciation from any cause." He thought that while the Municipality would benefit by any improvements which had been made, it ought surely to afford relief when property suffered material deterioration. It might be that the house could not be kept in proper repairs for want of means of the owner, and might fall down partly or wholly; in that case, he thought relief from excessive assessment should be given by the Municipality.

The HON'BLE MR. HOGG said he could not accept the amendment. It seemed to him quite sufficient to require the Justices to reduce their assessment when the house had suffered depreciation from the causes specified in the section, viz. fire, a cyclone, the act of God, or civil commotion. Why should the municipal revenue suffer loss if the landlord chose to allow his property to remain out of repair?

The HON'BLE BABOO DOORGA CHURN LAW observed that it was not to be expected that a house-owner would wilfully let his house remain out of repair and suffer depreciation merely to escape taxation. There were many houses in the town which were going to ruin from want of means on the part of the owner to repair it. When improvements to house property were made, the Municipality did not fail to raise the assessment, and why should not a reduction be given on account of depreciation?

The HON'BLE BABOO KRISTODAS PAL said Section 83 provided for reassessment in case of substantial improvements; and to be consistent, the same

privilege ought to be given to the owner to claim a reduction of assessment if there were deterioration in his house from causes over which he had no control. The hon'ble mover of the Bill pointed out that Section 84 provided for such circumstances as fire, cyclone, the act of God, or civil commotion. The question was whether an owner, who had once seen prosperity, but had become subsequently much reduced in position and circumstances, and who having a large ancestral house, which he had not means to keep in good repair, but with which he could not be persuaded to part from a feeling—call it a failing if you will—of attachment to the ancestral hearth and home, a feeling cherished with the greatest tenacity, should be entitled to a reduction of assessment when his house became greatly depreciated from want of due repairs. The Government scrupulously respected the native feeling on this subject, but the tendency of this section would be to force such unfortunate owners to part with their property. He had known ancient families which had been very much reduced by vicissitudes of fortune, but could not shake off their traditional attachment to the ancestral home. He thought that in such cases the deterioration of the value of the property ought to receive due consideration.

The Hon'ble the Advocate-General observed that he could see no objection to the amendment if it were confined to cases beyond the control of the owner, and if that were proved to the satisfaction of the Justices. There might be cases in which deterioration of the value of property occurred in a particular street, and other cases in which the depreciation in value was beyond the control of the owner; in such cases, he could see no objection to affording relief by way of a reduction of assessment.

The amendment having been altered to the effect suggested by the Advocate-General, was agreed to, and the section as amended was passed.

Sections 85 and 86 were agreed to.

Section 87 provided for the inspection and survey of houses for purposes of valuation.

On the motion of the Hon'ble Baboo Kristodas Pal, the section was amended so as to require 24 hours' notice before entry.

Sections 88, 89, and 90, were agreed to.

Section 91 provided for the hearing of appeals from assessments.

The Hon'ble Baboo Kristodas Pal moved the addition of the following words :—"No fee shall be charged for the institution of such appeal, and no costs shall be awarded therefor." He said that when assessment appeals were allowed to the sitting Magistrates no fee was charged, nor was any fee now charged in respect of the appeals heard by a Bench of Justices. He believed that no fee was now chargeable by the Small Cause Court in references by the Justices.

If any fee were charged on assessment appeals to the Small Cause Court, it would be a great hardship to the poor rate-payers. There need be no fear of a large influx of such appeals to the court, for the greater part of the town had been lately reassessed, and the present Bill proposed to extend the currency of an assessment from three to six years.

The Hon'ble Mr. Hogg said, in his judgment the charging of a reasonable fee for the institution of appeals would be a wholesome provision to prevent

frivolous appeals being preferred. He was entirely opposed to an appeal being allowed to the Small Cause Court free of cost. If a person desired to appeal free of cost, he could appeal to the Bench of Justices. If he desired adjudication by an authority independent altogether from the Municipality, he should pay a reasonable fee in order to have the advantage of the superior judicial knowledge of the Small Cause Court.

His Honor the President said he thought it would be better to let the existing law take its course: if the Court thought that the complainant was right and the Justices wrong, they would no doubt give costs against the Justices.

After some further conversation the amendment was, by leave, withdrawn, and the section passed as it stood.

Sections 92 to 107 were agreed to.

Section 108 fixed the pressure at which water must be supplied, and the times during which high pressure should be maintained.

The Hon'ble Baboo Doorga Churn Law moved to substitute the word "ten" for "nine" in line 9, in order that water might be supplied under high pressure from seven to ten o'clock in the forenoon, instead of from seven to nine. He observed that it would be inconvenient to the native community to confine the pressure to only two hours in the morning: 9 o'clock was too early an hour to stop high pressure. He proposed therefore that it should be kept up for another hour, or say until 10 o'clock.

The Hon'ble Mr. Hogg said the only practical objection to the amendment was that at 9 o'clock in the hot weather street watering commenced, and it was found impossible to keep up pressure when street watering began. If the hour was changed to 10 o'clock, then the Justices would probably be compelled to give an insufficient supply of water at a height of fifty feet, or they must postpone the watering of streets to 10 o'clock, which would be somewhat inconvenient.

The amendment was by leave withdrawn.

The Hon'ble Mr. Schalch said, he believed that Mr. Smith, the Engineer who superintended the construction of the water-works, thought it would be almost impossible to keep up high pressure simultaneously throughout the whole town owing to the considerable waste that occurred. In consequence of the difficulty of getting up water to the higher stories of houses, as soon as the water was got up, the servants, knowing that full pressure was got up, stepped into the bath-rooms and left the cocks open. He had himself had two bath-rooms in the house flooded in consequence of the carelessness of servants. Considering the great waste of water that went on in the town, he thought it should be a matter for consideration whether or not power should be given to the Justices to divide the town into sections, and supply each section with water at high pressure for two or three hours together. That was a plan for the adoption of which Mr. Smith was very strongly in favour. Mr. Schalch hoped the hon'ble mover would consider the point.

The Hon'ble Mr. Hogg said, he entirely concurred with the remarks which had fallen from the hon'ble member. The difficulty was that every one was anxious to have water in the early morning, and equally in the evening.

If we supplied water to the European portion of the town in the morning and the natives at a later hour, the natives would have a right to object.

The Hon'ble Baboo Kristodas Pal thought the practical difficulties in the way of any such plan would be very great, and almost insurmountable.

After some further conversation, the further consideration of the section was postponed.

Section 110 declared the quantity of water to which a householder should be entitled for domestic use.

The Hon'ble Baboo Kristodas Pal moved the omission of this section, which he thought was by far the most important of the sections relating to water-supply. It altered the system of supply adopted by the legislature and in force for the last six years. Hitherto the rate-payers were given to understand that they were to contribute according to the value of their houses, and to get a supply of water without restriction for domestic use. Now it was proposed that the water was to be sold to the rate-payers according to their respective contributions, and that an additional charge should be made for any excess above the regulation quantity. He could understand the principle of this section if the levy of the rate had not been made compulsory—if water-supply had been treated as a commercial transaction only. But when the rate was imposed as a compulsory tax, and when the tax was imposed under the understanding that a full supply of water would be given, he considered that it would be a breach of faith now to introduce the commercial principle by way of supplement to the compulsory tax. He could assure the Council that this section was regarded by the native community with great consternation, and that if it were enacted into law, it would convert the water-supply into a curse instead of a blessing. Since the water-supply had been introduced, the natives had filled up their old wells and tanks, and they would experience great inconvenience if they were now restricted to a scanty supply; and if to that was added the proposal for charging an additional rate for excess supply, it would be imposing a grievous burden upon the poorer classes. Hon'ble members were doubtless aware that the Hindoos for the most part lived in joint undivided families, and that they were generally poor, living from hand to mouth, and that in every one of those houses numbers of individuals lived together and drew water from the same supply. The monthly rental of such houses did not ordinarily exceed Rs. 40 or Rs. 50; the number of souls in a joint family might be twenty. The owner or proprietor in whose name the house was registered would be entitled to a certain quantum according to the scale laid down, and he must provide for the excess quantity at an additional expense. Thus these poor people would not only have to pay a 6 per cent. rate if the maximum were imposed, but must also undergo additional expense for the excess supply which they must have, as the old supply by means of tanks and wells had been discontinued. The rate of one rupee for every 1,000 gallons was also most arbitrary. The actual cost of water did not exceed four annas per thousand gallons, and it was proposed that the Justices should make a profit of twelve annas for every 1,000 gallons for supplying water to those whose money had provided the water-supply.

The Hon'ble Mr. Hogg said he did not imagine that the provisions of this section would ever be put in force. But in the face of the wanton waste of water in the town, and more especially in regard to the undivided Hindoo families referred to by the hon'ble member, it was most desirable that the legislature should place it in the power of the Justices, when they saw water wilfully wasted, to place a check upon such waste. The check was a moderate one. It called upon the Justices to undergo a considerable expense in the purchase of a water metre in order to test whether the occupant was taking more than he required. The supply of 1,000 gallons for every rupee of tax paid was a liberal one, and seldom ever need be exceeded. He trusted, therefore, that the amendment would not be carried.

The Hon'ble Mr. Schalch said the object of this section was to stop the immense waste of water that was going on. It had been arranged that six millions of gallons should be supplied for the consumption of the town. That was raised to seven and a half millions, and the supply was still found to be utterly insufficient. He happened the other day to look out of his house, and he saw a hydrant discharging water to its full extent, and that went on for three days without let or hindrance. It was in thorough working order, but the tap had been left open. He thought that the quantity of water allowed under the section in return for the rate was very liberal, and gave a margin of 20 per cent. He thought that the adoption of the same system was not a hard one in the case of an undivided Hindoo family, and if something of the kind was not done, the waste of water would continue to be enormous. He did not say that the rate for additional water should not be reduced. The net cost was from four to five annas per gallon, and if the charge per thousand gallons were reduced from one rupee to eight annas, there would, in his opinion, be no hardship. The present demand was nothing to what it would be four or five years hence, and he thought they should look to the future as well as to the present.

The Hon'ble Baboo Kristodas Pal observed that there were provisions in the Bill for punishing offenders for wanton waste of water which, he thought, were quite sufficient. The greatest waste went on in the streets, and no measures seemed to be taken to prevent it. If you visited any part of the town, you would not unfrequently find the taps open and the water flowing on without hindrance. If such waste went on in private houses the owners or occupiers would be punished. If the object were merely to charge an additional rate in those cases only in which wanton waste should occur and should be proved, that would be consistent; but as the provision stood, it might be enforced at the discretion of the Justices to the great oppression of the people.

His Honor the President said the hon'ble member's difficulty was that some houses might pay a very small rate and might contain a great many souls. That difficulty might be obviated if the section provided for the payment of a certain rate per head: the Justices would see by the water metre what each family consumed, as also the quantity per head. He thought a check was more required for the European quarter of the town than for the portions inhabited by the poorer classes. The water consumed by the poorer classes was

very small in quantity in comparison with the waste committed by the richer individuals.

The HON'BLE BABOO KRISTODAS PAL remarked that the size of the ferule through which the poor people received water was very small indeed—he believed one-eighth of an inch, through which water came by drops as it were, and which was a sufficient check against waste.

The HON'BLE THE ADVOCATE-GENERAL suggested that the objection might perhaps be met by fixing the rate for surplus water at 2,000 gallons per rupee.

The HON'BLE MR. HOGG assured the Council that the provisions of this section would not affect any of the poorer classes.

The further consideration of the section was then postponed.

Section 111 was agreed to.

The Council was adjourned to Saturday, the 20th instant.

Saturday, the 20th November 1875.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*
The Hon'ble V. H. SCHALCH, C.S.I.,
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,
and
The Hon'ble BABOO KRISTODAS PAL.

CALCUTTA MUNICIPALITY.

ON the motion of the Hon'ble Mr. Hogg, the Council proceeded to the further consideration of the clauses of the Bill.

The consideration of the postponed Section 108, which regulated the pressure at which water must be supplied, was then resumed.

The HON'BLE MR. HOGG said, the Council would remember that the consideration of Section 108 was postponed because the Council was not decided whether it should be passed in its present form. The section called upon the Justices to provide a pressure sufficient to raise water to the height of 50 feet from 7 o'clock to 9 o'clock in the morning, and again in the evening from 5 o'clock to 6 o'clock,—that was to say to provide the high pressure during three hours in the day. For the remainder of the day the Justices were required to provide a pressure sufficient to deliver water at a height of ten feet. The hon'ble member on his right (Mr. Schalch) had pointed out that if not now, hereafter, when the demand for water increased, the Municipality would find it difficult to carry out the provisions of the section, and suggested that the Council should give the Justices power to enable them to divide the town into sections, and deliver water

under pressure to each division at different hours during the day. The Council were not then prepared to consider that question, and it was therefore postponed. MR. HOGG had since conferred with Mr. Bradford Leslie, the Engineer of the Justices, in conjunction with his hon'ble friend, and they had come to the conclusion that to give effect to the proposal of the Hon'ble Mr. Schalch would be, if not impossible, a matter of considerable difficulty, and impose great inconvenience on the rate-payers and inhabitants of Calcutta. If water was to be delivered in different divisions of the town at different times, the water-supply scheme ought to have been constructed on what they called the loop system, which would have enabled the Engineer in charge of the engine to shut out the water from the whole town and deliver it to one particular division of the town at a time. That system of supply was originally proposed by Mr. Clarke, but was subsequently altered, when it was decided that a uniform pressure should be kept throughout the whole town for 13 hours a day. Consequently, now that that system was not adopted, if we attempted to shut out water from the whole town except one particular division of it at a time, the process of so doing would occupy three or four turnkeys going about in carriages three or four hours, which would cause great delay. Another difficulty was that as the water-supply system now existed, we could divide the town into only three divisions, and if it was decided to supply each division with water for three hours during the day, the other two divisions would not receive water at high pressure for six hours at a time, and would be kept altogether without water during that time, which was a proposal which could not possibly meet the approval of the Council. Therefore they were unanimously of opinion that the scheme was impracticable, and should be abandoned. Mr. Bradford Leslie was also of opinion that the pumping power of the engines was sufficient to deliver water throughout the town from 7 o'clock to 9 o'clock in the morning at a high pressure of 50 feet, provided the watering of streets was not carried on during those hours. MR. HOGG therefore suggested that Section 108 should be passed as it stood.

HIS HONOR THE PRESIDENT said he had one remark to make before this section was passed. It had been represented to him that, having regard to the great public buildings which had been recently erected in the town, it would be very desirable if the altitude of high pressure could be raised from 50 feet to 100 feet. It had been stated that in these great buildings we had three or four stories, and that the pumping up of water to the height of only 50 feet failed to provide water to the very top stories, and that great inconvenience thereby resulted. It was also urged in behalf of these buildings and the establishments which used them, that they contributed very greatly to the funds of the water-rate. On that ground, and also on the ground of the necessities of these establishments, it was urged that these buildings were entitled to have the water pumped up to an altitude of 100 feet. The point was comparatively new to HIS HONOR, and he was not quite sure whether the matter had even been previously discussed in the Council when the original law was passed for the levy of a water-rate, and he desired to mention it for the consideration of the hon'ble member particularly concerned in the preparation of the Bill. Would the hon'ble mover

of the Bill say whether there was any possible provision by which the object could be met; whether we could introduce a provision that in case of Government buildings the height of pressure should be not less than 100 feet? In making this statement, His Honor did not undertake to express any professional opinion, but would merely invite the opinion of hon'ble members or others concerned in the preparation of the measure.

The Hon'ble Mr. Hogg said that the suggestion made by His Honor the President was that the Municipality should be required to deliver water at a height of 100 feet in Government buildings only. He would point out that it would be impossible to supply Government buildings only without supplying the whole town with water under the same pressure. There must be a uniform pressure throughout the town. As a matter of fact, there were not more than about four Government buildings that had a greater height than fifty feet, namely, the Museum, the Telegraph Office, the Mint, and the High Court. The water-supply of Calcutta was constructed only to give a pressure to the height of 50 feet. He submitted that it would be hardly fair to compel the Municipality to provide additional pumping power in order to meet the special requirements of a few buildings in the town. The matter had been frequently discussed, and the reply given was that the greatest pressure was 50 feet, and exceptional arrangements could not be made for Government buildings. The only course was to have reservoirs in those buildings at a height of 50 feet, and then to have a hand pump to pump up the water to the fourth story.

The Hon'ble Baboo Kristodas Pal observed that, as the hon'ble mover had explained, what was required could not be done without changing the pipes and greatly increasing the engine power, which would involve expenditure to a very considerable amount.

The Hon'ble Mr. Schalch said it seemed to him that the Government so far had just cause of complaint that the assessment on the Government buildings was very high indeed, and arrangements ought to be made, if possible, for fully supplying them with water up to the highest floor; and if the water could not be so supplied, some reduction should be made in the assessment in regard to the water-rate to meet the expense to which the Government would be put to raise the water from 50 to 100 feet. The assessment was made on the supposed renting power of the house, and he thought it would be but fair to meet the case of the owners of houses built at such a height that water could not be supplied to the highest floor, that the assessment for the water-rate should not be made for the entire house; it was hard that they should have to pay water-rate for the whole house when only a portion of it was supplied with water.

The Hon'ble the Advocate-General observed that the explanation given by the hon'ble mover of the Bill seemed unimpeachable. If the increased pressure would cost a great deal to the Municipality, he did not think they should be compelled to do more than they were doing now, particularly as the expedient pointed out by the same hon'ble member could be readily carried out at a comparatively small expense; and as Government buildings, owing to the number of persons who assembled in them, consumed more water than houses occupied by private individuals, he thought what the hon'ble member

proposed seemed reasonable. If the Government were to have the option of deducting a portion of the water-rate on account of the non-supply of water to a portion of the building, then any private occupier who was in the same position would be entitled to claim the same concession, and it would be clear that all these exceptional provisions entailed expense and trouble. He thought pressure to a height of 50 feet was sufficient for all practical purposes.

The HON'BLE BABOO DOORGA CHURN. LAW did not think that there should be any exceptional legislation on account of buildings which required water to be supplied to them at a greater height than 50 feet.

The HON'BLE MR. DAMPIER understood it to be said that Government buildings, on account of their being so vast, and having so many pairs of stairs, did not get the water they required on the higher stories, and that it was not fair that they should pay the full water-rate. He did not think the argument was sound. These buildings got precisely the same advantages of water-supply as any other building; they got a supply of water delivered at a height of fifty feet; and for the stories above that height they had only to carry the water up the remainder of the distance by hand; and as it was much easier to take water up one pair of stairs than five pairs, they got a *quid pro quo* even on the water used on the higher stories.

The HON'BLE MR. SCHALCH observed that the main objection proceeded from the fact of the assessment on Government buildings being too high, and now that an appeal was given to an independent tribunal, viz. the Small Cause Court, that objection might not apply so strongly.

The HON'BLE BABOO KRISTODAS PAL said, the water-supply of Calcutta was not a voluntary system; it was based upon a compulsory system of taxation, and if any distinction were made between the Government and private individuals, because there were certain Government buildings which required water at double the height sanctioned by the existing law, the legislature would be making an invidious distinction between the Government and the public at large. It was well known that water could not at present be supplied to the highest rooms of some of the houses in the town, and the Justices had no power to grant a remission of any portion of the water-rate to the occupiers of such houses. There was great complaint on this score, and provision was accordingly being made in the present Bill to regulate the hours at which the pressure should be put on. It was observable that those who built houses with stories higher than 50 feet did so with their eyes open, because, under the water-supply scheme, pressure could not be given to a greater height than 50 feet, and when the Government had done so, it ought not now to grumble. To keep up the pressure at a 100 feet would be to double the capacity of the pipes and the engine-power, which would entail great expenditure. At the same time to grant a remission of the water-rate because water was not supplied to particular rooms or to particular portions of a house, would be opening a wide door to favoritism. He would therefore oppose any amendment on the subject.

THE HON'BLE THE ADVOCATE-GENERAL observed that the apparent principle upon which water was supplied and paid for was not that a person paid for the quantity of water he consumed; for there were numerous instances where

persons got water without paying for it, such as those whose houses were not liable to the rate, or those who got water by taking it from the streets.

His Honor the President wished to know whether those hon'ble members who were opposed to any remission of water-rate on account of Government buildings would be of the same opinion if the rule were made applicable to private as well as to public buildings.

The Hon'ble Baboo Kristodas Pal said he was not prepared to recommend any change in the law, because it would lead to great confusion and cause serious loss of revenue to the Municipality. As he had already observed, the water-rate had been imposed on a different principle altogether. If the principle were that each person should be taxed according to the quantity of water consumed, then the Government would have a right to a remission of the water-rate on account of particular portions of buildings not being supplied with water; but as the principle of the water-supply scheme was different, and the object was to raise a sufficient amount of revenue from all classes of rate-payers without distinction, with a view to supply water throughout the town, he thought the present law was both just and equitable.

His Honor the President remarked that no one ever proposed to make a different rule for Government, as the proprietor of houses, to that which applied to private individuals. But as the case was represented to him, he understood that the only buildings that would come under that category were some of the Government buildings; in fact that they were the only buildings in the town with anything like that altitude. He merely wished to broach the subject in Council, and had no motion to propose.

The section was then agreed to.

The postponed Section 110 declared the quantity of water to which a householder was entitled for domestic use, and the rate at which additional supplies must be paid for.

The Hon'ble Mr. Hogg said the consideration of this section stood over because it was thought by some hon'ble members that it might press hardly upon the poorer classes. He might mention that the section was not framed with the view to restrict the supply to the poorer and less wealthy classes of the town, but to prevent the improvident waste of water in the higher classes of houses in Chowringhee, and also in the northern division of the town. He had since consulted Mr. Bradford Leslie and the hon'ble member on the left (Baboo Kristodas Pal), and they agreed that instead of allowing 1,000 gallons, we should allow 1,500 gallons for every rupee of tax paid, and instead of charging one rupee for every 1,000 gallons, we should charge one rupee for 1,500 gallons. And, further, to protect the poorer classes it was proposed to enact that the provisions of this section should not have effect or be put in force in respect of any house rated at less than Rs. 1,200 a year. Such houses, under the section as proposed to be altered, would be allowed a monthly supply of 7,500 gallons, or 250 gallons per day. Supposing there were sixteen persons in the house, that would allow to each a supply of fifteen gallons per day. If a person chose to consume a larger quantity of water than fifteen gallons a day, Mr. Hogg thought it just and equitable that such person should be charged for such additional

supply. He did not believe that the section would be put in force to any extent: it would merely provide a penal clause in case of a person not exercising due control in regard to the expenditure of water in his house. He would therefore move the substitution of 1,500 gallons for 1,000, and the addition of the following proviso:—

"Provided that the provisions of this section shall not be put in force in respect of houses assessed at less than Rs. 1,200 per annum."

The Hon'ble Baboo Kristodas Pal said he was quite willing to accept the compromise proposed by the hon'ble mover. He admitted that it was very desirable to check wanton waste of water, but, as he had pointed out at the last sitting of the Council, there were other provisions in the Bill which provided a sufficient check in that respect. The size of the ferule in small houses was in itself a good and wholesome check, and the penal provisions of the Bill would also operate towards that end. But the section as it stood originally contemplated the wholesale restriction of the supply of water, without any distinction between rich and poor, or those who wantonly wasted water and those who used it economically. The section as now proposed to be amended left out a large class of persons from its operation, namely all persons who occupied houses the assessed value of which was less than Rs. 100 a month. That exemption would reach a very great portion of the poorer and middle classes, and so far it was a great point gained. As regards the quantity of water to be sold for a rupee, it was now proposed to be raised to 1,500 gallons. He would have preferred if it had been raised to 2,000 gallons; but as the hon'ble member was not willing to concede that point, he would not press it, but leave it to the sense of the Council to decide. The hon'ble member had said that it was not the intention to put this provision in force generally. But Baboo Kristodas Pal would not put much faith in discretionary government of this kind. The hon'ble member as the present head of the Municipality might not wish to enforce this section, but who knew what his successor might do. The amendment would, however, to some extent act as a safeguard.

The Hon'ble Mr. Hogg's amendments were then agreed to, and the section as amended was passed.

Section 112 enacted that all latrines supplied with water should be provided with cisterns.

The Hon'ble Baboo Kristodas Pal moved the omission of this section. The section required that cisterns should be put up in all latrines and water closets. He did not think the Council ought to anticipate the Justices in a matter of this kind. This matter had never been brought before the Justices, nor was he aware that any report had been called for from their Engineer. He therefore doubted whether the Council was in a position to provide by legislation for such a question. Practically, the system, as far as he had learned by inquiry, had not worked satisfactorily, particularly in native houses. The cistern was filled by a very small tube through which the water entered so very slowly that it took about half an hour to fill it, and as each man passed out the cistern was emptied and it took another half an hour to fill it up. In this way the system caused great inconvenience. If the hon'ble mover did not wish that

latrines in native houses should be connected with the new sewers, he was perfectly right in proposing this section. But he was sure that that was not his object, and he was therefore of opinion that the provision under consideration ought not to find a place in the Bill. It ought to be left to the discretion of the Justices to make such arrangements as they might think fit and convenient, and if it were found practicable to adopt the cistern system, they might do so. But he did not think the Council was in a position to legislate in the matter.

The HON'BLE MR. HOGG said the system of allowing latrines and closets to be connected with the drainage works involved as a necessity that they should be supplied at all times, both in the day and night, with a full supply of water. That necessity could not be secured unless the cistern was provided and water constantly kept there. That became more necessary now that the Justices were not to be compelled to keep up water by pressure at night. If, therefore, cisterns were not provided, from 9 o'clock at night to 6 in the morning there would be no water in the latrines; consequently they would be either very offensive or they would not be used. That was one substantial objection he had to the motion before the Council. On sanitary grounds, Mr. Bradford Leslie was strongly of opinion that the water-supply should not be in any way directly connected with latrines, and he alluded to a case in New York in which water had become tainted by being so connected. That was another reason why it was proposed that the water should be discharged into a cistern, and from thence into the closet. The hon'ble member had said that the effect of the section would be to prevent latrines in the northern portion of the town being connected with the drainage works. To that MR. HOGG would reply that it was far better that they should not be connected than that the latrines should be directly connected with the water-supply.

The HON'BLE BABOO JUGGADANUND MOOKERJEE observed that Chapter XVI of the Bill empowered the Justices to frame bye-laws on such matters of detail as that to which this section applied. He thought that this matter should be left to be dealt with by the Justices by a bye-law.

The HON'BLE MR. HOGG remarked that it was a question of sanitation, and therefore of vital importance, and should be laid down in the law and not be left to the discretion of the Justices.

The HON'BLE BABOO KRISTODAS PAL said the hon'ble mover had observed that this provision was absolutely necessary for sanitation. BABOO KRISTODAS PAL had already pointed out that the cistern took about half an hour to fill, and became emptied as each man passed out. The cistern could only be supplied with water by high pressure; and now that the high pressure was confined to three hours a day, the cisterns would be without water during 21 hours, and the new drainage system, so far as the connection and cleansing of latrines went, would practically come to a dead-lock.

The HON'BLE MR. HOGG explained that the cistern ought to have a capacity of at least 20 gallons; we had refused to allow latrines to be connected with the drainage which were not provided with proper cisterns. It was most dangerous to do so.

The Hon'ble Mr. Schalch said that the section contained a very necessary provision for general sanitation, and he thought the system should be introduced. With regard to the objection that the cistern could only be filled during the hours of high pressure, he thought that as the latrines were situated on the ground floor, the constant pressure of ten feet during the day would be sufficient to fill the cisterns. He should be sorry to see the section omitted.

The Hon'ble the Advocate-General said the difficulty seemed to be in regard to latrines in which there might be no cistern. As he understood the provision, there must be a cistern before a latrine could be connected with the drainage. The dimensions of the cistern were not given in the Act, and must be regulated by the Justices, and places which were too small to hold a proper cistern would not be connected. It appeared to him that the Council should adopt every necessary precaution in order to secure the perfect working of the system.

After some further conversation the motion was negatived, and the section was passed as it stood.

Sections 113 and 114 were agreed to.

Section 115 gave power to enter premises in order to inspect water-pipes and fittings.

On the motion of the Hon'ble Baboo Kristodas Pal, the following proviso was added to the section:—

"Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the zenana or residence of women, which, by the custom of the country, is considered private, unless a notice, in writing, of not less than four hours be given."

Section 116 gave power to turn off water where the pipes or fittings were out of repair.

On the motion of the Hon'ble Baboo Doorga Churn Law an amendment was agreed to, requiring 24 hours' notice in writing before turning off the water.

Sections 117 to 120 were agreed to.

Section 121 required that persons executing any work for laying on water must hold a license from the Justices, and provided that any licensed plumber infringing any rules or regulations under which he held his license, should be liable to have his license cancelled, and to pay a fine not exceeding Rs. 20.

The Hon'ble Baboo Kristodas Pal moved an amendment to the effect that the license should only be cancelled after a third conviction. The object of the amendment was to reconcile this section with Section 125. Section 125 provided a penalty of the same kind, but under that section the offender was only liable to forfeit his license after a third conviction. It would be hard, therefore, that under Section 121 the license should be cancelled on the first conviction.

The Hon'ble the Advocate-General explained that the two things were different; the one was for disobedience of orders, and the other merely for bad work.

The Hon'ble Mr. Hogg observed that Section 125 was not for the protection of the Justices, but of the public, who were put to much inconvenience on account of the careless work done.

The motion was negatived, and the section passed as it stood.

Sections 122, 123, and 124, were agreed to.

Section 125 provided a penalty of Rs. 20 and forfeiture of license after a third conviction for bad work done by a licensed plumber.

The HON'BLE BABOO KRISTODAS PAL said he had been anticipated on this point in the discussion on Section 121. He thought the occupier, employing a licensed plumber who supplied bad materials and gave bad work, should be protected, and he therefore moved the insertion of the following words "and shall forfeit all claim against his employer for such works done or such fittings supplied."

The HON'BLE MR. HOGG thought that that question ought to be left to the decision of a civil court; it was hardly a provision for special legislative enactment.

The HON'BLE THE ADVOCATE-GENERAL observed that it was often a question of opinion as to what constituted bad materials or bad workmanship; that would be a question for the decision of a court of justice; the plumber might in such a case recover under a *quantum meruit*.

The HON'BLE MR. DAMPIER would call attention to the effect of Sections 123 and 125. Under the former section, the Engineer of the Justices might refuse to connect a house with the water-supply if the fittings which had been put on were not executed to his satisfaction. Then, although the house so fitted was not connected with the water-works, and so the bad work could not affect the Justices, yet the Justices might interfere and cause the plumber to be fined. MR. DAMPIER did not object to the cancellation of a license after a third conviction. But if the Justices refused to connect the house with the water-supply because the fittings were bad, why should the plumber be rendered liable to a fine in their interest. How did the matter concern them until a connection was allowed?

The HON'BLE MR. HOGG explained that the provisions of Section 125 were entirely for the protection of the owners and occupiers of houses. The Justices were asked to connect with their mains a house in which fittings had been put on. The Engineer certified that the work was badly done and declined to connect the works, and the owner was put to great inconvenience therefrom. He had to pay a large sum for the fittings, and he was unable to connect them on account of bad work. Then, by this section, the Justices were empowered to step in and to save trouble to the occupier by having the plumber fined. There did not seem to MR. HOGG to be any inconsistency between the two sections or any error in the drafting.

The HON'BLE THE ADVOCATE-GENERAL said the chief objection to the amendment seemed to be that the conviction of the plumber and the adjudication of his claim against his employer were made to depend upon the certificate of the Engineer. It transferred the right of judgment from the court to the Engineer of the Justices. Suppose the Justices got a conviction on the certificate of the Engineer, and the plumber afterwards satisfied a civil court that the materials and work were sufficiently good?

After some further conversation the amendment was by leave withdrawn, and the section was amended so as to leave the determination of the quality of the materials and workmanship supplied to the convicting officer.