

[*Mr. Woodroffe ; Babu Gonesh Chunder Chunder.*]

conclusion, that we should, as far as possible, avoid accepting any principle of a different character.

“The hon’ble mover of the amendment has referred to certain figures, which he says were laid before us by the Hon’ble Mr. Lee. I can only say that, I have not seen them. Those figures have not been, so far as I am aware, placed before the Council. I therefore support the Hon’ble Mr. Cotton in the view he has taken. The Hon’ble Mr. Lee spoke as if there had been a deprivation of the income the Corporation was entitled to in the shape of fees from hay, straw, wood and coal, depôts. It has been conceded that, these trades are not noxious trades. The only ground upon which fees upon them were levied was, the inflammable nature of those materials; and yet these fees, which were imposed year after year by the Corporation, were not devoted to the fire-brigade. For these reasons, I shall vote against the amendment.”

The Motion was put and also negatived.

The Hon’ble BABU GONESH CHUNDER CHUNDER also moved that, section 20 be omitted.

He said :—“It seems to me, that the provisions of this section will be very hard and oppressive on the owners and occupiers of warehouses. Before I put forward any argument of my own, I would lay before the Council the Memorial of the National Chamber of Commerce. They said :—

‘Section 20.—This is altogether new. It will be a fearful instrument of oppression in the hands of subordinate police officers and constables, and lead to frivolous prosecutions. It is an admitted fact, that the whole length of the Strand Road, from the Bonded Warehouse to Hatkholla, the whole of Burra Bazar, Jorabagan and Hatkholla, Komertolly, Chitpore and Belliaghalla, and other busy centres of trade and commerce, and all thoroughfares near godowns, are more or less blocked up with carts, and the right of public traffic is thereby obstructed. This is a necessary evil incidental to a large place of business like Calcutta; but no one has ever complained of such obstruction, or ever entertained the idea of prosecuting any member of the mercantile community for such an offence.’

“We all know that most of the existing jute warehouses have no separate places for loading and unloading carts, and that, notwithstanding this, licenses are given, and the result will be that they will be subject to daily prosecutions, because they will not be able to help themselves; and furthermore, I say that the provisions of this law will clash against the provisions of the Calcutta Police Act, IV of 1866, section 66, clause 7, which provides that ‘whoever,

[*Babu Gonesh Chunder Chunder ; Mr. Lambert.*]

causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose, shall be liable, on summary conviction, to punishment.' So that, under the provisions of this Act, people are allowed to keep their carts in public thoroughfares for the purpose of loading and unloading. It appears to me that, the provisions of section 20 of this Bill clash with the provisions of the Police Act; for the Police Act allows carts to be on the streets for the purpose of loading and unloading, whereas the present Bill would prohibit it. I therefore submit that, having regard to the fact that the Merchants represented by the National Chamber of Commerce raise the objection, this section ought to be omitted."

The Hon'ble MR. LAMBERT said:—"That the Council has heard from the Hon'ble Babu Gonesh Chunder Chunder that he brings this motion forward chiefly on behalf of the Bengal National Chamber of Commerce, but I cannot ascertain that any other public body has objected to this section. The letter of the Honorary Secretary of that Association says, that the section is altogether new. This is hardly a correct way of putting it. Clause 3, section 6, of Act IV of 1883, requires that, space be reserved for carts, and by section 14 of the Act, whoever breaks any conditions of the license renders himself liable to prosecution and fine up to Rs. 50. In the present Bill also, obstruction of a thoroughfare is made punishable, but the penalty is reduced to Rs. 10.

"Next it is said, that 'it will be a fearful instrument of oppression in the hands of subordinate police officers, and lead to frivolous prosecutions.' But this is not so. All that the subordinate police will be able to do, will be to report whether obstruction has been caused. Enquiry will follow, and no summons will be asked for unless, in the opinion of the Commissioner or Deputy Commissioner, a case is established. The section confers no power of summary arrest. At present, the unfortunate cartman, and not the man for whose benefit the obstruction is caused, is punishable.

"Further, the letter says, that no one has complained of the want of any such provision. That is a mistake. Complaints are frequent and have been so for many years past. They come in from various sources, generally from the residents of the locality and from tradesmen, and in some cases from the Municipality. I have, in my hand, a list of cases of obstruction during the last six months from the Koomartelea Section. It shews, from August

[*Mr. Lambert; Mr. Woodroffe.*]

1892 to January 1893, that 103 cartmen have been prosecuted, and six owners of jute warehouses were also successfully prosecuted for the same offence. Further, in his letter the Honorary Secretary says, that in all the busy parts of the town, streets are congested by traffic. This is true; but it is only in the locality of jute warehouses, that one or two owners appropriate a whole street for hours together by a long string of carts. The persons who are responsible for these obstructions ought to be easily reached, and that is the aim of section 20 of the Bill. If this section becomes law, rules will be provided for each locality by which the owners or occupiers of jute warehouses will know how to conduct their business without interference from the police, and the convenience of the public will also be recognized.

"It has been suggested that, this section of the Bill will clash with the Police Act; but it merely cannot be the intention of the Police Act, that whole strings of carts shall be allowed to stand on a street for hours together while loading and unloading. I apprehend it refers to one or two carts, and not to a long line of carts. I think that this section is wanted to show the owners of jute warehouses that they have a special liability, and that they should conform to such regulations as are required for each locality. As I said before, if this section becomes law, special regulations will be drawn up for each locality, and no punishment will be awarded so long as they comply with those regulations."

The Hon'ble MR. WOODROFFE said:—"The question, which is involved in this amendment, commends itself to me. The words used in this section are, 'whoever impairs or causes to be impaired the right of public traffic.' I do not read those words in the sense in which the hon'ble member the Commissioner of Police does. I take it, that roads are made for the public; nor am I aware that any person who has occasion to use carts on the roads in Calcutta, is restricted to the use of one cart at a time. All members of the public have a right to use any public road, subject to the use thereof by all other members of the public.

"The Bill provides that, space shall be reserved for the loading and unloading of carts on land appertaining to warehouses. That does not mean that, the public roads shall not be used by more than one cart at a time. Section 66, clause 7, of Act IV of 1866, imposes a fine upon any person who causes any cart to remain or stand longer than is necessary for loading or unloading, except in a place lawfully appointed for the purpose, so as to cause obstruction

[*Mr. Woodroffe ; Mr. Cotton.*]

in a thoroughfare. From the difference in opinion between the hon'ble mover of the amendment and the hon'ble member, the Commissioner of Police, it is evident that, this section (section 20) is read in a different light from what I understood in Committee. But seeing that the section is capable of the construction which the Commissioner of Police puts upon it, I shall support the hon'ble mover of the amendment. It was never understood that, the business of a warehouse should be stopped after each cart was unloaded and another cart fetched."

The Hon'ble MR. COTTON said:—"I think this question is by no means free from difficulty, and, for my own part, I am much influenced by the opinion expressed in the letter of the National Chamber of Commerce. It is true that the Municipal Commissioners were, in the early days of the Municipality, in the habit of granting licenses very freely for jute warehouses, and that in a very large number of cases, no provision whatever was made for cart space; that is to say, there was no space whatever within the premises where carts could enter and turn round. I conceive that the Municipal Commissioners erred in their discretion, in the interests of jute and commerce, and granted licenses more freely than was prudent. I have inspected some of these warehouses and have found the bulk of the carts loaded with jute waiting outside. That is a serious matter. I confess that the representation of the National Chamber of Commerce, has influenced me very much on this point. I had not realized until I read their Memorial and received a deputation of their members, how keenly this question would be felt; and I do think that the power of prosecuting the owners or occupiers of warehouses, under such an exceptional provision as this, should not be conferred without further deliberation. I can understand that a carriage or cart which blocks the way and will not move on when ordered by the police, may be run in, but I do not know, whether it will be wise or whether it could be justifiable to prosecute the owner or occupier of a warehouse under a penal provision of this kind.

"The section found its place in the Bill in this way. Under the old law, it was a condition of granting a license that, there should be sufficient space for the loading and unloading of carts. We have struck that out, and this penalty clause was put in, under which the owner or occupier of a warehouse may be fined if his carts block the way. I doubt whether, it was wise to omit the provision about cart space and provide this penalty clause instead. On



[*Mr. Cotton ; Mr. Woodroffe ; Mr. Allen ; Mr. Playfair ; the President.*]

a full consideration of the objections taken by the National Chamber of Commerce, I think this Council would do well to accept the amendment of the Hon'ble Babu Gonesh Chunder Chunder and omit this provision, leaving all necessary action to clear away and maintain the thoroughfares to the police under the existing law."

The Hon'ble MR. WOODROFFE explained, in reference to what had fallen from the Hon'ble Mr. Cotton, that in section 6 a sub-section (c) was inserted, which required to be set forth in the application license "the space, if any, which has been reserved for the loading and unloading of carts", in order to show what space was left in the premises for carts to be brought in.

The Hon'ble MR. ALLEN said:—"I think that as this section has been inserted in the Bill, it will be much wiser to let it stand. The learned Advocate-General's principle seems to be that, any one who has a large business is at liberty to monopolise the streets. But there are individuals who have no business, and they are just as well entitled to pass through the streets. It is not the fact that a continuous string of carts is allowed in a street, for there is a bye-law in Calcutta which requires an open space to be left after a certain number of carts. The only persons who disregard this bye-law are the Government carts, and they apparently pay no respect to it. I understand, however, this section has rather reference to carts leaving the line and blocking the traffic while unloading. It will be for the Magistrate to construe its true meaning, and it may be as well to let it remain in the Bill."

The Hon'ble MR. PLAYFAIR said:—"This is a section in regard to which there was considerable discussion in the Select Committee. The traffic which is referred to is principally jute, and I think it will operate with hardship to the native jute merchants whose warehouses abut on the streets, and therefore I would support the amendment."

The Hon'ble THE PRESIDENT said:—"So far as the main principles of the Bill are concerned, that is, as regards the incidence and distribution of the taxation which is to supply the funds for keeping up the fire-brigade, I have declared my intention of not intervening in the debate or attempting to influence the decisions of the Council, and I adhere to that view. This, however, is a different

[*The President.*]

question relating to the administration of the Police regulations of the town, and although I desire fully to recognize what the Hon'ble Mr. Allen has said that, as a rule, the views of the Select Committee ought to be supported, yet as the matter had not been fully considered in the light put forward by the National Chamber of Commerce, the members of which would be chiefly affected by this provision, it comes under the category of a case upon which new light has been thrown since the redrafting of the Bill by the Select Committee; and as it is now pointed out, that police power already exists to maintain the proper regulation of the traffic in streets, it seems to me unnecessary that any special clause should be included in this Bill with the view of giving special powers for the regulation of any particular class of traffic. Therefore, I should advise the Council to support the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 4th March, 1893.

CALCUTTA ;  
The 16th March, 1893.

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

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

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The Council met at the Council Chamber on Saturday, the 4th March, 1893.

**Present:**

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE H. H. RISLEY, C.I.E.

The HON'BLE J. LAMBERT, C.I.E.

The HON'BLE H. LEE.

The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON'BLE A. H. WALLIS.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE P. PLAYFAIR.

The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

The HON'BLE MAHARAJAH RAVANESHWAR PRASAD SING BAHADUR.

**LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.**

The Hon'ble MR. COTTON moved that the clauses of the Bill, for the regulation of Warehouses and the maintenance of a Fire-brigade, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"As section 3 of the Bill was passed at the last meeting of the Council, I ask for special leave to move the following amendment:—

'That in clause (5) of section 3, the words *or mustard* be inserted after the word *linseed*.'

The Hon'ble THE PRESIDENT said:—"As this is an amendment to remedy an oversight in a section already passed, sanction is given."

[*Babu Gonesh Chunder Chunder ; Dr. Mahendra Lal Sircar ; Mr. Cotton.*]

The Hon'ble BABU GONESH CHUNDER CHUNDER continued:—"At the last meeting, it was unanimously agreed that linseed-oil should be taken out of the operation of this Act. I move that mustard-oil be also taken out of it, on the ground that mustard-oil is less inflammable than linseed-oil. The Hon'ble Dr. Mahendra Lal Sircar will, I am confident, support the ground I have ventured to urge; and I do not think there are many places in this City in which mustard-oil is stored in large quantities. There is not much of an export trade in it, and the quantity of oil imported and made here is substantially less than the quantity of other oils brought here for the purposes of the export trade. Furthermore, mustard-oil is very largely used, especially by the poorer classes in these Provinces, in the preparation of their food, and an additional tax upon it will enhance its value and will ultimately have to be borne by its consumers."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"I have no hesitation in stating that mustard-oil is no more inflammable than linseed-oil, and I go further and say, that neither is castor oil nor cocoanut-oil more inflammable than linseed-oil. They are, if at all, less inflammable than linseed-oil. It will require a very little amount of consideration to say, that their character is not inflammable. For these reasons, I do not see why the word 'oil' should be retained in the Bill, and I ask the permission of the President to move that clause (5) of section 3 be omitted, and that in clause (9) of the same section the word 'oil' be also omitted."

The Hon'ble MR. COTTON said:—"I concur in the proposal to add the word 'mustard-oil' 'to linseed-oil,' as being an article exempted from the operation of this Bill. But when cocoanut-oil and castor-oil are mentioned as being non-inflammable materials, I can only express my surprise. I was always under the impression that cocoanut-oil was largely used in the whole of this country in lighting *cherags* and *buttees*, which form the universal means of illumination in houses over the greater part of this country. It was certainly universal until petroleum was, in a great measure, substituted for cocoanut-oil. I should say that cocoanut-oil is, strictly speaking, inflammable and should be included among the substances to be kept in warehouses under the Bill; but I do not desire to oppose the Hon'ble Babu Gonesh Chunder Chunder's motion that, 'mustard-oil' should be excluded."

[*Mr. Lambert; Maulvi Syed Fazl Imam, Khan Bahadur; the President; Dr. Mahendra Lal Sircar; Mr. Lee.*]

The Hon'ble MR. LAMBERT said:—"I know of no large godown in the City which is used exclusively for the storage of mustard-oil; nor in my recollection has there been any fire in which the storing of mustard-oil in small quantities has caused any serious difficulty. No doubt, whenever fire breaks out in premises where oil of any kind is stored, the fire burns more fiercely and is much more difficult to extinguish. But as regards mustard-oil, I see no special reason why it should not be excluded from the operation of the Bill."

The Hon'ble MAULVI SYED FAZL IMAM, KHAN BAHADUR, said:—"In my capacity of Vice-Chairman of the Patna Municipality, I have had long personal experience of places in which the oils which have been referred to are manufactured and stored in large quantities. There is no doubt, as has been observed by the Hon'ble Mr. Lee, that oils when once ignited prove a source of great danger, and that the flames do not admit of prompt extinguishing. Yet oils cannot possibly be compared to jute, cotton, straw, wood, &c, in the matter of inflammability; and when the Council has agreed to exempt linseed-oil from the operation of the Bill, I think there can be no objection to place mustard-oil on the same footing. For these reasons, I will support the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

The Motion was put and agreed to.

The Hon'ble THE PRESIDENT said:—"The Hon'ble Dr. Mahendra Lal Sircar has asked permission to move, as an amendment, that the whole of clause (5) of section 3, the definition of 'oil,' be omitted, and that the word 'oil' be also omitted from clause (9) of the same section. As we have already admitted a cognate amendment which was not strictly in order, I see no objection to this further amendment being put."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"My reason for proposing this amendment is, that in simple fairness we cannot retain castor-oil and coccanut-oil among the articles which are to be subject to the operation of this Bill, if we exclude mustard-oil and linseed-oil. They are on the same footing, as far as the risk of fire is concerned, and if we exclude the latter, why should not we exclude the former also?"

The Hon'ble MR. LEE said:—"I believe, Sir, that the Commissioner of Police will be able to support me in saying, that it makes very little difference



[*Mr. Lee ; Mr. Lambert ; the President.*]

what the oil stored be once the building catches fire. I think that if linseed-oil and mustard-oil are left out of the Bill, all oils should be left out—not only on the general principle which has been suggested, but also because it would be very inconvenient in working to have exceptions. It would be most inconvenient to have the different classes of oil divided, some as taxable and some as not taxable under this Act. An oil vendor has all kinds of oil. We are to exclude small quantities of assessable articles, and it would, therefore, be necessary for the officer appointed by the Commissioner of Police to inspect these warehouses and see what is taxable and what is not taxable; that he should make out a list showing so many canisters of linseed-oil, so much of mustard-oil and so much of cocoanut-oil, and unless he counts up the number of canisters of each kind of oil he would be unable to say whether it was taxable or not. The quantities of each kind of oil would vary from day to day, and it would be very difficult to say, in each case, whether it was a warehouse under the Act or it was not. I think it should be laid down in a manner clear and understandable. I, therefore, agree with the Hon'ble Dr. Mahendra Lal Sircar that, oil should be altogether omitted from clauses (5) and (9) of section 3."

The Hon'ble MR. LAMBERT said:—"It is very difficult to make out a stronger case against castor-oil and cocoanut-oil than as regards mustard-oil and linseed-oil, and, as far as I am aware, there are no large warehouses in this City used exclusively for the storage of any of these oils. Therefore, I agree to the proposed amendment."

The Motions were put and also agreed to.

The Hon'ble MR. LEE said:—"Before the business next on the List is proceeded with, I wish, with the permission of the President, to ask whether the amendment left undecided in the first part of section 10, which was moved by the Hon'ble Babu Gónesh Chunder Chunder at the last meeting of the Council, has been withdrawn?"

The Hon'ble THE PRESIDENT said:—"The Council has not yet reached the amendment to which the hon'ble member has referred. The Hon'ble Mr. Woodroffe has asked leave to introduce an amendment to section 9, by the addition of the words 'the proceedings of such Committee shall not be submitted to the Commissioners in meeting or be subject to revision by them.'

[*The President ; Mr. Woodroffe ; Mr. Cotton.*]

This is an amendment of which notice has not been given. But considering that it appears that, by an oversight, the section as it stands may have an effect which the Select Committee had not foreseen, and possibly the Council may not have foreseen, I will allow the amendment proposed by the Hon'ble Mr. Woodroffe to be brought on now."

The Hon'ble MR. WOODROFFE said :—"When section 9 was before them, the majority of the Council was in favour of vesting in a Special Committee, to be appointed by the Commissioners in meeting with the consent of the Chairman, the powers and discretion vested in the Chairman in regard to granting or withholding licenses for warehouses under this Act; that is, to say, the Council considered it desirable that, this matter should be placed in the hands of a small body of persons and should not be brought up for debate before a large unwieldy tribunal, such as the whole body of the Commissioners. Since that discussion, my attention has been called to the wording of section 66 of Act II of 1888, the Calcutta Municipal Consolidation Act, and it has been suggested that the proceedings of this Special Committee might thereunder be subject to revision by the Commissioners in meeting. For my own part, I do not think so; nor do I consider that the Committee, appointed under this Act, would be bound by any Resolution passed by the Commissioners in the matter. But however the decisions of the Special Committee, appointed under section 9 of this Act with the consent of the Chairman, be thought to be subject to revision and to be brought up for discussion and debate, prolonged it may be for a very considerable period of time, it is desirable so to amend this section that there shall be no room for a contention which, if successful, would, in some cases at least, render the investigations which might be made and the decision which might be arrived at by the Special Committee, simply labour lost. I, therefore, move that section 9 be amended, by the addition of the words 'the proceedings of such Committee shall not be submitted to the Commissioners in meeting or be subject to revision by them, at the end of that section.'"

The Hon'ble MR. COTTON said :—"I think this is emphatically a proposal of which notice should have been given. It appears to me to be a matter of very great importance, that a proposal should be sprung upon us at the eleventh hour, setting aside a principle which has been definitely established by an Act of the Legislature. By section 56 of Act II of 1888, it is laid down that, the action of Committees is subject to confirmation by a general meeting of

[*Mr. Cotton.*]

the Commissioners. This is emphatically one of those principles which establishes the principle of Local Self-Government, dealing with local affairs in this Metropolis. The proposal of the learned Advocate-General entirely sets aside this important principle, and if it is to be adequately discussed at a meeting of this Council, I think we should have received notice of it beforehand. The Bill, as it is before the Council, places the grant of licenses in the hands of the Chairman of the Commissioners. It removes this power from the Commissioners in whose hands the power was formerly vested, but it authorizes the Commissioners, with the consent of the Chairman, to appoint a small Committee to consider applications for licenses. The law, as it now stands in the Bill before you, whittles away the power of the Commissioners to the very smallest possible extent—to a far larger extent than I think is wise or proper. The learned Advocate-General informs you that, by a large majority, this revision in the law was carried. I think myself that it was a comparatively small majority. But be that as it may, there is no doubt that the Bill, as drafted, deprives the Municipal Commissioners of Calcutta of a very valuable privilege. The proposal led to a very unmerited and unjust attack upon the Commissioners by a member of this Council. [The Hon'ble THE PRESIDENT said:—"I must ask the hon'ble member to withdraw the word 'unjust.' It appears to me to be a term which should not be applied by one member of this Council to another."] In deference to the President, I withdraw the word 'unjust', although it expresses no more than my own personal feelings on the subject. The Hon'ble Mr. Allen is a Master of flouts and gibes and loses no opportunity of girding at one time, at the High Court; at another time, at the Calcutta Commissioners, and at another time, at this Hon'ble Council itself. [The Hon'ble THE PRESIDENT said:—"I must ask the hon'ble member to confine himself to what is before the Council. I think it very undesirable and a very unfortunate thing, if occasion is taken, in proceedings like these, to bring forward occurrences which took place two years ago, and which we all wish to forget. We are not here for personal debate; we are deciding the question, whether an amendment should be agreed to or not, and I must again ask the hon'ble member to confine himself to the question before us."] The Hon'ble Mr. Allen indulged in a long diatribe upon the conduct of the Municipal Commissioners of Calcutta. [The Hon'ble THE PRESIDENT said:—"I must again point out to the hon'ble member that we are not discussing what the Hon'ble Mr. Allen said; we are discussing a particular question, whether a particular amendment should be made in a particular section

[*Mr. Cotton ; the President ; Mr. Lee.*]

of the Bill before the House.”] If this provision is added to the Bill, it will materially impair the powers of the Commissioners. I think that time should be allowed to the Council to consider the effect of the proposal.”

The Hon’ble THE PRESIDENT said:—“The President has, under the Rules, the power of admitting amendments of which notice has not been given, and I have admitted this amendment under the impression that it corrects a mistake which had occurred, and will set things practically in the position in which they were supposed to be placed when the Select Committee passed the draft of the Bill which we are now considering. If it is a fact that the Select Committee had before them, when this section was considered and agreed to by them, the possibility that the decision of the Special Committee under section 9 might be subject to the general consideration of the Commissioners in meeting and to revision by them, and if it was their intention that it should be so subject, then it is obvious that what has fallen from my hon’ble friend Mr. Cotton, is a matter of very considerable importance, and therefore time should be allowed for the consideration of an amendment which would alter the intention of the Select Committee. But if the Select Committee did not anticipate or intend such a result, then the amendment merely carries out their objects and involves no change in principle. I think, therefore, under such circumstances, that it will be better to put the question to the House. The Council knows how far they understood that the Special Committee were to be authorized under section 9 to give a final decision, and how far they were under the impression that the decision of the Special Committee would be subject to revision under section 66 of the Municipal Act by the Commissioners at large. Those who understood the ninth section to imply a final decision on the part of the Special Committee would, perhaps, consider that we might proceed at once to the consideration of the amendment, which only clears away any doubt as to that intention. Those who consider that a new principle has been introduced will, probably, desire that it should be deferred for the next meeting of the Council. I therefore ask the Council whether, they will consider this amendment to-day or postpone it to the next meeting of the Council.”

The opinion of the Council was taken, and it was resolved by a majority of votes that the consideration of the amendment should proceed to-day.

The Hon’ble MR. LEE said:—“I had two reasons for voting that the consideration of this matter had better stand over till next Saturday. One was,

[*Mr. Lee.*]

that there seems to be some heat in the atmosphere; the other, that I had a proposal which I hoped would have met the wishes of all, and that, therefore, this particular amendment might have been withdrawn in favour of another. The Bill, if passed now, would have an effect that was not wanted by those who advocated the passing of section 9 in its present form. It is more or less by an accident, I consider, that it was passed. It was rather, I think, in opposition to the amendment which was moved by the Hon'ble Babu Gonesh Chunder Chunder and in disapproval of my remarks thereon, than by way of expression of their own views, that the votes were recorded by a small majority last Saturday. I am sure it was not the wish of that majority, that licenses for hay, wood, straw and coal should form the subjects of debate before a Standing Committee; that in all these cases, opinions should be recorded in shorthand and the proceedings reported to the Commissioners, as they would have to be, and published. There are no less than 343 woodyards in Calcutta, and every one of these has to take out a license. The power of licensing wood godowns is vested in the Commissioners; and as I tried to explain last Saturday, but failed to convey to hon'ble members, the result is, that the licensing of these warehouses for wood, hay, straw, coal, rags, bamboos, tallow and wax is dealt with as routine work by the Chairman. There is a section of the Act, which I thought would have been present in the minds of hon'ble members, that vests in the Chairman the powers of the Commissioners subject to control in meeting; therefore, the business is done with expedition when routine matters are left to the Commissioners. But, if such routine matters are to be made over to the Standing Committee, I say surely, that you will waste a great deal of time. The fact was remarked upon by Your Honour in the Resolution on last year's Administration Report of the Calcutta Municipality that, there are no less than 280 meetings of the Commissioners, either in Committee or in general or special meeting last year—more meetings than there are working days, or as many. It is now proposed to add another Committee, which would have to deal with the licenses of 343 wood warehouses, 86 straw warehouses, 20 bamboo warehouses, 26 coal warehouses, 10 tallow and wax warehouses, and 111 jute warehouses. Therefore, I regret, Sir, that this motion, which has been somewhat suddenly brought forward, could not have been postponed until next Saturday. I venture to hope that, if this motion be lost now, it will not be a bar to a proposal being brought forward next Saturday, which will restore the work to a reasonable groove. For these reasons, I must record my opinion against the amendment."



[*Mr. Allen ; Mr. Woodroffe.*]

The Hon'ble MR. ALLEN said :—" It appears to me that there is some misapprehension about the learned Advocate-General's amendment, and that it is absolutely unnecessary. It is perfectly true that the Commissioners, acting under the powers conferred upon them by Act II of 1888, have the right of controlling in meeting all special Committees, and also their Chairman, when they deal with matters provided for in that Act; but surely this Bill is quite outside anything covered by Act II of 1888. It provides for a special service for a special purpose, and it throws the responsibility of granting certain licenses on the Chairman of the Commissioners of Calcutta. I cannot conceive that, under those general powers of Act II of 1888, the Commissioners would have any power to interfere with their Chairman, when he acts under the authority of this Bill on a business totally outside anything dealt with in Act II of 1888. Then we have a section, No. 9, allowing the Commissioners, with the consent of the Chairman, to appoint a Special Committee to exercise the powers which, by this Bill, are given to the Chairman. Suppose, that an Act for the prevention of contagious diseases throws on the Chairman the functions of visitor to a lock hospital, could it be pretended that the Commissioners in meeting were entitled to control their Chairman in the discharge of his duty as visitor? Just as little right have they to control him in the discharge of his functions under this Act. Such being the case, the proceedings of the Special Committee, appointed with the consent of the Chairman and called into existence to discharge the functions thrown upon him, are just as much beyond the control of the Commissioners as the Chairman himself would be in the exercise of those powers. The Special Committee merely takes the place of the Chairman. Therefore, it appears to me, and I understand that the learned Advocate-General is disposed to hold the same opinion, that the amendment which he has now brought forward in no way alters the law, and that it is merely brought forward for the sake of obviating a baseless claim, which might otherwise be made."

The Hon'ble MR. WOODROFFE in reply said :—" Sir, the Hon'ble Mr. Allen has correctly appreciated the motives which led me to propose this amendment, and I regret to find myself in this matter not in accord with the Hon'ble Member in charge of the Bill. I think he has not correctly appreciated the position. As far as I understand the Bill, now before the Council, there are special duties imposed on the Chairman of the Commissioners under sections 5, 6, 7 and 8. These are, as it appears to me, outside the powers which the Chairman of the

[*Mr. Woodroffe.*]

Commissioners exercises under the Calcutta Municipal Consolidation Act. But coming to know that there is a contention, which has now been emphasized in this Council, that these powers are to be taken to be subject to the general provisions of the Municipal Act, it occurred to me that it is desirable to place before the Council such an amendment as should prevent such a question being raised. In my opinion, there will not be taken away by my amendment any of the powers which the Municipal Commissioners now possess. It does not appear to me that they could contend, regard being had to the language of the Municipal Act, that by exercising the powers vested in him by this Bill for the granting or refusal of licenses, the Chairman would be exercising the powers of the Commissioners as defined in the Municipal Act; or that the Special Committee, appointed under section 9 with the consent of the Chairman to exercise the powers and the discretion of the Chairman under this Act, would be a Committee within the meaning of the Municipal Act. But I think it is desirable, when one finds that such questions may arise and may cause debate, to set the matter at rest by positive enactment. The proposed amendment, in this view, makes no reference to Act II of 1888 or to the Mufassal Municipal Act of 1884. I move it simply to give effect to what I, for one, understand to be the view taken by this Council that, when a Special Committee exercises the powers of the Chairman under this Act, their action is not a matter which can or ought to be brought before the Commissioners in meeting. Had I thought that the matter stood as the Hon'ble Member in charge of the Bill has suggested, namely, the removal of powers possessed by the Commissioners in meeting, I should myself have postponed this amendment until the matter had been placed before hon'ble members of Council. It is, because I understood and still understand that there is not that question involved in this amendment, that I now bring forward this amendment."

The Motion being put, the Council divided:—

*Ayes 6.*

The Hon'ble Mr. Playfair.  
The Hon'ble Mr. Wallis.  
The Hon'ble Mr. Lambert.  
The Hon'ble Mr. Risley.  
The Hon'ble Mr. Allen.  
The Hon'ble Mr. Woodroffe.

*Noes 6.*

The Hon'ble Maharajah Raveneshwar  
Prosad Sing Bahadur.  
The Hon'ble Maulvi Syed Fazl Imam,  
Khan Bahadur.  
The Hon'ble Babu Gonesh Chunder  
Chunder.  
The Hon'ble Dr. Mahendra Lal Sircar.  
The Hon'ble Mr. Lee.  
The Hon'ble Mr. Cotton.

[*The President ; Mr. Lee ; Mr. Woodroffe.*]

The Hon'ble THE PRESIDENT said:—"The votes of the Council, excluding myself, are equal. It is therefore incumbent on me to vote. The reason why I give my vote with the *Ayes* is, that it seems quite clear, from what has fallen from the Hon'ble the Legal Remembrancer and the Hon'ble the Advocate-General, that the effect of the amendment is merely to set at rest a possible interpretation of the law, which is not the right interpretation, and we thereby save the public and the municipality from unnecessary legal proceedings and contentions."

The Hon'ble the President having recorded his vote with the *Ayes*, the Motion was carried.

The Hon'ble MR. LEE said:—"The question I wish to ask is, has the notice of amendment moved by the Hon'ble Babu Gonesh Chunder Chunder with reference to section 10, concerning which the learned Advocate-General and the Hon'ble the Legal Remembrancer have notices of motion on the paper, been withdrawn? I ask this, because I do not find it in the List of Business, and without that amendment being before us, the Council is in a position in which it cannot, if so minded, express an opinion that the intentions of the Select Committee should be carried out. If both the learned Advocate-General and the Hon'ble Mr. Allen's amendments are lost, what would be the result? Can we then vote on the proposal of the Hon'ble Babu Gonesh Chunder Chunder, which is not in the List of Business and which was not voted upon at the last meeting, and of the withdrawal of which we have not received notice?"

The Hon'ble THE PRESIDENT said:—"I understand from the Secretary that the Hon'ble Babu Gonesh Chunder Chunder's motion, which was postponed at the last meeting for consideration of an amendment which the Hon'ble Mr. Allen adumbrated and which he had not formulated, has not been withdrawn. Therefore, if the amendments of the Hon'ble Mr. Allen and the Hon'ble the Advocate-General are lost, I shall be prepared to put the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motion of which he had given notice that, for the first paragraph of section 10, the following be substituted:—

"The annual fee payable in respect of any license shall not exceed ten per centum per annum on the value of the warehouse, as it is assessed to the payment of the municipal taxes,

[*Mr. Woodroffe ; Mr. Allen ; Mr. Playfair.*]

less five per centum on the original outlay incurred in respect of the means and appliances, therein or appertaining thereto, for preventing or extinguishing fire, and less the annual expenditure incurred in or about the repairing, adding to, maintaining and working the same. Such annual expenditure to be taken to be the expenditure incurred in or about such repairing, adding to, maintaining and working during the preceding years.'

He said:—"I was induced, by some observations which fell from hon'ble members opposite on the last occasion, to bring forward this amendment; but I have since discovered, from figures laid before me, that there would be no relief whatever given to those proprietors of warehouses who have expended money on fire-extinguishing appliances, if only 5 per cent. were allowed on such expenditure."

The Hon'ble MR. ALLEN said:—"From what has fallen from the learned Advocate-General and from what I learn from the gentleman who represents the commercial interests of Calcutta, I understand that the practical effect of this amendment will be almost nothing, and it is, therefore, only on the ground of theoretical propriety that I bring forward the proposal which stands in my name. The hon'ble member opposite, on the last occasion, proposed to make 5 per cent. the allowance to be deducted from the outlay on appliances for extinguishing fires, with which jute presses and warehouses are furnished. But, as some expense may be incurred of a recurring nature in keeping the original block in repair and also in providing the means of working those appliances, I then draw a distinction between fixed outlay and recurring expenses; and in accordance with your suggestion, Sir, this amendment has been formulated, and I now leave it to the Council. I propose that, for the first paragraph of section 10, the following be substituted:—

'The annual fee payable in respect of any license shall not exceed ten per centum per annum on the annual value of the warehouse, as it is assessed to the payment of the municipal taxes, less the annual outlay (including five per centum on the first cost of all fire-engines, pumps and other appliances) incurred in respect of the means for preventing and extinguishing fires.' "

The Hon'ble MR. PLAYFAIR said:—"I think some misconception exists, regarding the cost of private fire-extinguishing appliances in relation to the municipal assessment of properties; and that, if the providing of such appliances is to be encouraged, section 10 must stand as it had been drafted by the Select Committee.

[*Mr. Playfair.*]

"I find that 14 of the more important press-houses, representing a capital valuation of about  $62\frac{1}{2}$  lakhs of rupees and with a municipal assessment of Rs. 3,12,050, are equipped with fire-extinguishing appliances, costing Rs. 99,006. If this latter sum of Rs. 99,006 is to be deducted from the municipal assessment, it is probable that three of the smaller press-houses might be reduced in taxation to the extent of Rs. 480 per annum. The remainder and larger press-houses would receive no benefit. But if the value of the fire-extinguishing appliances is to be deducted from the capital valuation of  $62\frac{1}{2}$  lakhs of rupees, as we suggested at the last meeting of the Council, not one of the 14 press-houses will obtain any relief in taxation on account of having fire-extinguishing appliances of its own, and each may be taxed Rs. 750, making a total of Rs. 10,020. Likewise, as 5 per cent. of the value of these appliances would represent a very small sum, the deduction of this amount from the municipal assessment, before ascertaining the tax to be levied for the fire-brigade, would be of no advantage. The amendments before the Council would, therefore, do away with the benefit intended to be obtainable by those who protect themselves and their neighbours, in having appliances of their own for the purpose of controlling fires. On the other hand, if the cost of the fire-extinguishing appliances were to be deducted from the municipal assessment, some of the smaller press companies might reap some benefit; for, in instances, such cost represents a larger percentage on the municipal assessment of these smaller works, than is the cost of appliances at the larger works in relation to the municipal assessment of the larger works.

"It is probable that some of the smaller press-house companies, having appliances of their own, may be relieved of taxation to the extent of 1 to  $1\frac{1}{2}$  per cent. of the municipal assessment by the provisions of section 10 as it stands. These are the persons, to whom I referred on a previous occasion, as likely to be taxed to the extent of 6 per cent. of the municipal assessment; while their more influential neighbours in the trade may be called upon to pay only one and a half per cent. under the proposed system of differential taxation. The claims of the smaller trader may, in this respect, merit the consideration of the Council. I understand it to be the intention of the Legislature that, all traders in hazardous goods should be encouraged to minimise the risk of fire within their premises by adopting methods for the prevention and the control of fires, and that section 10 was drafted by the Select Committee with this object. The amendments now before the Council would



*[Mr. Playfair ; Babu Gonesh Chunder Chunder.]*

stultify this intention. The hon'ble member, who proposed a similar amendment at the last sitting of the Council, feared lest an owner of a hazardous article might become exempt from taxation in having fire-extinguishing appliances of greater capital value than the municipal assessment of his premises, and I ask why should he not be exempt? Why should the owner of large works having a small godown, holding, for instance, tar or tallow, or resin, or any other article specified in clause (9) of section 3, be troubled and further burdened with the fire-brigade tax, when he keeps on his premises fire-brigade appliances capable of protecting the whole of his works, and fit to douse this single godown at a moment's notice?

"It is evident to my mind, Sir, that if the provision of private fire-extinguishing appliances is to merit reduction in taxation, section 10 must stand as it has been presented by the Select Committee."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"I cannot support the amendment which has been proposed by the Hon'ble Mr. Allen, for, if it is carried, it will add a great deal to the complications which already exist in the working of the Bill. In addressing the Council on the last occasion, I stated that, it would be reasonable to allow such warehouses deductions from the annual assessment of their premises of 5 per cent. on the cost of the outlay for appliances for extinguishing fires. It is now sought to add to that 5 per cent. the outlay incurred in respect of the means of preventing and extinguishing fires. If this amendment is allowed to be introduced in the Bill, the result will certainly be this: somebody would have to decide, what is reasonable and what is not reasonable outlay for the particular warehouse. There is nothing in the Bill to indicate, who would decide that. Suppose, a particular house chooses to expend Rs. 100 a month, or Rs. 1,200 a year, for the expenses of keeping up the appliances, who will decide whether such expenses are reasonable or not reasonable for the purpose? Then, again, there would be nothing in the Act to give the Commissioners power to enquire into the subject of the outlay by each warehouse. The result would be, that the Commissioners would be placed in a position which would compel them to accept whatever statement of outlay may be furnished to them by the owners of warehouses, and to deduct whatever amount they may choose to pay from the annual assessment. I venture to think, Sir, that it will be complicating the Act to a very great extent if a general provision like this be introduced, namely, that in

[*Babu Gonesh Chunder Chunder ; Mr. Lee.*]

addition to 5 per cent. on the cost of all fittings, &c., the owners of warehouses shall be allowed to deduct the annual outlay which they will incur in keeping up the appliances. I cannot, therefore, support the amendment of the Hon'ble Mr. Allen; and when the proper time comes, I will bring in my original motion, the further consideration of which was postponed at the last meeting."

The Hon'ble MR. LEE said:—"I should have much pleasure in supporting the amendment of the Hon'ble Mr. Allen, were it not that a better one is coming forward in that of the Hon'ble Babu Gonesh Chunder Chunder. I understand that the only difference between the two is, that the Hon'ble Mr. Allen's amendment will allow a deduction, for what are called recurring expenses, of an uncertain nature and amount. The result of passing this amendment would be, the reverse of what was intended when the idea was adumbrated. It will have the effect of throwing more taxation on jute warehouses than they have now. That is my opinion as to how it would actually work out. That, as the Council is aware, I do not think would be in itself inequitable, but it would be at the cost of a greater inequity. Difficulties would occur in respect of straw depôts, hay depôts and wood depôts, when the calculation came to be made regarding the license fee payable, as to what deduction should be allowed for recurring expenses for the prevention of fires. In jute warehouses, it would doubtless be decided that a portion of their establishment, engaged in the general work of the warehouse, should be charged to the maintenance and supervision of the fire-appliances. A certain percentage of the establishment would be so charged. The same principle would have to be applied when we come to timber yards and straw depôts. It is the practice in almost all straw depôts and timber yards to keep a certain number of *ghurrahs* of water. Somebody has to keep them filled with water; and it will be urged before the Standing Committee with considerable force that, a share of the establishment of each timber yard and straw depôt should be debited to recurring expenses for the prevention of fire. Now, under the Bill, a sum of Rs. 5,679 will be collected from 343 depôts, and that comes to about Rs. 17 a year from each on the average. One *chaukidar* or other servant will get from Rs. 6 to Rs. 10 a month—the least amount—and it will be a very small proportion of his pay that will have to be debited to the prevention of fire, to wipe out the whole of these fees now recovered or recoverable under the Bill from wood depôts. The same would be the result as to straw

[*Mr. Lee ; Mr. Woodroffe.*]

depôts, and the same result as regards other warehouses; and what could not be recovered from them, would have to be recovered from jute warehouses up to 50 per cent. of the cost of the fire-brigade. The learned Advocate-General shakes his head, and I am at a loss to see why. The Bill says distinctly, that the Municipal Commissioners can recover from warehouses of all kinds 50 per cent. of the cost of the fire-brigade. If, then, hay, wood, straw and other warehouses contribute nothing, it seems to follow, as a matter of course, that the 50 per cent. will all be subscribed by jute warehouses. I think that would not in itself be inequitable, but I see no reason why other warehouses, which were before paying Rs. 13,000 a year, should only pay Rs. 8,000 under this Bill; while it would be more inequitable still that they should be exempted altogether. So that for practical reasons, I would much prefer the amendment which is about to be moved by the Hon'ble Babu Gonesh Chunder Chunder, and for that reason, I shall vote against the amendment of the Hon'ble Mr. Allen."

The Hon'ble MR. WOODROFFE said:—"As already indicated, from what I said when I asked for leave to withdraw the amendment which stood in my name, I find myself unable to support the Hon'ble Mr. Allen's amendment, and I wish to explain a little more in detail, why I do so. I believe it will be found that, when this section came before the Council on the last occasion, the proceedings which then took place and which led to the Hon'ble Mr. Allen's formulating this amendment, showed that there was some considerable misunderstanding as to what the meaning of the section is. I gathered that some of the hon'ble members opposite supposed that, from the amount of the annual license-fee, it was intended to take the whole of the value incurred in respect of the appliances for preventing and extinguishing fires; whereas, the section does not do so. Section 10, as I read it, provides that, from the annual value as it is assessed to municipal rates, there shall be taken the outlay incurred on such appliances, and that upon the difference there shall be assessed a rate not exceeding 10 per cent.

"I have in my hand the details of the largest press-houses which were referred to by the Hon'ble Mr. Playfair, and from a perusal of these it will be seen that if, as suggested by the Hon'ble Mr. Allen in this amendment, there be only taken from the amount of the license-fee 5 per cent. on the first cost of all the fire-engines, &c., incurred in respect of preventing or extinguishing fires, not one large press-house or warehouse in this City will derive

[*Mr. Woodroffe.*]

any advantage from the cost incurred in providing such appliances for protecting his premises from fire, and in so doing, protecting his neighbours; whereas, if the Bill stands as it does at present and as it left the hands of the Select Committee, there will be an advantage given to the smaller warehouses. I will illustrate my meaning by the figures to which I referred. Messrs. Ralli Brothers are one of the largest press-owners in this City, and the municipal assessment on their premises is Rs. 45,000. That is the annual value, and on that, the rate is struck; and but for the fact that this Council has fixed the limit of Rs. 750, than which there shall not be a larger license-fee paid, they would have to pay a fee of Rs. 4,500 a year. Those Merchants have, however, laid out on fire-extinguishing appliances no less a sum than Rs. 36,640. Deducting that sum of Rs. 36,640 from Rs. 45,000, there remains Rs. 8,360; and if the Rs. 750 limit had not been passed, they would have had to pay a fee of Rs. 830. The consequence is, that this firm does not gain one single anna by the great service which they have rendered to the community at large in protecting themselves from the risk of fire. Practically, they have expended a sum equal to the annual value of the premises, and yet they gain no advantage. The next on the list is the Union Press Company, whose municipal assessment is Rs. 34,100. They have laid out Rs. 9,000 in fire-extinguishing appliances, the balance is Rs. 25,100; and they also are only to be protected by the Rs. 750 limit. The Strand Bank Press Company has laid out in fire-extinguishing appliances Rs. 7,500 upon an annual assessment of Rs. 33,500, leaving a balance of Rs. 26,000; they, therefore, also gain nothing. The Golabarry Press, which is in the hands of Messrs. Finlay, Muir and Company, have expended Rs. 3,500 as against a valuation of Rs. 24,000; they, therefore, also would gain nothing. It is not until you come to the smaller presses that any advantage is gained by leaving the Bill as it is, and consequently no advantage will be secured if the Hon'ble Mr. Allen's amendment were carried.

"Take, for instance, Watson's Press, the assessment upon which is Rs. 12,800, and the fire-extinguishing appliances cost Rs. 7,000. That reduces the assessable value to Rs. 5,800, and they would therefore gain an advantage of Rs. 170 per annum. The Canal Press has a municipal assessment of Rs. 12,400, with an outlay of Rs. 7,500, thus reducing the assessable value to Rs. 4,900; they would, therefore, only pay Rs. 490 for the fire-brigade and gain Rs. 260. Nasmith's Press, with an assessment of Rs. 12,000, has

[*Mr. Woodroffe ; Mr. Cotton.*]

laid out Rs. 5,000, thereby reducing the assessable value to Rs. 7,000; they, therefore, obtain relief to the extent of Rs. 50. Similarly, as I understand, when you go down lower in the grade, the advantage of the Bill, as it left the Select Committee, will be felt by those to whom I understand hon'ble members generally are in favour of granting relief, namely the smaller men.

"There is not a man, out of the fourteen largest press owners, who gains the sum of one rupee even by the deduction from the total assessable value of the total amount laid out on appliances. It is only when you come down to the smaller men that any advantage is obtained. If you demolish the provision of section 10, as it stands in the Bill, and deduct instead 5 per cent. on the annual outlay and recurring expenses, there will be no relief gained at all; and it will come to this that, in the opinion of this Council, there is a premium held out to those who lay out nothing in self-protection, and by self-protection protect also their neighbours: whereas, every encouragement should be given to persons in this City who, by protection of their own property from fire, afford protection to their neighbours. I would, therefore, ask the Hon'ble Member in charge of the Bill to consider the figures which have been submitted to me.

"It is for these reasons, that I find myself unable to support the Hon'ble Mr. Allen's amendment. It is conceived with the best intentions, and I doubt not that to a certain extent it is due to the imperfect information laid before the Council, which gave it the idea that under the Bill, as it stands, the larger presses would get off scot-free. Whereas, I find that such will by no means be the case; and if 5 per cent. upon the outlay only be allowed, even the smaller presses will gain nothing from any expenditure which they may have made upon fire-extinguishing appliances.

"With reference to what has fallen from the Hon'ble Babu Gonesh Chunder Chunder, it does not seem a reasonable construction of the Bill that, the Chairman of the Commissioners or the Special Committee are bound to admit the claim made in regard to the cost of appliances."

The Hon'ble Mr. COTTON said:—"I have considered the statement which has been placed in my hands by the learned Advocate-General, but I regret to say, it does not impress me so strongly as it has done my hon'ble friend.



[*Mr. Cotton ; Mr. Allen.*]

The reason why this proposed amendment in the Bill would practically have no effect, in the case of these large warehouses, is, that they have already gained so enormously by the decision to which the Council arrived at the last meeting of limiting the maximum to be paid by any warehouse to Rs. 750. A warehouse which is now paying Rs. 4,500 a year will, under this Bill, not be liable to pay more than Rs. 750. It is difficult to conceive a greater gain than that, short of remitting them from the payment of all license fees altogether. Hon'ble Members will remember that an amendment, to strike out of the Bill the limit of Rs. 750, was rejected. If it had been carried, there might have been more cogency in the learned Advocate-General's arguments; but, as the Bill stands, they have no effect whatever, because the larger warehouses on behalf of which they were urged are already amply protected by limiting the maximum to Rs. 750. But, when we are dealing with the somewhat smaller warehouses, it is then that the provision now proposed would act so unfairly. Assuming a small warehouse to be worth the annual value of Rs. 500, that is to say, that its capitalised value is Rs. 10,000 and the annual value Rs. 500, the assessment upon it would be one-tenth, or Rs. 50 a year. The owner of that warehouse would, if the provision now put forward be passed into law, merely have to spend Rs. 50 towards protection from fire, to be exempted from all taxation under the Act. As I read the meaning of the provision, that would be the effect of such an outlay. It is to prevent anomalies of this kind that the Hon'ble Babu Gonesh Chunder Chunder moved his amendment that, 5 per cent. upon the outlay incurred in respect of fire-extinguishing appliances should be deducted, and not that the capital outlay incurred should be deducted. It seems to me that that amendment is a very fair and reasonable one, and I hope the Council will accept it."

The Hon'ble MR. ALLEN in reply said:—"I think it unnecessary for me to take up any time with a reply. The whole discussion is entirely academical; it has travelled so utterly into cloud land that one would think it was in the island of Laputa it was being held. Practically, the charge on the larger warehouses is a flea-bite. They are so amply protected by the Rs. 750 limit that, even if a much larger percentage were deducted it would have no effect. In the learned Advocate-General's speech, there was a constant confusion between the value which is subject to assessment and the capitalised value. The annual value of Messrs. Ralli Brothers' press-house, for instance, is Rs. 45,000; the

[*Mr. Allen ; the President ; Babu Gonesh Chunder Chunder.*]

cost of appliances, Rs. 35,000, which should be deducted not from the annual value but from the capitalised value. So that, even if ten, twenty or a much larger percentage is allowed, there will be no result to any of the fifteen large European press-houses."

The Motion was put and negatived.

The Hon'ble the President called upon the Hon'ble Babu Gonesh' Chunder Chunder to move the amendment, the further consideration of which was postponed at the last meeting of the Council; and at the same time mentioned that the Hon'ble the Advocate-General, with His Honour's permission, proposed to bring forward an alternative amendment, by substituting the words "ten per cent." for "five per cent." in the Hon'ble Babu Gonesh Chunder Chunder's amendment.

The Hon'ble BABU GONESH CHUNDER CHUNDER moved the further consideration of his motion that, in line 5 of section 10, the words "five per cent. on" be inserted after the word "less."

He said:—"The reasons for this amendment I laid before the Council on the last occasion, and I do not think there is any necessity for repeating them. I shall only make one remark, namely, that, from the discussions which have taken place to-day on the amendment of the Hon'ble Mr. Allen, it appears quite clear that, by reason of the maximum limit of Rs. 750, the provisions of this section, if it is amended as suggested by me, would have no application to those warehouses which would, but for that limit, have to pay a license fee of more than Rs. 750 on a 10 per cent. rate on the annual value; because, in their case, whatever deductions might be made on account of the provision of fire-extinguishing appliances, the result would make no difference to them: as in the case, put by the learned Advocate-General, of Messrs. Ralli Brothers, where their press-house is assessed at the annual value of Rs. 45,000, and the entire cost of the outlay for appliances is Rs. 36,640. There, whether you deduct 5 per cent. or 20 per cent. or 30 per cent., it would make no difference; because, under the maximum limit, they would not have to pay more than Rs. 750. According to my amendment, if a limit of Rs. 750 was not fixed, the result in their case would be this: 5 per cent. on Rs. 36,640 would be in round numbers Rs. 1,830, the amount to be deducted from Rs. 45,000, and on the balance of Rs. 43,170, a tax at 10 per cent. would have to be paid, amounting to Rs. 4,317; but, under the maximum rule, they would not be taxed more than

[*Babu Gonesh Chunder Chunder ; Mr. Woodroffe.*]

Rs. 750. Therefore, whether you take a percentage upon the value of the fire-appliances or allow a deduction of the whole of that value, it would make no difference to them. But, in other cases, where the amount of the tax to be paid would be under the limit of Rs. 750, there, whether you deduct a percentage on the cost of fire-extinguishing appliances or the whole of such cost, it would make every difference.

"For, as in the case put by the Hon'ble Mr. Cotton, suppose the annual value of a warehouse were Rs. 500, its capitalised value being Rs. 10,000, it would not be too much to spend Rs. 500 on the appliances; and if the whole of such sum were deducted from the annual value, there would be no tax to pay. It would be against all principle to deduct the whole sum from the annual value, because you would have to do it year after year, and so, by spending the sum of Rs. 500 once, the warehouse would be exempted from all payment of tax whatever; not that he would be allowed to deduct it once, but you would have to do it year after year. I do not think it was ever the intention that a person, who spent in providing fire-extinguishing appliances a sum equal to the value of the annual assessment, should be exempted from the payment of all tax for ever. It would make no difference on the larger warehouses, whose license fee exceeds Rs. 750; but it would certainly make a great deal of difference to those whose fees were less than that maximum sum. Therefore, a percentage only can be taken, and I do not think 5 per cent. is a very unreasonable percentage to allow. In the case of the small warehouse put by the Hon'ble Mr. Cotton, a reasonable reduction which the proprietor can expect is 5 per cent. on Rs. 500, that is, Rs. 25; and the tax would have to be assessed on Rs. 500 minus Rs. 25, which would be Rs. 475."

The Hon'ble Mr. Woodroffe said :—"There is no doubt that, as the matter stands, it has been made clear, from what has fallen in the preceding debate, that large jute presses will gain no advantage whatever from large sums of money spent in providing fire-extinguishing appliances, and for that reason, I shall be obliged to record my vote against the amendment before the Council. I do not know whether I shall be in order, in reference to what has fallen from the President, in bringing forward an alternative amendment that, instead of 5 per cent., a deduction be made of 10 per cent. on the cost of fire-extinguishing appliances."

[*The President ; Mr. Woodroffe ; Mr. Lee ; Dr. Mahendra Lal Sircar.*]

The Hon'ble THE PRESIDENT said:—"I will ask the Hon'ble the Advocate-General to bring forward the amendment which he proposes, and I would ask the House to vote on both the amendments simultaneously, unless hon'ble members consider that course inconvenient."

The Hon'ble MR. WOODROFFE then moved, by way of amendment, that "ten per cent." be substituted for "five per cent".

He said:—"I hold in my hands a statement which was furnished to the Select Committee, either by the Hon'ble Mr. Lee or the Hon'ble Member in charge of the Bill, showing what would be the reduction on account of fire-appliances if the reduction were taken at 5 per cent. upon the cost, and what does the Council suppose this extraordinary concession amounts to? In the whole of Calcutta, it will amount to Rs. 620; and if baled jute were further excluded, there would be an additional Rs. 758-8-9. Therefore if the amendment of the hon'ble member is carried, then it comes to the question whether, the deduction should be 5 per cent. or 10 per cent.? Ten per cent. would give a certain measure of relief—and, as I understand, a material measure of relief—to the smaller warehouses, but nothing whatever to the larger warehouses and presses; still, in the interests of those smaller warehouses, I venture to put it to the Council that, it will be proper to make an allowance of 10 per cent. on the outlay for appliances for preventing and extinguishing fires and not 5 per cent."

The Hon'ble MR. LEE said:—"I will vote with the learned Advocate-General, as I think his amendment will have the effect of relieving the smaller rather than the larger warehouses."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"In my opinion, every encouragement should be given to warehouses for making provision for extinguishing fires, and as I myself intended to bring forward the amendment which has been moved by the learned Advocate-General, I will support his motion."

The Hon'ble Babu Gonesh Chunder Chunder's amendment, as modified by the amendment moved by the Hon'ble Mr. Woodroffe, was put and agreed to.

[*Mr. Cotton.*]

The Hon'ble MR. COTTON said:—"Sir, with your permission obtained at the last meeting of the Council, I have the honour to move the amendment which stands against my name in respect of section 12 of the Bill. It is necessary for me briefly to explain the history of this section. As the law now stands, and as the Council are aware, licenses are granted by the Municipal Commissioners, and the same law, which we are now repealing, empowers the Municipal Commissioners to cancel or suspend the licenses of any warehouses. The complete power of cancelling and suspending licenses, as well as of granting them, rests under the existing law with the Municipal Commissioners. The power of granting licenses has been modified in accordance with the provisions of this Bill. The Bill proposes a further modification in respect of the procedure to be followed in suspending or cancelling such licenses—a very much less important matter, I may say. As a fact, I do not believe that, during the many years the Municipal Commissioners have administered this provision of the law, there has been any case in which they have cancelled a license. If there have been any such cases, they have been very few and far between; and this I know cannot be one of the matters in which the members of the Council would allege that, the Commissioners have abused their powers. But as the power of granting licenses has been taken from them, it follows that the procedure for cancelling and suspending licenses must also be modified.

"Under the existing law, the Commissioners have the power of cancelling or suspending licenses in respect of which one or more of the conditions under which the license is held appear to have been broken, and also if the owner of a warehouse neglects to give notice of a change of occupation. And so it came to pass that, when the present Bill was being drafted and modifications in the procedure were agreed on, it was enacted that, whenever the Chairman of the Commissioners receives credible information that any of the conditions to which the license of a warehouse may be subject has been broken, he may apply in writing to the Magistrate, and, after proving his case and satisfying the Magistrate that such cancelment or suspension is necessary to prevent danger or injury, the Magistrate will then try the case judicially and decide whether the license shall be suspended or cancelled, or not. But, Sir, I apprehend that in the Select Committee the fact was lost sight of, that the conditions of the license are materially changed. Under the existing law, a number of conditions are imposed which find no place in the present Bill, with the exception of two only: one is, that a warehouse shall be liable to inspection; the other is, that the annual fee

[*Mr. Cotton.*]

shall be payable in respect of it. The other conditions have found their place as substantive offences to which penalties are attached under Chapter III of the Act, while one or two of the conditions have been relegated to the category of details to be specified in the application for a license; and, if they are furnished in a way considered unsatisfactory by the Chairman, the application may be refused. There is no doubt that the first of the two conditions which remain in the Bill, namely, that the warehouses should be open to inspection, is a very important one, and that, if broken, it should render the license liable to be suspended or cancelled, as the case may be. But there are also other offences which may be committed by the owners of warehouses, such, for instance, as the offence specified in section 19 of the Bill, which imposes a penalty for preparing inflammable substances and exposing them on the roof of a building—one of the principal causes of fires in jute warehouses. If an offence of that character is committed, then it is eminently desirable that the license should be cancelled. This was one of the conditions under the old Act. It is no longer a condition, but is provided for as an offence with a penalty; and it seems to me that, in respect of this and other offences which may be committed by the owner of a warehouse, the Chairman of the Commissioners should be competent to move the Magistrate to adopt the procedure laid down in the Bill under this Act for offences committed under Chapter III.

“I may take this opportunity of drawing the attention of the Council to the fact that the duty, of instituting prosecutions under the law, is one which no longer rests with the Chairman of the Commissioners or with the Commissioners in meeting. At present, under the existing law, the Inspector of Jute Warehouses is a servant of the Corporation. He is the executive officer responsible for seeing that the conditions of the license are complied with and for bringing to notice offences committed under this Act, and for instituting prosecutions before the Magistrate. At present, therefore, prosecutions are instituted by a subordinate of the Commissioners and with their authority. Under the Bill, as it is drafted by the Select Committee, the Inspecting Officer will be an officer to be appointed by the Commissioner of Police. He shall be a member of the Fire-brigade, but shall not be a member of any Police Force. He will, however, be under the orders and at the disposal of the Commissioner of Police. The executive control of warehouses passes from the Chairman of the Corporation to the Commissioner of Police.



[*Mr. Cotton ; Mr. Woodroffe.*]

And therefore it is that this section 12, as proposed to be amended by me, is so drafted that, whenever the Chairman of the Commissioners receives credible information that a condition of the license has been broken or that an offence is committed, he is authorized to lay this information before a Magistrate, with a view to applying for the cancelment or suspension of the license. This information would, in the first instance, be communicated to the Chairman by the Commissioner of Police through the Jute Inspector, and the Chairman will then be in a position to move the Magistrate to take the judicial procedure contemplated by section 12 for suspending or cancelling a license.

“With this explanation, Sir, I have the honour to move that, in sub-section (1) of section 12, after the words ‘has been broken by the holder thereof’ the words ‘or that any offence for which a penalty is prescribed under Chapter III of this Act has been committed by any holder of a license’ be inserted.”

The Hon'ble MR. WOODROFFE said :—“I rise to support the Bill as it left the hands of the Select Committee. The conclusion, at which they arrived, was not obtained without considerable discussion and as much consideration as the members of the Select Committee could bring to bear upon it, and the conclusion to which they arrived was, that the matters and things dealt with in the clauses relating to procedure are not matters which justified the suspension or cancellation of licenses; but are properly and sufficiently dealt with by imposing pecuniary penalties. The penalties, if hon'ble members will take the trouble to look at the Bill, are by no means light. In truth, the Hon'ble Member in charge of the Bill desires to impose a double punishment; so that, persons who commit any of the offences for which penalties are prescribed would be liable, in addition to those very serious pecuniary results, to cancellation or suspension of their licenses. The hon'ble member's proposed amendment is, I take it, intended to include offences under section 17, neglecting to notify change in occupation of warehouse; under section 18, giving false information respecting a license; under section 19, to which the hon'ble member referred, where the owner or occupier of a warehouse preparing or causing to be prepared or dried any inflammable substance on the roof of a warehouse, is liable to Rs. 50; under section 21, using warehouse as a residence; under section 22, for bringing or using matches or artificial lights, and under

[*Mr. Woodroffe ; Mr. Lee.*]

section 23, smoking in a warehouse—offences which were liable to a penalty of Rs. 10. Persons committing any of the above offences would not only be liable to the very serious penalties provided in the Bill, but, under the hon'ble member's amendment, be liable to have their licenses cancelled or suspended.

“I venture to submit to the Council that the conclusion, arrived at by the Select Committee, should not be so materially altered as the hon'ble member proposes to do by his motion. I ask, therefore, that the Council should uphold the clause as it left the Select Committee. That clause deals with matters in respect of which licenses may be cancelled or suspended. The conditions on which they are held are set out in the license. They are (1) the non-payment of the license fee, and (2) that which goes to the root of the whole matter, namely, the slightest attempt to prevent due and proper inspection by the officer appointed for the purpose. For the breach of these conditions, the Select Committee thought more severe measures should be resorted to, namely, the suspension or cancellation of the license.”

The Hon'ble MR. LEE said:—“While I think, Sir, that there ought to be some such power as exists now under the Fire-Brigade Act for the revocation of the licenses of habitual offenders, I cannot agree with the Hon'ble Member in charge of the Bill that, the duty of conducting prosecutions should be thrown on the Chairman of the Commissioners. There is no provision in this Bill to enable him to meet the expenses of criminal proceedings, and I do not know why they should be met from the general Sanitary Funds of this City.”

The Hon'ble MR. WOODROFFE rose to order and asked the President if it was relevant to the motion, whether the expenses of criminal proceedings should fall on the Corporation?

The Hon'ble MR. LEE said:—“That is the reason why I am unable to support the hon'ble mover of the amendment, in that it throws upon the Chairman of the Corporation the duty of prosecuting offenders, with the view of cancelling their licenses. It has been explained by the Hon'ble Member in charge of the Bill that, the inspection of warehouses has been removed from the hands of the Commissioner to those of the Commissioner of Police. If, then, any prosecutions are to be undertaken, let the Commissioner of Police pay for them.”

[*The President ; Mr. Lee ; Mr. Lambert.*]

The Hon'ble THE PRESIDENT said:—"With regard to the call to order by the Hon'ble the Advocate-General, the objection which the Hon'ble Mr. Lee has taken seems to me to be an objection which he has a right to take, though I hardly see that it applies. If in his opinion the amendment would throw extra expenditure on the Chairman of the Corporation, it seems to me that he is not out of order in taking that objection."

The Hon'ble MR. LEE continued:—"Yes, Sir, this amendment if passed would throw extra expenses upon the Chairman of the Corporation, the expenses of the law Courts. It would be necessary for him to proceed when offences are committed under Chapter III of the Bill. It would occasionally be incumbent upon him to take proceedings under section 12, which he would not have to take as the Bill now reads. I think there is some slight misapprehension, for I am not sure whether I understand the learned Advocate-General right in saying that, any person who commits the offences mentioned in sections 17, 18, 19, 21, 22 or 23 will be liable to have his license revoked or suspended. I do not find it so provided anywhere. [The Hon'ble MR. WOODROFFE said:—"I did not suggest that. I said, that if the hon'ble member's amendment be carried it might have that effect."] For this pecuniary reason, then, I record my vote against the motion."

The Hon'ble MR. LAMBERT said:—"It seems to me, as regards the matter which has fallen from the Hon'ble Mr. Lee regarding the cost of prosecutions, that no such cost will fall on the Commissioners. Section 12 merely applies to occasions in which the Chairman of the Commissioners may receive credible information, and that credible information will, I apprehend, be given to him generally by the Inspector of Warehouses. All that would be required of the Chairman of the Commissioners would be to determine, on receipt of information from the Inspector, whether he found it necessary to apply to the Magistrate for an order to suspend or cancel a license. If the information seemed to him to be sufficient, he would instruct the Inspector to apply to the Magistrate, and then the case would be proceeded with. If he considered the information insufficient, no further action would take place."

"As regards the motion now before the Council, it seems to me that section 12, as it now stands, limits the class of offences for which a license may be cancelled to a refusal to admit the Inspecting officer, or for declining to pay the

annual fee. The probability, of the institution of prosecutions on either of these grounds, is hardly worth considering. Regarding offences under the penalty clauses, by clause (2) of section 12 it is provided that, the Magistrate shall not make an order suspending such license unless he is satisfied that it is necessary to prevent or obviate immediate danger or injury of a serious character. Even the discretion of the Magistrate is fettered by this clause. And it certainly seems to me that the offence, for which a penalty is provided in section 19, which has been referred to, may possibly be of so dangerous a character that on a proper representation to the Chairman he might think it necessary that the license be suspended; and the Magistrate, in exercising his discretion under clause (2) of section 12, might think it necessary to pass an order to prevent immediate danger. On these grounds, I shall support the amendment of the Hon'ble Member in charge of the Bill."

The Hon'ble MR. PLAYFAIR said:—"This is a section which was very carefully considered by the Select Committee, and I support the section as amended by the Select Committee and the views set forth by the learned Advocate-General."

The Hon'ble MR. COTTON in reply said:—"I have only a word or two to say in reply. I can sympathise with the feelings of the learned Advocate-General and of the Hon'ble Mr. Playfair, in desiring to give every protection to the owners of warehouses against having their licenses arbitrarily cancelled. I think, however, that there is very little risk of that in any case, because, as I observed to you just now, I doubt whether there is a record of any license having been cancelled by the Commissioners, but it is possible that the Chairman of the Corporation might desire to cancel a license. In such a case, it will obviously be impossible for him to act in an improper way, owing to the extremely elaborate procedure which this Bill lays down. He must make a written statement, which is laid before a Magistrate; the Magistrate would then issue a summons to the owner of a warehouse and would then try the case judicially, and even then, he would not grant the order applied for by the Chairman unless he is satisfied that it is necessary to do so to prevent immediate danger or injury. I can hardly conceive of a procedure which is more elaborate and more calculated to prevent the arbitrary cancellation or suspension of a license.

[*Mr. Cotton; the President.*]

"With regard to the financial difficulty, to which the Hon'ble Mr. Lee referred, I must say it seems to me to be visionary. Under section 27 of the Bill which is so drafted as to cover any legitimate charge against the funds of the fire-brigade, if any expense is incurred by the Chairman of the Commissioners in instituting cases under section 12 of the Act, it would legitimately fall on such funds. But I agree with the Hon'ble the Commissioner of Police that, such charges would be infinitesimal.

"At the suggestion of the President, I will propose a verbal amendment in the motion I am laying before the Council, by specifying the sections of Chapter III referred to. I would add the words and figures 'or to any offence for which a penalty is prescribed under sections 17, 19, 21, 22 and 23 of this Act has been committed by any holder of a license.' "

The Hon'ble THE PRESIDENT said :—"This is a motion which affects a question belonging to the police or the judicial side of the business, and therefore the restriction I imposed upon myself of not expressing my views as regards any question of imposition or distribution of taxation, does not apply, and I think it well that I should make one or two remarks on the subject. The proposal is, that the penalty, which the Select Committee imposed on certain offences, should be considerably enhanced by the addition of the possible suspension or cancellation of the license. In one of these cases (section 17), I observe that the penalty which is provided by the existing law has been reduced from Rs. 100 to Rs. 10, and, therefore, it would seem as if an enhancement of the penalty would be contrary to the intention of the Select Committee. If, in its discretion, the Select Committee in addition to the provision that the Magistrate may impose a penalty of so many rupees a day as long as the offence continues, had added a clause that, in the event of the offence being continued or repeated on (say) three occasions, the license may be suspended or cancelled, I should have seen no objection to that legislation. But as the Select Committee have not done that, and as no new or strong reason has been given in favour of the amendment, I fall back on the canon, that the general rule we should follow is, that where no new light or no new considerations have been brought forward, it is well to support the Bill as it has been amended by the Select Committee; therefore it is, that I am opposed to the motion."

*Licence & Warehouse and Fire-brigade Bill.*  
*[Mr. Woodroffe ; Babu Gonesh Chunder Chunder.]*

[4TH MARCH,

The original Motion being put, the Council divided :—

*Ayes 2.*

The Hon'ble Mr. Lambert.  
 The Hon'ble Mr. Cotton.

*Noes 10.*

The Hon'ble Maharajah Ravaneshwar  
 Prosad Sing Bahadur.  
 The Hon'ble Maulvi Syed Fazl-Imam  
 Khan Bahadur.  
 The Hon'ble Mr. Playfair.  
 The Hon'ble Babu Gonesh Chunder  
 Chunder.  
 The Hon'ble Mr. Wallis.  
 The Hon'ble Dr. Mahendra Lal Sircar.  
 The Hon'ble Mr. Lee.  
 The Hon'ble Mr. Risley.  
 The Hon'ble Mr. Allen.  
 The Hon'ble Mr. Woodroffe.

So the Motion was negatived.

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motions of which he had given notice that, in sub-section (1) of section 12, after the words "upon the holder of the license" the words "and in the case of an alleged breach of any of the conditions of the license" be inserted; also that after the words "be cancelled or suspended" the words "and in the case of the alleged commission by such holder of any such offence to show cause why the penalty prescribed for such offence should not be imposed upon him" be inserted, and that after the words "and may also" the words "in the first of the cases above mentioned" be also inserted.

The Hon'ble BABU GONESH CHUNDER CHUNDER moved that, in sections 22 and 23, after the word "warehouse" the words "used for the pressing or screwing of jute or cotton" be inserted.

He said:—"If you read sections 22 and 23 with section 21, it would appear that there is a prohibition against using as a residence a warehouse for jute or cotton only. The question is, whether it is possible to use a warehouse as a human residence without taking therein matches or artificial lights unless duly and thoroughly protected, or without smoking therein. I submit that if it is intended that a warehouse, other than a jute or cotton



[*Babu Gonesh Chunder Chunder ; Mr. Woodroffe ; Dr. Mahendra Lal Sircar ; Mr. Lee ; the President.*]

warehouse, should be allowed to be used as a human residence, then those restrictions should not be put upon them. But if that is not the intention, then the words which I propose should be inserted in this section."

The Hon'ble MR. WOODROFFE said:—"As a matter of fact, I believe the words to which the hon'ble member has referred were omitted by mistake, and it appears to me that there is full reason for the suggestion he has made. But the question arises, whether the omission is covered by the definition of 'warehouse' in section 3, clause (9), which is as follows:—

'Warehouse means any building or place used for the storing, or pressing, or keeping of jute, cotton, oil, resin, varnish, pitch, tar, coir, hay, straw, rags, tallow, ship-chandlery, wood or other inflammable substance or thing for the time being subject to the operation of this Act.'

'And there may be a question, whether a warehouse which is used for nine months of a year only as a warehouse should be subject to any penalties? I would suggest, by way of amendment, that the words 'if jute or cotton be then stored therein' be inserted after the words 'jute or cotton' in the Hon'ble Babu Gonesh Chunder Chunder's amendment."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"If this Bill is passed, then hay and straw depôts will become warehouses. I know for certain that the abominable *hookah* has been the cause of many dangerous fires, and I think that *hookahs* should not be allowed to be introduced into warehouses."

The Hon'ble BABU GONESH CHUNDER CHUNDER in reply said:—"There is no law to prevent artificial lights and matches from being used in hay and straw godowns, and it will be very hard to introduce such a provision into the Bill. Probably, the owners do not live in them, but other people live there. The number of warehouses under the Act has been increased to a great extent, and it will be hard not to allow their being used as residences."

The Hon'ble MR. LEE asked if he would be out of order, if he proposed to add "straw" and "hay" to the motion? It would be in accordance with the precedent followed in the case of "oil."

The Hon'ble THE PRESIDENT said:—"I wish to point out to the Council the extreme inconvenience of springing upon the Council motions of this kind. I think I shall not be going beyond my proper position if I ask the Council

[*The President ; Mr. Woodroffe ; Mr. Wallis.*]

seriously to consider, before coming to this Chamber, what they are going to move, so that, it should be possible for them to hand in in writing the motion which they intend to propose before the discussion begins. In this case, two of the speakers have generally declared their unwillingness to include hay and straw depôts in these punitive provisions, and now one member desires that they should be included. I think it very inconvenient that such amendments should be brought forward in the middle of the discussion, when it was in the power of hon'ble members to bring them forward earlier, so that they might be placed on the List. I think it right to decline to allow this motion to be put before the House."

The Hon'ble Babu Gonesh Chunder Chunder's amendment, as modified by the amendment moved by the Hon'ble Mr. Woodroffe, was put and agreed to.

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motions of which he had given notice that, in section 25, the words " shall rateably impose the annual fees payable for licenses under section ten of this Act upon all warehouses, and " be omitted ; also that in line 7, for the word "such " the word "the" be substituted, and that after the word "fees" the words "payable for a license under section ten of this Act" be inserted.

The Hon'ble MR. WALLIS moved that, in line 1 of section 26, for the word "may" the word "shall" be substituted.

He said:—"Although Rule 42 provides that, amendments shall ordinarily be considered in the order of the clauses to which they respectively relate, I would beg, in moving the first amendment which stands in my name, to be allowed to refer to the other two amendments which I am to move and which appear in the same section of the Bill. The object, which it is desired to attain, is identical in each case, and the amendments will of course only be put to the Council in the order in which they appear on the List of Business.

"The first amendment, which I have the honour to move, is in line 1 of section 26, that for the word 'may' the word 'shall' be substituted.

"The objects, which it is desired to attain by the amendments which I have the honour to move, are, that the half per cent. rate on bastis and the one-eighth per cent. rate on the annual value of all houses and lands assessed under the provisions of the Bengal Municipal Act of 1884 and the Calcutta Municipal Consolidation Act II of 1888, as provided in the Bill, shall be levied in full and shall form the basis of taxation for the up-keep of the fire-brigade.

[Mr. Wallis.]

“In support of this view, I would like to refer to the Report of the Select Committee in which the following remarks occur:—

‘In view of the primary responsibility imposed upon the Commissioners, we have, by section 26 of the amended Bill, while exempting the owners or occupiers of a warehouse licensed under the Bill from further liability empowered the Commissioners to levy the three following rates:—

- (a) a two and-a-half per cent. rate assessed on buildings or places, used for the storage of inflammable substances, which the Government may declare liable to the payment of this rate; the amount, however, to be levied in any one case not to exceed Rs. 100 :
- (b) a half per cent rate assessed on basti lands :
- (c) a general one-eighth per cent. rate on all houses and lands assessed under the Municipal Acts affecting the municipalities concerned.’

“It will be remembered by the Hon’ble Member in charge of this Bill and also by the other members of the Select Committee, that at the several meetings when this question of apportioning the mode of differential taxation was considered, on each occasion I pressed that the proper way to proceed was, to first decide what portion of the cost of the brigade should be met by the general taxpayer; this, I urged, would give a known quantity, as it would be levied on the rates and taxes, and any balance required should be rateably imposed on the industries coming under the definition of warehouses and other buildings for the storage of goods of a less inflammable class.

“I hold in my hand, Sir, a paper in original, which I took to several of the meetings of the Select Committee and which I handed to the Hon’ble Mr. Cotton and to the learned Advocate-General. This paper shows, Sir, that I assumed the cost of the brigade to be a maximum of Rs. 75,000. It suggests, *first*, that a rate of  $\frac{1}{2}$  or 2 annas per cent. should be levied on all houses and lands as they are assessed for municipal taxation, and I took roughly the value of such houses and lands as Rs. 1,80,00,000, which would realize about Rs. 22,500; and, *secondly*, that a rate of  $\frac{1}{4}$  or 8 annas per cent. should be levied on all basti lands, which taken at Rs. 31,16,563, the valuation given by the Hon’ble Mr. Lee on the 19th of December, would realize about Rs. 15,000: or a total of Rs. 37,500.

[*Mr. Wallis.*]

"I think, Sir, I may venture to say that it was very much on the lines suggested that the Committee came to a decision as to the form of taxation which should be adopted, and in agreeing to the section of the Bill which is numbered 26 and to the clauses (b) and (c) of that section, I certainly thought that they could not possibly be construed in any other way; but I find from the statement, which was handed to hon'ble members at the meeting of the 4th of February, that at the foot of that statement the rate on bastis is taken at 4 annas per cent., and that on pucca buildings at one-and-a-half annas per cent. According to my views, and I think some of my colleagues are of the same opinion, this is wholly contrary to what we anticipated, as we were under the impression that the basis of taxation was to be the charging of a rate of 8 annas per cent. on bastis and a two-anna per cent. rate on the general tax-payer.

"As shown in my original paper, the sum which would be realized from this form of taxation amounted to Rs. 37,500, and this works out very closely if the valuation of bastis and houses given us by the Hon'ble Mr. Cotton are taken. I find the statement shows that bastis are valued at Rs. 31,14,616, which at 8 annas per cent. would realize Rs. 15,572; that the valuation of pucca buildings is given at Rs. 1,51,39,953, which at 2 annas per cent. would realize Rs. 18,924. To this was added receipts under section 26, clause 1(a), Rs. 750. Then we have to take receipts from rates levied from Cossipore-Chitpore, Rs. 500; from Manicktollah, Rs. 100, and from Howrah, Rs. 1,000, or a total of Rs. 36,846, as against Rs. 37,500, estimated by me some time ago when the question of taxation was being considered in Select Committee.

"I have taken all the figures given in the statement as correct, and I think the closeness of my estimate and that of the figures just stated show clearly what was the intention of the Committee; but the statement referred to reverses the order of things and proposes that only a certain portion of the rate leviable under the Bill on bastis and on the general tax-payer shall be taken, and still leaves the larger share to be borne by the industries coming under the definition of 'warehouses.'

"One of the main objects for which legislation has been resorted to in this instance was, the reduction of existing taxation on the jute industry and for the more equitable distribution of taxation for the up-keep of the brigade. I do not

[*Mr. Wallis ; Mr. Cotton.*]

anticipate that the rate of 2 annas per cent. to be levied on the general taxpayer will be objected to by any of the members of this Council, as it has been admitted on all sides that, the general public do undoubtedly derive considerable benefit from the brigade. The tax of 8 annas per cent. on bastis is not excessive, considering the danger these places offer, and the difficulty which is experienced in preventing fires occurring in these places from spreading.

“It is perfectly true that the residents of such places belong to the poorest classes; but the proposed taxation is small, and it is better that they should pay a small sum annually for the up-keep of an institution which may some day be the means of saving all the property they possess in the world.

“I was glad to learn from the speech made by my colleague the Hon’ble Babu Gonesh Chunder Chunder, at the meeting of the Council held on the 18th of February last, that he, too, read the clauses (b) and (c) as I take them; for, if I understand him rightly, he gave us his reason for voting for an all-round rate, that the inhabitants of bastis would only, under that proposal, be called upon to pay a tax equal to a quarter per cent. instead of half per cent., as provided in the Bill. For the reasons stated, I beg to move that, in line 1 of section 26, for the word ‘may’ the word ‘shall’ be substituted.”

The Hon’ble MR. COTTON said:—“It appears to me that this amendment is open to objection on the principle which you yourself, Sir, prominently brought to the notice of the Council a few minutes ago, namely, that it introduces a radical change in the Bill, as approved by the Select Committee, and has been introduced into this Council without any new considerations having been urged on behalf of it. If there were no other reason than this, I would ask you to use your influence in rejecting this amendment; for I think, as it is now put by the hon’ble member, this amendment deals very hardly and unfairly by the rate-payers of this City. There is a very wide difference between ‘may’ and ‘shall.’

“The intention of the Select Committee—I speak for myself only, but I understood it to be their general opinion—was, that the rates introduced into this Bill should be the maximum rates which might be worked up to on an emergency. I never understood that, it was to be compulsory on the Municipal

[*Mr. Cotton.*]

Commissioners to impose these rates either on basti owners or on the general community ; and I think it is desirable that the votes of the Council, on a matter vitally affecting the interests of the rate-payers of this Metropolis and materially affecting the Municipal Commissioners of the City, should not be taken until the Commissioners themselves have had an opportunity of expressing their views on this compulsory taxation or proposed compulsory taxation. They have had every opportunity of commenting on the form of taxation which is proposed by the Bill as drafted by the Select Committee, that is, to say, levying a sum up to this rate as a maximum, and it is well known that they are not in favour of it. On that point, I have no sympathy with their objections; but I think that the Commissioners and the rate-payers of this City may strongly object that at a meeting of this Council, without their being aware of the fact, a provision should be passed into law imposing compulsory taxation according to certain limits which, as I shall show, would effect a very material increase in the burden thrown upon the town. If a half per cent rate is levied on bastis and one-eighth per cent. on the general community at a maximum, the total will be about Rs. 35,500 in Calcutta alone. I have no data before me to say what the amount will be in Howrah or the Suburbs, but it may reasonably be assumed that it would amount to about Rs. 5,000 more. In other words, the hon'ble member's amendment would impose a compulsory rate of Rs. 40,000 for the maintenance of the fire-brigade, leaving jute and cotton and other warehouses, and all miscellaneous receipts, to make up the remaining Rs. 20,000 or less, required for maintaining the brigade.

“ The proposal, in fact, entirely reverses the policy on which this Council has hitherto proceeded. It has hitherto been assumed that, the nucleus of the Fire-brigade Fund should be the fees levied from warehouses as defined in the Bill, which, under the law at present in force, pay a total taxation of more than Rs. 80,000; Rs. 68,900 being levied from jute and cotton warehouses only, and the sum of Rs. 13,000 or Rs. 14,000 from wood, hay, straw, &c., which are now brought under the Act. The Bill, as it at present stands, will greatly relieve both jute warehouses as well as hay and straw depôts, which are highly assessed under the present law. The new law, so far as we have approved of this Bill, declares that, the fees on such warehouses should not exceed one-half of the total cost of the fire-brigade, that is, to say, it would not exceed more than Rs. 30,000 as a maximum. If the change you are now asked to accept is accepted by the Council, it would arbitrarily reduce the amount so levied to about Rs. 15,000 or



Rs. 16,000, and there is no reason whatever that I can see why this large reduction should be made.

“ This is, by far, the most important amendment which has been proposed in the Bill during the course of this discussion. It radically affects the principle upon which we have hitherto gone. That principle is, that the nucleus of the Fire-brigade Fund is made up by the fees and licenses on warehouses, and that what more is wanted to meet the cost of the fire-brigade is to be supplied by taxation on the general public; whereas, what is proposed by the hon'ble member is, that the nucleus should be made up from general taxation, and what remains over should be supplied by fees on warehouses. That entirely reverses the principle of the Bill. It illustrates no doubt the great difficulty there is in passing a Bill of this nature through a Council, where interests are so conflicting. It indicates also the wide difference of opinion which existed while the Bill was under discussion in the Select Committee. No one, who was present at the meetings of the Select Committee, can be surprised at the wide differences of opinion expressed by hon'ble members when they afterwards met in Council to discuss the clauses of the Bill. That Bill, as it left the hands of the Select Committee was, however, I understood, except in details, generally accepted by the majority of that Committee. It was at least accepted in its main point—the main principle of the Bill which relates to the incidence of taxation. If the Hon'ble Mr. Wallis's amendment is carried, it will revolutionize the Bill as it at present stands; and I hope the members of the Council will think twice and three times before they commit themselves by accepting this amendment.”

The Hon'ble MR. WOODROFFE said :—“ If the motion of the Hon'ble Mr. Wallis was in opposition to the views of the Select Committee, guiding myself by the observations that have fallen from the President during the course of these debates, I should have felt great hesitation in supporting it. But the amendment is not, as I understand it, in opposition to that view. Before the Report of the Select Committee was made, we were furnished with details showing what the annual cost of the fire-brigade was. We further received the assurance of the hon'ble member, the Commissioner of Police, that the cost of maintaining the fire-brigade was practically of a stationary character, and that there was no ground for anticipating that it was likely materially to vary in the time to come. Proceeding on the principle which

[*Mr. Woodroffe.*]

commended itself to the majority of the Select Committee, namely, that there should not be a general rate, and the Hon'ble Mr. Playfair and myself accepted, as securing the largest measure of relief thus obtainable, the principle which the majority of the Select Committee arrived at, that it would not be fair or just, in view of the reasons which led to the adoption of this and other matters which were before the Committee, to subject jute and other industries to a tax exceeding 50 per cent., I was at one with the hon'ble mover in this matter. Speaking for myself, I in accord with the hon'ble mover understood that it was as an accepted thing that, the taxes leviable under section 26, clauses (b) and (c) were to be imposed; and figures were laid before us which showed that if they were so imposed, then that which the Bill aimed at would be effected, namely, that there would not be imposed on the jute industry a liability exceeding 50 per cent. We were given to understand that, as expressed in section 24, the Commissioners were, in the first instance, to pay the whole cost of the fire-brigade, and that they were, for the purpose of providing the cost of the fire-brigade, over and above the amount recoverable as license fees; and with the view of keeping down those fees to the limit, proposed to impose certain rates. But, to my utter surprise, at the first meeting in this Council, there was handed a statement by the Hon'ble Member in charge of the Bill showing that the principle adopted by the Select Committee was to be departed from, namely, that the main portion of the expenditure incidental to the fire-brigade was to be taken from the jute and other industries, and that there was to be a much smaller amount taken from those other sources provided in the Bill. Now, Sir, the Select Committee presented their Report, and the views of the Select Committee are embodied, I presume, in that Report, and they deal with this matter in this way. In paragraph 3, they say:—

‘ We were unanimous in the opinion that, the Commissioners should be made primarily responsible for the cost of the fire-brigade; and by a majority have decided that the owners or occupiers of warehouses should be liable to contribute, in the shape of license fees, an amount which shall not exceed one-half of the charges.’

“I remember well the discussion which took place on that part of the Report and which led to the alteration of the draft, by the insertion of the words ‘shall be liable to contribute half the charges’, to the shape in which it now is, namely, ‘shall not exceed one-half of the charges.’ Then the Report went on to say in paragraph 4:—

[*Mr. Woodroffe.*]

'In view of the primary responsibility imposed upon the Commissioners, we have, by section 26 of the amended Bill, while exempting the owners or occupiers of a warehouse licensed under the Bill from further liability empowered the Commissioners to levy the three following rates:—

- (a) a two and-a half per cent. rate assessed on buildings or places, used for the storage of inflammable substances, which the Government may declare liable to the payment of this rate; the amount, however, to be levied in any one case not to exceed Rs 100;
- (b) a half per cent. rate assessed on basti lands;
- (c) a general one-eighth per cent. rate on all houses and lands assessed under the Municipal Acts affecting the municipalities concerned.'

"That that was the plain and obvious meaning of the section of the Bill now under consideration, is manifest from the observations of the Hon'ble Babu Gonesh Chunder Chunder who was not a member of the Select Committee, to which the Hon'ble Mr. Wallis has referred. [The Hon'ble Mr. Cotton:— "Does the learned Advocate-General interpret the word 'empowered' to mean 'bound'?" ] I do not. The words are of an enabling character. 'May' is, however, not unfrequently read as 'shall.' But to my astonishment I found from the statement put into my hands that, instead of a rate of 8 annas per cent., only 4 annas per cent. was taken as the rate on bastis valued at Rs. 31,14,616, and one and-a-half anna per cent. rate was taken on pucca buildings valued at Rs. 1,51,39,953; and by so doing, to shew that the amounts obtainable from these rates was, when taken with the receipts from license fees, insufficient to meet the sum of Rs. 60,000 put down as the estimated cost of the fire-brigade. The consequence was, that by reducing the percentage on basti rates by one-half, and by taking the general rate at  $1\frac{1}{2}$  annas per cent. instead of 2 annas per cent. on pucca buildings, there is a most serious difference shown. The proceeds of the two totals come to only Rs. 24,250; and the argument was then put forward in Council that there was only Rs. 24,250 available, and that the license fees on warehouses, &c., in Calcutta, Cossipore-Chitpore, &c., would only amount to Rs. 29,000, and so there would not be sufficient to provide for the cost of the fire-brigade. When, as a matter of fact, if the principle of the Bill be taken and it were made obligatory on the Commissioners to impose the taxes specified in the Bill, then there would certainly not be imposed on the jute and other industries a sum exceeding 50 per cent. of the cost of the fire-brigade. I am in accord with the Hon'ble Mr. Wallis in considering that the basis on which we proceeded was, that there was to be this taxation on bastis

[*Mr. Woodroffe ; Babu Gonesh Chunder Chunder ; Mr. Lee.*]

and pucca buildings; and I, for one, was not prepared for this mode of dealing with it. It seems, therefore, to be advisable that the Bill should be amended in the way proposed by the hon'ble mover of the amendment. I accordingly support the motion of the Hon'ble Mr. Wallis."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"I think that both my hon'ble friend Mr. Wallis and the learned Advocate-General are under a misapprehension in supposing that I said that, in construing section 26, the word 'may' should be read 'shall' in the speech which I made the other day regarding basti owners; what I meant to say was that, under the provisions of this Bill, hut-owners were liable to pay to the extent of 8 annas per cent., and the learned Advocate-General's motion, if carried, would limit their liability to the extent of 4 annas only: it was better that we should support a measure which would reduce the liability of hut-owners. But I never, by what I said on that occasion, intended to convey the idea that I read the word 'may' in this section as 'shall.'

"As regards the principle of raising this tax, although I was not a member of the Select Committee, I understood the principle to be this: that the jute trade should not be made to pay the whole cost of the fire-brigade as it had hitherto done, but that the Commissioners, who had hitherto had charge of the payment of the expenses of the fire-brigade, should retain that power in their hands; that is, to say, they should be primarily responsible to pay the cost to the Commissioner of Police, and they should recoup the expense which they had incurred, not in the first instance by raising the taxation provided for in the Bill but by raising funds according to the directions in the Act, from jute-owners, and then by supplementing it by a tax on the general community. That, I take to be the principle of the Bill. What the Hon'ble Mr. Wallis now proposes seems to be a new principle, and I therefore cannot support his amendment."

The Hon'ble MR. LEE said:—"As a member of the Select Committee I wish to say, that my remembrance of the views expressed at the meeting of the Select Committee are in strict accord with the memory of the Hon'ble Member in charge of the Bill, that is, to say, I thought it was clearly understood that the maximum rate, which we fixed as leviable upon warehouses, would be in practice levied up to one-half of the cost of the fire-brigade. The majority said, let it be not more than one-half. Let jute, which has now been paying

[*Mr. Lee; Mr. Playfair.*]

120 per cent. of the cost, have hay, straw, wood, &c., to assist it and then let them contribute up to one-half the cost, and let the rest be distributed among the general rates. If this motion were carried, it would be worse than if the original motion of the learned Advocate-General had received the approval of the Council. The figures quoted by the Hon'ble Mr. Wallis are quite correct. They show, as liabilities and charges at maximum rates on buildings and lands in Calcutta alone, the sum of Rs. 34,500, and adding what would be received from the other municipalities it would make a total of Rs. 37,300, leaving out of Rs. 60,000 (which is the cost of maintaining the fire-brigade) the sum of Rs. 22,700 to be collected from all warehouses, and of that sum nearly one-half would be paid by other warehouses than jute; so that, we have about Rs. 11,000 to be paid by jute warehouses which last year paid over Rs. 68,000.

"As regards Calcutta, I have said that it would have been better if the original proposal of the learned Advocate-General had been carried than if this amendment is carried, because we should then not have lost the whole, or even up to Rs. 8,000, which we will now lose from hay, straw, wood, &c. We should have collected from them Rs. 13,000 as before, and we should have been able to apportion the rates in a way that would have been least oppressive. If the proposal had been that Cossipore and Chitpore should pay for the cost of its branch of the fire-brigade, which is for yearly maintenance alone about Rs. 7,000, and that Howrah should similarly pay its branch, which also amounts to about Rs. 7,000 (and these figures in each case omit the cost of the capital outlay and charges at head-quarters), and that Calcutta should pay the rest, then the incidence of taxation on Calcutta would not have been so heavy as it would be if the Hon'ble Mr. Wallis's motion were carried.

"But there is one point which has been omitted from view and that is, that the assessable value of Calcutta is an increasing value, and therefore in a few years the contribution from warehouses would decrease. The warehouses undoubtedly would be increasing in number, and we should have the absurdity of their contributions being in inverse ratio to the expense and trouble thrown upon the fire-brigade by such warehouses. I have not the least doubt that, we should stand by the Report of the Select Committee in this case."

The Hon'ble MR. PLAYFAIR said:—"I endorse the views expressed by the hon'ble member who moved this amendment. I understood the sense of the Select Committee to be, that the municipalities should levy a rate of one-eighth



[*Mr. Playfair ; Mr. Lambert ; Dr. Mahendra Lal Sircar.*]

per cent. on the annual value of houses and lands and half per cent. on bastis. The Hon'ble Mr. Cotton has remarked that there is a wide difference between the words 'may' and 'shall', but I was informed, when serving on the Select Committee, that the legal value of the two words, as applied to section 26 of the Bill, is the same; otherwise, I should have made an energetic protest at the time against the use of the word 'may.' It was not until the issue of Statement A to members of the Council, by the Hon'ble Member in charge of the Bill, that his personal ideas of the permissive character of section 26 became known to me. I beg leave to confirm what was said by the learned Advocate-General that, that statement formed no part of the papers considered by the Select Committee. I therefore support the amendment, as it correctly embodies what I understood to be the decision of the Select Committee. I feel bound, however, again to express my regret that the Bill does not level up taxation upon the richer for the benefit of the poorer classes of the communities protected, by the imposition of an infinitesimal all-round rate, which would not be more than a quarter per cent. on buildings and bastis alike."

The Hon'ble MR. LAMBERT said:—"As a member of the Select Committee, I desire to say that it was not present to my mind that there should be afforded to the owners of warehouses, and especially to the jute trade, the measure of relief which is now contemplated by the amendment of the Hon'ble Mr. Wallis. Under the existing law, the jute trade paid 120 or 125 per cent. of the expenses of the fire-brigade, amounting to Rs. 68,000 or Rs. 70,000. The cost of the fire-brigade is now about Rs. 58,000, and I informed the Select Committee that it was not likely largely to increase. I stated that it would in all probability be about Rs. 60,000; and certainly it was present to my mind that the jute industry, aided by the other industries which are called dangerous, should bear one-half the cost of the brigade. By the words 'primarily responsible' which appear in the Report of the Select Committee, all that I understood was, that the Commissioners would be bound to pay to the Commissioner of Police, when he presented his budget, the means to meet the cost of the fire-brigade. I did not understand that the Commissioners would first levy maximum rates, and then that whatever deficit existed would be made up by fees from warehouses. On these grounds, I will certainly vote as I understood the intention of the Bill to be."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"That not having been on the Select Committee, I cannot say what the policy was which guided their deliberations; nor is it at all necessary to ascertain whether, the amend-



[*Dr. Mahendra Lal Sircar ; Mr. Wallis.*]

ment of the Hon'ble Mr. Wallis is in accordance with, or in opposition to, that policy, whatever that might have been. The simple question before the Council is, do lands other than basti lands, and houses other than warehouses, require the protection of the fire-brigade? I think it has been admitted by every one in this Council that, they do not; and therefore, the owners of these lands and houses should not be taxed at all, if possible, or, if taxed, they should be taxed in the smallest degree. The Bill places the tax on these at one-eighth per cent.; but even if you make it one-and-a-half annas per cent., it will not be fair, and therefore so far oppressive. For these reasons, I am entirely opposed to the amendment of the Hon'ble Mr. Wallis, and I cannot see why the Council should go beyond what the Select Committee has provided."

The Hon'ble MR. WALLIS in reply said:—"With reference to what has fallen from the last speaker, I think he is mistaken when he states that, it is admitted by every member of this Council that bastis and houses other than warehouses in no way require the protection of the fire-brigade; the history of the case is very different, for it is admitted that; the general public do derive considerable benefit from the brigade, and especially so the residents in bastis. I hold in my hand a letter from the Commissioner of Police to the Government of Bengal, dated the 26th of December, 1890, in which he clearly shows the danger bastis offer to the town, and the difficulty which is experienced in preventing fires in such places from spreading. It is not necessary for me to read this letter, as it was referred to by one of the hon'ble members in a previous debate on this question; but I only put it forward to show how necessary a fire-brigade is for affording security to the town from conflagrations in bastis."

The Motion being put, the Council divided:—

*Ayes 4.*

The Hon'ble Mr. Playfair.  
The Hon'ble Mr. Wallis.  
The Hon'ble Mr. Risley.  
The Hon'ble Mr. Woodroffe.

*Noes 8.*

The Hon'ble Maharajah Ravaneshwar  
Prosad Sing Bahadur.  
The Hon'ble Maulvi Syed Fazl Imami,  
Khan Bahadur.  
The Hon'ble Babu Gonesh Chunder  
Chunder.  
The Hon'ble Dr. Mahendra Lal Sircar.  
The Hon'ble Mr. Lee.  
The Hon'ble Mr. Lambert.  
The Hon'ble Mr. Cotton.  
The Hon'ble Mr. Allen.

So the Motion was negatived.

[*Dr. Mahendra Lal Sircar.*]

The Hon'ble DR. MAHENDRA LAL SIRCAR moved that clause (a) [with its proviso] of section 26 be omitted.

He said :—"I have deemed it my duty to move the omission of clause (a) of section 26, as not only unnecessary but also as undesirable. The clause had no place in the Draft Bill, and the Select Committee have given no justification for its insertion in the amended Bill. The ostensible object of the clause is, to create a source of raising funds. Now, Sir, we have provision for funds in specifically defined sources of revenue, and these are license fees from warehouses and rates from bastis and dwelling-houses. And particular care has been taken to see that these sources are competent to meet the requirements of the fire-brigade. Hence, Sir, I maintain that an additional source of revenue is unnecessary, especially when that source is undefined and uncertain. We must remember that when we are legislating for the taxation of special trades, it should be our duty to define the limits of taxation with the utmost clearness and precision ; and it has been well said that, that duty becomes imperative when the taxation is for a single particular purpose.

"It may be urged that, the clause is intended not so much for the purpose of raising funds as for the purpose of enabling Government to discover inflammable substances not defined in section 3. But, Sir, there is a section, viz., section 41, under which 'the Local Government may, on the recommendation of the Commissioners in meeting, declare that any building or place used for the storing, or pressing, or keeping of any substance or thing other than those specified in section three, clause (9), of this Act, shall be a warehouse within the meaning of, and be subject to the operation of, this Act.' In this section, we have provision for the detection of substances other than those specified in section 3. Where, then, is the necessity of making another provision for the same purpose ?

"It may be contended that, if discretionary power is given to the Commissioners for discovering inflammable substances other than those already specified, why should not the same power be given to the Local Government in addition ? What harm is there in doing so ? To this my reply is, why then legislate at all ? Why encumber the Act with definitions of inflammable substances ? Why not leave these things to the discretion of the Commissioners, or, best of all, to that of the Local Government ?

"For my part, I must confess that I am not for giving discretionary power even to the Commissioners. But if that cannot be avoided, I must beg leave

[*Dr. Mahendra Lal Sircar; Mr. Cotton.*]

to point out, that the power given to the Commissioners has been very wisely restricted to one of recommendation only; the final decision resting with the Local Government. Besides, even this power of recommendation is given to the Commissioners in meeting, which makes a world of difference between absolute power and power so modified. In meeting, the Commissioners will have to discuss any recommendations they may think of making. The representatives of the citizens of Calcutta and the public of Calcutta will have ample opportunity of judging for themselves before any recommendation can be sent in. Hence, the chances of abusing this discretionary power will be infinitesimal.

“But of quite a different character, is the power which the Bill proposes to give to the Local Government. Here the power is absolute; and speaking with the utmost deference before the Head of the Government, I may ask what guarantee is there that that power may not develop or rather degenerate into arbitrary power? And when such is the case, then, in addition to the Act which this Bill will become when passed, we may have no end of Acts of a different nature altogether. In fact, in my humble judgment, the clause in question, if retained, would virtually give to the Local Government power to make law without the Legislature, which the instinct of modern times feels to be far from desirable.

“Lastly, Sir, I beg to point out that, while we have in the clause under consideration provision of an undefined, uncertain and therefore arbitrary character, for widening the area of taxation, there is no provision whatever for reducing the amounts of the taxes actually defined; and this, it must be admitted, is far from equitable.

“For these reasons, Sir, I look upon clause (a) of section 26 as not only unnecessary, but undesirable and objectionable. I would, therefore, move for its omission.”

The Hon'ble MR. COTTON said:—“This clause finds its way in the Bill owing to my instrumentality. Under the law as it at present stands, ‘jute’ and ‘cotton’ are defined to mean, jute and cotton which have not been pressed or screwed as if for shipment. Under the Bill, ‘jute’ means raw jute and ‘cotton’

[*Mr. Cotton ; Mr. Woodroffe ; Mr. Wallis.*]

means raw cotton. Absolutely, all forms of pressed jute are excluded from the operation of the present Bill. Now, it seems to me very fair and reasonable that pressed jute should be excluded from the category of jute kept in warehouses. But I was not satisfied and I am not satisfied that pressed jute, as it comes to Calcutta, is not in many cases an inflammable material, of such nature that the buildings in which it is stored should not be specially assessed to a tax for the maintenance of a fire-brigade. There are also many other commodities of a very doubtful character which are not of the eminently inflammable character specified in clause (9) of section 3, or which could properly be included by the Lieutenant-Governor in that clause according to the powers vested in him, on the recommendation of the Commissioners in meeting, by a subsequent section of the Bill. It seems to me very possible that oil, of which we have heard so much to-day and which I am far from satisfied is of a non-inflammable character, would appropriately come under clause (a) of section 26; and there are many other materials which, although not so inflammable as jute or cotton, or hay, straw, &c., are sufficiently inflammable to make them liable to the payment of a special tax. That is why this provision found its way in the Bill. The rate leviable in such cases would be two and-a-half per cent. only on the assessable annual value, and the limit of taxation in any case is fixed at Rs. 100 in order to prevent an excessive rate being levied. It was intended to draw a distinction between commodities of an eminently inflammable character and those which are less inflammable, and, therefore, power is reserved in the hands of the Government to meet special cases."

The Hon'ble MR. WOODROFFE said:—"This matter of baled jute, to which the Hon'ble Member in charge of the Bill has referred, was considered by the Select Committee, who reported to the Council that they had considered the advisability of bringing baled jute within the provisions of section 26 of the amended Bill, but had determined not to do so."

The Motion was put and also negatived.

The Hon'ble MR. WALLIS, by leave of the Council, withdrew the motion of which he had given notice that, in clauses (b) and (c) of section 26, for the words "not exceeding" the word "of" be substituted.

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*Licensed Warehouse and Fire-brigade Bill.*

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[*Babu Gonesh Chunder Chunder.*]

The Hon'ble BABU GONESH CHUNDER CHUNDER, by leave of the Council, withdrew the motion of which he had given notice that, clause (c) and subsection (2) of section 26 be omitted.

The Council adjourned to Saturday, the 11th March, 1893.

CALCUTTA;

*The 20th March, 1893.*

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C. H. REILY,

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

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

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The Council met at the Council Chamber on Saturday, the 11th March, 1893.

**P r e s e n t :**

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE H. H. RISLEY, C.I.E.

The HON'BLE J. LAMBERT, C.I.E.

The HON'BLE H. LEE.

The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON'BLE A. H. WALLIS.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE P. PLAYFAIR.

The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

The HON'BLE MAHARAJAH RAVANESHWAR PRASAD SING BAHADUR.

**MALARIA IN SHAHABAD.**

The Hon'ble MAULVI SYED FAZL IMAM, Khan Bahadur, asked whether Government is aware that the construction of irrigation channels in Shahabad has introduced malaria into the district, and that the health of the people has greatly deteriorated in consequence; and, if so, whether the Government has taken any steps or will take steps, and of what nature, to check the spread of the disease?

The Hon'ble MR. COTTON replied as follows:—"The alleged deterioration of the health of the district of Shahabad, subsequently to the introduction of canal irrigation, has repeatedly attracted the attention of Government. It was brought prominently to the notice of the Sone Canal Committee of 1887, and their remarks on the subject will be found in paragraphs 69 to 77 of their Report.



[*Mr. Cotton.*]

The increase of malarial fever was considered to be established. The suggestion that irrigation should be prohibited in the immediate vicinity of towns and villages was thought to be of little practical value, because canal water is rarely used in those lands. With regard to drainage, the Committee held that, it was the duty of the authorities to remove obstructions which caused the accumulation of surface water, but that there were no means of dealing effectually with the question of subsoil drainage so as to prevent the rise of the water level in the subsoil generally.

“Mr. Odling, the Chief Engineer and Secretary to this Government in the Irrigation Department, in a lecture which he delivered at the Engineering College, Sibpur, on the 23rd of February last (a copy of which I shall have much pleasure in placing in the hon'ble member's hands), has touched on this subject. He has shown that rice irrigation requires an artificial supply of about 30 inches of water, which is an addition of from 50 to 75 per cent. to the natural rainfall of the country. This necessarily affects the health of the district; but so long as the people insist on planting rice, which gives an easy and certain outturn in preference to wheat or other cold-weather cereals, this deterioration in health cannot be avoided, except by such measures of despotic interference with the choice of the agriculturists as to the crops they wish to raise, as Government would be very unwilling to adopt. He further asserts that the canals have not stopped the surface drainage of the country, but have on the contrary improved it. Before the canals were constructed, ‘there was not a stream or small river which was not every two or three miles practically closed by embankments, sometimes a mile in length, constructed across the stream. These embankments were mostly constructed for fishing purposes, but not unfrequently with the view of raising the level of the water and utilising it for purposes of irrigation.’ These embankments have to a great extent been cleared away, the channels being taken up as public water-courses on which no encroachments will in future be allowed. The river Kao, for instance, which is the main drainage channel of the district, was, when irrigation works were commenced, completely closed at different points of its course by 14 embankments crossing the stream, and as a drainage channel it had ceased to exist. This has now been remedied, and the same process is going on elsewhere wherever it is found necessary; and this appears to be the most practical step that Government can take towards remedying the mischief to health which the lavish use of canal water for rice cultivation is liable to cause.”

[ *Mr Cotton ; Mr. Woodroffe.* ]

## LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The Hon'ble MR. COTTON moved that the clauses of the Bill, for the regulation of Warehouses and the maintenance of a Fire-brigade, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. WOODROFFE moved that, after section 28, the following section be added:—

‘The Fire-brigade Fund formed under this Act, and the fire-engines, fire-escapes, horses, accoutrements and other equipments and appurtenances of the fire-brigade, and all stations, buildings and places heretofore acquired, provided or built out of any fund appropriated to the maintenance of the fire-brigade under Act IV of 1883 or any of the Acts repealed thereby, or which shall hereafter be acquired, provided or built under the provisions of this Act, are hereby vested in, and shall belong to, the Commissioners, subject to the control of the Commissioner of Police.

He said:—“Under the Bill, as it at present stands and so far as it has received the approbation of the Council, there will be imposed on the general public, through the Commissioners of Calcutta, a considerable charge for the maintenance and up-keep of the fire-brigade, which was not laid on the public before. The general public will have to pay at least fifty per cent. of such expenditure. Under the Bill, there is a provision for the acquisition of sites for fire-brigade stations and for the purchase of the various equipments and appurtenances required for the fire-brigade, but there is no provision in the Bill vesting those sites and things in any body. They ought, I conceive, to be vested in the Commissioners as representing the general public. Next, it appears to be very desirable that the control of the fire-brigade should, in express terms, be secured to the Commissioner of Police. The section, the introduction of which I have the honour to move, is framed with this two-fold object. By Act II of 1872, section 15, it was enacted that, all existing public fire-engines or stables or buildings thereto belonging, except those belonging to the Military Department or to the Port Commissioners, constituted under Act V of 1870, should be transferred to the fire-brigade, which, by that section, the Justices were to organise and thereafter to maintain. By Act V of 1870, the Commissioner of Police was, under section 17, directed to take charge of the existing fire-brigade with all buildings, animals, &c., thereto belonging. In Act IV of 1883, there is nothing to be

[*Mr. Woodroffe ; Mr. Cotton.*]

found as to the vesting of the proprietary right of the properties belonging to the fire-brigade, or as to the Commissioner of Police having control of the brigade. That is how the law stands at present.

“The practical results to be obtained by the proposed section are, that, if passed, there cannot be at any time any question as to the persons in whom there is vested property in the fire-brigade; and that if it should be thought desirable to sell any site or to secure other sites in more convenient localities, the disposal and acquisition of such sites will be more readily effected. The existing sites and appurtenances have been acquired, for the benefit of the fire-brigade in former years, by means of the heavy license fees imposed on the jute industry. After the passing of this Bill, the burden will be divided, and the public will, in the shape of general taxation, have with the industries taxed to pay for those sites and equipments. It appears therefore, Sir, but just that the property and funds belonging to the fire-brigade should be vested in the Municipal Commissioners. It seems to me also just that, while vesting the Commissioners with the proprietary right in these matters, they should be subject, as they practically have been during a considerable period of time, to the absolute control of the Commissioner of Police. It is not my intention to interfere with that control; nor do I think it could, under the language of this section, be contended that, the Municipal Commissioners could interfere with or disturb that control. The proposed section merely provides for vesting in the Commissioners the Fire-brigade Fund, the fire-engines, fire-escapes, horses, accoutrements and other equipments and appurtenances of the fire-brigade, and all stations, buildings and places heretofore acquired, provided or built out of any fund appropriated to the maintenance of the fire-brigade under Act IV of 1883.”

The Hon'ble MR. COTTON said :—“I regret, Sir, that I should find it my duty to oppose this amendment. It appears to me that there are only two principles before this Council, in respect of the executive management of the fire-brigade. Either the fire-brigade must be managed as it is in other countries by the local body concerned, that is, to say, in the case of Calcutta by the Calcutta Corporation, or it must be managed by an executive officer appointed for the purpose, as it has been the practice in Calcutta, by the Commissioner of Police. When first the fire-brigade was established in Calcutta, the responsibility of its administration rested with the Justices of Calcutta. The fire-brigade in

[*Mr. Cotton.*]

those days was managed in a very simple manner; but when, in consequence of the large conflagrations in jute warehouses, it was found necessary to increase the fire-brigade, the Justices found themselves unable to administer it efficiently and they requested the Commissioner of Police to take over charge. This he did, and the arrangement which was come to in 1872 was ratified by the Legislature in 1879, and that arrangement has remained in force ever since. The reason for the arrangement was, that the Commissioner of Police, with the large staff at his disposal, is able to administer and control the brigade more efficiently and certainly very much more cheaply than the Calcutta Corporation would be able to do. He is able to administer the brigade thoroughly and efficiently at a cost of something more than Rs. 50,000 a year. There can be no doubt, I think, that if the control were transferred from the Commissioner of Police to the Corporation, the expenditure would be trebled. In Bombay, where the Corporation is responsible for the administration, the cost of maintaining the fire-brigade is about Rs. 1,50,000 a year. It was primarily, in order to avoid this large expenditure, that the Legislature decided that the arrangement for managing the fire-brigade through the Commissioner of Police should continue, and, as far as I am aware, the Municipal Commissioners of Calcutta have not objected to this arrangement. It is no doubt inconsistent with the general doctrine, that those who provide the funds should be responsible for the administration. That is a sound and healthy rule, but it is liable, like all other general rules, to exceptions. The reason for the exception in this case is, that the fire-brigade can be managed very much more cheaply by the Commissioner of Police.

“The amendment proposed by the learned Advocate-General recognizes the control of the Commissioner of Police, but it vests the whole property of the fire-brigade in the hands of the Municipal Commissioners; and it seems to me that, by so doing, it introduces an element of friction and disturbance. Under the Bill, as it now stands, the Commissioners of Calcutta will have nothing whatever to do with the fire-brigade or with the licensing of warehouses, except the collecting of the funds necessary for the purpose of maintaining the brigade. The powers, hitherto exercised by the Calcutta Corporation, have been materially diminished by the provisions of the Bill. It is, as hon'ble members are aware, a sore point with the representatives of the Municipality in this Council that it should be so. But, of this I am sure that, if the amendment now proposed by the learned Advocate-General is passed, the

[*Mr. Cotton ; Mr. Lambert.*]

sore which already exists will be constantly kept alive. This amendment will act as a perpetual blister which will serve to perpetuate the friction, which possibly, if left alone, may die out. It is inconceivable that the Municipal Commissioners, having the whole property of the brigade vested in them, should not take action under the power which the law gives them. I cannot say what direction that action might take, but there can be little doubt, I imagine, that it would result in interfering with the absolute discretion which the law, at present leaves in the hands of the Commissioner of Police, in administering the affairs of the brigade. If their interference should not tend in that direction, I cannot say in what direction it would operate ; and I, for one, would very greatly regret if we allow a provision to be inserted in this Bill which is likely to produce so dangerous and troublesome an effect.

“There is one other very practical objection to the learned Advocate-General’s amendment, and that is, that it is not the Commissioners of Calcutta alone who are interested in the working of this Bill. It is not in the Commissioners of Calcutta alone that the property of the fire-brigade will be vested, if this amendment is passed. But it is in all the Commissioners of the neighbouring Municipalities as well as the Commissioners of Calcutta ; and it will be absolutely impossible to define what property is vested in the hands of the Commissioners of Calcutta, what property is vested in the hands of the Municipal Commissioners of Howrah or in those of the Commissioners of Cossipore or Chitpore, or of the South Suburban town. In those outlying Municipalities, fire-brigade stations have generally been constructed. The head-quarters of the brigade are in Calcutta itself ; and all the property of the brigade—fire-escapes, horses, accoutrements, equipments, and what not—which are now stationed in Lall Bazar, will, if this section be passed, be vested equally or proportionately—I cannot say what the learned Advocate-General’s intention is in this respect—not only in the Calcutta Commissioners but in those of the Commissioners of the Municipalities to which this Act is extended. This is a very practical difficulty against the acceptance of the amendment proposed. I object to it, Sir, both on the ground of the extreme friction which a clause of this nature will be calculated to excite, and I object to it also on the ground of its extreme practical inconvenience.”

The Hon’ble MR. LAMBERT said :—“ I think that this Council will consider that the motion brought forward by the learned Advocate-General ought to be



[*Mr. Lambert.*]

based either on what is equitable or what is expedient, if not on both. Now, is the proposal an equitable one? At an earlier stage in the debate, the learned Advocate-General insisted with much emphasis that the municipalities had, without any kind of justification, benefited largely from the Fire-brigade Fund. The amount appropriated for general improvements was said to amount to upwards of a lakh of rupees. The property of the fire-brigade may, at the present time, be estimated at something like two lakhs of rupees, and why this valuable property should now be made over as a free gift to the municipalities, simply because it is proposed to impose on those bodies a portion of the cost, I am at a loss to understand? The property has been paid for wholly by the owners of jute warehouses. If, therefore, the Hon'ble Mr. Playfair were to make any claim on behalf of the owners of warehouses, the proposal would be intelligible. But, Sir, as the matter stands, the Council will, I think, fail to see where the equity of the motion comes in.

“Nor is it expedient. The proposal, to vest the control of the brigade in the Commissioner of Police, is not a new one. This method of control was decided on twenty years ago, as soon as ever it was found necessary to maintain a brigade at all, and this method was decided for two reasons: economy and efficiency. Now, it is not proposed to disturb this arrangement. The control of the brigade is still to be vested in the Commissioner of Police, but the property of the brigade is to be vested in the Commissioners. I ask whether anyone in this Council Chamber would, in an important matter like this, willingly accept control so fettered? The property of the brigade is declared to belong to certain bodies, but the Commissioner of Police is to control it. And the Hon'ble Member in charge of the Bill has explained that there is not one single municipality, but several municipalities. We already know of four. All these are separate bodies. How then is the property of the brigade to be apportioned amongst them? At the head station, there are four steam-engines and most of the plant and horses; at Howrah, there is one engine; at Chitpore-Cossipore, one; at Manicktollah, none. Is Calcutta to take all that is at Lall Bazar and is Howrah to take what is at Howrah, and so on? But, even if this were so settled, the property of the municipalities would be constantly on the move—sometimes here, sometimes there. How is all this to be settled? Again, it may be necessary to condemn an engine or stores. How is this to be done? Is each municipality to be consulted, and supposing one of them objects, who is to decide? Sir, if this motion of the learned Advocate-General be