the further time that will be required for its fullest consideration in all its details, is not lost in deferring the final action on a measure which affects so widely this large province of Bengal. But there is another advantage in the delay. Since the first promulgation of the scheme suggested by the Government of India, the question has undergone very long and detailed criticism both at the hands of the official and non-official classes. It is still undergoing that process of sifting in the speeches we have heard in the course of this debate, and I am glad to know that the process will be continued by its reference to a Select Committee, who would have to consider the Bill, section by section, before presenting it to the Council for the purpose of its being passed into law. Now, regarding the delay which has taken place, it is to my mind one of its great advantages that I think we come to the consideration of the question in a much more sober and a more rational spirit as to the requirements of the case than we had when the measure was first brought to our notice. The time which has elapsed has destroyed a great many illusions and has led to the abandonment of a great many political aspirations. There used to be some talk in the first enthusiasm that there was going to be a general kind of district management made over to local bodies, and I have heard it said that the Magistrates were to be excluded entirely from any connection with district affairs; and even some aspiring souls anticipated that provincial independence in local administration would be conceded shortly. I think all these far-reaching ideas have now subsided into very much more moderate dimensions. It has been rightly observed by some one that the keynote to the policy of the Bengal Government in this matter is localisation; that is, that we hope to enlist in the cause of social and administrative reform with which we have to deal local knowledge and local interest for the local management of every part of each district. And my own conviction is that this gives us not only a better hope of advantage in the relief of overburdened district officers in the discharge of their duties, but also greater probability of success in the education of the people, in the administration of their own small affairs as regards their village schools, their village roads, their pounds and ferries, and similar institutions. Then as to the question of any Central Committee directing as a District Committee the whole business of district works. It is on this point of the establishment of District Committees that I know we are at issue with a great many people who have a right to be heard on the question. I do not question that there is something to be admitted in favour of District Committees; they already exist, and have been in existence for some time, though, I think, it begins to be admitted that generally they are failures. But an opinion prevails in many minds that, with enlarged powers and greater independence from the control of the Magistrate, District Committees, constituted on a more popular basis, supervising and directing the entire affairs of the district, would establish Local Self-Government in the best form in which we could establish it. Now it may be interesting, and certainly it is instructive, if we look back at this question and see the course it has run, at least as regards the official correspondence on the subject. It is a little more than a year ago that the first note was

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struck by the Government of India, of which I then had the honour to be a member, which gave an impulse to the interest which has since prevailed regarding the introduction of the system of Local Self-Government in India. It originated, as you are aware, in a wider extension of the decentralisation scheme; and in communicating their views the Government of India expressed the opinion that, in the interests of the practical development of the extension of the scheme of Lord Mayo's Government, the Provincial Governments might well, in their turn, make over to local bodies a good portion of the work of local administration, and that these bodies might be partly composed of non-official members, subject only to such control as may be reserved to it by the Legislature. That shows the kind of idea which first existed. The first intimation of the general system to be adopted was in the direction of the establishment of District Committees under the direct control of the Magistrate of the district and of the Sub-Divisional Officers. In the letter of the 10th October 1881, which was the first intimation of the thing, it was said by the Government of India with reference to District Committees:—

"With reference to District Committees, I am desired to state that His Excellency in Council is disposed *primâ facie* to consider the most desirable and effective policy to be that of concentrating all the local administration, other than that embraced by municipalities, in the hands of one committee for each district, having ancillary subordinate sub-committees for each tehsil or sub-division (as the case may be). Of the former, the Magistrate and Collector would be President; of the latter the Assistant or Deputy in charge of the sub-division would be Chairman, and in each case the local body should comprise persons not in the service of Government, and elected or nominated, as may seem best, in a proportion not less than from one-half to two-thirds. In districts where more than one committee now exists for different objects, the possibility of their amalgamation should be considered; where no such committees have yet been formed, their constitution is evidently desirable."

So you see the first suggestion of the Government of India was that there should be a District Committee and Branch Committees, to be presided over directly by the Magistrate of the district or the Sub-Divisional Officer. Sir Ashley Eden, who was then Lieutenant-Governor of Bengal, consulted the officials throughout the province on these proposals. The outcome of his inquiries was communicated to the Government of India in his letter of 8th April 1882, just three weeks before he made over charge of the administration to myself. He said:—

"The committees constituted under the Cess Act should be carefully reviewed and strengthened, inactive members being eliminated, and members added who will consent to take a genuine interest in the administration of the district affairs.

* * * * *

"If any practical result is to be obtained from the extension of Local Self-Government, it is essential that the unit of administration should be the *Local* or Sub-divisional Board, and not the *District* Board. The District Board should have the general control of the scheme of the district work; it should have the allotment of funds, and it should direct the policy of the district as a whole. But the details of Local Self-Government can only be performed by working local bodies with limited areas of jurisdiction. Where these cannot be formed, as much use as possible must be made of District Committees."

Here you see accepted the theory of District Boards, positively presided over by the District Magistrate, and Sub-Divisional Boards presided

over by the Sub-Divisional Officer. Then came, to show the growth of the idea of Local Self-Government, the Resolution of the Government of India of 18th May 1882, which is a very large development of the original plan; and it not only shows the extensive growth of the idea, but how the Government of India themselves eventually abandoned the notion of a District Board as the right form of constitution for Local Self-Government. It is only necessary to read a short paragraph of the Resolution to establish this:—

"The Government of India desires then that, while maintaining and extending, as far as practicable, the plan of Municipal Government in the cities and towns of each province, the Local Governments will also maintain and extend, throughout the country, in every district where intelligent non-official agency can be found, a net-work of Local Boards to be charged with definite duties and entrusted with definite funds. The Governor-General in Council considers it very important that the area of jurisdiction allotted to each Board should in no case be too large. If the plan is to succeed at all, it will be necessary to secure among the members both local interest and local knowledge. Experience proves that District Committees are, as a rule, very badly attended by members not actually residing in the vicinity of the head-quarters' station. Those who do attend have frequently no intimate acquaintance with the wants of outlying parts of the district. The consequence is, either that undue attention is given to the requirements of the immediate neighbourhood of the central station, or that the business falls entirely into the hands of the district officer, this committee contenting itself with formally endorsing his proposals. Modifying, therefore, to some extent the suggestions made in paragraph 8 of the Circular letters of the 10th October last, the Governor-General in Council desires that the smallest administrative unit—the sub-division, the taluka, or the tahsil—shall ordinarily form the maximum area to be placed under a Local Board."

And again, in the supplementary letter addressed directly to the Government of Bengal, in reply to Sir Ashley Eden, it was said:

"It does not seem to be necessary to maintain the overruling power of the District Board in any of the purposes mentioned in your letter * * * . It would seem that the Sub-Divisional Boards might very well be left free of the control of a District Board, arranging all matters of common interest by sending delegates to a District Council."

Now you see that the Government of India had, as an intimation of its views rather than an order, said that District Boards should not form part of the constitution of a Local Self-Government scheme. Of course I am aware that if the Local Government had very seriously pressed a view contrary to that which the Viceroy had suggested—if the Local Government had asserted its own wish to establish District Boards for the direction of district affairs,—the Viceroy, in the readiness with which he has always been prepared to accept the views of Local Governments as regards the form which the scheme should take as long as the principle of the scheme was accepted, I have little doubt would have been quite willing to accede to our wishes. It unfortunately happened that I myself quite concurred with the theory that the proper working of the scheme was not to be found in the establishment of District Committees managing district affairs, but that there was much more chance of giving a good administrative education to the people, and less risk of failure, if we worked up from the bottom to the top. I have received a letter by a recent mail from England from a gentleman of high authority, and if I were to mention his name you would recognise that he is one who has a right to speak on a question connected with India with very great authority. He told me that he had seen

the telegraph summary in the *Times* giving the general outlines of the scheme as proposed in Mr. Macaulay's speech, and this is what he wrote about it:—

"I am much pleased with the telegraphic summary sent home of your proposed plan of Local Self-Government. So far as I can judge, it seems just what was wanted. I was afraid from what I first heard that it too much pointed to putting power into the hands of a limited class of educated natives, and telling them to try their prentice hands on large plans. Whereas I believe the right course is to begin at the lowest grade of communal institutions, and to work up to higher things by granting the smaller ones for certain purposes under representative institutions. I very much doubt whether the natives can rightly govern Calcutta, but I believe they may govern their own villages at once."

Now I am not going to say anything about the Calcutta Municipality because, in the first place, the system of municipal administration in Calcutta is at present on its trial; but I do most clearly say that I emphatically protest against the establishment of any system for the general administration of our districts, which would correspond at all to that obtaining in Calcutta. My objections are made on several grounds. Clearly it would be opposed to the principle on which our Bill has been framed, which is to begin from the lower and rise to the higher. Then if you look at the general run of our sudder stations, who are the men you call the educated men? They are composed of members of the Bar and gentlemen who are connected with the educational work of the station; in some of your large cities there are local merchants, and in other cases there are some leading tradesmen who take an interest in the town and in its surroundings. But the pleaders, to take them first, are not always men of the district. They are gentlemen who come from Calcutta and other places to earn a living by their profession; they have no family or other connections with the district, and they have no more personal interest in the place than they would have in any other in which they were only temporarily resident. Similarly, gentlemen who are in the Education Department. They are for the most part sent there by the Government. They have no personal concerns in the district, and they may be in one district to-day and in another to-morrow. For local interests beyond those which come under their immediate notice, or any wide knowledge of local wants, I believe they have little or none. Merchants in the town or tradesmen have no experience or acquaintance with anything beyond their place of business, and certainly not with the conduct of such affairs as our Local Boards will have to deal with. Now to compose District Committees of such materials would be to court failure. On account of the difficulties of communication, those who are really concerned and have a real interest in the district would very rarely be able to attend and give expression to their views in District Committees, and a committee composed of such elements would neither be a help to the Magistrate, nor of any advantage to the people. I am afraid they would be a talking and a talkative body, and would not do any good work, and that matters would lapse very much into that kind of confusion which comes from entrusting powers to persons who, even if educated, have no interest in the duties which they have to carry out, and no means of carrying them out; and I think that all the objections which the Hon. the Advocate-General

has taken to the general scheme would have strong force if we contemplated anything in the direction of the management of district affairs by District Committees merely constituted at head-quarters. If such a thing was resolved upon, I should go back to the position that the Magistrate must be at the head of affairs, because I do not believe that a committee constituted chiefly of people at the sudder station, and connected with no permanent and personal interests in the district, can ever really conduct to any satisfactory issue work of the nature involved in the administration of the district. There would also be the tendency that committees so established would talk a great deal about many other things than those which we consigned to them, and it would get to be a kind of an institution where they would criticize and discuss everything which belonged to their district, calling into question the action of Magistrates, and claiming to be a kind of representative body with a right to investigate how all the affairs of the district were to be administered. Now all this is far from my thoughts, and nothing which any gentlemen could say would induce me to accept such a theory of Local Self-Government. There is another objection as regards the constitution of the District Committee. We have, under our present plan, divided the district into Union Committees and Local Boards, and at the sudder stations we should have to find first a Municipal Committee to administer the affairs of the town; and a great many of those educated gentlemen who had been referred to would clearly be the best men to undertake the work within municipal limits. But, then, you would require at the same place a committee to manage the business of the Local Board at the sudder sub-division, and this second committee at head-quarters would necessarily be composed of many of the same gentlemen who are connected with the Municipal Committee. Now you wish to have the District Committee in the same place. I don't know who you are to get to form a third committee, because I give up the idea of distant zemindars coming into the sudder station to take part in work which would require continuous attention. Take, for instance, the Nuddea district, and see how it would be possible for district affairs to be managed from Kishnaghur by committees comprising residents in Kushtea, Santipore or Bongong. That is all I wish to say on the subject of District Committees. The basis we wish to work upon has a much less ambitious aim. We would give over the petty affairs of villages and unions to minor and local bodies, who have local knowledge and local interests, and we propose that they should be supervised by the Local Boards to which they will be subordinate.

Then it has been recognized that some kind of control is necessary, and you come to the question of a Central Board. The idea is not an original one. It comes from English Procedure and Acts. But, admitting the necessity of some form of control, if you do not approve the Central Board idea, you find that you must either have the local personal interference of some one on the spot, or you must have Government interference from a distance. My reason, briefly, why I adopted the principle of a Central Board, was that the work which it will entail upon the Government in dealing with some 66 to 68 millions of people, in gradually establishing Local Boards, several of them with large

areas, in laying down bye-laws, rules, and directions, and in disposing of an immense mass of minute details, would at least require a large addition to our Secretariat arrangements to relieve the Government of a great burden; and that some intermediate agency was necessary to help us. I felt at the same time that in the strong plea that had been put forward by the people for freedom from constant and direct interference, it was right to give it a fair trial, and the best way for the Government to do that was to be as little connected with it as possible. We are quite agreed that the Magistrate should be invested with certain powers to see that things do not go wrong, that completed works should not be allowed to go into disrepair; that works newly undertaken were not carried out badly; and that the Magistrate should have the right and the authority to suppress whatever was dangerous to the peace, safety, or health of the community. My belief is that in most cases the influence of the Magistrate over the Local Boards would be such as to lead committees to pay attention to his representations. There must be some power to make them do what was right, and to make them undo what was wrong. If it is not to be the Magistrate on the spot, I confess I should like to see the Government relieved from the duty of interference; and it is in this view that I have proposed the constitution of a Central Board, which, though acting in communication with the Government, would consist of independent men who would be able to settle differences of that kind which may come up between the Magistrate and the Local Boards. Whether the proposal will be sanctioned or not, I cannot tell, but as far as I am concerned, it seems to be the best solution. As regards the objection taken to the magnitude of the work as beyond the power of any Board sitting in Calcutta, I think it would be a quite reasonable objection if it was expected that the whole scheme of Local Self-Government was to be introduced and established through Local Boards within a month after the introduction of the Act. But that, I think, is not likely to take place. Progress in the organization of Local Unions and Local Boards will be very gradual. While I have always maintained that we can introduce and adopt a system of Municipal Government in towns and cities on a wider basis within a year of the passing of the Municipalities Bill, I have as consistently urged that I do not believe that the introduction of Local Self-Government in the interior of districts can be fairly established throughout these provinces in less than ten or twelve years. It must be a matter of slow growth; it must be a matter of very experimental introduction. There are districts where we may introduce it at once, and there are others which we must leave alone for the present. To give the new system any chance of success, I believe that it must gradually grow up as in the case of municipalities, from very small beginnings to larger proportions. To show exactly the view I take, I will read to you a portion of a letter which I wrote to the Government of India in July last, and said:—

"When we approach the discussion of the constitution of Local Boards, the difficulties of the problem are manifestly greater; and these difficulties arise primarily from the fact that, in this direction at least, the experiment of Local Self-Government, based upon election, is entirely an innovation, foreign alike to the genius and instincts of the people and to the

system of rule which has obtained since the British power was established in India. The Government on this side of India has no past experience to fall back upon for its guidance, nor probably could it find in any of the independent Native States in the country precedents of a kind to help it in such a novel undertaking. The Lieutenant-Governor is anxious, nevertheless, to give to the views expressed by His Excellency the Viceroy in Council the fullest and the fairest trial; and, though he has no fears as to the results of the measure, and no doubts as to its ultimate success, he is bound from his position to give the warning that, if any solid and permanent results are to be achieved, it can only be by a tentative and patient procedure in the introduction of the new policy. We are dealing with untried men in an untried system."

Well, I may be wrong; but I do not think any one who knows the country can suppose that the time I have mentioned is too short for the establishment of Self-Government, on a basis such as that which is contemplated, throughout the country. But with these safeguards, I have no hesitation in trying to give practical effect to a scheme which is intended for the good of the people, and in the knowledge which we possess from our intercourse with them of their capabilities and fitness for the work. I certainly deprecate the political timidity which the learned Advocate-General's speech expresses. I believe that there are in many places a class of people who are really and earnestly interested in the promotion of the welfare of their own villages and their own affairs, and if they managed their own small affairs well, larger powers may gradually be given to them. On these outlines I have no apprehension of the results of the legislation now under discussion.

My Hon. friend Mr. Macaulay has just reminded me that the Hon. Mr. Dampier had made an appeal to the Government regarding the advisability of allowing all Local Boards to elect their own Chairmen and Vice-Chairmen. That, I may say, has been done advisedly. There were before the Government one of three courses: first, that the Magistrate should be absolutely excluded from being appointed or elected; secondly, that the Government should nominate an official, which would entirely do away with the independence which His Excellency the Viceroy desired to see established; or, thirdly, that the right of election should be conceded. I confess I was actuated a good deal by the response which has been received to inquiries made on the subject whilst I was on tour, and that was the almost universal representation made to me that what they wanted was the power of election; but how that will work it is impossible to say. The people are not unanimous, even in the most advanced districts like Burdwan, to accept the exclusion of the Magistrate; and it is certainly wise to have trained men in places where there would be Local Boards; but still it would be difficult for the Government to say, "You must have a Government official." Of the three courses I think it wisest to leave it free, subject to the confirmation of the Government, except in such places where it is clearly shown that there are no persons fit to be placed at the head of local affairs. My belief is that generally they will elect a Government official to be the Chairman, by reason of the distrust of their own powers to deal with a system of Local Self-Government, and in that view I have left the Bill in the terms in which it stands. If the

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Select Committee has reason to qualify that freedom of action, I shall be quite willing to defer to the opinion of the majority of the Council."

The motion to refer the Bill to a Select Committee was then carried, and the following members were appointed on the Committee. The Hon. the Advocate-General, the Hon. Mr. Reynolds, the Hon. Mr. Allen, Col. the Hon. S. T. Trevor, the Hon. Bhudeb Mookerjee, the Hon. Mahomed Yusuf, the Hon. Hurbuns Sahai, and the Mover.

The Council was adjourned to Saturday the 17th March.

Saturday, the 17th March 1883.

Present:

His Honor the Lieutenant-Governor of Bengal, *Presiding;*
The Hon. G. C. Paul, C.I.E., *Advocate-General;*
The Hon. H. L. Dampier, C.I.E.;
The Hon. H. J. Reynolds;
The Hon. C. P. L. Macaulay;
Colonel the Hon. S. T. Trevor, R.E.;
The Hon. T. T. Allen;
The Hon. Bhudeb Mookerjee, C.I.E.;
The Hon. J. E. Caithness;
The Hon. Mahomed Yusuf;
The Hon. Harbuns Sahai;
and
The Hon. Chunder Madhub Ghose.

JUTE-WAREHOUSES AND FIRE-BRIGADES.

The Hon. Mr. Reynolds moved that the report of the Select Committee on the Bill to amend the law relating to Jute-Warehouses and Fire-Brigades be taken into consideration in order to the settlement of the clauses of the Bill; and in doing so he said that the report of the Select Committee went so fully, and he hoped so clearly, into the different points in which it was thought desirable to modify the original draft of the Bill, that it would not be necessary for him to detain the Council at any great length with the remarks which he was about to offer. Indeed, he believed there were only two matters to which he need refer outside the four corners of the Select Committee's report, and upon these he desired to offer a few remarks. The first of these was the communication from the Suburban Municipal Commissioners which was not received in time to be taken into consideration by the Select Committee. The communication was printed as No. 3 of the papers circulated to the Council, and he would ask hon. members to refer to it. The first objection they took was to what they called "the principle which underlies the Bill of taking away the initiative power of fixing the rates of license fees from the Commissioners and vesting it in Government."

He did not understand that objection. The Bill, as it came before the Suburban Commissioners, was the Bill as it was originally drafted, and before the Select Committee had amended it, and in this point it simply reproduced the existing law of 1879 according to which the fee for jute licenses had to be fixed by Government after consulting the Municipal Commissioners, and that was now the law in force in the Suburban Municipality. There was no proposal to take away any power from the Commissioners and confer it on the Government. He should have again to refer to this subject; but he only wished to say now that the objection which had been taken was unfounded.

The next was, he imagined, the objection to which they attached most importance, the objection taken by them to the proposal to set apart 20 per cent. of the license fees to cover the expenses of management and superintendence. The Suburban Commissioners declared this amount insufficient, and urged that they ought to have one-third. The question had been carefully considered by the Select Committee, and they were of opinion that an allowance of 20 per cent. would be ample for the purpose, and in coming to that conclusion they had been assisted by certain figures laid before them by the Chairman of the Calcutta Corporation with regard to the expenditure incurred in Calcutta in this respect. It appeared from those figures that in Calcutta in 1880 the establishment cost Rs. 3,992, whereas the 20 per cent. allowance would have amounted to Rs. 5,700. In 1881 the expenditure was Rs. 3,483, and 20 per cent. would have amounted to Rs. 4,540. In 1882 the expenditure was Rs. 3,830, and 20 per cent. would have given Rs. 4,680. These figures made it clear that 20 per cent. would give a larger sum to Calcutta than it was at present found necessary to expend; and that the Corporation had been able to limit its expenditure to about 16 per cent. of its receipts, and the Committee saw no reason why the Commissioners in the Suburbs should not do the same. The Suburban Commissioners observed that at present they expended 25 per cent. of the collections for the purposes of management. That was true; but how did they make that out, for out of a collection of about Rs. 16,000 in 1881-82, the amount they expended was Rs. 3,488. They made it out first by charging the actual cost of establishment, viz. Rs. 1,884; and then the Commissioners in a perfectly arbitrary manner made a charge of 10 per cent. on the actual collections (Rs. 1,604), and set it down as a charge for executive control. That was a purely arbitrary charge, and if they liked to reduce the 10 per cent. to 5 per cent. they will find that the total charge would not exceed 20 per cent., while all actual expenditure would be provided for. The Committee therefore thought there was no necessity for making any alteration as regarded the allowance of 20 per cent.

Then the Suburban Commissioners said they considered the arrangement which would place the control of the fire-brigade in the hands of the Commissioner of Police very objectionable, but they did not suggest any other arrangement, and he thought that the Council would feel that the Commissioner of Police was the most appropriate and natural authority in whom should devolve the management of the fire-brigade.

The Hon. Mr. Reynolds.

He need only refer to one other point in connection with this representation from the Suburban Commissioners, and that was the suggestion that insurance offices should be made to contribute, as they did in London and other cities, to the maintenance of the fire-brigade. Such a provision existed in the Act of 1872. It provided that a rate of eight annas for every ten thousand rupees should be levied on the amount of insurance; that policy was deliberately set aside in 1879, and the Select Committee were of opinion that it ought not to be revived. He thought the policy a mistaken one, because the amount so charged was not really paid by the insurance companies, but by the persons who effected insurance by way of enhancement of their premium, and the owners of jute-warehouses would thus have to pay twice over—first, directly in the form of the license fee; and secondly, in the form of higher premium to insurance companies to meet the requirements of the law in this particular instance.

Coming to the report of the Select Committee, he would ask attention to section 5, in which a considerable alteration had been made at the recommendation of Mr. Harrison, to whom the Committee were greatly indebted for the assistance they had derived from his experience in the matter. According to the existing Act of 1879, the amount of the license fee was to be fixed by the Local Government after consulting the Municipal Commissioners at a special meeting. This provision of the law had not been literally carried out, for in point of fact the Government did not fix the fee, but they fixed the scale of fees and left its application to the Commissioners, and the Committee thought that was the proper system to follow, and they had accordingly adopted that principle. They thought the scale of fees ought to be fixed by Government after taking the opinion of the Commissioners, and that the Commissioners should be left to apply that scale according to the circumstances of the particular warehouse to which a license was to be granted.

The next section to which he would invite attention was section 18, and that was the second point to which Mr. Reynolds had referred above, as a matter which was not noticed in the Select Committee's report. It had been suggested to him, since the report had been made, that section 18 might be productive of administrative inconvenience. It provided that the Commissioner of Police should prepare a budget or estimate of the receipts and expenditure of the fire-brigade for the year commencing on the 1st April next ensuing, and that such budget should be laid before the Commissioners in meeting, and forwarded by them to the Local Government. It had been suggested to him that Municipal Commissioners were occasionally somewhat dilatory in their proceedings, and it might be inconvenient if the Local Government had to wait till the Commissioners forwarded the budget, and it was thought that the principle would be sufficiently provided for if the Commissioner of Police sent the budget to the Government and merely forwarded a copy to the Commissioners; but Mr. Reynolds was not prepared to adopt this suggestion. He thought it would not satisfy the reasonable wish of the Municipal Commissioners that they should have an opportunity of examining and criticising the Fire-Brigade budget before its submission to Government,

and he did not think it need be assumed that they would neglect their duties so far as not to send up the budget within a reasonable time. He therefore did not propose any amendment in connection with this matter. By providing that the Commissioner of Police should prepare the budget in or before the month of February, sufficient time was given to the Municipal Commissioners to enable them to send up the budget in time for the Local Government to deal with it.

The alterations in sections 21 and 23 were of no great importance. A suggestion was made in Council when the Bill was introduced that the wording of the Bill, which left the responsibility on the officers of the police and fire-brigade to shew that they had not exceeded what was necessary for the due execution of their duties, might be improved. The Committee had amended the section by providing in section 21 that no officer of the police or of the fire-brigade should be held liable for damages on account of any act done by him in the *bonâ fide* belief that such act was required in the proper execution of his duties. The Commissioner of Police of Calcutta expressed an opinion that some clause of that kind was necessary, and that the wording of the existing law did not sufficiently protect such officers in the execution of their duties; and the Select Committee agreed with him. Then as to section 25. As it formerly stood it provided that the powers conferred on the Commissioner of Police in respect of Calcutta and the Suburbs as to fireworks should be exercised in Howrah by the Chairman of the Commissioners. On this point the Magistrate of Howrah, who was also the Chairman of the Municipality, had represented that, in the event of his absence from head-quarters, he could more conveniently provide for the conduct of the duties referred to in this section in his capacity of Magistrate than in his capacity of Charman. The Select Committee also thought that the duties belonged more properly to the Head of the Police than to the Head of the Municipality, and they had modified the section accordingly.

He wished to call attention to a point in reference to section 27 for the disposal of sums now standing to the credit of the Jute-Warehouse Fund in Calcutta and the Suburbs. The proposals therein contained had not been objected to either by the Calcutta or Suburban Commissioners.

With regard to section 28, the Commissioner of Police for Calcutta wished it to be distinctly stated that any fees leviable under the Petroleum Act were to form part of the fund for the maintenance of the fire-brigade. MR. REYNOLDS believed that the Government had expressed their intention of devoting these fees to that purpose, and it was no doubt a proper mode of applying the money; but it was quite a different thing to declare by legislation that those fees must be appropriated to that purpose. The Committee had therefore added a clause to the section which provided that, in addition to certain proceeds of jute licenses, the fund available for the maintenance of the fire-brigade should consist also of any other funds which the Local Government might grant or appropriate for the purpose.

The HON. MAHOMED YUSUF said:—"When this Bill was last before the Council on the motion to refer it to a Select Committee, I had the honour to draw the attention of the Council to two parts of the Bill. I had firstly ven-

tured to make a suggestion in connection with what was section 27 of the Bill as it was first introduced into the Council. This section corresponds with section 34 of the Bill as it is now before the Council after it has been amended by the Select Committee. I had then called the attention of the Council to the expression "commodity," which occurred in the section in connection with the power of the Local Government to bring under the operation of the Act any other fibre besides jute and cotton, to which the Act in terms applied.

I submitted that the use of an ambiguous word liable to misconstruction should rather be avoided in legislation, and I am glad to find that my humble suggestion has found favour with the Select Committee to which the Bill was referred, and that the expression referred to above has been omitted from the section in question.

The other matter, with which I had troubled the Council on the occasion above mentioned, was in connection with sections 16 and 17 of the original Bill, which are, however, retained in the present Bill as before. These sections of the original Bill, which correspond with the same sections in the Bill now before the Council, laid down rules in what manner the proceeds of the fees and penalties levied under the Act were to be appropriated. It was provided in those sections that twenty per cent. of such fees and penalties shall be applied to meet all expenses incurred by the Municipal Commissioners on account of inspection and other charges in relation to the Jute-Warehouses. It was also provided that "any balance of such twenty per centum which may remain after payment of such expenses shall be credited to the Municipal Fund." So far so good. There is no objection to this. The costs of maintaining the fire-brigade is in the first instance limited to twenty per centum, and thus there is a limit on this side, and provision is also made for cases where a part only of the twenty per centum might be sufficient to meet certain charges, leaving a surplus in the hands of the Municipal Commissioners, which surplus is to go to the Municipal Fund. And this is very satisfactory.

But, then, what are the provisions of the Bill regarding the remaining eighty per centum. Section 17 provides that the same should be made over by the Municipal Commissioners to the Commissioner of Police for the maintenance of the fire-brigade. That is all that is said in the original Bill in respect to the eighty per centum. No provision is made in respect of the balance, if any, left after the defrayal of the cost of maintaining the fire-brigade. I can understand the absence of any such provision when the costs of maintaining the fire-brigade would amount to eighty per centum. The limit of eighty per centum for the costs of maintaining the fire-brigade no doubt means that the Commissioner of Police should keep down such costs, so that they may not exceed the eighty per centum. But what is the Commissioner of Police to do with the surplus, if any, in his hands after meeting the costs of maintaining the fire-brigade out of the eighty per centum. There is no provision for such a case like this. There is no provision in section 17 similar to that contained in the last clause of section 16 providing for the balance to be credited to the Municipal Fund. No doubt the absence

of a provision from the section in question to meet the case of a surplus might be accounted for by the circumstance that it was believed that the whole of the eighty per centum would be exhausted and no surplus was likely to be left in the hands of the Commissioner of Police, and therefore no provision was necessary. And accordingly on the last occasion I was informed by the hon. member in charge of the Bill that the case of a surplus arising out of the eighty per centum was not likely to arise for the next ten years, inasmuch as the eighty per centum was barely sufficient to keep up the fire-brigade in an efficient working order, and that therefore there was no provision in the original Bill to meet the contingency of a surplus.

Now, I submit that although such a contingency might not arise for some time, still it does not follow that the contingency should go entirely unprovided for in the Bill; because, although the contingency is a remote one, still it is one of a nature that is likely to happen, although at some distant date. It may not be necessary hereafter for other purposes to amend the Act before the case of a surplus should arise, and the Act would then require amendment for a matter present to our mind at the present moment.

I therefore thought, when the Bill was referred to the Select Committee, and do still think, that there should be, under section 17, a proviso similar to that under section 16 to meet the case of a surplus.

But it may be that the Select Committee might have provided for the objection taken by me by introducing section 18 in the present Bill, which was absent in the original Bill. The object of this section might have been expressly amongst others to meet my objection, and if it was intended by the Select Committee by this section to provide for the case of a surplus, then I submit that that intention has only been partially carried out, because the section, after providing for the preparation of a budget of the fire-brigade, goes on to say that "if such budget shall shew a surplus of receipts over expenditure, it shall be in the discretion of the Local Government, subject to the provisions of section 5, to reduce the scale of fees; and if it shall shew a deficit, similarly to increase such scale." Now, I submit that this clause, although it may be sufficient to prevent the accumulation of a surplus in the future, does not provide for the disposal of any surplus that might be in hand at any particular time. Not having a retrospective effect, it will only deal with future cases, and the contingency supposed by me will therefore remain unprovided for.

But there is another objection against this particular clause in section 18, in so far as it provides for the constant alteration and variation in rates, which is calculated to introduce a sort of uncertainty as to what one shall have to pay, and this is not at all desirable. It is enough of evil to have to pay, but it is worse evil not to know what to pay.

I therefore think that section 18 does not obviate the necessity of a proviso under section 17 similar to that contained in section 16, and I therefore suggest and submit that the following words might be added after section 17 as it stands at present, viz.—"Any balance of such eighty per centum, which may remain after the application of the eighty per centum to the maintenance

of the fire-brigade as aforesaid, shall be credited to the Municipal Funds of Calcutta, the Suburbs, and Howrah in the proportion according to which they should have contributed."

I do not propose this addition by way of an amendment, because this is not the time for moving an amendment; but I have only submitted this by way of a suggestion for the consideration of the Council, leaving it to the option of the learned and hon. mover of the Bill to adopt it or not, as he should think proper.

The only other point to which I should like to draw the attention of the Council is as regards the last clause of what was section 20 in the original Bill, and what is section 31 of the present Bill. The clause in question ran as follows in the original Bill:—

"But nothing in this section shall exempt any officer of the Police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause."

The last clause of section 21 in the present Bill runs as follows:—

"No officer of the Police or of the Fire-Brigade shall be held liable to damages on account of any act done by him in the *bonâ fide* belief that such act was required in the proper execution of his duties."

Now there is considerable difference in the effect of the wording of the two respective clauses. If there had been no difference there would have been no change in the language. And speaking for myself, I should much rather retain the original wording than adopt the new one. I am quite aware that the alteration in the present Bill is due to a suggestion made by an hon. member of the Council in the debate on the Bill before it was referred to the Select Committee. But with that suggestion I did not agree, although I could not express my views, being debarred by the rules of the Council from speaking twice upon the same subject.

The provision in the original Bill merely repeated the law as it stood and as it stands at present. That law has been in existence since 1872, and no complaint has ever been made that it has hampered the action of the police in any instance. On the other hand it might well be argued that, owing to the care and caution which the police were obliged to shew in the exercise of their duty by the provision in question, there was no action for damages and no complaint against them; but the change in the wording of the law might result in such complaints; because, as already observed, there is a great deal of difference between the effect of the two provisions. Under the former Bill the onus is on the police to shew that any particular act which might be the subject of complaint was done with reasonable cause. Under the present Bill the onus is on those who impeach the conduct of the police; and I should much rather see the police exercise due and reasonable caution than rush wildly and set themselves to putting out the fire regardless of the consequences of their acts. For these reasons I regret the alteration that has been made, and should like to see the provisions of the original Bill restored."

The Hon. the Advocate-General pointed out, with reference to the remarks which had been made by the hon. member who had just spoken, that the words "*bonâ fide* belief" used in the last clause of section 21 were quite in

accordance with the recent decisions in similar cases. The courts had held that though a man might not have acted reasonably, still he might have acted in the *bonâ fide* belief that the act which he did was required in the proper execution of his duties. The expression "*bonâ fide*" was well recognised, and the use of the term in the Bill merely followed the current of recent decisions in analogous cases.

The Hon. Chunder Madhub Ghose said he had one or two observations to make before this Bill was passed into law. Section 13 of the Bill, as it had been amended by the Select Committee, provided that, whenever any of the conditions under which a license was held in respect of any warehouse was broken, the person whose name appeared on the license as the occupier of such warehouse should be liable on conviction to have his license cancelled or to a fine not exceeding Rs. 500. If the Council would turn to section 8 they would observe that on a change in the occupation of any warehouse the person entering into occupation of the same was required, within two weeks of so entering into occupation, to give notice in writing to the Commissioners of such change of occupation, and on payment of a fee of two rupees his name would be substituted in such license for the name of the last occupier. Suppose before notice of change of occupation was given any violation of the conditions of the license took place on the part of the purchaser; then, according to the strict wording of section 13, the person whose name appeared on the license, *i.e.* the former owner, and not the purchaser, would be liable to be punished by a fine of Rs. 500. It appeared to Baboo Chunder Madhub Ghose that that provision might operate as a hardship on the person who had sold his interest in the warehouse and in regard to whose conduct no fault could be found. To obviate this hardship he would suggest that there should be a proviso to the effect that, if the owner of a warehouse gave notice to the Commissioners of the transfer of his interest to another person, that other person, and not the original holder of the license, should be liable to the fine imposed under section 13. And in keeping with this view, he would suggest an amendment in section 8, to the effect that the person whose name appeared on the license as well as the person entering into occupation should, within two weeks, give notice of the change of occupation, thus making both persons bound to give notice. Then, if such notice was given by the original holder of the license, he would not be liable to penalty under section 13.

He would also suggest a similar alteration in section 15, and the effect of these amendments would be that the original license-holder would be bound equally with the person to whom the occupation was transferred to give notice of change of occupation, and if the original holder gave notice in due time, he would no longer be liable to prosecution under section 13. With these alterations in sections 8, 13, and 15 he thought the Bill would work better.

The Hon. Mr. Reynolds said he thought that, as the member in charge of this Bill, he was placed at some little disadvantage by having mines of this kind sprung upon him. The Bill in its present form had been three weeks

before the Council, and if hon. members had objections to particular provisions of it, they might have given notice of their objections on an earlier date, or have formulated them in a shape which would allow him either to accept them, or to take further time to consider them. With regard to the objections taken by the hon. member opposite (MOULVIE MAHOMED YUSUF), MR. REYNOLDS might say that it was deliberately intended that clause 3 of section 18 should meet the point he had raised. It was not intended that the balance of any year should be credited to the Municipal Fund. What was intended was that if the balance of two or three successive years shewed that the fees were being raised at a scale unnecessarily high, or conversely at an insufficient scale, the Government should have the power to reduce the scale or to increase it, as the case might be, so as to make the 80 per cent. about sufficient ordinarily to cover the normal expenditure of the fire-brigade. He must say that he preferred that principle to that which had been suggested by the hon. member of the balance of each year being credited to the Municipal Fund.

Then with regard to section 21, MR. REYNOLDS was not prepared to accept any alteration in the wording of the Bill of the nature which had been suggested. He thought the wording of the amended Bill better than as it stood in the existing law, but he must leave the decision of the question to the Council.

With regard to the objections taken by the hon. member to his right (BABOO CHUNDER MADHUB GHOSE), he would ask the Council to take notice that this was not a new provision. It had been in existence since 1875. The provision was not in the same words in the Act of 1872, but it certainly was in that of 1875, and had been reproduced in 1879 and in the present Bill, and there had never been any practical difficulty in connection with it. The difficulty which had now been suggested was very small and was of a speculative character. He understood it to be objected that by section 13 the person whose name appeared as occupier of a jute-warehouse was liable to penalty in case of any breach of the conditions of the license, whereas under the Bill the person who entered into occupation was to give notice of the change of occupation within two weeks, and his name would then be substituted in the register for the name of the former holder of the warehouse. And the objection was that, if such person failed to comply with the law in that respect, it might perhaps happen that if breach of the conditions of the license occurred before the mutation of names had been made, the person whose name appeared in the license, that was to say the former occupier, would be the person liable to penalty. Section 15, MR. REYNOLDS thought, made it pretty certain that the person entering into occupation would not fail to give notice, because that section made such person liable to a penalty of Rs. 100 if he failed to give notice of the change of occupation. And in the next place, section 13 only provided that the penalty was to be inflicted after conviction before a Magistrate, and MR. REYNOLDS imagined that a person would not be convicted in the case put by the hon. member. He certainly would not like to accept the suggestion which had been made, or anything like it, without consulting the Municipal Commissioners. If it should be considered that any such change in the wording was necessary, he would propose that the Bill should not now be

passed. But he believed that no change was required. Persons who came into possession of licensed jute-warehouses shewed the greatest eagerness to get their names registered at the earliest possible date, and he therefore considered that the objection was of a merely speculative character.

His Honor the President remarked that it was a salient rule in the procedure of the Council that hon. members who had any suggestions to offer should be prepared to formulate them in the shape of definite amendments, which it would be easy to consider and upon which the Council could come to a decision. Objections brought forward in an indefinite way must cause delay, while they could lead to no salutary results.

The motion that the report of the Select Committee be taken into consideration was then put and agreed to, and the clauses of the Bill were considered for settlement in the form recommended by the Select Committee.

The Hon. Madhub Chunder Ghose moved the following amendments in section 8:—

To insert the words "person whose name appears in the license as also" after the word "warehouse" in the second line;

To omit the words "the same" in the third and fourth lines, and to substitute therefor the words "such warehouse;"

And to insert the words "the latter" after the word "and" in the seventh line.

He said he had already explained his views as to the provisions of sections 8, 13, and 15; but having found that the sense of the Council was against him, he had confined his amendment to section 8.

The Hon. Mr. Reynolds said he was not prepared to accept this amendment. It would be observed that by section 9 of the Bill the person entering into occupation of a licensed warehouse, who failed to register his name within the time prescribed by section 8, would be liable to have his license cancelled or suspended, and this would be in addition to the penalty of Rs. 100 to be inflicted on conviction under section 15. The object of the hon. mover of the amendment was to prevent any penalty being inflicted on a person who was perfectly innocent. But the proposed amendment would make the matter worse than it was now for such person, for in that case it would be in the discretion of the Commissioners to suspend or cancel the license, if either of the two persons had not given notice of the change of occupation. It appeared to Mr. Reynolds that as the provisions of the Bill stood there would be no practical difficulty in the matter. Not only had the law existed ever since 1875, but he happened to know from what the Chairman of the Calcutta Municipality had told him that the eagerness to obtain licenses and to prevent their cancelment was very great; that a jute-warehouse was looked upon as a very valuable property, and the parties took very great care to get the transfers registered. He therefore thought that the objections which had been raised to sections 13 and 15 were not very strong, although he must admit that there was some ground for the verbal criticisms to which they had been subjected, and he would on the whole rather leave the sections as they stood, especially when it was known that no practical difficulty or hardship had occurred or was likely to arise.

The Hon. Mr. Macaulay said that he would oppose this amendment on two grounds,—on the ground that no amendment was required, and on the ground that the proposed amendment would be ineffectual even for the purpose for which it was designed. To take the second point first. The object of the amendment was to save a person in whose name a license stood from liability to conviction and fine for the misdeeds of the person to whom he had transferred his warehouse, but who had not had his own name substituted in the license. To effect this it was proposed to allow the licensee, as well as the new occupant, to give notice, and to require that the name of the latter should be substituted on payment of a fee by the latter. But the license could not be given till the fee was paid, and so long as the new occupant declined to pay the fee, the notice of the licensee would be ineffectual and he would be technically liable if the new occupant broke the conditions of the license. The amendment, therefore, would leave things just as they were, and the new occupant could not be forced to pay the fee till proceedings could be taken against him under section 15 for not giving notice within two weeks. But in reality there was no necessity for any change at all. These sections had been in force for years, and no case had occurred in which the person who had transferred a warehouse had been prosecuted and fined by a Magistrate for a breach of the conditions of the license by the person to whom it had been transferred, simply because the transfer of names in the license had not been made. There was, therefore, no practical difficulty whatever. The important point to be observed, however, was that there was already ample protection, even under the strict terms of the law, for the transferror of a warehouse. He had only to say to the transferree: "I decline to take any risk; therefore, before I complete the bargain, you must come with me and have your name entered as licensee." It might be said that the transferror might be ignorant of the law. But he could not admit that the Council should legislate for the contingency of people being ignorant of the provisions of a law specially enacted for the regulation of their own special interests. He would, therefore, vote against the amendment, and in favour of the Bill being passed as it stood.

The Hon. Mahomed Yusuf said it appeared to him that there were two views which might be taken of this amendment—namely, whether it was merely intended to correct an oversight in the drafting or whether it amounted to a substantive alteration and improvement in the law. If it was merely intended to correct a verbal error and to supply an accidental mistake, he would support the amendment; but if the object of the amendment was otherwise, and if it was intended to bring about a substantive alteration in the law, then the amendment, in order that it might be supported, must shew the defect in the existing law and how it would be improved by the amendment being carried out.

Now the discussion to which the amendment had led had shewn that the use of the words "person whose name appears in the license" in section 13 was not the result of any slip in the drafting of the Act. Indeed, the section in question followed so close upon section 8, which provided for the substitution of the transferree's name in the license, that the provision in section 13 for the punishment of the person in whose name the license stood could not be said

to be the result of an oversight, although the effect of it would be to punish the person who had transferred the whole of his interest, and who had no further connection with the warehouse. The words appeared to have been deliberately put in, and nothing that had been said shewed that it was not a wise policy that the person in whose name the license stood should be considered responsible until he had secured the necessary change in the license.

It was also to be observed that the insertion of the section in the Bill was merely by way of reproduction of the existing law; and as far as MOULVIE MAHOMED YUSUF was aware no complaint had been made that the law had worked with any degree of hardship. Referring to section 6, he found that the license might either be a permanent one or for a term of years. The transfer might therefore affect a very important interest. The retention of the provision, therefore, while it met cases of colourable transfers, would also be harmless in cases of *bonâ fide* transfers, if the transferrors would only see that the necessary alteration was effected in the license. He would therefore vote against the amendment.

The HON. THE ADVOCATE-GENERAL observed that although the criticism which led to the proposed amendment was justified from a strictly legal point of view, there appeared to be no practical difficulty in the matter; and as the amendment would not remove other difficulties which might possibly arise, he did not think the amendment should be adopted, especially as there appeared to be no necessity for an amendment of the law in the direction proposed.

The amendment was then put and negatived, and the section as it stood in the Bill as amended by the Select Committee was agreed to.

On the motion of the HON. MR. REYNOLDS the Bill was then passed.

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

Wednesday, the 21st March 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President;*
The HON. H. L. DAMPIER, C.I.E.;
The HON. H. J. REYNOLDS;
The HON. C. P. L. MACAULAY;
COLONEL the HON. S. T. TREVOR, R.E.;
The HON. T. T. ALLEN;
The HON. BHUDEB MOOKERJEE, C.I.E.;
The HON. J. E. CAITHNESS;
The HON. MAHOMED YUSUF;
The HON. HARBUNS SAHAI;
The HON. CHUNDER MADHUB GHOSE.

MUNICIPALITIES IN BENGAL.

THE HON. MR. REYNOLDS presented the preliminary report of the Select Committee on the Bill to amend and consolidate the law relating to Municipalities in Bengal. He said he did not propose on this occasion to invite the Council

to discuss the amendments which were provisionally introduced in this Bill. Those amendments were merely suggested at present, and were not finally adopted, and the members of the Select Committee were not quite in accord in respect to some of them, but they thought an expression of public opinion should be invited on the Bill in the form in which it now stood. He moved that the Bill be republished and referred back to the Select Committee for further consideration and report.

The motion was put and agreed to.

CONTROL OF DANDEEWALLAHS AND PORTERS IN DARJEELING AND KURSEONG.

THE HON. MR. MACAULAY moved that the report of the Select Committee on the Bill for the general control of Coolies in Hill Municipalities be taken into consideration in order to the settlement of the clauses of the Bill. He said that, when he had the honour of laying this Bill before the Council on the last occasion, he drew attention to a memorial which had been received from the British Indian Association, and he said that it would be found that most of the objections urged in that memorial had been met by the Bill as it had been amended by the Select Committee. There were certain other objections in the memorial which he thought need scarcely be seriously considered, and which indeed were probably not intended to be seriously considered. One of these was that the Bill which, as the Council were aware, was restricted to municipal limits, would affect coolies working in tea gardens. Another objection was that the proposal to allow the Magistrate to suspend or withdraw the license of a coolie would subject this poor ignorant man to an ostracism which had not "yet been brought to bear in any civilized community, even against time-expired convicts, murderers, and cut-throats." This objection was not very clearly put, but its general sense might be gathered. Now, in the Calcutta Hackney Carriage Act, there were precisely the same penalties attached to the breach of the conditions of a license by the drivers of hackney carriages and bearers of palankeens, as were here proposed for dandeewallahs and porters. He gathered therefore that these drivers of hackney carriages and bearers of palankeens were in the opinion of the British Indian Association subjected to an ostracism which had not "yet been brought to bear in any civilized community, even against time-expired convicts, murderers and cut-throats." It would appear from this that, in the opinion of the Association, the Darjeeling Municipality was a civilized community, while the Calcutta Municipality was not. No one was better qualified to speak on the subject of Calcutta than the writer of this memorial, his hon'ble friend Rai Kristodas Pal, Bahadoor, who was a Commissioner of the Calcutta Municipality, and MR. MACAULAY had no doubt the inhabitants of the more favoured community would appreciate the compliment coming as it did from such a source. Into the feeling of the hon. gentleman's brother Commissioners, when they were informed of that opinion, MR. MACAULAY would prefer not to enter.

He had already said that most of the valid objections which had been taken in this memorial had been obviated by the provisions of the Bill as

amended by the Select Committee. It was intended that the operation of the law should be restricted to the Municipalities of Darjeeling and Kurseong; that it should be restricted to persons employed in carrying loads and drawing or propelling vehicles; and to persons who were engaged for periods of time less than twenty-four hours. To servants who were engaged for periods exceeding twenty-four hours, it would only apply so far that they would be required to take out licenses, which could only be withdrawn or suspended for certain kinds of misconduct. They would not be liable to any penalties beyond these, and to these only in cases of gross misconduct. No attempt was made to regulate the rates of such service. The object of the Bill was simply to provide that, if people were engaged for the performance of a certain service, there should be some guarantee that that service would be properly discharged. With regard to coolies who were engaged to work for periods not exceeding 24 hours, more stringent regulations were required in the interests of the public and for the credit of the municipality. At the same time it would be observed that the law would fully protect these coolies in the enjoyment of their own rights, provided they themselves observed the regulations which were laid down for them. He thought the Council would agree with him in saying that the Bill had been made as lenient as was compatible with the object for which it had been introduced.

The motion was put and agreed to.

The HON. MR. MACAULAY also moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

The HON. MAHOMED YUSUF moved the following amendments in section 1:—To insert the words "men employed as" after "limited to" in line 2; also to substitute the word "men" for "persons" in line 3. He thought this amendment should be accepted by the Council because it did not seem expedient to extend the law to women, although they worked as porters or dandeewallahs, as it was but natural for him to expect that women could be brought more easily under control than men, and there did not seem the same necessity for legislation in respect of them as there was for men.

The HON. MR. MACAULAY said that those who had experience of Darjeeling had found that women who acted as coolies were quite as difficult to deal with as men, and the effect of the amendment would be to remove from the operation of the Act one-half of the class of people whom this Bill was intended to bring under regulation. He hoped the Hon. Member would withdraw the amendment.

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

The HON. MAHOMED YUSUF moved that in section 5, line 3, the word "may" be substituted for "shall." In moving this amendment he said:—While submitting this amendment, it is necessary that I should draw the attention of the Council to another amendment which stands in my name, viz. that relating to section 14 of the Bill in which I humbly propose that certain words which occur at the beginning of the section should be omitted: those words are "Any

coolie who shall work as such without being duly registered and licensed and." Both these amendments are based upon the same principle, and they must stand or fall together. The effect of these amendments would be that section 5 would run as follows:—

"Every coolie personally working for gain within the limits of such municipality may take out a license, and shall thereupon be registered by the registering officer, &c."

And section 14 would run as follows:—

"Any coolie who having a license in force shall transfer or lend the same, &c., shall be liable on conviction, &c."

If the sections be thus amended, the result no doubt would be that this Bill will not apply to all the coolies of the kind contemplated by the Bill, but that, at the places where this Bill would operate, there would be two classes of coolies—one registered and the other unregistered. And this is exactly the scope which this Bill should have according to my view of its necessity and urgency at the places where it is intended to have operation. It is not necessary for my present purpose, at the present moment, that I should trouble the Council with any observations about the principle of the Bill generally. But it is necessary for me to submit that, according to the view which I take of the matter, it will be sufficient to have a law for the registration of coolies without making it actually compulsory for the coolies to get themselves registered. We should only give them the option of doing so, leaving it to other causes and inducements that their option should be exercised towards getting themselves registered, so that registration should be their voluntary act. I have on a previous occasion expressed my concurrence with the principle of the Bill, and I desire it to be understood that I still maintain the opinion which I then expressed These amendments, if carried out, will not interfere with the main principle of the Bill, and instead of defeating or nullifying the Act would only place it upon a more solid basis.

Assuming that necessity for legislation exists, how is that necessity to be met? There are three conceivable ways of doing this,—one by actually using force and compelling every person who has worked as a coolie to register himself as such and to work as a coolie: this is impressing the labour of man and objectionable on the ground of slavery, and is altogether out of the question. Another mode of meeting the necessity is to provide that no person should act as a coolie unless he has had himself registered, and this is what the Bill proposes. The third mode is to leave it optional to the coolie to get himself registered or not as he pleases, but at the same time to make provisions so that the coolie should of his own accord get himself registered. This can be done by giving to the registered coolie a rate of remuneration so far superior to that which an unregistered coolie could possibly get that the coolie instead of looking upon registration as a measure of compulsion to which he must have recourse whether he wills it or not would hail it with joy and alacrity, and consider the measure as a boon for himself. These amendments then in reality bear upon the matter covered by section 14 of the Bill, viz. that relating to rates: and the question therefore is that regard being had to what is set out in the Statement of Objects and Reasons which accompanied the Bill when it was

first introduced into the Council, and also regard being had to what the Hon. Mover of the Bill said when introducing the Bill, whether the Bill would offer the necessary relief if these amendments were carried out, or, in other words, whether what I have been suggesting would be consistent with the avowed objects of the Bill.

Now from the materials placed before the Council, it appears that the measure is needed on account of the 'misconduct and extortionate charges' of the coolies. Some people are of opinion that this does not shew any necessity whatever for the measure; and although I am not one of them, still I cannot help thinking that the necessity for the measure, though absolute and paramount, so far as the character of the coolie is concerned, might not be felt by the employers universally, and that there may be classes of men at the places where this Bill would apply, who might rather chose to put up with the present state of affairs and suffer all the inconveniences which exist under the present system than desire a change which would involve some sacrifice of money. Such classes will be at liberty to avail themselves of the cheaper mode of employing unregistered coolies. They will take the risk of the present inconveniences, while those who are desirous to go any length to secure themselves against misconduct and rapacity must pay for it, and have recourse to registered coolies, whose registration will be a guarantee against misconduct, and whose charges, although they will be comparatively higher, still, being according to a certain rule and a certain standard fixed by law, will be uniform, and therefore not open to the objection of being extortionate; the employers will thus be saved from the present complaint, viz. the misconduct of the coolies and their rapacity and extortionate charges; and the object of the Bill will be accomplished.

The suggestions, therefore, which I have ventured to submit will result in a measure which cannot fail to give general satisfaction. While providing for the necessity and urgency of the occasion for those that feel such necessity and urgency, it will not fail to put coolie labour beyond the reach of the inferior classes of employers who do not care for what, in the case of others, constitutes absolute necessity. Whilst producing a better class of coolies, for such as stand in need of the services of such a class, the measure will be placed beyond cavil, and nobody will be able to say that the result has been achieved at the sacrifice of freedom. Although the inducements will be such that the coolie cannot but register himself, still, being his own voluntary act, the registration could not be objected to as partaking of the degradation of slavery. There will be no infringement of liberty, and no irksome or degrading restraint. The principal objection to Government interference in such matters will then be absent. The measure will then fall under a principle thus set out by a high authority:—

"There is another kind of intervention which is not authoritative. When a Government, instead of issuing a command and enforcing it by penalties, adopts the course so seldom resorted to by Governments, and of which such important use might be made, that of giving advice and promulgating information, or when leaving individuals free to use their own means of pursuing any object of general interest, the Government not meddling with them, but not trusting the object solely to their care, establishes, side by side with their arrangements, an agency of its own for a like purpose. . . . There may be public hospitals without any restriction upon private medical or surgical practice.

If this be done, then the Bill will not offend the good sense of the most fastidious critic, or the most liberal and enlightened supporter of the cause of the weak.

Certain other portions of the Bill would at the same time be deprived of the objections to which they are now open.

There are some sections in the Bill which provide for penalties for certain cases by way of cancellation or revocation of the license and the severity of such penalties involving, as they do, a permanent disability to work and a permanent deprivation of livelihood has given rise to doubts whether it is proper to retain those sections in the Act. Certain amendments standing in my name, and also in those of other hon. members are consequently before the Council in connection with those sections. But if registration is left optional, then the severity of the sentence will exist no longer. If the license is cancelled or revoked, the coolie can still work as an unregistered coolie, and this without any detriment to the employment of coolie labour, inasmuch as employers will know that amongst the unregistered coolies it is likely that there are some who might have been convicted, and if with this knowledge they employ unregistered coolies for smaller wages it is their own look-out, and they must take their chance, and with it the consequences. If the unregistered coolies fail for some reason to get employment, then that failure will only serve to improve the position of the registered coolies and to popularise registration.

In the matter of wages also the working of the Act will be satisfactory. Although there will be a standard for rates, still the matter being open to competition amongst the registered and unregistered coolies, there will be freedom of choice left to both parties.

Whilst, therefore, I generally agree with the Hon. Mover of the Bill as to the necessity for legislation, I submit that, although legislation is justifiable in the form which it takes in the Bill, considering the character of the coolies, still regard being had to other considerations, it would be safe that it should assume the form which I have most humbly ventured to suggest, the same being proportionate to the degree of necessity shown by the Hon. Mover, according to the view which I take of such necessity, and which view I have just had the honour to explain.

The question being put to the vote, the following division was taken:—

Ayes 1.	*Noes* 10.
Hon. Mahomed Yusuf.	Hon. Chunder Madhub Ghose.
	Hon. Harbuns Sahai.
	Hon. Mr. Caithness.
	Hon. Bhudeb Mookerjee.
	Hon. Mr. Allen.
	Col. the Hon. S. T. Trevor.
	Hon. Mr. Macaulay.
	Hon. Mr. Reynolds.
	Hon. Mr. Dampier.
	Hon. the President.

So the motion was negatived, and the section as it stood in the Bill was agreed to.

The Hon. Mahomed Yusuf, on his attention being called by the Hon. Mr. Reynolds to the word "such" in section 9 which served the purpose of his amendment, withdrew the amendment, of which he had given notice, that the following proviso be added to section 9:—"Provided always that no coolie licensed to serve as a porter shall be required to wear his badge when he is not waiting at a depôt or stand in expectation of a job."

The Hon. Harbuns Sahai moved that the following section be substituted for section 10:—

"The Commissioners shall at a meeting, in consultation with chowdhrees or heads of the coolies, determine the rates of hire in respect of all coolies empowered to work by the job or for any period not exceeding 24 hours, and after the said rates have been sanctioned by the Lieutenant-Governor, publish the same in such manner as they think fit. Such rates shall include rates calculated according to distance, as well as rates calculated according to time, and such rates may from time to time be varied in the like manner with the like sanction."

He said that his only object in proposing this amendment was that the coolies should have a voice in the determination of the rates. As the Bill stood, the Municipal Commissioners alone would fix the rates of hire, and they would, without the knowledge and behind the backs of the coolies, fix rates which they would consider fair and proper, and though those rates might be sanctioned by Government, the coolies might have good grounds for objecting to them. What he proposed was that before the rates were fixed by the Commissioners and submitted to Government for sanction, the coolies, or their representatives, should have an opportunity of representing their views, and thus have a voice in the determination of the rates; that was to say, that the rates should be settled in consultation with the coolies. Generally speaking, the Municipal Commissioners would be the representatives of the employers, and would be in a manner one of the parties to the contract, and they might fix rates which might not be satisfactory to the other party. It was to avoid such a contingency that he proposed this amendment.

The Hon. Mr. Macaulay remarked that besides the general objection that the Municipal Commissioners might be trusted to act so as to make the law a success and not a failure, there was the further objection that the amendment left out an important part of the section. The Hon. Member did not propose by his amendment to substitute anything for the fixing of the rates of hire to places situated beyond the limits of the municipality, nor for the publication of the rates fixed in the vernacular languages.

The Hon. Harbuns Sahai explained that that was an oversight. He only intended his motion to be in substitution of the first clause of the section.

The Hon. Mr. Macaulay said that the first portion of his remarks still applied. There could be no doubt that the Commissioners would endeavour to fix the charges at such rates as would be satisfactory to both parties.

The Hon. Chunder Madhub Ghose said he agreed in the amendment proposed, and he thought it was an amendment which should recommend itself to the favourable consideration of the Council. He said that the provi-

sions of the law should be made as liberal as possible, due regard being had to the interests of the coolies. The Municipal Commissioners would be the class of persons who would be the employers of labour, and it was not too much to require that the coolies should have a voice in the determination of the rates at which they should be required to work.

The HON. MAHOMED YUSUF said that the rates ought to be fixed in a manner which would show that a proper endeavour was made to do justice to the coolies. It did not naturally follow that the Commissioners would fix rates that would be unjust, but if everybody did his duty legislation would be unnecessary: too great care could not be shewn how the rate of the cooly labour should be fixed: it was apprehended that there would not be that security for justice if the rates were fixed without any endeavour to ascertain the views of the coolies, and to take into consideration the state of market, the rise and fall of prices of food, and generally all those circumstances on which the determination of wages for labour depends.

The HON. MR. REYNOLDS said that, before the amendment was put to the vote, he should like to ask the Hon. Members, who were better acquainted with the circumstances of the case than he was, whether there were in the stations of Darjeeling and Kurseong recognized chowdhrees or heads of coolies who would be competent to speak on behalf of the coolies, and he would also ask what force was intended to be put on the words "in consultation with chowdhrees or heads of the coolies." Were the words used in the same sense as the words "in consultation with the Commissioners" in the Jute-warehouse Licensing Act, which was intended to mean on the recommendation or with the concurrence of the Commissioners? Was it intended that the rates were not to be fixed without their concurrence, or was it the intention only that the opinion of the coolies should be taken?

The HON. HARBUNS SAHAI said he only intended that the views of the coolies should be ascertained before the rates were determined. The report of the Commissioners would be laid before the Lieutenant-Governor, and he would then be in a position to consider any objections which the coolies might have urged to the rates fixed by the Commissioners, and would be better able to decide what rates were fair.

The HON. MR. DAMPIER thought there was considerable force in what the Hon. Mover of the amendment had urged. No doubt it was a mere sentimental objection practically, because ultimately the decision would rest with the Commissioners, who would probably belong to the employer class; but the fact of the other party having a declared right of being taken into consultation would give satisfaction, and would be a guarantee that their views would receive due consideration from the confirming authority, the Lieutenant-Governor, when sanctioning the adoption of the scale of hire.

HIS HONOR THE PRESIDENT said he heartily sympathised with the object of the amendment, though he did not share the Hon. Member's wish to substitute the words he proposed. It seemed ridiculous in one sense that such persons should be called into consultation as to the rates which they were entitled to receive. It was very much the same as if the cabmen in London were to be

called in to say whether one shilling per mile was a fair rate of hire for cabs, or the palankin-bearers in Calcutta were to be consulted as to the rates of fare which they should be allowed to charge. They would certainly have a high idea of their own importance and insist on high rates. The rates of hire which prevailed in such cases were very well known. But something was required to make it clear that these rates should receive the sanction and confirmation of the Lieutenant-Governor before they were adopted. As the section ran, HIS HONOR did not think that was clear. He believed the Hon. Member in charge of the Bill intended to propose amendments that the rates determined by the Commissioners should not have force until they were sanctioned by the Government and published in the Gazette. There would then be the assurance that the rates proposed would be considered by the Government and its officers. If the rates recommended were either too high or too low, in either case the parties interested would have an opportunity to submit their representations to the Government, which was generally on the spot. He thought all difficulty would be removed by some provision of the description he had mentioned, and he would prefer that to the larger amendment that these people should be called into consultation with the Commissioners; even if that was done, he did not think much would be gained by it.

The HON. HARBUNS SAHAI observed that all that he wished was that the persons concerned should have an opportunity to lay their case before the Municipal Commissioners, and then if they were dissatisfied with the rates fixed by the Commissioners, they should have an opportunity of memorializing the Government before those rates were confirmed.

The HON. MR. MACAULAY said he believed there was not the slightest doubt that the representations of the coolies would be considered before the rates were fixed. Under recent orders of the Government of India, whenever a rule of this sort was intended to be brought into force, the proposed rules would not only have to be published in the *Calcutta Gazette*, but in the local newspapers before they were submitted to Government for confirmation; but he was not sure whether the sirdar coolies were in the habit of reading the *Darjeeling News*. He would move that section 10 of the Bill be amended so as to stand as follows:—

"The Commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may make and publish, in such manner as they think fit, an order specifying the rates of hire in respect of all coolies empowered to work by the job, or for any period not exceeding twenty-four hours. Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied:

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the Commissioners."

The HON. HARBUNS SAHAI then withdrew his motion, and the section as proposed to be amended by MR. MACAULAY was agreed to.

The HON. MAHOMED YUSUF moved the following amendments in section 11, that the word "special" be inserted before "contract" in line 9, and

the words "at any other rate" be substituted for "at a lower rate" in line 10. He said that, as the section at present stood, the contract which it recognised might be said to be one-sided, and bound the coolie to a lower rate than that fixed by law, while it did not bind the employer if he agreed to pay a higher rate. The section did not keep in view such cases as the occurrence of fairs and other occasions when there might be an extraordinary demand for labour. The effect of his amendment would be that in ordinary cases the rates fixed by law would obtain, but that there might be special contracts at higher or lower rates of fare.

The HON. HARBUNS SAHAI said his proposal was to omit the proviso altogether. As the section stood, the coolie would be bound by a contract to accept a lower rate, but the employer would not be bound by any contract by which the rate might be enhanced. That, he thought, was unjust. If an employer was allowed, at times when there was no great demand for labour, to contract for the payment of lower rates of fare, the coolie should similarly be allowed, when there was a great demand, to stipulate for a higher rate of payment. If the proviso was allowed to stand, there might be good ground for the statement that an invidious distinction was made by the law between the employer and the employed. He therefore moved that the proviso be omitted from the section.

The HON. MAHOMED YUSUF remarked that his amendment, being more comprehensive than that proposed by the Hon. Mover to his left (the Hon. Harbuns Sahai), he would first propose his own amendment, and in the event of his losing his amendment, he would vote for that of the Hon. Member.

The HON. MR. REYNOLDS said he was not able to see how the proposal to amend the proviso would meet the object in view, for by substituting for the words "at a lower rate" the words "at any other rate," it would not bind the employer to pay any higher rate that might have been agreed upon; there was no object in merely binding the coolie. The object would only be served by binding the employer.

The HON. CHUNDER MADHUB GHOSE said he agreed with the amendment of the Hon. Mahomed Yusuf; he only wished to suggest to him whether he did not intend that both parties should be bound by the contract. He would put a case which would show the necessity for this amendment. Suppose a coolie was very much fatigued after a hard day's labour, and a gentleman urgently required the man's services, and offered to pay him at a higher rate if he would do the work required, and the coolie agreed to do it, being persuaded by the temptation of a good remuneration. Would it be fair that the parties should not be bound by a contract of that kind? Although it might be the intention of the Act that ordinarily the rates fixed should be binding on both parties, yet, if under exceptional circumstances a special agreement was made, such an agreement ought to have full effect. If the proviso was omitted altogether, it might perhaps serve this purpose, but the matter would be left in some ambiguity, and he would therefore suggest that the amendment proposed be made.

The Hon. Mahomed Yusuf explained that his object in moving the amendment was this: there being a table of rates, according to the provisions of the Bill, in the absence of any contract to the contrary, those rates should be understood to have been agreed upon between the parties; but the parties should be left open to stipulate for and agree upon any other rate, different from the rates shown in the table. He certainly meant to bind down both the parties to the "other rate" proposed by him.

The Hon. Mr. Dampier said, as he understood it, under the Bill as it stood a coolie could contract himself out of the Act if he wished to do so, but unless a clause which would be the complement of the present proviso were introduced, the proviso would imply that the employer of a coolie could not do so. Supposing for instance that an employer held out a higher fare as an inducement to the coolies to carry him quickly, was he to be allowed to repudiate the promise as being illegal? As the Bill stood, was it not the case that the employer would not be bound by such a promise? He would suggest the following amendment of the proviso as being better calculated to carry out the intention of the Hon. Mover of the first amendment. "Provided that nothing in the Act contained should prevent any employer or coolie from being bound by any contract into which he may have entered to make or receive payment at any other rate than that fixed by the Act." He desired the same measure for both parties.

The Hon. Mahomed Yusuf said that the amendment in the words suggested by the Hon. Member opposite (the Hon. Mr. Dampier) so clearly and unmistakeably expressed the object he had in view, that he felt himself considerably obliged to him for his suggestion, which he readily adopted in the place of his own amendment in the words originally proposed by him.

Colonel the Hon. S. T. Trevor said he would be prepared to vote for the proviso as it stood in the Bill. When work was slack, and there was much competition, coolies generally offered to accept lower rates, and it should be open to employers to engage coolies who thus offered their services at lower rates, and such an agreement should be binding. It was optional with employers to engage coolies, and it might often happen that an engagement would not have been made except for the lower rate offered. But it was not optional with coolies to accept employment at the legal rates. There was nothing to prevent any employer from paying at higher than the legal rates if he pleased, but no contract to do so should be held to be valid, for if it were the Act would be useless.

The Hon. Mr. Allen thought the effect of the amendment would be simply to render the Act useless.

The Hon. Mr. Macaulay said it appeared to him that there were three courses open to the Council. One was to alter the section as proposed, another to leave the section as it stood, and the other to omit the proviso altogether. The proviso to the section had been taken from an Act of this Council which had been in force for the last nineteen years, and had worked satisfactorily. If the proviso was amended as proposed, the effect would be, as had just been stated, to render the Act useless; and if the proviso was omitted, then a coolie after agreeing to work at a lower rate of hire could refuse to be bound by it.

The proviso as proposed to be amended was then put to the vote and negatived.

The HON. HARBUNS SAHAI's motion to omit the proviso was then put to the vote, and the following division was taken :—

Ayes 5.	*Noes* 6.
Hon. Chunder Madhub Ghose.	Hon. Mr. Caithness.
Hon. Harbuns Sahai.	Hon. Bhudeb Mookerjee.
Hon. Mahomed Yusuf.	Hon. Mr. Allen.
Hon. Mr. Dampier.	Col. the Hon. S. T. Trevor.
Hon. the President.	Hon. Mr. Macaulay.
	Hon. Mr. Reynolds.

So the motion was negatived.

The section was then agreed to as it stood in the Bill.

The HON. HARBUNS SAHAI moved the substitution of the following section for section 12 :—

"Any coolie engaged as a monthly servant, or for some other fixed period of time exceeding twenty-four hours, who shall be proved to the satisfaction of a Magistrate to have deserted from such employment without reasonable cause during the period of his engagement, or to have wrongfully prevented or endeavoured to prevent any other coolie from accepting employment, shall be liable to a penalty not exceeding Rs. 10."

His objection to allow the license of a coolie who was registered as a monthly servant to be withdrawn or suspended by the Chairman of the Commissioners was that that officer could not hold a judicial enquiry, and the offences committed under the section could not be said to be established by legal evidence. He thought the offence committed by the coolie should be established before a Magistrate in a regular judicial proceeding. Another object of his amendment was to omit the offence of "gross misconduct;" the words were undefined and vague, and might be interpreted in different ways by different officers. Anything might be construed into "gross misconduct," and the law might be worked to the great injury of the coolie. The third point in the amendment was that the punishment under this section was too severe, and should be limited to the inflicting of a fine; the total withdrawal of the license might mean starvation to the coolie and his family for the remainder of the year. He proposed that a milder punishment be substituted for the withdrawal or suspension of the license provided by the Bill.

The HON. CHUNDER MADHUB GHOSE said it would not be necessary for him to move the amendments of which he had given notice, if the motion before the Council was carried. The Hon. Member simply proposed a fine of Rs. 10, but he did not say what consequences should ensue if the fine was not paid. BABOO CHUNDER MADHUB GHOSE therefore suggested the addition to the section of the words "or in default of payment of the fine, to the suspension of his license for a period not exceeding one month." He agreed that it was proper that the decision of such cases should rest not with the Chairman of the Commissioners, an executive officer, but with the Magistrate before whom the coolie would have the security of a judicial investigation, and he would be able to prefer an appeal

to the appellate authority of the district, and in special cases to bring up his case even to the High Court.

The Hon. Mahomed Yusuf thought he could not support the amendment in so far as the same proposed to omit the particular clause of the section which makes the coolie liable to punishment in case he has been found guilty of "gross misconduct." The effect of this omission would be to leave unprovided the very thing which it was of the utmost importance that the Bill should provide, viz., the punishment of the coolie for insolence and misconduct. As for the objection of vagueness, to which it was said the word "misconduct" was open, he thought that there would be no serious difficulty on account of that, because most people had a pretty clear and accurate notion of what constituted misconduct in a menial or other like servant in the ordinary modes of private life, and he thought the coolie under the Act would not have to complain of being placed under discipline, unwarrantably severe, if he were required at the pain of certain penalties not to be guilty of "gross misconduct" during the period of his service. If the coolie could be induced to conform himself, in lieu of suitable and adequate remuneration, to a faithful course of conduct, then everybody would be satisfied. Except so far as it related to this matter, he would support the amendment, that is to say, he would support it in so far as the same would make the coolie triable by the Magistrate instead of the Chairman, and substitute a sentence of fine for that of the revocation or suspension of the license.

The Hon. Mr. Macaulay would ask the Council to consider the effect, in a case where a fine of Rs. 10 might be imposed, of suspending the coolie's license for one month in default of payment of the fine, when the wages of the coolie for that period amounted to Rs. 9. It would therefore not be to the interest of the coolie to pay the fine, when he could wipe it off by a month's idleness. As the section stood in the Bill, the license could be suspended for one month, or for such longer period that the Magistrate might think fit. The next objection which had been taken was that the Chairman of the Commissioners should not be allowed to adjudicate in such cases, but that the case should be heard by a Magistrate. The Select Committee deliberately made the alteration, because they considered that such a case should not be brought before a Magistrate. It was not a criminal trial; it was in the nature of an executive order. If the license was suspended under this section, there was nothing to prevent the coolie during the time of such suspension to take out a license as a daily labourer, and furthermore, the Chairman being the head of the municipality would be the best judge in a matter which affected municipal administration and the convenience of the public. As to what was "gross misconduct" on the part of a monthly servant, the Chairman would be the proper person to decide. The object was to ensure some sort of guarantee that the services which the coolie engaged to perform should be fairly rendered. It was not intended to harry the coolie or to send him to jail; but at the same time they should not be permitted to desert their work, or use insulting or abusive language, or be guilty of any other act of gross misconduct.

The HON. MR. DAMPIER directed the attention of the Hon. Mover of the Bill to the inequality of the punishment of withdrawal of the license which might result in different cases. Suppose an offence were committed under this section in December, when there would be only one month to run of the license, the maximum punishment which the Chairman could inflict would be withdrawal of the license for one month; but if a similar offence were committed, and the license withdrawn in January, eleven months must elapse before the coolie would get a fresh license, and the withdrawal here would be a very severe punishment. MR. DAMPIER would therefore suggest the substitution for the words "withdrawn or suspended for such period as the Chairman may direct" of the words "suspended for any period not exceeding three months," as mitigating the objection which he had made, although no doubt it could not be altogether removed.

COLONEL THE HON. S. T. TREVOR said he would vote for the section as it stood in the Bill. A great deal had been said about the excessive punishment that would result from the withdrawal of a license. He thought there was no great danger of the punishment operating very harshly. A coolie who might forfeit his license as being unfit to work as a monthly servant could still find employment in the Public Works Department or in the plantations round about. It would not be at all necessary for him to starve.

The HON. MR. MACAULAY regretted he was not able to agree to the motion of the HON. HARBUNS SAHAI. He did not think the coolies would suffer from the want of a definition of "gross misconduct." Everybody had a notion of what gross misconduct was in a coolie, and it was not necessary to apply any other rule of judgment.

The HON. MR. ALLEN said that he proposed to vote for the section as it stood. He entirely dissented from the idea that all relations between employer and labourer could only be settled by judicial enquiries. If there was any one thing which a person should endeavour to avoid in such transactions in this country it was to call for a judicial enquiry. It practically secured to servants impunity for any misconduct, as the master in most cases would not take the trouble of complaining to a Magistrate to be worried by attendance in court, and be browbeaten and cross-examined in giving his evidence, for he would prefer putting up with any amount of misconduct to standing such annoyance. Therefore it practically amounted to this, that, if servants were to continue to act as servants did act until a judicial enquiry convicted them, it practically meant that the most unfit persons should continue to act as servants. The object of the section as it stood was not to punish servants, but to protect innocent visitors to Darjeeling from being afflicted with annoyances from which they at present suffered. The only mode in which the section proposed to secure this aim was that, if a man shewed himself unfit to be a servant by his gross misconduct (his master would certainly dismiss him), no future master should be deceived and taken in by his holding a license as a monthly servant. Therefore it was deliberately intended that the withdrawal or suspension of the license should not be by a judicial enquiry, and that the Chairman of the Commissioners should not be tied down by the Evidence Act,

but would use his common sense as an ordinary man in the ordinary transactions of life on being satisfied that the individual brought before him was guilty of gross misconduct in the discharge of his duty as a servant, without the master being exposed to the annoyance of being browbeaten or subjected to any of the other torments to which a person was liable in the course of a judicial enquiry. It was intended that if the Chairman was satisfied that the man was unfit to act as a servant on account of his gross misconduct, he should withhold the license, and thus protect other visitors to Darjeeling from employing such a man. It was not intended to inflict any penalties upon servants, but simply to secure others from similar annoyances.

His Honor the President said that he would support the section as it stood. If it was a case in which fine and imprisonment were involved, he thought there would be some justification for a judicial enquiry. But the utmost penalty was the withdrawal or suspension of the license under which a coolie worked as a monthly servant. The severity of the punishment would be mitigated by limiting the suspension of the license to three months, and it was also met by the statement that the operation of the Bill was limited to the stations of Darjeeling and Kurseong. If these Lepcha hill coolies, who came into Darjeeling for work, were found guilty of gross misconduct, such as would justify a withdrawal of the license, they could go back to their villages and their cultivation, or they could easily find work outside the municipality. The argument as to the severity of the sentence was no argument against the Bill, as there was no penalty of fine or imprisonment, and he thought that the disposal of a matter of this kind was much better left in the hands of the Chairman of the Commissioners.

The Hon. Harbuns Sahai's motion was put to the vote and negatived.

The Hon. Mr. Dampier's amendment was also put to the vote and negatived.

The section as it stood in the Bill was then agreed to.

The Hon. Chunder Madhub Ghose withdrew the amendment of which he had given notice, that in section 13 the words "shall be liable to a fine not exceeding five rupees, or in default of payment to imprisonment not exceeding fifteen days," be substituted for the last paragraph of section 13.

The Hon. Mahomed Yusuf moved that the words "limits of coolie depôts or stands" be substituted for the words "limits of such municipality" in line 6 of section 13. He said that the section as it stood would justify a person in asking a coolie to accept hire, whether he was on a depôt stand or in any other place, even if he was asleep at his house at night; because he could not refuse to accept hire within the limits of the municipality at the rates fixed. The object of the amendment was to make it incumbent on the coolie to accept hire only when he was prepared to do so and was at the depôt stand for the purpose, and not when he was in his own house or at any other place not ready for hire. He thought the words "without reasonable excuse" in the section would not meet the purpose of his amendment, because what might be considered a reasonable excuse by one man might not be so considered by another. Even under the Hackney Carriage Act in Calcutta he did not think a carriage-driver or the plankeen-bearers could be compelled to

accept a fare unless at a regular stand. This Bill therefore should not be so extended as to compel a coolie to accept service except when he was at a stand waiting for work.

The HON. MR. MACAULAY said he thought the wording of the section was sufficient to cover the case of a man who was asleep at night in his own house, and he would therefore oppose the amendment. But he observed that the words "within the limits of such municipality" in this section had been left in by mistake. The object was to enable the Commissioners to fix rates of hire for certain places outside the limits of the municipality as well as within it. Those words should therefore be left out, and if a coolie refused to carry a load to any of the places to which he had referred, he should be equally liable to punishment as in the case of refusal to accept a job within the limits of the municipality. He therefore moved that the words "within the limits of such municipality" be omitted from the section.

The HON. MAHOMED YUSUF's amendment was put to the vote and negatived, and the HON. MR. MACAULAY's amendment was agreed to.

The section as amended was then agreed to.

The HON. MAHOMED YUSUF withdrew the motion of which he had given notice, that the words "any coolie who shall work as such without being duly registered and licensed and" in section 14 be omitted, inasmuch as the same went along with his amendment relating to section 5, which he had lost.

The HON. MR. MACAULAY moved to omit from section 16 the words "under the authority obtained as prescribed by section twenty-three of this Act." The words were by oversight retained from the original draft of the Bill, and had reference to a section which did not now exist.

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

The HON. CHUNDER MADHUB GHOSE moved that the words "without reasonable cause" be inserted after the words "fail" in line 8 of section 19. He thought that if the coolie could satisfy the Magistrate that he was really unable to produce his license, a fine ought not to be imposed; it should be left to the discretion of the Magistrate to decide whether or not reasonable cause was shewn.

The HON. MR. MACAULAY asked if it was necessary to legislate on the assumption that every Magistrate was a Jeffreys. The words in the section were "shall be liable" to fine. No Magistrate would punish a man if he could show that he had lost his license.

HIS HONOR THE PRESIDENT observed that if the introduction of the words proposed would, in the opinion of hon. members, afford any security to the coolie, he had no objection to the amendment; they appeared to him to be harmless.

The motion was then put and the following division was taken:—

Ayes 6.	*Noes* 5.
Hon. Chunder Madhub Ghose.	Hon. Mr. Caithness.
Hon. Harbuns Sahai.	Hon. Mr. Allen.
Hon. Mahomed Yusuf.	Col. the Hon. S. T. Trevor.
Hon. Bhudeb Mookerjee.	Hon. Mr. Macaulay.
Hon. Mr. Dampier.	Hon. Mr. Reynolds.
His Honor the President.	

So the motion was carried and the section as amended was agreed to.

The Hon. Chunder Madhub Ghose moved the omission of section 20. He said that he made this motion with some diffidence. On reading the Bill through, it occurred to him that sufficient penalties were provided in the Act for the infringement or violation by the coolies of its several provisions. From section 12 to section 19 every section provided a penalty for the offences specified therein. But in addition to all those penalties, under section 20 the Magistrate might after conviction order the coolie's license to be revoked, and that penalty might follow not only after a conviction for any offence under this Act, but also after conviction of an offence under any other law in force. Suppose a coolie assaulted another coolie and was punished by a small fine, or was sent to jail for a week, then, under a strict interpretation of section 20, his license would be liable to be revoked or suspended. Baboo Chunder Madhub Ghose would put it to the Council whether the coolie should be left so far at the mercy of the Magistrate.

The Hon. Mr. Macaulay said the hon. member lost sight of the fact that the intention of the law was not to harass the coolie, but to protect other persons from similar annoyances. If a coolie was a rowdy coolie, and was constantly creating a disturbance and giving annoyance, it was desirable that such a coolie should be deprived of his license.

The Hon. Mahomed Yusuf supported the amendment. He had an amendment in the same section, and he agreed with the hon. member that punishments having been provided for specific offences in other sections of the Bill, there was no necessity for a general section authorizing the permanent revocation of a coolie's license after conviction for any of those offences, and the case was stronger when the suspension or revocation of the license might take place after conviction for an offence under some other Act which might not affect the coolie in his capacity as a porter, and might not disqualify him as such at all. He submitted that this section should be omitted, but if that motion was not carried, then he would move to omit the word "whether" in line 4, and in lines 4, 5, 6, and 7 to substitute the words "to suspend the license of such coolie" for "or under any other law in force to revoke the license of such coolie or to suspend the same." The coolies, he had been informed, were notorious for their drinking propensities, and any conviction for being drunk and incapable, although not while in the employment of their calling, might make them forfeit their license, and that would tell with too great hardship on the life of the coolie, who might thereby be reduced to starvation.

The Hon. Chunder Madhub Ghose's motion to omit section 20 was then put to the vote and negatived.

The Hon. Mahomed Yusuf's amendment was also put to the vote and negatived.

The section as it stood in the Bill was then agreed to.

The Hon. Mahomed Yusuf moved the following amendments in section 21:—To insert the words "or neglect" after "refuse" in line 1; and the words "immediately after his completing his work or job" after "such

coolie" in line 3. He said that, if some such words were not inserted, the payment of the coolies might be put off to suit the convenience of the employer, as it was well known was done in Calcutta in the case of hackney carriages and palankeens. As long as the coolie was willing to accommodate the employer no harm would result, but the law should provide that payment should be made immediately after the work was done, and that would be done by the amendment he proposed.

The HON. MR. MACAULAY observed that this section was taken from a corresponding section in the Calcutta Act for the regulation of hackney carriages and palankeens which had been found to work extremely well; he did not see that there was any necessity to amend it.

The HON. CHUNDER MADHUB GHOSE remarked that, as reference had been made to the Hackney Carriage Act, he might mention that there was a section in that Act which provided a penalty on the employer for not paying the money due in proper time.

The motion was put to the vote and negatived.

The section as it stood in the Bill was then agreed to.

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

The HON. CHUNDER MADHUB GHOSE said that he did not think he should be doing his duty to the Council if he were not to express his sentiments as regards the principle upon which this Bill had been founded. He had proposed certain amendments, but he thought the time had now come when he should express his real sentiments in regard to the Bill itself. When the Bill was first introduced, he had no doubt that the question as to the advisability or otherwise of such a law being passed was fully discussed by the members who then formed the Council, and he thought that the arguments for and against the Bill were fully present in the minds of the hon. members. He did not think, therefore, that he should be justified in trespassing on the valuable time of the Council by any lengthy remarks at that stage of the Bill. He simply asked leave to say that he dissented from the principle on which the measure was founded. His own honest belief was that the Bill was entirely uncalled for, and he would state very shortly the reasons on which his opinion was based, and they were as follows:—1*st*, that the price of labour ought to be left to be regulated by the law of demand and supply, and not by any strict and inviolable rule, and that restrictions like those now sought to be imposed on the freedom of action of the coolies were improper; 2*nd*, that no sufficient grounds had been disclosed or made out why a special law was required for the coolies of Darjeeling and Kurseong when, if he was correctly informed, there was no such law in any other place or hill station in India; 3*rd*, that although it might be perfectly correct that inconvenience was at present felt by employers by reason of the exorbitant demands of the coolies, and so forth, the law, as proposed, when passed, was likely to work with very great hardship upon the coolies; 4*th*, that the coolies of Darjeeling and Kurseong were too ignorant to be able to observe the law now sought to be passed; and *lastly*, that such a law was opposed to the liberal policy of the present Government.

The Hon. Harbuns Sahai said he also begged to vote against the motion. He fully agreed with the arguments and objections which had been adduced by the Hon. Member who preceded him, and he wished only to add that in his opinion the Bill would interfere unduly with the freedom of action of the coolies.

The Hon. Mahomed Yusuf said—When this Bill was last before the Council on the motion of the Hon. Mover to refer the same to a Select Committee, I had the honour to express an opinion in support of the principle of the Bill. No member of the Council, as it was then constituted, being of a different opinion, there was no discussion on the subject at any length. The suggestions which were then made by the members who spoke assumed that the principle of registering the coolies was right, and it was left to the Select Committee to see how that principle was to be carried out, regard being had to the suggestions that were made in Council.

Since its first introduction it has been doubted whether the Bill is based on a sound principle. I therefore desire, with the permission of the Council, to explain the reasons which led me to support the principle involved in the Bill.

I venture to think that the principle upon which the Bill is based is a correct one, being analogous to that which is the basis for the registration of palankeens and hackney carriages, for which we have an Act of the Supreme Council, viz. Act XIV of 1879, and also an Act of this Concil, viz. Act V of 1866.

The proceedings of the Imperial Council, when the Act of 1879 was under consideration, do not contain anything of importance which I could with advantage place before the Council; but the proceedings of this Council of 1862 contain the record of a very important debate when the Act repealed by the subsequent Act of 1866 was under consideration. In April 1862 the late Baboo Prosunno Coomar Tagore thus expressed himself on the Bill relating to conveyances and palankeens then before the Council:—

"Baboo Prosunno Coomar Tagore did not wish to oppose the introduction of the Bill, but would offer two or three suggestions for the consideration of the Select Committee who would be entrusted with the revision of the Bill. Section 11 provided that the fares should be fixed by a Government officer, but that was most objectionable in principle. He for one was not disposed to entrust any such power to the executive authorities. By section 15 the owners of registered carriages were compelled to let them out when required to do so by any person, so that they would be obliged to trust to any unknown person under a penalty; whereas, if any person refused to pay an owner, he would be compelled to go before a Magistrate to recover the fare. This was a great hardship, and there ought to be some better provision for the protection of the owners of carriages let out for hire. The theory of political economy was that every man should be left to follow his profession without interference from the Government authorities, and should be allowed to charge whatever he thought proper for his labour, and that the demand regulated the fare. But Government interference for the greatest good of the greatest number sometimes became necessary; and this was one of the cases for interference. He did not see any reason for not including in the Bill the regulation of carts and boats. They were often a source of annoyance and inconvenience to such of the public as required to hire them. There was already an Act for licensing boats and fixing the number of passengers, *and why should not all sorts of boats, whether for the conveyance of goods or passengers, be subject to regulation?*

"The principle was the same. That observation was equally applicable to carts. For instance, the loads to be put upon them should be fixed so as to prevent the cattle by which they were drawn from being ill-used, as was daily the case in this city. *Whilst on this subject, members should not forget the coolies or porters of whom there were so many thousands coming to this city for employment, and who were often tempted to walk away with the property entrusted to them. How often had members heard of a sircar being followed by a coolie with a bag of money on his head, and the sircar, on turning back, perceiving that the coolie had walked off with the bag. In such cases, generally, it is impossible to identify the man to whom the stolen property had been entrusted. Were coolies to be registered and distinguished by badges with numbers on them, runaways would be easily detected.*

"All these were matters connected with the general question of public conveyance and were the subject of legislation elsewhere. They might be properly included in the Bill before the Council for consolidation of laws on similar subjects was the order of the day." * * *

Now Baboo Prosunno Coomar Tagore was a gentleman of high culture and sound education, of whose talents and abilities no one can entertain the slightest doubt. The Privy Council in their judgments have taken occasion to bestow compliments on him, speaking of him as of "that eminent lawyer, the late Baboo Prosunno Coomar Tagore." Of his sound judgment and strong common sense there could therefore be no doubt. His words in the quotation which I have emphasised apply exactly, if not with greater force, to the Bill under the consideration of this Council. It must also be remembered that the Bill under consideration in 1862 related to the registration of hackney carriages and palankeens only; but Baboo Prosunno Coomar Tagore thought it proper that it should have a wider range, and might also include the registration of coolies, and that, be it observed, for the capital of India itself. A presumption therefore arises that the registration of coolies generally, and of those at Darjeeling and Kurseong particularly, is not based on a mistaken or outrageous principle.

But the world is improving with a rapid pace, and a period of more than 20 years has elapsed since Baboo Prosunno Coomar Tagore so expressed himself, and it might be that in the interval more light has been thrown on questions of political economy, and what Baboo Prosunno Coomar Tagore in 1862 supposed to be correct even for Calcutta might now be thought for others better qualified to think to be a mistake even for hill-stations.

I beg leave to say that I agree with Baboo Prosunno Coomar Tagore, and think that any legislative measure, the object of which is the registration of coolies in this part of the country, is justified by principle, being warranted by the urgency of the occasion, *taking into consideration the character of the persons who generally offer themselves for employment as coolies.*

The principal question involved in the case is the extent to which the authoritative intervention of the optional functions of a civilised Government should go, and this question, when applied to the subject under present consideration, resolves itself into two questions—one of law and the other of fact. The question of law is whether the subject-matter of the Bill is one that according to sound principles of legislation, a civilised Government ought to interfere with, or, in other words, whether this is a department of human

affairs to which legislative interference should extend, that is to say, whether this is a matter in regard to which the free agency of individuals is to be controlled to a certain extent by the Legislature. The question of fact is whether, at the places for which the Bill is intended, there is sufficient evidence of such a state of things as to render legislation a matter of absolute necessity.

Now it would be out of place and a presumptuous attempt on my part to enter into the considerations of the questions of law, those questions themselves sufficiently indicating the line of legislation, and the turning point in the case will be the answer to the question of fact. I therefore pass over the questions of law and come to the question whether any necessity exists for the measure, and if so, whether the necessity is of such a character as to call for a legislative enactment.

Now in addition to what was contained in the Statement of Objects and Reasons, the Hon. Mover said as follows when introducing the Bill into the Council:—

"The necessity for legislation immediately arose in Darjeeling. That some enactment was urgently required for the protection of the public was obvious to any one who had had experience of Darjeeling in recent years, and it was probably well known to all whose friends had visited the station, or who had given any attention to the complaints of travellers in the public prints; and it would therefore be unnecessary for him to trespass at any great length on the indulgence of the Council. The rapacity and insolence of the coolies, and particularly the *dandymen*, of Darjeeling, had in fact reached such a point as to form a serious menace to the popularity and prosperity of the only sanitarium in this province. Even permanent residents experienced considerable difficulty in dealing with these men on reasonable terms, but visitors were absolutely at their mercy. The most extortionate rates were charged, and the service rendered in return was performed as a favour rather than as a duty. Expostulation regarding absence from work, idleness or turbulent demeanour only evoked insult, and any attempt to assert the ordinary rights of the employer resulted in the wholesale desertion of the men, who prevented others from taking their place Since the last meeting of the Council he had received a letter on the subject from Lord Ulick Browne, the Commissioner of the Division, than whom no one took a livelier interest in all that concerned the comfort and pleasure of visitors to Darjeeling. Lord Ulick Browne wrote:—"The complaints during last season, and especially of ladies without male relatives, were worse than ever." In fact these men proceeded on the principle that the visitor's necessity was the *dandyman's* opportunity. He had himself witnessed a case in which an invalid, too ill to walk or ride, on the point of starting to take some fresh air, was informed by the *dandymen* that they declined to carry him a few hundred yards unless they were paid double the already extortionate rate paid the day before for the same service. Nor did these men make any invidious distinctions of race. He had been much impressed upon one occasion by seeing a native gentleman, who, though of spare and muscular form, was averse to pedestrian exercise, being carried round the station by five robust *dandymen*. And this was no idle exhibition of state, for the victim had complained bitterly of the various impositions to which he had been subjected. Visitors to Darjeeling declared that it would be a perfect place, but for the rain, the leeches, and the *dandymen*."

It appears to me that what is contained in the above statement is quite sufficient to make out such necessity as would justify the Bill upon sound and civilized principles of legislation. Of course different persons will come to different conclusions upon questions of fact. Every one will arrive at a conclusion in accordance with his own experience in life and his own mode of

thinking. What will satisfy one may not satisfy another. But in order that the opinion might be practically worth anything, it should at least not be that of a mere theorist. People who have not had occasion to resort to coolie labour, or to something similar to that, may not be satisfied by what has been shewn to the Council of the necessity of the measure. But their opinions, although entitled to much weight in other matters, would be of no appreciable value for the present purpose.

Regard being had to what I have known of persons of a similar class as the coolies at other places, I am satisfied on the materials placed before the Council of the absolute necessity of a measure such as the one under the consideration of the Council.

I do not know what else should be shewn to the Council to justify the measure. The matter does not admit of mathematical demonstration or of statistical proof.

Before I sit down I must refer for a moment to a document which cannot be passed unnoticed on the present occasion, viz. the letter of the British Indian Association on the subject in question. I must confess that I do not find anything in that letter calculated to affect the opinion which I first expressed in the Council. Notwithstanding the arguments which have been advanced in that letter, I see no reason to alter my opinion on the Bill; and indeed after the letter has been examined what does it come to. It contains a great deal that is rather calculated to cheat the fancy and please the imagination than to appeal to reason and common sense. It indulges in vague generalities and makes copious use of expressions which sound very well to the ear. It talks of "the impressment of labour;" "the privileges of the Queen's loyal subjects;" "the helplessness of the coolie;" "his humble calling;" "the embargo on free labour;" &c., &c., and characterises the Bill as "unjust," "unfair," and "demoralizing," having for its object the "ostracism" of the coolie.

I am glad I am not knowingly abetting the initiation of a measure of the character described in the letter. The strong expressions used in the letter do not therefore affect my views.

The sting or the gist of the remonstrance contained in the letter is to be found in the following words:—"But if the well-to-do and powerful, who are in authority, or have influence over those in authority, be favoured with law to enforce the labour of the less fortunate, such legislation cannot but be regarded as unjust, unfair, and demoralizing." To my mind the fallacy of the argument contained in this passage is apparent, and that fallacy vitiates the whole of the letter which is otherwise a learned production.

It appears to me that in dealing with a measure of the kind under consideration you should rather look to the character, habits, and disposition of the coolies, *the persons employed than to the class of persons employing them.* If the coolies misconduct themselves at all, I would with as little hesitation vote for a law intended to relieve those not in power, as for the present Bill, that is to say, assuming that the Bill is only intended for the benefit of those in power. But I have no reason to think that the Lepchas make any distinction of class or creed. I think they are impartial in their misbehaviour, and their

misconduct is accompanied with the same ease of conscience in the case of a European Secretary as in that of a private Indian gentleman.

The letter, it is remarkable, admits that the coolies do misconduct themselves, for it says "the Committee do not for a moment doubt that complaints do exist as set forth in the Statement of Objects and Reasons." But still according to it no sufficient reason exists for legislative interference in consequence of the indefinite character of the complaints, and the indefinite body of persons who are affected by it.

But it appears to me that the complaints made are of so serious a nature, and disclose the existence of such a state of things, that absolute necessity is most completely made out, and that the Bill is strictly a justifiable measure according to highest authorities in such matters.

There is one matter, however, which I must explain, viz. the bearing of my amendment relating to section 5 of the Bill, upon the motion now before the Council. Notwithstanding that I have lost the amendment, which I may be allowed to observe has not had the support even of those hon. members who have just voted against the Bill, although they themselves had brought forward certain amendments of their own, I still vote in favour of the Bill. I am, however, bound to state that if the registration of coolies had been left optional, which would have been done if my amendment had been carried out, then I would have been perfectly satisfied with the Bill. Similarly, I would have been still more satisfied if the other amendments submitted by me (at least some of them, if not all) had found favour with the Council. These amendments, the Council will be pleased to observe, comprised matters relating to the four points to which I drew the attention of the Council when the Bill was referred to the Select Committee, and these points have received at the hands of that Committee such consideration as that Committee thought them deserving of.

But regard being had to the circumstance that other branches of industry are amply open to the coolies at Darjeeling and Kurseong, I do not suppose that the provisions of the Bill would operate with any very great degree of hardship on the coolie; and there being absolute necessity for the measure arising from a consideration of the general character of the coolies, I do not see any reason for withholding my vote from the Bill in consequence of what has transpired in the Council to-day.

The motion was then put, and the following division was taken:—

Ayes 9.	*Noes* 2.
Hon. Mahomed Yusuf.	Hon. Chunder Madhub Ghose.
Hon. Mr. Caithness.	Hon. Harbuns Sahai.
Hon. Bhudeb Mookerjee.	
Hon. Mr. Allen.	
Col. the Hon. S. T. Trevor.	
Hon. Mr. Macaulay.	
Hon. Mr. Reynolds.	
Hon. Mr. Dampier.	
His Honor the President.	

So the motion was carried and the Bill was then passed.

The Hon. Mahomed Yusuf.

CONSTRUCTION AND MAINTENANCE OF TRAMWAYS.

COLONEL THE HON. S. T. TREVOR moved that the report of the Select Committee on the Bill to authorize the making and to regulate the working of Tramways in Bengal be taken into consideration in order to the settlement of the clauses of the Bill. He said :—"It may be in the recollection of the Council that, in presenting the report of the Select Committee on this Bill on the 17th February last, I mentioned that it was necessary under the standing orders of the Legislative Department to submit the Bill to the Government of India for approval of the penal clauses which are contained in it before proceeding further with the Bill. This was done, and I had hoped we should have received the reply of the Government of India before this. But though we have not received the reply as yet, I have ventured, with the permission of His Honor the President, to bring forward the Bill for final settlement to-day, as this is the last opportunity I shall have of doing so in the present session of the Council. The penal clauses of the Bill are, as I mentioned before, identical with those of the Calcutta Tramways Act, which again have been adopted in the Kurrachee Tramways Act. They have thus already twice received the sanction of the Government of India, and there is no reason to anticipate that any objection will be made to them. It would be unfortunate if the Bill were postponed to next session, for that might be detrimental to the progress of some tramway schemes which are being promoted, and the further prosecution of which is dependent on the passing of the Bill. I drew the attention of the Council to the principal changes which were made in the Bill by the Select Committee when I presented the report, and I will not therefore detain the Council by any further remarks now. I beg to move that the report be taken into consideration in order to the settlement of the clauses of the Bill."

The motion was put and agreed to.

COLONEL TREVOR also moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

The HON. MAHOMED YUSUF moved that the words "a fortnight" be substituted for "two calendar months" in line 3 of the proviso marked "fourth" in section 15. He thought two months was too long a period to allow for the construction of a quarter of a mile of tramway, having regard to the amount of work to be done, and he submitted that a fortnight was sufficient for the purpose.

COLONEL THE HON. S. T. TREVOR said he was not prepared to accept the amendment. He thought two months was not too much. The first draft of the Bill fixed six weeks as the period to be allowed, and it was pointed out that that was not sufficient for the purpose, and the Select Committee altered it to two months. The roads had often to be altered and bridges to be strengthened, and it might be quite as much work to be done as could be got through in two months. He therefore thought the words two calendar months ought to be allowed to stand.

The motion was then put and negatived, and the section as it stood in the Bill was agreed to.

The HON. MAHOMED YUSUF moved that in section 28 the word "framed" be substituted for "made" in line 1, and that the words "for the information of the public and after a period of two months they shall be revised and approved by the Government and published in the *Calcutta Gazette*," be inserted after the words "*Calcutta Gazette*" in line 4. He thought it was necessary that the public should be allowed an opportunity to consider the proposed rules before they were finally passed.

COLONEL the HON. S. T. TREVOR said that on receiving notice of this amendment his attention was drawn to the resolution of the Government of India on the subject of the publication of bye-laws for at least a month before they came into force. He was therefore willing to accept the principle of the amendment, and proposed to amend the section in the following manner, and he believed his honourable friend would raise no objection to the alteration in the wording which was proposed :—

"All rules and bye-laws made under sections 13, 26, and 27, and confirmed by the local Government, shall, when so confirmed, be published in the *Calcutta Gazette*, and such rules and bye-laws, when so published, shall, until repealed or altered, be of the same effect as if they had been inserted in this Act :—Provided that no rules and bye-laws shall be confirmed until they shall have been published for at least one month previously in the *Calcutta Gazette* and in one or more of the local newspapers (if any exist), which circulate in the district to which such rules and bye-laws relate."

The HON. MAHOMED YUSUF withdrew his motion in favour of COLONEL TREVOR'S amendment.

COLONEL TREVOR'S motion was put and agreed to, and the section as amended was passed.

The HON. MAHOMED YUSUF moved that in section 38 the words "except for national religious processions in connection with holidays on which Government offices are closed" be inserted after the word "section" in line 3 of the clause marked "4th." The object of this amendment, he said, was that the people should not have to pay when the running of the tramway was stopped for national religious processions. His attention was drawn to the scope of section 38, which, it was said, did not cover cases of this kind, and he was told that the proper section for the amendment was section 37. He did not object to the insertion of the words in the proper section, so long as what was contemplated in the amendment was provided for in the Bill.

COLONEL the HON. S. T. TREVOR said he was not prepared to accept the amendment. Section 38 applied to cases where the local authority had work to do on roads occupied by tramways, such as laying down pipes, &c., and had nothing to do with the stoppage of traffic for any other purpose except the work to be done. The regulation of traffic for police purposes was provided for in section 37, and that section was ample to cover all necessary powers for the purpose to which the amendment referred. The police might regulate processions, and so on, without paying compensation.

The motion was then put and negatived, and the section as it stood in the Bill was agreed to.

COLONEL the HON. S. T. TREVOR said the second amendment of his Hon. friend, the principle of which he had accepted, led to the addition of certain words in section 13, and he therefore moved that in that section the words "add to or confirm" be substituted for "or add to."

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

COLONEL the HON. S. T. TREVOR moved that the Bill as amended be passed.

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

EXTENSION OF LOCAL SELF-GOVERNMENT.

ON the motion of the HON. MR. MACAULAY, the Hon. Chunder Madhub Ghose was added to the Select Committee on the Bill to extend the system of Local Self-Government in Bengal.

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

Saturday, the 1st December 1883

Present:

The HON. H. L. DAMPIER, C.I.E., *Presiding.*
The HON. G. C. PAUL, *Advocate-General.*
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel the HON. S. T. TREVOR, R.E.
The HON. J. E. CAITHNESS.
The HON. MAHOMED YUSUF.
The HON. HARBANS SAHAI.
The HON. CHUNDER MADHUB GHOSE.

STATEMENT OF BUSINESS BEFORE THE COUNCIL.

The HON. THE PRESIDENT said:—"I am sure that every Hon. Member will regret that the Lieutenant-Governor is unable to be in his place to-day, not only for the first meeting of the Session, but also to inaugurate the meetings of the Council in this hall. It will not be out of place to remind Hon. Members that the meeting of to-day puts the finishing touch to the execution of that idea, originated by Sir Ashley Eden, which, while providing a fitting habitation for the Government of this great Province, has at the same time contributed to the embellishment of what is, and from day to day is still more, becoming the most magnificent part of this City of Palaces. It is

usual for the Lieutenant-Governor at the opening of the Session to give an outline of the state of business and of the legislative measures which he proposes to introduce; and His Honor has asked me in his absence to say what he proposed to have said himself on this subject.

The Bill of the most importance and of the widest interest now before the Council is, of course, that connected with Local Self-Government. Hon. Members will remember that the Bill, as it is now before the Council, provides for a scheme which, generally speaking, takes the unions of villages as the lowest unit of administration, and above that the Local Boards, which would, generally speaking, correspond with sub-divisions. These are the executive authorities provided by the Bill, the control over which is vested in the Central Board. Since the last sitting of this Council, the scheme has been laid before the Secretary of State, who was unable to give his approval to that part of it which vests the control in a Central Board, on the general ground that he considered it undesirable to depart, so entirely as the Bill provides, from the ordinary and familiar system of administration which is in force, by excluding the District Magistrate and Divisional Commissioner from taking *any* share in the direct control of this branch of the administration, and vesting that control in a novel authority. The Government of India, therefore, have called on the Lieutenant-Governor to recast the scheme on these lines, and the Lieutenant-Governor has submitted his proposals, but as they are still under consideration, it would not be proper to speak more of them here. But I am to mention that His Honor hopes to be able to adhere to that part of the scheme which constitutes Unions and Local Boards, while modifying the portion of the scheme regarding control by a Central Board. With a view to ascertain by actual experiment how the division of the country into Unions will work in the most advanced districts, and with the view of clearing the way so as to lose no time in introducing the system as soon as the passing of the Bill shall have made it possible to do so, the Lieutenant-Governor has appointed an officer to make close enquiries in the most advanced districts. There appears to have been some misapprehension as to the object of Mr. Westmacott's special mission. I may here mention, with reference to a good deal on the subject I have read here and there, that Mr. Westmacott has been specially selected, because his previous utterances show him to be in entire sympathy with genuine and real self-government. His special duty is to ascertain, in certain selected districts, of which Hooghly is one, how the details of this scheme, plotting out thanas and sub-divisions into Unions, will work; so that, as soon as the Bill is passed, the Lieutenant-Governor will be able to proceed with that knowledge of details before him as ascertained from actual experience. There will still remain a great deal to be done, of course, for the whole of the constitution of Local Boards, and the assignment to them of funds by the Government will remain to be arranged by Government, even in those districts in which Mr. Westmacott has worked through the district officers beforehand. Nothing more, however, can be done with this Bill until the correspondence on the subject with the Government of India shall have been

The Hon. the President.

concluded. After that, the Lieutenant-Governor desires me to assure Hon. Members that nothing shall be wanting on his part to carry out the measure fully and promptly.

The next Bill before the Council is the Municipalities Bill. As my Hon. friend MR. REYNOLDS has a motion on the paper in connection with that Bill, I will leave him to explain to us presently the stage into which it has passed since the last meeting of the Council.

The third in the list of Bills actually before the Council now is one for the amendment of the Estates' Partition Act, 1876, regarding which I have a motion on the paper to-day asking the Council to allow the Bill to be read and referred to a Select Committee, of which I shall speak in another capacity.

Then as to proposed projects of legislation. Hon. Members are probably aware that a discussion has been going on for some four or five years between the Commissioners of the Calcutta Municipality and the Commissioners of the Suburbs, with regard to the supply of water to the latter. The Lieutenant-Governor is glad to announce that there is now a prospect of this discussion being brought to an end, and of some steps being taken in the matter. He has been able to bring about an understanding between the two bodies of Commissioners, by which they are amicably to decide the principle on which the charge for water is to be regulated. One of two principles will in all probability be adopted, and I will read the description from the letter of the Secretary to Government to the Chairman of the Municipal Corporation of Calcutta, "what principle should be adopted for the purposes of this calculation—whether the price of the water should be determined with reference to the cost of all works, or whether the Suburbs should pay separately (1) the interest on the capital expended on works constructed exclusively on their account, and (2) the price of the water as determined after deduction of the cost of these works—should at once be decided by arbitration." The principle is to be decided amicably outside the Bill between the two bodies of Commissioners, and then the Bill will provide that any dispute which may arise as to the application of that principle should be decided by arbitrators: for such arbitration the Bill will provide a scheme. Then it is found that for the Suburbs something more elaborate will be required in the way of rules for assessing and collecting a water-rate than those which are contained in the General Municipal Bill; therefore, as regards water-rates, the Suburbs will be excluded from the General Municipal Bill, and the Bill which it is proposed to introduce will contain special provisions in that behalf.

There is another project of legislation which the Lieutenant-Governor contemplates: it is the registration of tenures in the offices of the Collectors. Hon. Members have probably seen the report which the Lieutenant-Governor has sent to the Government of India on the Bengal Tenancy Bill, in one paragraph of which he mentions this project: the object will be to get tenures registered, the lines of the Land Registration Act for estates being followed as far as they are applicable. When that is done, it will be time to consider whether the facilities in collecting their rents (for which zemindars

are crying so loudly) by bringing tenures to summary sale without decree, cannot be given to them with regard to tenures which have been actually registered. And there will follow another result, which is that, when the registration of tenures shall be complete, it will probably be possible to do away with the legal presumption—well known as the twenty years' presumption—which so often has the effect of placing tenures, in respect of which no alteration of rents for twenty years can be proved, in the actual position of tenures which have been held at fixed rents since the time of the Permanent Settlement. I see that the Lieutenant-Governor in that letter speaks of the registration of tenures in a way which (I now am speaking for myself) seems to me to underrate the difficulties and vastness of this undertaking; and, certainly, if I had to advise, I should recommend that legislation on the subject should proceed tentatively, without anything like the provision there is in the Estates' Registration Act binding the Government to complete this registration within a few years. My idea would be to recommend that the Lieutenant-Governor should proceed, class by class; as for instance first to register all tenures paying above such an amount, and when that has been done, and these have been made saleable by summary process, then he may go a little lower, till he has exhausted the whole mass of tenures.

These are the remarks I have to add to those which I have been commissioned to make on behalf of the Lieutenant-Governor on this occasion. The Council will now proceed to the business of the day, but it will be more convenient if the third item of business is taken up first. I will therefore ask the Hon. MR. REYNOLDS to be good enough to proceed with his motion."

BENGAL MUNICIPALITIES.

The HON. MR. REYNOLDS said:—"When I had the honour, on the 21st of March last, to present the preliminary report of the Select Committee on the Municipal Bill, I remarked that I would not then invite the Council to enter upon any discussion of the provisions of the measure. The object of laying the Bill at that time before the Council was rather to elicit a further expression of public opinion on the scheme which the Select Committee desired to suggest for consideration, than to commit Hon. Members to an acceptance of the Bill in the form which it had then assumed. The Council was then pleased to agree to the proposal that the Bill should be republished and should be referred back to the Select Committee for further consideration and report. The Bill was accordingly republished, and a large number of opinions, remarks and criticisms have since been received, and have been considered by the Committee. The whole question has now been thoroughly ventilated, and I believe that in the course of another fortnight, the Select Committee will be ready to present their final report. Till that report is presented, the remarks which I have to make upon the Bill, must, of course, be reserved; but it will, I believe, be some satisfaction to Hon. Members to know in what position the question stands at present, and to receive an assurance that the Select Committee is likely to complete its labours without much longer delay.

The Hon. the President.

The decision of the Secretary of State regarding the Central Board has made it necessary to modify the wording of a good many sections of the Bill. The duties which in the former draft were assigned to the Central Board will now be performed, partly by the Local Government and partly by the Commissioners of Divisions. But this change tends in one way to facilitate the early passing of the Bill. It was previously intended that this Municipal Bill and the Local Self-Government Bill should proceed *pari passu*, should be passed together, and should come into operation at the same time. This arrangement would have been necessary, if the Central Board had been the controlling authority for both Municipalities and Local Boards. But now that the proposals of the Bengal Government for the establishment of a Central Board have been disallowed, there is no reason why the Municipal Bill, which is in a more forward state than the Local Self-Government Bill, should be deferred till the latter measure is ready to pass the Council. I therefore hope to be able to invite the Council to take the Municipal Bill into consideration in the course of the present month; and accordingly I now move that the Select Committee be allowed a further period of one month before presenting its final report."

The motion was put and agreed to.

PARTITION OF ESTATES.

The Hon. Mr. Dampier said that during the last Session he obtained the permission of this Council to introduce a Bill for the amendment of the Estates' Partition Act, 1876. The grounds upon which the Government came to this Council to pass this Bill he then fully explained, and he need not go over them again, beyond reading over the printed Statement of Objects and Reasons, which was as follows:—

"The Partition of Estates under the existing law now makes such demands on the time and attention of Revenue Officers in some districts as seriously to interfere with the discharge of their other duties.

"Of late years the Legislature has provided means short of a complete separation of the liability for land revenue by which a joint proprietor can, to a great extent, protect himself against the consequences of default by his co-parcener.

"The object of the Bill is to relieve Revenue Officers of the duty of making partitions, of which the effect will be to create separate estates liable for an annual amount of land revenue not exceeding Rs. 10, as the public inconvenience caused by their employment in this duty now outweighs its advantages.

"The proprietors of joint interests in estates, who will be precluded from applying for partition by Revenue Officers, will now be placed, in respect of separation of their shares, in the same position as the joint holders of a tenure, who have no right against their landlord of splitting up the tenure."

That was to say, they would be so placed, if there was any other machinery provided by law for affecting such partition. But it so happened that the Code of Civil Procedure did not allow the civil courts to make partitions of revenue-paying estates. When any such partition was decreed by a civil court, it called upon the revenue authorities to carry it out under the provisions of the Estates

Partition Act of 1876; so that if certain classes of partitions of estates were, by the legislation now proposed, excluded from the jurisdiction of the revenue authorities, the proprietors of interests so excluded would be without any means of obtaining separation of lands from their co-parceners. To remedy this, the Governor-General in Council has agreed to introduce a Bill into His Excellency's Council modifying those clauses of the Code of Civil Procedure which bar the Courts from making such partitions. Therefore he had only to repeat that the effect of the two Bills will be to place the owners of, presumably, petty estates, which will not be liable for the payment of revenue above ten rupees, in precisely the same position as the holders of large valuable tenures are with regard to separation of their interests from those of their joint holders. He moved that the Bill to amend the Estates' Partition Act, 1876, be read in Council.

The motion was put and agreed to.

The Hon. Mr. Dampier also moved that the Bill be referred to a Select Committee to carry out the decision of the Council adopting the principle of the Bill, and to report thereon in one month.

The Hon. Harbans Sahai said that, following the procedure adopted in the case of the Local Self-Government Bill, he would at this stage take the opportunity of submitting the objections which he entertained to the principle of the Bill, which he thought was so bad that the Bill should not be referred to a Select Committee. The Hon. Member, in his Statement of Objects and Reasons, was pleased to intimate that the necessary steps would be taken to amend the Civil Procedure Code so as to authorise the Civil Courts to effect the partition of estates, the annual value of which would be below Rs. 10. He did not see why there should be two concurrent jurisdictions in cases of partition affecting the same estate—in the revenue authorities in cases in which the revenue of the separate estates might exceed Rs. 10, and in the Civil Courts where the separately rated revenue might be less than Rs. 10. The principle of the Bill, he said, was bad, because the Civil Courts had not a proper and sufficient staff of ameens and others to carry out the partition of estates, and a double staff of ameens would be necessary—one in the Civil Court and the other under the revenue authorities. He also contended that the Bill would not work in practice, because, although the share of the first applicant for partition might have a *jumma* above ten rupees, in the course of partition it might turn out that there were other applicants, sharers in the same estate, whose *jumma* was below that amount. Were the revenue authorities to proceed with the partition, or to transfer the proceedings to the Civil Court? The same objection would apply where the original application was made to the Civil Court by a sharer whose *jumma* might be less than Rs. 10.

If the Hon. Member proposed that the whole jurisdiction in partition cases should be removed from the revenue authorities and transferred to the Civil Courts, the Hon. Harbans Sahai would be the first to hail such a transfer of jurisdiction; but he certainly thought it objectionable to vest the Civil Courts with jurisdiction in partition cases of the smaller classes when they had no proper staff for the purpose.

The Hon. Mr. Dampier.

Then the first reason which the Hon. Mover alleged for the introduction of the Bill was, that the partition of estates under the existing law now made such demands on the time and attention of revenue officers in some districts as seriously to interfere with the discharge of their other duties. He would ask the Council whether the work of the Civil Courts was light, and whether they had time at their disposal to attend to the work which it was proposed to hand over to them. Was it not a fact that rent and other civil suits were being so much multiplied that in almost every district the Government was obliged to appoint additional Munsifs? If that was a fact, then the very reason which was assigned for the removal of these cases from the jurisdiction of the revenue authorities applied equally to the Civil Courts, which were overworked.

Then another cogent reason against the Bill was this, that these partitions having been up to the present time in the hands of the revenue authorities, if the Collectors were generally assisted, as in some districts they were, by a special Batwarrah Deputy Collector, they would be the proper authorities to effect all partitions. In partition cases it was necessary to refer to the jummabundi papers, to make local inspections, and do many other things with which the revenue officers were well acquainted, and to which they had ample time to do justice. But the Civil Courts, from the very nature of partition cases, would not be so competent as the revenue authorities. The case would, however, be altogether different if the partition of all estates was made over to the Civil Courts with a proper establishment provided for the purpose, but the principle of making over to them the partition of petty estates only was, he thought, a bad one.

It had been said that the Council of the Governor-General would be asked to make the necessary amendment in the Code of Civil Procedure; but suppose that Council rejected the Bill, what then would be the result? How would the partition of small estates be then effected?

Then it was stated by the Hon. Mover that the public inconvenience caused by the employment of the revenue authorities in the partition of very small estates now outweighed its advantages. To this, Babu Harbans Sahai begged to enter his humble protest, especially as regards the partition of estates in Behar. He might inform the Hon. Mover that in that Province there were many valuable estates yielding large profits, the public revenue of which was merely nominal. The fact was that at the time of the decennial settlement the districts were covered with jungle and waste lands, and the Government revenue was a nominal sum. Now that the jungle had been cleared away and the waste lands cultivated, the estates so nominally assessed had become valuable property and their gross rental was enormous. The principle that the amount of Government revenue payable on any estate should be the index to its value, or to the gross produce of the estate, was, he thought, erroneous. In many cases it might be just the reverse.

Again, the Collector had hitherto been considered as a necessary party to the partition of estates, because it was not only the interests of the party that had to be consulted, but also the interest of the Government. There might be collusive partitions between the parties by which one sharer might

be allotted the worst description of land which did not yield sufficient to meet the amount of Government revenue assessed upon it. The consequence would be that the separate estate so created would default.

[The Hon. Mr. Dampier explained that the Hon. Member was speaking under a misapprehension. He had stated that the proprietors of revenue-paying estates who would be excluded under this Bill from getting a partition made by the revenue authorities would be placed precisely in the same position as the joint proprietors of tenures which were indefeasible as against the zemindar; that was to say, they would lose the right to have their estates made separately liable to their share of the Government revenue.]

The Hon. Harbans Sahai continued:—Every joint proprietor had an inherent right to have the Government revenue partitioned. At present a shareholder, however small his share might be, had every right to go to the Collector and ask for a division of the land and the apportionment of the revenue payable by him, in order that he might no longer be held responsible for the default of his co-sharers. This was a right which he justly had, and on what ground was he to be deprived of that right? It was not an imaginary right, but a substantial one. For once his liability for revenue was fixed and not dependent upon what his co-parceners might do, he could safely absent himself from his property after making sufficient arrangements to meet his separate liability. But now he was to be deprived of that right for no fault of his own.

He thought the Bill was based on a very illiberal and unsound principle, inasmuch as it threw on the already overworked Civil Courts a portion of the work for which it was alleged the Collector had no time, whilst the work of partition of larger estates would be carried on as usual by the revenue authorities.

The Hon. Mahomed Yusuf submitted that the further consideration of the motion before the Council should be postponed to the next meeting; for this reason, namely that, although the Members of the Council had notice of this Bill at the last session, there were certain observations regarding the scope of the Bill which he thought ought to be made before the Bill was referred to a Select Committee, and he for one was not aware that all he had to say should be said at this the first meeting of the present session of the Council.

The Hon. Chunder Madhub Ghose asked whether it was proposed by this Bill that there should be no partition of an estate on the partition of which, when made, any estate created thereby might yield a revenue not exceeding Rs. 10. Suppose an estate now yielded Rs. 1,000 a year, and a shareholder who paid Rs. 100 annual revenue were to apply for partition of that estate, the Collector would be bound under this Bill to proceed with the case. But it might turn out on partition being made that one of the shareholders who owned a one-pie share in the estate would have to pay an amount of annual revenue less than Rs. 10, consequently, although the whole estate paid

a jumma of Rs. 1,000, and the shareholder who applied for partition actually paid Rs. 100 out of that jumma, the partition could not be made by the Collector, because it would bring out an estate whose jumma would be less than Rs. 10. If that was the case, the Bill would work serious hardship, because there were many estates in which there were some very small shareholders, whilst large shares were held by others.

The HON. MR. DAMPIER said he fully appreciated the difficulty which had just been referred to. He had already said that it had occurred to him to suggest to the Select Committee whether a partition, such as the Bill excluded, might not be allowed to be made as part of proceedings which were actually going on for dividing an estate into other estates bearing a larger amount of revenue than Rs 10. The principal object of the Bill was to relieve the revenue officers of an excess of business, and if that was secured he would not object to the consideration of any suggestions which would tend to meet objections.

The HON. MR. REYNOLDS said, that in the case put by the Hon Member to his right (BABU CHUNDER MADHUB GHOSE) it seemed to him that the difficulty would not arise at all. He supposed a case where an estate had a revenue of Rs. 1,000, and where a shareholder in that estate whose revenue amounted to Rs. 100 applied for partition : that merely involved the partition of an estate into two shares—one of Rs. 100 and one of Rs. 900. There was nothing in the Bill which would prevent such a partition taking place, even though there were other small shareholders whose shares of the Government revenue would respectively be less than Rs. 10. But the Collector had nothing to do with that. All he had to do was to see that the partition of the shares of the applicants would not result in creating estates with a revenue less than Rs. 10. MR. REYNOLDS did not think that the objection which had been taken would apply.

The HON. MR. DAMPIER said in reply, that the partition of an estate by the revenue authorities originated from an application made by one sharer for separation of lands representing his share, and of his liability for land revenue from those of his co-proprietors. For the purposes of illustration he would say that in each proceeding for partition, the proprietors of the estate concerned were divided into two great classes—applicants for the partition of their respective shares, and non-applicants. Now let it be supposed that A came forward and applied to have partition of such an estate made for the purpose of separating off lands representing his interest; and also for separating off his liability for a proportionate share of the land revenue, all the rest of the proprietors being non-applicants. If the proportionate share of land revenue, for which A's estate would be liable after separation for land revenue assessment were Rs. 100, the Collector would say: "there is no objection so far as your share is concerned, as the jumma will be above Rs. 10; but by the partition two new estates will be created, one belonging to the non-applicant. In order to comply with the law I have to see that the jumma of that estate, the residuary estate as it is called, will not be less than Rs. 10."

If the Collector found that the jumma of the non-applicant's separate estate would be above Rs. 10, he would admit the application of A for the partition of the estate. If he found the jumma of the residuary estate would be only Rs. 9, he would say: "I cannot admit this application of A for splitting up this estate of Rs. 109, into two estates of Rs. 100 and Rs. 9 respectively, because 9 is less than 10, and therefore this partition cannot be admitted." The usual course of things was that when once A applied for separation of his share (and so forced the trouble, harassment, and expense of partition proceedings on his joint proprietors, whether they liked it or not) other shareholders B, C, and D would come in and say:—"We have this trouble put upon us; let us have the advantage of separation of our shares also." In dealing with these subsequent applications, the Collector would apply precisely the same principles. If the jumma of each separated estate would be above Rs. 10, he would carry out the separation: any application of which the effect would be to create a separate estate with a jumma of less than Rs. 10 he must reject. And here MR. DAMPIER might mention that the object of the Bill being to prevent an insurmountable quantity of work falling on the revenue authorities, it had occurred to him to suggest for the consideration of the Select Committee whether even an application which would have the effect of creating an estate bearing a jumma of less than Rs. 10 might not be allowed, provided that it was presented to the Collector during the progress of proceedings under the Act for the separation of the parent estate into two or more estates, each bearing a higher jumma.

MR. DAMPIER thought he had now answered the objection of the Hon. Member on his right (BABU CHUNDER MADHUB GHOSE) and the last objection raised by the Hon. Member opposite (BABU HARBANS SAHAI). Another objection of the last named Hon. Member was that the Civil Courts had no more time at their disposal than the revenue authorities, and that therefore the proposed duty should not be thrown on them.

As a general proposition he would venture to ask whose duty it was to decide as to rights between man and man. Was it the duty of the Civil Courts or of the revenue authorities? He supposed it would not be denied that it was the duty of the Civil Courts. Then what excuse was there for the revenue authorities to interfere at all in the partition of estates? The excuse was that the safety of the Government revenue was concerned in the separation of the joint liability for revenue, and therefore in view of the paramount interests of the State revenue special jurisdiction was given to the revenue authorities in this particular class of adjudications on rights between man and man. On that ground only were the revenue authorities authorized by law to make these partitions. Now the Bill entirely removed that special ground for the exercise of jurisdiction by the revenue authorities, inasmuch as it provided that the liability for revenue up to the amount of Rs. 10 should not be separated off from the joint liability; therefore the special reason for leaving this particular class of cases in the hands of the revenue authorities no longer existed. The Hon. Member also said that it was not right to take the

amount of Government revenue as the standard of importance of proceedings. MR DAMPIER would reply that the amount of land revenue involved was precisely the measure of the reason for employing the revenue authorities to do work which, irrespectively of that consideration, was the proper work of the Civil Courts.

The Hon. gentleman had said that the Civil Courts had no establishment for this work. To that MR. DAMPIER could only say that the Executive Government of India was willing to introduce a Bill leaving the work to the Civil Courts, in face of which he found it difficult to accept the Hon. Member's opinion that those Courts would be unable to cope with it.

Then the Hon. Member also suggested the dead-lock which might arise if the Legislative Council of the Governor-General, after this Council had passed this Bill, should refuse to modify the section of the Civil Procedure Code. MR. DAMPIER would remind him that Bills of this Council were subject to the *veto* of the Governor-General, and therefore Mr. Dampier supposed that where two measures of this kind were intimately connected with each other, the Governor-General would keep the approval of this Council's Act in suspense, until His Excellency very clearly saw his way to the other part of the measure being carried in his Legislative Council.

Another objection made was that in some estates the liability for Government revenue was very small, whilst the value of the zemindar's interest was enormous. But in making this objection, the Hon. Member had entirely passed over that part of the Statement of Objects and Reasons and of Mr. Dampier's former speech, which dwelt on the facilities which legislation had provided of late years to joint proprietors for protecting themselves from the default of their co-parceners. He quite admitted that no other means were provided for giving such ultimate and complete protection as the Batwarrah law gave, but the protection given by other means was real and substantial, and ought to be sufficient for safety to any prudent man. Separate accounts might be opened; and not only so, but in those estates of which the value was "enormous" and the amount of Government revenue trifling, as stated by the Hon. Member, it would be no great hardship for any proprietor to avail himself of the protective right of depositing Government securities in the hands of the Collector for the purpose of meeting the revenue of the estate in the event of the default of his co-sharers, and thus absolutely free himself from any risk that his co-parceners might play him false by withholding payment. All reasonable protection was thus given.

Then as to the question of public convenience and as to the Collector l time to undertake partition proceedings, MR. DAMPIER must say that, if the C entertained this discussion, they would be precisely at the point at which the when the principle of the Bill was first proposed to this Council. Ho superficially, Hon. Members might have looked at the proposal befo principle of the Bill was accepted by the Council, it could scarcely be sai they had failed to catch that the appeal to this Council was made b Executive Government on the one ground that relief was required f Collectors. MR. DAMPIER presumed that he would not be called upon t

up the time of the Council by going over the same ground again. He therefore pressed the motion which he had made to refer the Bill to a Select Committee.

After some conversation the motion was put and carried, and the following Members were appointed to form the Committee:—The Hon. Mr. Reynolds, the Hon. Harbans Sahai and the Mover.

The Council was adjourned to Saturday, the 8th December 1883.

By subsequent order of the President the Council was further adjourned to Saturday, the 15th December 1883.

Saturday, the 15th December 1883.

Present:

The Hon. G. C. Paul, *Advocate-General*, C.I.E., *Presiding*.
The Hon. H. L. Dampier, C.I.E.
The Hon. H. J. Reynolds.
The Hon. C. P. L. Macaulay.
Colonel the Hon. S. T. Trevor.
The Hon. J. E. Caithness.
The Hon. Harbans Sahai.
The Hon. Chunder Madhub Ghose.

SUBURBAN WATER-SUPPLY.

The Hon. Mr. Macaulay moved for leave to introduce a Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta. He said—"I have been entrusted with the duty of submitting to the Council a Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta, and I have now the honour to move for leave to introduce such a measure. I need hardly remind the Council that this is not the first occasion on which the subject of the metropolitan water-supply has engaged its attention, and Hon. Members who read their newspapers, though I cannot suppose that they have any very clear idea how matters stand at present, are doubtless aware that, at one stage or another, the question has been before the Corporations of Calcutta and the Suburbs for some years, and that a protracted, if fitful, battle of the schemes has been ...ding in the midst of this peace-loving community. The first chapter ...history,—a history extending over about three years,—was lucidly narrated ...y Hon. predecessor, Mr. Mackenzie, in the debate of 2nd April 1881, ...Act VI of that session of the Council was passed. The materials for a ... second, and I hope last, chapter, extending also over about three years, ...ow available. I do not propose, however, to detain the Council with a ...w of this mass of fascinating literature, or to describe the circumstances ... which the many Municipal Commissioners who have applied their minds ...e subject have successively entertained a preference for a masonry

conduit, an open cut and an iron main, discussed the merits of cement collar joints, and weighed the respective advantages of masonry and earthen settling tanks. These monumental records now possess an antiquarian rather than a practical interest, and I may dismiss the historical part of the subject by congratulating the Council that, whereas in 1881 they had to deal with an unsettled question, we are to-day in the satisfactory position of dealing with an accomplished fact. In April 1881, the Calcutta Municipality was still pondering the project of a masonry culvert. In December 1883, they have already obtained the sanction of Government to the purchase of a 48-inch iron main, which will provide a daily supply of 12,000,000 of gallons of filtered water, and the materials are, I understand, already on the way from Europe. I think, Sir, that the inhabitants of this great city may be congratulated that at last a really practical step has been taken towards the accomplishment of a measure which is essential to its well-being and salubrity. The youth of the water extension scheme has been one full of pain and peril; it suffered from many virulent attacks, chiefly of talk, which caused grave anxiety to its friends, and at times its condition was most precarious; but I am happy to say that it has at length emerged from this period of trial, and that we shall soon see it flourishing in healthy and prosperous maturity.

The circumstances under which it has been found necessary to introduce a separate Bill for the regulation of the water-supply in the Suburbs are briefly these. Act VI of 1881 amended section 160 of the Calcutta Municipal Act by authorizing the Local Government to include any portion of the environs of the Town in the Calcutta system of water-supply, the Calcutta Corporation assessing a separate water-rate upon such portion, not exceeding the maximum leviable under the Act, and the Commissioners of the Municipality arranging for the detailed assessment and collection of the rate. The portion thus included would become, for the purposes of the water-supply, a part of Calcutta, and the Corporation of Calcutta would be responsible for supplying it with water like any other part of the Town; and inasmuch as the water-rate in Calcutta, after the extension of the new supply, will be assessed at nearly maximum rates, it would have to supply it on practically similar terms. The Calcutta Municipality was thus to be responsible, not only for bringing the water to the boundary of the affiliated tract, but for distributing the wa throughout it. Mr. Harrison, in a very able memorandum, dated 31st Octo 1881, pointed out the objections to the latter portion of this arrangem I cannot do better than, with the permission of the Council, read p of Mr. Harrison's Minute. He said:

"In Calcutta the law requires us—(*a*) 'to cause such mains and p be laid, and such tanks, reservoirs, or other works to be made or cons as shall be necessary for the supply of filtered water in all the chief streets;' (*b*) for fifteen hours every day, so far as may be reasonably pr ble, to 'keep and maintain in the pipes and mains a sufficient sup filtered water under a pressure of not less than 10 feet for the domes of the rate-payers;' (*c*) and for three hours daily to maintain a p

sufficient to raise the water in all houses and places in which the same may be introduced to a height of not less than 50 feet.' The above are the chief liabilities which we should incur. That marked (*c*) we are not now able to discharge even in Calcutta, and I will assume that it would be a dead letter in the Suburbs. The liability to raise water 50 feet high in a house in Garden Reach is one which it would not be easy to enforce without a separate pumping station and reservoir for that Suburb only; but take the liability marked (*b*), that of keeping up 10 feet pressure throughout the day, and see what it involves. We are now only bound to keep up that pressure to the southern edge of Calcutta, but what would become of it by the time it reached Bhowanipore, Alipore, Kidderpore, not to mention Garden Reach! We every night now have to pump water from Tallah into the Wellington Square reservoir; and such is the effect of distance and friction in diminishing pressure, that I am informed that, if we pump through the independent 24-inch main only at the normal velocity, it takes a pressure of 40 feet at Tallah to yield 10 feet pressure at the reservoir. This one fact surely speaks volumes as to the difficulty of supplying the Suburbs to the south of Calcutta. Tallah is about four miles from Wellington Square, and the friction in a 24-inch main is much less at the same velocity than in the smaller distributing pipes which would be necessarily used in the Suburbs. I think I must be well within the mark in saying that Wellington Square would not only require to have its pumping power greatly increased, but also to pump all day at a higher pressure than it now does for five hours only in order to give the required pressure of 10 feet to the Suburbs, and even then it would fail in the more distant places."

Mr. Harrison came to the conclusion that the community of system and control should terminate with the delivery of the filtered water at Tallah, each Municipality sharing in this expenditure in proportion to the water required by it, and then undertaking the responsibility of its own distribution. This view has been accepted by Government, and the Bill, which I hope to have the honour of submitting to the Council, will provide that the Suburban Municipality shall pay the Calcutta Municipality for the water supplied to it, and shall take its own measures for distributing the water. There was, however, very important point to be settled before legislation could proceed. Could Suburbs on these terms afford to join in the scheme at all? Was Calcutta look to such extension as might provide for its own wants only, or was it make deliberate provision for the wants of the Suburbs also, and in the er case how was it to be guaranteed against loss? The Suburbs could le nothing until they should know approximately how much they would to pay. The Calcutta Commissioners, not knowing what they were going for themselves, were naturally unable to say what they could do for any th... As a contribution to the settlement of the difficulty, Sir Ashley Eden, se... he left the country, with the liberality which always characterised th... in regard to any question of municipal improvement, offered the e...bs a contribution of Rs. 50,000 in the first year and Rs. 30,000 in each

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