

Proceedings of the Assam Legislative Council assembled under the provisions of the Government of India Act, 1919.

The Council met in the Council Chamber, Shillong, on Monday, the 5th March 1923, at 11 A.M.

P R E S E N T :

The Hon'ble Rai Bahadur Nalini Kanta Ray Dastidar, *President*, the Hon'ble the two Members of the Executive Council, the Hon'ble the Minister of Education and 32 nominated and elected Members.

QUESTIONS AND ANSWERS.

(STARRED QUESTIONS.)

KHAN BAHADUR KUTUBUDDIN AHMAD asked :—

*1. In view of the wide prevalence of Malaria and *Kala-azar* among the poorer classes of the people, will the Government be pleased to reduce the present sale price of quinine at least in the *Kala-azar* tract areas? Price of quinine.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA replied :—

*1.—Government are advised that quinine is no use in the treatment of *Kala-azar*. It is still freely available for the treatment of Malaria at the lowest possible price at which it can be sold by Government without loss. Owing to the present financial stringency, Government regret that they cannot sell it below cost price.

KHAN BAHADUR KUTUBUDDIN AHMAD asked :—

May I be permitted to put a supplementary question. Will the Government be pleased to state the cost price during the war time and the present cost price of each quinine treatment?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA replied :—

I shall require notice of that, Sir.

(UNSTARRED QUESTIONS.)

SRINUT BISHNU CHARAN BORAH asked :—

1. Will the Government be pleased to consider the advisability of revising the scales of pay of all classes of officers from Ministers downwards to suit the present financial position of the Province? Revision of pay of all Government officers.

Revision of pay of Ministerial officers. 2. Will the Government be pleased to revise the time-scale of pay of all ministerial officers in view of the financial stringency of the Province?

Abolition of the post of Head Clerks of Deputy Commissioners' offices. 3. Will the Government be pleased to consider the advisability of abolishing the post of the Head Clerks of Deputy Commissioners' offices and placing the criminal and revenue offices under a Superintendent in place of a Revenue Sheristadar?

THE HON'BLE MR. W. J. REID replied :—

1.—A Provincial Government has not the power to revise the scales of pay of all classes of officers from Members of the Executive Council and Ministers downwards. The pay of the Members of the Executive Council is fixed by statute, that of Ministers by the Legislative Council, and that of All-India Services by the Secretary of State.

2.—The question of the revision of the time-scale of pay for ministerial officers is being examined.

3.—The Government do not consider the Hon'ble Member's suggestion advisable.

SRIJUT BISHNU CHARAN BORAH asked :—

Separation of Judicial and Executive functions. 4. Will the Government be pleased to state the progress of the proposed scheme for separation of the Judicial and Executive functions?

THE HON'BLE MR. A. MAJID replied :—

4.—The Commissioners and Judges in each division were asked to work out schemes for the separation of functions. Their reports were laid before the Legislative Council on the 7th September 1922. As it would cost Rs. 2,50,000 recurring and Rs. 3,29,650 non-recurring to give effect to these schemes, the financial position does not at present admit of further action being taken.

SRIJUT BISHNU CHARAN BORAH asked :—

Abolition of the post of Deputy Inspectors of Schools. 5. Will the Government be pleased to consider the advisability of abolishing the post of Deputy Inspector of Schools in subdivisions and placing the whole district under one Deputy Inspector at headquarters with an additional Deputy Inspector to assist him when the work in any district is found to be heavy?

Assistant Head Masters. 6. (a) Will the Government please state (1) the total number of Assistant Head Masters in the Assam Valley Division and how many of them are *bona fide* Assamese and (2) the number of Assistant Head Masters recruited during the last 5 years in the said division and how many of them are *bona fide* Assamese?

(b) Will the Government be pleased to consider the advisability of increasing the number of *bona fide* Assamese Assistant Head Masters?

7. (a) Are the Government aware that the number of students in the Nowgong local high school has reached the strength existing before the non-co-operation movement? Nowgong High School.

(b) Are the Government aware that the existing accommodation in the High School is not sufficient to cope with the present number of students as one of the temporary sheds attached to the school was burnt down about a year ago?

(c) Are the Government aware that the school is not properly equipped in respect of apparatus, furniture, etc.?

(d) Will the Government be pleased to pay more immediate attention to the equipment and accommodation of the school in view of there being only one High School in the district?

(e) Are the Government aware that some students have been refused admission into the hostels attached to the school for want of accommodation? If so, will the Government be pleased to take steps to remove the want?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA replied :—

5.—As at present advised the Government are not prepared to admit that Subdivisional Deputy Inspectors of Schools are unnecessary. The question will be considered in connection with the general policy of retrenchment.

6. (a)—The numbers asked for in this question in their order are 12, 6, 7 and 5.

(b)—As vacancies arise the claims of Assamese-speaking officers in class I of the Subordinate Educational Service will be duly considered along with the claims of other officers on the list. Government cannot go further than this.

7. (a)—The answer is in the affirmative.

(b)—The school would be the better of two additional class rooms to replace those burnt down in course of the non-co-operation movement. Government are, however, informed that the arrangements made for the accommodation of the classes are not unsatisfactory. The school has 16 rooms in all. It has in addition ample verandah space which can be used for small classes. At the date of last report the total number of classes was 13.

(c)—Government are not so informed.

(d)—The Inspector of Schools will be requested on the occasion of his next visit to Nowgong to report in regard to such requirements, if any, as are urgently needed with a view to the allotment of funds if, and in so far as the budget will permit.

(e)—Information to this effect has not reached Government. Government regret that it cannot in any case undertake at present for want of funds, to extend the school hostels.

SRIJIT BISHNU CHARAN BORAH asked :—

Chaparmukh-Silghat Railway.

8. (a) Are the Government aware that the rate of freight on goods charged by the Chaparmukh-Silghat Railway is higher than that of the Assam-Bengal Railway ?

(b) Will the Government be pleased to see that the existing rate is reduced in the interests of the general public ?

MR. A. W. BOTHAM replied :—

8. (a)—Government are aware that the rates are higher. Hill and other small railways are permitted to charge special rates, *vide* Indian Railways, General Classification of Goods, and General Rules, No. 10, issued by the Indian Railway Conference Association and this Railway is included in that category.

(b)—The Chaparmukh-Silghat Railway is worked by the Assam-Bengal Railway Company and is under the direct control of the Government of India. The rates and fares are sanctioned by them. In the circumstances it is not considered necessary to make a reference to the Government of India on the subject.

KHAN BAHADUR MUHAMMAD BAKHT MAJUMDAR asked :—

Assam Representative in the Senate of the Calcutta University.

1. Will the Government please take steps to increase the number of Assam representatives on the Senate of the Calcutta University and nominate some Muhammedans for it ?

Abolition of the post of Assistant Inspectors of Schools.

2. Will the Government please take steps to abolish the posts of Assistant Inspectors of Schools for the purpose of retrenchment ?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA replied :—

1.—In view of the legislation in regard to the University of Calcutta which has been introduced in the Bengal Council, Government do not consider that it would serve any useful purpose at this stage to move the Chancellor of the University, in whose hands the power rests, to nominate an increased number of Muhammadan or other Assam representatives to be Fellows, *i.e.*, members of the present Senate, of the University.

2.—The question of the retention of these posts is at present under the consideration of Government. It has been already decided to keep the post of Assistant Inspector, Surma Valley, temporarily in abeyance.

Haji Muhammad Abdul Ahad Chaudhury asked :—

1. Is it true that the remuneration allotted to the jurors by the Sessions Courts is not sufficient to cover the expenses of the persons concerned according to their positions? If so, will the Government be pleased to arrange for making a suitable provision befitting the positions of the persons in question or at any rate fix a suitable rate of remuneration? Remuneration to Jurors.

The Hon'ble Mr. A. Majid replied :—

1. — The rules, which were revised in 1920, allow reasonable travelling expenses *plus* a daily allowance not exceeding five rupees for board and lodging. Government do not consider this insufficient and do not, therefore, propose to make any change.

Haji Muhammad Abdul Ahad Chaudhury asked :—

2. Will the Government be pleased to recommend the Railway Board to make arrangements for the stoppage of the Assam Mail at Latu? Stoppage of Assam Mail train at Latu.

Mr. A. W. Botham replied :—

2.—In order to speed up the through mail and make the necessary connections it was essential to give up stops at minor stations such as Latu but Government will invite the views of Railway authorities and the Surma Valley Branch of the Indian Tea Association on the proposal.

Khan Bahadur Kutubuddin Ahmad asked :—

1. Will the Government be pleased to state whether the sale of quinine in tubes sold at the Post Offices has increased or decreased since its price was raised from annas 6 to annas 9? Sale of quinine.

2. Are the Government aware of the unanimous resolution passed by the members of the Local Board of Nowgong in a meeting held on the 22nd November 1922 for the reduction of the present price of the quinine tubes offered for sale? Have the Government been pleased to take any action on the prayer of the said Board for the reduction of its price?

The Hon'ble Rai Bahadur Promode Chandra Dutta replied :—

1.—There has been some decrease in the sale of quinine in tubes sold at the Post Offices.

2.—The reply to first part of the question is in the affirmative. Government did not consider that an exception could be made in the case of Nowgong. If prices are lower in Nowgong than elsewhere there will be illicit practices and neither the Government nor the people will benefit thereby.

SRIJUT BEPIN CHANDRA GHOSE asked :—

Court room
of second
Extra
Assistant
Commis-
sioner of
Goalpara.

1. With reference to my question asked in the last March session of the Council regarding the court room of second Extra Assistant Commissioner of Goalpara.

Will the Government be pleased to make provisions in the next year's budget for the extension of the court room of the second Extra Assistant Commissioner at Goalpara ?

THE HON'BLE MR. A. MAJID replied :—

1.—The budget for 1923-24 as already introduced does not contain specific provision for this project. Government regret that they cannot at present undertake to finance it.

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ASSAM PRIMARY EDUCATION BILL, 1922.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that the Assam Primary Education Bill, 1922, be circulated for the purpose of eliciting opinion thereon. I wish briefly to tell the Council the reasons which have led me to take this step. Shortly after taking over charge I took up the question of extending primary education to the masses, and with that object in view I had all the relevant Acts examined and enquiries made as to the extent to which advantage has been taken of those Acts. All these Acts in their general outlines are all alike and our Bill appears to have been framed on the lines of those Acts. Now the essential features of these Acts are, first, an option given to the Local Bodies to apply to the Local Government for permission to make primary education compulsory within their respective jurisdictions; and secondly, power given to the Local Bodies to impose an Educational Cess for the purpose of meeting the cost. Enquiries show that very little advantage has been taken of the provisions of these Acts.

A short while ago the Government of Bombay in the Ministry of Education appointed a Committee to go into that question. The Committee was presided over by Sir Narayan Chandravarkar and they made certain recommendations. On the basis of those recommendations a Bill was framed and introduced into the Bombay Council and it has since become law. The essential features of that Act are that while they maintain the option and the power given to the Local Bodies by the earlier Acts, power has been reserved to the Government to require Local Bodies to frame and adopt a scheme of compulsory primary education for their respective jurisdictions, in return for which Government undertakes to find a proportion of the cost involved.

Now my object in circulating this Bill is to ascertain whether the members of this Council and the larger public outside accept the principles of that Act. According to the last census the percentage of literacy in this province is 6.2. That means that for every 1,000 persons as many as 938 do not know how to read or write a letter in their own vernacular. If the Reforms are to succeed we must train up the electorate, and the first step towards the training of that electorate is to make them literate. In all civilized countries, practically, nowadays primary education is compulsory and their percentages vary from 90 to 95 as against our 6.2. India at the present day cannot live in a state of isolation. She must enter the arena of world competition, and if she is to hold her own in the struggle she must train up her masses. It is for this reason that I have taken up this question almost at the start of my office as Minister. During my last tour, which extended over three months, I had been to villages just to see the conditions of our primary schools. I have spoken to villagers about the necessity of primary education, and wherever I have been I have been struck with the desire on their part to have facilities for education extended to them. The trouble really arises when we come to think of the ways and means for meeting that demand. So far as I am aware it has not been found possible in any province to provide for compulsory primary education out of the provincial revenues, and our province is in a no better position. As I have already said, in all the Acts that have hitherto been passed in any

province there is the provision for an Educational Cess being imposed. I have therefore thought it necessary to get a statement prepared showing the expenditure that will be involved in making primary education compulsory in this province and I shall have that statement circulated for the information of the members of this Council and the public. If the replies are favourable it will be necessary for me to have this Bill altered in certain respects so as to bring it into line with the Bombay Act. That may be done in the September Session.

MAULAVI RUKUNUDDIN AHMAD :—May I know, Sir, from the Hon'ble Education Minister whether the Primary Education Bill will be referred to a Select Committee before it is taken up for general discussion ?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, until I have been able to decide upon the lines the Bill should take I cannot say anything about that. As a matter of general principle such Bills are referred to Select Committees.

THE HON'BLE THE PRESIDENT :—The question is that the Primary Education Bill, 1922, be circulated for the purpose of eliciting opinion thereon.

The motion was adopted.

ASSAM MUNICIPAL BILL, 1922.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that the Assam Municipal Bill, 1922, be taken into consideration. In doing so I may be permitted to express my profound regret that my colleague, the Hon'ble Rai Bahadur Ghanayam Barua, has been prevented by illness from taking part in our proceedings and seeing the Bill through the Council. From the papers which have been placed at my disposal it is clear that he bestowed on the preparation of this Bill a great amount of labour and care and it would have been a great advantage to us all if he had been present here to give us the benefit of his study and thought.

This task was entrusted to me by His Excellency the Governor with the concurrence of my Hon'ble colleagues and I shall try and do my best and in this I know I shall have the hearty assistance of the Members of this Council.

The policy reflected in the Bill is entirely his and the credit for it all belongs to him. I shall act more or less as his mouth-piece.

MAULAVI MUNAWWARALI :—I beg to move, Sir :—

That the Assam Municipal Bill, 1922, be re-committed to a Select Committee.

In bringing forward this motion before the House for its consideration I do not mean any disparagement to the work and thought bestowed on the Bill by the Committee. Far from this, I rather I beg to pay a glowing tribute

of gratitude to them for the labour and foresight they have shewn. But, Sir, howsoever great their labour may have been and howsoever careful the Select Committee, it is a piece of legislation—and a legislation is bound to be not altogether free from errors. There have been conflicts of thoughts and principles in several places, there have been inaccuracies too. No piece of legislation can be free of errors. I therefore propose that so that the Bill may emerge much better and more thorough that it be re-committed to a Select Committee for the following reasons as well :—

In the first place there is a desire that the Bill should be postponed for sometime as has been evidenced by a resolution of the Sylhet Municipality which has been forwarded to His Excellency. The second reason is that there is no need to be in a hurry. Thereby I mean, Sir, that this is not a very urgent piece of legislation at the present moment. Municipal elections have been taking place according to the old law and people are satisfied with their present lot and do not wish that it should be hurried through, so that they may get a good law. The third reason is that the Hon'ble Member in charge, I mean, the Hon'ble Rai Ghanasyam Barua Bahadur, is absent the Hon'ble Rai Bahadur—who has laboured for it so much and whom we have been missing so much to day from our midst. His opinion, his advice, and his suggestions would have been of invaluable service. The fourth reason is that other provinces have taken to similar legislation. Sir, if there is no reason that we should be in a hurry, is it not wise for us that we should wait and try to benefit by the labours of the other provinces? We have in this Bill compared municipal laws of many many years ago. But under the present conditions of things after the Reforms have been inaugurated, the angle of vision has changed and Local Self-Government being a transferred subject the popular Ministers of different provinces have been thinking on this problem in different ways and are evolving their laws accordingly. Sir, is it not wise that we should benefit by their labour and thought, which we can if we wait a few months? Then, again, Sir, there is the serious question of principle. I have already told you, Sir, that municipal business is all out and out a transferred subject. As such, Sir, I have been of opinion and I voice the opinion of many, probably both inside and outside the Council, when I say that the chapter on official control is one which does not tally with the spirit of the Reforms. This chapter, Sir, over-rides the rights and privileges that the Reforms have inaugurated. I do not like to go into detail, but would say, Sir, that those who have gone through that chapter must have felt its over-riding influences. I therefore think that it is quite wise and proper that we should wait a little longer so that a much better law might be enacted in this province. On the other hand, Sir, an opinion has been gaining ground with the Hon'ble Members that probably those who sat on the Select Committee,—and I hope that they are thinking not rightly that by their report they are committed to the very Bill they have submitted. I respectfully aver that they are not. I think, Sir, the Members of the Select Committee are in no way committed so that they are quite at liberty to differ now if they think that it will be for the better—and it will be wiser, to postpone its consideration. It is a question of principle and a principle to which they are in no way committed. I therefore invite their attention to this so that they may not be misled. With these words, Sir, I put forward this resolution for their most serious consideration and hope that they will comply with my desire so that a much better law might be enacted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I am afraid, I must oppose this amendment. As the Hon'ble Members are aware this Bill was introduced in the Council nearly twelve months ago. Shortly thereafter it was published in the official gazette and criticisms were invited from the public. That invitation was freely availed of and many valuable opinions have been received. They were printed and a copy of the printed opinions were circulated to the Hon'ble Members. Then a Select Committee was appointed and the Select Committee consisted of, no less than, 16 members representing various shades of opinions and interests. The Members of the Select Committee sat for days and devoted their most anxious consideration to the provisions of the Bill. I think the Bill has come out of the Select Committee considerably improved. The Report of the Select Committee has also been circulated to the Members and a considerable number of amendments have been received. From these amendments it does not appear that there is any general dissatisfaction with the principle of the Bill. A ground urged by the Hon'ble Member for re-committing it to the Select Committee is the request of the Sylhet Municipality for postponement of the Bill contained in a resolution recently passed by them. Now that Municipality has requested the Government of Assam to postpone the consideration of the Bill on the ground that certain Hon'ble Members have been prevented by private reasons for attending the Council. But, Sir, if we start postponing legislation for reasons of that sort, we shall never get through any legislation at all. That, I submit, Sir, is no ground for re-committing the Bill to a Select Committee.

The second ground urged is that there is no need to be in a hurry because the people are satisfied with the existing law. The Hon'ble Mover knows it more than anybody else that the present law is unsatisfactory. The third ground given is that the Hon'ble Rai Bahadur Ghanasyam Barua is absent. Nobody regrets this more than I do. But it is at the request of the Rai Bahadur that I have taken up this Bill. I know full well what his intentions are with regard to this Bill. Another ground given is that other provinces have been attempting to have or are thinking of having a new Municipal legislation and we might just wait to have the benefit of their labours. Well, as to that argument all I would like to say is that while it is an advantage to every council to have the benefit of the deliberations of another council, I do not like to wait for them indefinitely. If there is an Act, we shall take the fullest advantage of it. But we do not know what time will be taken by the other provinces in getting their Bills through their Councils. Lastly, it has been said that the chapter dealing with official control does not tally with the spirit of the Reforms. Well, even if this be the case, it is quite open to the Hon'ble Members to bring forward any amendment they like. The only effect of re-committing this Bill to a Select Committee will mean delay in the matter of having a legislation for which there is an urgent demand in the province.

I submit therefore that no case has been made out for re-committing the Bill to a Select Committee.

SRIJUT DALIM CHANDRA BORAH :—When for the first time I read this resolution I did not really know how to deal with it. But after hearing the arguments advanced by the Hon'ble Mover in support of the resolution and considering the various amendments suggested by the Hon'ble

Members, I am quite convinced of the futility of this resolution and I protest against it. I submit, Sir, that under ordinary circumstances a Bill once sent to a Select Committee should not be made again on principle to go to the hands of another Select Committee for reconsideration. Such a procedure not only causes much loss of time and public money but results in bringing an endless series of discussions and debates. I do not see any special circumstances which justify the demand for further consideration of the Bill by the Select Committee. I do not think that the resubmission of the Bill for further consideration of a Select Committee will be to any practical good of the public. The Bill was once submitted to a Select Committee and we thought that we should be saved the trouble of going through the same sort of discussion once again. But it may be remarked without prejudice and disparagement that the Select Committee have made us to confront twofold struggles—struggle with the author and struggle with his critics. I am afraid that further submission of the Bill to a Select Committee will make our position and our proceedings more dilatory. The Bill as amended by the Select Committee was published and circulated among the Members long ago and the Hon'ble Members had the opportunity to go through it and suggest amendments. As a matter of fact amendments on the most important points of the Bill have been submitted for discussion now. Among the minor details we are primarily concerned with the constitution of the Municipal Boards,

The management of funds or properties of the Board,

The budget,

The Taxation,

and the official control to be exercised on the Boards.

I am quite sure there are lots of amendments on these points and we will have ample opportunity to discuss them at leisure. I admit that there may be some defects in the Bill in respect of some minor points, but I submit that such defects are bound to creep into every piece of legislation. These defects and imperfections can only be detected in course of application of the provision of law to particular cases, and it is then and then only that these defects can be cured. At present I do not think that the defects, if any, are enough to cause hindrance to the due performance of Municipal affairs or to prejudice the interests of the rate-payers. On these grounds I strongly oppose this resolution.

THE HON'BLE MR. W. J. REID :—I should like, Sir, to add to the discussion one narrow financial argument. The Council are aware of our financial position, and I beg that unless it is regarded as absolutely essential that the Bill should go back that we proceed with it at once. The cost of the Select Committee which was a large and representative one came to Rs. 6,600 which is not an inconsiderable sum in these hard times. Further, Sir, if this motion is accepted we shall have no business for the remainder of the week, and I am sure that the Members of the Council would not wish to sit here and draw allowances while doing no work.

The motion was put and lost.

THE HON'BLE THE PRESIDENT :—The motion having been lost the original motion before the House is that the Bill be taken into consideration.

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, there are no amendments to sections 1 and 2 of the Bill so I beg to move that sections 1 and 2 do stand part of the Bill.

The motion was adopted.

SECTION 3.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that the word “periodically” be omitted from the definition of “market” in clause (18). This definition was taken from the Calcutta Municipal Bill ; that Bill was considered by a Select Committee who omitted that word as they thought that it was unnecessary. We have decided to follow their example.

SRIJUT DALIM CHANDRA BORAH :—Sir, I do not see any necessity for the omission of the word “periodically” in the definition of “market”. I think it is very appropriately used here. By “market” we ordinarily understand a place where the people assemble for buying and selling periodically, which means daily or at stated intervals. I believe the author of the Bill has used the term to convey the idea just what I have said and as a matter of fact it should not be made to convey any other meaning.

If the word “periodically” be omitted the natural consequence will be that any place where persons assemble on a certain festive or other similar occasion only for one day without intending to reassemble there on any future occasion falls within the definition of “market”. But the Hon'ble Members may consider whether such a place can ever be contemplated by any person to include in the term “market”. If the people buying or selling things on one day only sell things injurious to human health and practise fraud, there are ample provisions of law to deal with such persons for public nuisance and cheating. I therefore insist on the retention of the word “periodically” in the definition of the word “market” which in my opinion is appropriately used.

MAULAVI RASHID ALI LASKAR :—Sir, I beg to say a few words. The amendment is for the omission of the word “periodically”. If the word remained there I think that we should see that there is no harm or danger, and if it is omitted there would be at least some apprehension of danger or something of that sort. First of all I see that if the word remained there what is the harm? There may be some apprehension that it may not include permanent shops which sit daily, or a permanent market that takes place daily for it takes place not periodically but every day, but I see that it includes that also because periodically means at certain periods, and every day is at certain periods in that sense. Then again if the word be omitted I am afraid as my Hon'ble Friend Mr. Borah has said, the definition will include *melas* or fairs where people assemble for one occasion only. There is another difficulty. There are some lines of permanent shops, and if the word “periodically” is omitted this might include these lines of shops, for instance the Bandar Bazaar of Sylhet and the Janiganj Bazaar of Silchar. And last of all, Sir, if there is any apprehension of some difficulty or danger or anything of the kind there is ample provision for it under the law. So I see no necessity for omitting the word and I see the Select Committee also passed the word. So I am against the omission of the word “periodically.”

KHAN SAHIB ALAUDDIN AHMAD CHAUDHURI:—Sir, I also oppose this motion. The omission of the word “periodically” will I am afraid include *melas* and fairs where people assemble only for one occasion.

RAI BAHADUR MONOMOCHAN LAHIRI:—Sir, I also oppose this motion. If we omit the word “periodically” permanent stalls and permanent shops will be included within the definition of the word “market” and this is not desirable. So I strongly oppose this motion.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, I find this amendment opposed by four Members, all of whom are lawyers. That being so, I do not like to press it, because from my point of view it does not matter whether the word is there or not.

The motion was, by leave of the Council, withdrawn.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, there is no other amendment to section 3 nor is there any amendment to section 4. I therefore beg to move that sections 3 and 4 do stand part of the Bill.

The motion was adopted.

SECTION 5.

MAULAVI MUNAWWARALI:—Sir, I beg to move that in section 5, sub-section 1, for the words “six weeks” the words “forty-two days” be substituted.

This is nothing very essential; it is only for convenience that I mention it. It is found to be more convenient when it is expressed in days than in weeks.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, I have no objection to accepting the amendment if that is the sense of the Council.

The motion was adopted.

MAULAVI MUNAWWARALI:—Sir, I beg to move that in sub-section (2) of section 5 for the words ‘two months’ the words ‘sixty days’ be substituted.

Sir, I move this amendment on the same grounds as the former.

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, there is no other amendment to section 5. I beg to move that section 5, as amended, and sections 6, 7, 8 and 9 do stand parts of the Bill.

The motion was adopted.

SECTION 10.

SRIJIT BEPIN CHANDRA GHOSE:—Sir, I beg to move that “sub-section (2) of section 10” be omitted.

Sub-section (2) of section 10 runs thus:—

“The Local Government may appoint officers of Government as supernumerary members who shall have the right to attend and speak at all meetings of the Board but not the right to vote. Such supernumerary members shall not be deemed to be members for the purposes of sub-sections (1), (3) and (4).”

Now, Sir, the purpose for which this sub-section has been inserted is not clear. Whatever the purpose may be, I do not find any utility and also any necessity for this sub-section. Now, Sir, let us see what this sub-section means. This supernumerary Government officers would be allowed to attend the Board's meeting and they would be allowed to speak and express their opinions in the meetings but they would not be allowed to vote. The simple reason, as I understood it, is that they will be present there only to express their opinions or in other words they will be there only to advise the Board in certain respects. Now, Sir, as for myself I am against the insertion of this clause because as you know all persons in some way or other are under some obligation to these Government officers and their mere presence in the municipal meetings would do something to influence their minds so that these Commissioners of the Municipality will have often to act against their conscience and principles. The purpose therefore for which this sub-section has been inserted might as well be met by taking the advice in writing of those expert advisers if required. I therefore do not find any necessity for accepting this sub-section, and under these circumstances I beg to move that this sub-section be altogether omitted.

MAULAVI MUNAWWARALI :—I beg, Sir, to support the amendment. It will be seen from the agenda paper on the table that an identical motion stands in my name. I do not find any necessity of recruiting supernumerary members. I have been tempted to call these members, if I may be permitted to use a chemical expression, "catalytic" agents. They will not take part in the deliberations, neither will they vote. But, Sir, they would produce an effect without having to do so, inasmuch as their presence will make some timid members to vote and speak out their minds openly. And it is not known, Sir, who these supernumerary members will be. It may so happen that a Police officer may be one such (laughter). Sir, self-government has been vouchsafed to us so that we may have a wholly frank and free discussion and speak out our minds complacently. It is for this reason, Sir, that I think it is revolting to the spirit of the reforms and therefore I oppose it.

RAI BAHADUR AMARNATH RAY :—I beg, Sir, to support this amendment, and in doing so I can do no better than quote what I said about this matter in my note of dissent. There I have stated as follows :—

"The presence of these official members may serve as a gag to the more timid among the members of the Board and it is not unlikely that in most cases the latter will vote according to the opinion expressed by the former just for fear of offending them. If the advice of these officers be necessary the Board may consult them in writing as is done even now and there may be a departmental rule making it the duty of such officers to give such advice when sought."

Sir, I have now had a fairly long experience of one Municipality and one Local Board under an official Chairman and also under a non-official Chairman, and I am not ashamed to confess that in my earlier years I myself often felt nervous and went wrong when the Subdivisional Officer was presiding and expressed an opinion one way. The purpose would be better served by having a departmental rule to the effect that a particular Government officer will help the Chairman when such help is required. The Executive Engineer of Sylhet is not a professional adviser of the Sunamganj Municipality, but I consulted him on occasions and whenever I sought his advice it was given gladly. This is by far the better way of doing things.

KHAN SAHIB ALAUDDIN AHMAD CHAUDHURI :—Sir, the Bill gives no power to the supernumerary member to vote, the purpose underlying the provisions being to receive advice from him. If the Hon'ble Members regard his presence as a terror I am really sorry for them, but I really do not find that they have been able to successfully make out any reasonable grounds for expunging the provision from the Bill itself.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I regret to observe that a sinister meaning has been sought to be read into this clause. I find it necessary therefore to tell the Hon'ble Members how this came to be inserted in the Bill.

In the year 1918 the Government of India published a Resolution on the forward policy of the Government of India in regard to Local Self-Government in so far as Municipalities are concerned. In paragraph 5 of that resolution they say as follows :—

“As regards the special representation of official experience they consider that this might often be adequately secured by the nomination to the Board of men possessed of such experience for the purpose of advice or discussion only and without the right of voting.”

So that it will be seen that the section originates not with the Local Government nor with the framer of the Bill but with the Government of India, and the object is to place at the disposal of the Municipalities official experience. That such assistance is valuable will not be gainsaid. The Hon'ble Rai Bahadur Amarnath Ray has said that he had occasion more than once to take the assistance of the Executive Engineer in certain matters connected with his Board. If that is so, will it be wrong for the Government to place at the disposal of the Municipalities the services of people possessing special qualifications to advise them? For instance a Municipality undertakes public works costing, say a lakh of rupees. Now what we find is that ordinarily a Municipal Overseer or Engineer, whoever he may be, is a man with limited qualifications. Very often this officer would find it to his advantage to consult the Executive Engineer. Under the Bill it will be open to the Government to say that the Executive Engineer will be present at the meeting of the Municipality when questions concerning these works are discussed. Take again for instance a question about the Sanitary Department. The advice of the Government experts would be particularly valuable to the Municipality. Government proposes when need arises to place the services of its experts at its disposal.

One Hon'ble gentleman said that this provision is not necessary. I can not agree with him. Two Hon'ble gentlemen said that the members present might feel intimidated by the presence of the officials. Well, as to that all I can say is that if any member cannot call up courage to speak out his mind he does not deserve to be on the Board. Then, it has been suggested that if any such advice is needed it might be obtained in writing. Well, Sir, we know the difference between taking advice in writing and taking advice after a personal consultation. I think everybody will agree that personal consultation is more effective than any amount of writing. The Hon'ble Members will then see the Government has absolutely no sinister motive in inserting this clause but only to secure that the Municipalities which will be largely elective bodies now may have the advantage of official experience.

SRIJUT DALIM CHANDRA BORAH :—I think, Sir, there is no harm in appointing a supernumerary member, a Government member, in order to render help and assistance to the Municipal Boards. By such appointments I do not think that the voting power of the Municipal Boards or of the Commissioners will be affected. One Hon'ble gentleman is afraid, Sir that a Police officer might be appointed as a supernumerary member on the Municipality and that in such a case some members would be afraid to carry on the proceedings of the Municipality in the presence of such police officers. I think, Sir there is no reason whatever for apprehension. There need be no fear to carry on the proceedings in the presence of police officers, or any officer whatever. The proceedings of the municipality are always open to the public, but of course if a municipality propose to make conspiracy against the Government, then it will be at their own risk, whether the police officers are present or not. But as far as the legitimate proceedings of a municipality are concerned I do not think that there will be any intimidation in the transaction of business in the presence of the police officers or District Magistrates or Commissioner or the Lieutenant Governor, whoever he may be. So there is no harm, in order to get the help of some experts in certain matters of the Board. From this point of view I do not think that there is any harm in the retention of this provision in the Bill.

REV. J. J. M. NICHOLS-ROY :—Sir, just a few words to add to what the Hon'ble Members have already said. I think this clause has been introduced for the purpose of training the minds of members of the Municipality not to be timid when they are in the presence of the officers, because it is very necessary that any man who does any public duty should be free from such timidity. Again as at the present time there will be inexperienced men who will enter the Municipal Council and as they need to pass through a training process, it is necessary that they should have the advice of those who have had experience in municipal affairs. These are some of the reasons why the Select Committee thought that it was all right for this clause to be left in the Bill.

The motion was put and lost.

Similar motions which stood in the name of Rai Bahadur Amarnath Ray and Maulavi Munawwarali were deemed to be withdrawn.

SRIJUT BEPIN CHANDRA GHOSE :—Sir, I beg to move :—

“That in sub-section (3) for the words ‘remainder appointed by the Local Government’ the following words be substituted, namely :—‘remaining one-fifth either appointed by the Commissioner subject to the control of the Local Government or co-opted by the elected members from among the inhabitants of the municipality or partly so appointed and partly so co-opted as the Local Government may direct.’”

Sir, my motion is that the provision should be retained as in the original draft. In the original draft of the Municipal Bill, sub-section 3 of section 10 runs thus :—

“Of the total number of members at least four-fifths shall be elected and the remaining one-fifth either appointed by the Commissioner subject to the control of the Local Government or co-opted by the elected members from among the inhabitants of the municipality or partly so appointed and partly so co-opted, as the Local Government may direct. The Local Government may at any time direct that all the members of any Municipal Board shall be elected.”

The Select Committee changed this sub-section in this way :—

“ Of the total number of members at least four-fifths shall be elected and the remainder appointed by the Local Government, etc.”

Thus the principle of co-option by the elected members has been taken away. Now, Sir, I beg to suggest that this principle of co-option should be retained, on the ground, firstly, that freedom might be exercised by the elected members of the Municipality. The principle of the Reforms is that every public body should be allowed to exercise freedom as far as possible. Now, the members required for the Municipality, if they are not appointed by the Government, should be selected by the members of the Municipality itself. There should be some provision that elected members should select somebody from among the residents of the Municipality to work along with them. The Municipal Commissioners are in the best position to know which persons will be best suited to work along with them. They know very well who are the best persons and who are most competent to work with them. Supposing a man with municipal experience, for some reason or other is not elected, and there is a vacancy, if this principle of co-option is retained, the elected members might be in a position to select such experienced man and bring him in, so that the Municipal Bodies might be managed in a satisfactory manner. But if this principle is not retained any undesirable person with no experience might be introduced—some sort of disturbing element, so to say, might be introduced in certain municipalities. So, Sir, I beg to suggest that this principle of co-option should be retained in sub-section 3 of section 10.

KHAN SAHIB ALAUDDIN AHMAD CHAUDHURI :—Sir, as a member of the Select Committee I can only inform the Hon'ble Member of this house that we gave our anxious consideration to the question of co-option. Generally we find that the party in the wrong is always in the majority. Thus it is quite possible that the members of a stronger party may like to have men of their own camp as members by co-option. So from this point of view I oppose the motion.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—There are three other amendments to the same effect. There is a slight difference between them. In the amendment which has been moved we have got the words “ appointed by the Commissioner”. The other three amendments omit the words “ appointed by the Commissioner subject to the control of the Local Government” and I suggest for the consideration of the Hon'ble Mover if he would be pleased to accept the other amendment so that there will be one amendment before the House. The amendment is slightly different from the other amendments and we have got to go on with each amendment as it is. And we are now dealing with the amendment of Mr. Bepin Chandra Ghosh.

Now, Sir, as the Hon'ble Mover has said what he proposes is practically a restoration of what was in the Bill originally before it had gone to the Select Committee. In this connection there is a good deal to be said on both sides, but speaking on behalf of the Government I would just say that if the majority of the House is of opinion that this should be restored, we would have no objection.

MAULAVI RASHID ALI LASKAR :—Sir, I beg to say a few words in this connection. From the amendment the Hon'ble Members will find that this section is almost entirely changed by a new one and the only main change is with regard to the question of co-option and the amendment now proposed appears to be a substitution of the amendment of the Select Committee practically by the original section of the Bill, so to say. Now the main question is the question of co-option. Now co-option is a thing which is not so safe here. The Hon'ble Mover said that freedom should be exercised by elected members. Plenty of freedom was exercised already by rate-payers who elected them and those elected members again, I think, should not be given any further opportunity of exercising freedom. They have their freedom already. This freedom will, I am afraid, be exercised in such a way that the communities that are over-represented will be again represented, while the unrepresented minority will still remain unrepresented and this is the only reason for the reservation of control of Government over representation. So the Select Committee after long consultation came to a unanimous conclusion regarding this section and accordingly amended it. So I think this amendment should not be supported by the Hon'ble Members and the section as amended by the Select Committee should remain as it is.

RAI BAHADUR AMARNATH RAY :—Sir, I beg to correct one statement of the Hon'ble Member who has just spoken. This section was not changed by the unanimous decision of the Select Committee. As a matter of fact I did protest against this alteration and I beg to say with due respect to the majority of the Select Committee that they went wrong in altering that section. Now, co-option is generally had recourse to for two purposes. The elected members may co-opt a gentleman for his special knowledge of a particular subject and secondly they may co-opt a gentleman for just strengthening the party in order that they may be able to carry a particular measure. And the provision is a salutary one. Such persons may be unknown to the authorities who nominate members. Again it will be right, and not wrong, to allow the party in power to further strengthen themselves because if the party in power have only a bare majority, a deadlock may ensue at times and the members may go on quarrelling among themselves from year to year without doing any useful work. It is in order to obviate this difficulty that the provision was introduced in the draft Bill at the instance of Mr. B. C. Allen and I think it should be restored in the form suggested by the Hon'ble Mover.

RAI BAHADUR KRISHNA CHANDRA CHAUDHURI :—Sir, I think the elected members will be given too much powers of co-option and where there is a division of interests Government should have some powers to protect their own interests. In this view, Sir, I support the section as altered by the Select Committee and oppose the amendments.

THE HON'BLE PRESIDENT :—The question is "That in sub-section (3) for the words 'remainder appointed by the Local Government' the following words be substituted, namely :—'remaining one-fifth either appointed by the Commissioner subject to the control of the Local Government or co-opted by the elected members from among the inhabitants of the municipality or partly so appointed and partly so co-opted as the Local Government may direct.'"

The motion was put and lost.

RAI BAHADUR AMARNATH RAY :—My Hon'ble friend Srijut Dalim Chandra Borah is willing to move an amendment identical with the one standing in my name. I beg, Sir, to withdraw mine in his favour.

SRIJUT DALIM CHANDRA BORAH :—I think the Hon'ble Member has made a mistake. It is his turn to move the first amendment. This does not appear in my amendment.

THE HON'BLE PRESIDENT :—That is already disposed of.

SRIJUT DALIM CHANDRA BORAH :—Sir, having had the experience of the fate of the first amendment I cannot venture to move the amendment standing in my name although there is a slight difference between my amendment and the amendment already disposed of. In my amendment I want to get rid of the words "the Commissioner subject to the control of" and I propose to retain all other words as they appear in the original section. My suggestion is midway between the proposal of the Select Committee and the original section. I agree with the Select Committee in so far as the question of the control and interference of the Divisional Commissioners is concerned. That official considered by the public as a superfluous link in the administrative control and the retrenchment of the posts of Commissioners is the principal topic of conversation among the public. The Local Self-Government practically is the Government of the people, for, the people and public bodies in the administration of local domestic affairs should be as free as practicable of the official control. The acts and doings of the local bodies should only be subject to the control of the highest authority of the land without making them undergo various official control in the intermediate stages. The Hon'ble Members are aware that every scrap of paper issued by the local authorities are required to pass through District Magistrates, the Commissioners and sometimes through the Public Works Department. So, Sir, the spirit and the essence of the Local Self-Government are lost in transit. I therefore think myself justified in finding myself at one with the Select Committee so far as their recommendation for the omission of the words in the original section is concerned. The Local Government should be the sole authority in the matter of election and selection of members for the Municipal Boards without of course prejudice to, and affecting the jurisdiction of the Civil Courts. But unfortunately I cannot find myself at one with the Select Committee or the majority of them when they attempt to overthrow the liberties and the privileges enjoyed by them to enable them to keep themselves in perfect touch with their representatives by enabling them to co-opt or co-operate with them both inside and outside municipal meetings. The author of the Bill in the goodness of his heart has recognized the soundness of this principle of co-option and co-operation. The Members of the Select Committee do not appear to have availed themselves of the opportunity given to them by the author of the Bill of his own accord. We must embrace the opportunity of enabling members of the Municipal Boards to use the power of co-opting with the principal residents within the municipal limit. It is from this consideration I suggest that this portion of the original section authorising the members of the Municipal Boards to co-opt with the principal residents of the Municipality should be retained.

THE HON'BLE THE PRESIDENT :—The question before the House is this :—That in sub-section (3) for the word 'remainder' the words 'remaining one-fifth either' be substituted and after the words 'Local Government' the following words be inserted, namely :—"or so co-opted by the elected members from among the inhabitants of the Municipality or partly so appointed and partly so co-opted as the Local Government may direct".

The motion was put and lost.

RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 10 may stand part of the Bill.

The motion was put and adopted.

SECTION 11.

Two other identical motions standing in the name of Maulavi Munawwar-ali and Rai Bahadur Amarnath Ray were deemed to be withdrawn.

SRIJUT BEPIN CHANDRA GHOSE :—Sir, I beg to move that after the word "rule" the words "to be sanctioned by the Legislative Council" be inserted.

The main object of the addition of these words is that all sorts of difficulties might be removed if the rules are discussed in the Council. Another point in favour of this addition is that the representatives of the people should have a voice in framing the rules which they are to follow, and there is another thing that if the rules are framed with the help of the Councillors then there will be nothing to object by the public. So on these three grounds I beg to suggest that the rules for the election of members shall be framed with the help of the Council and that these rules be sanctioned by the Legislative Council.

RAI BAHADUR MANOMOHAN LAHIRI :—Sir, I think it is unnecessary to make this addition. Section 290, clause (3) provides that all rules made under this section shall be subject to the condition of previous publication and to the further condition that the rules shall be laid before the Legislative Council, and that after the rules have been so laid the Council may annul or modify the rules or any of them but without prejudice to the validity of anything previously done thereunder. So under that clause the rules are already to be laid before the Legislative Council and the amendment is unnecessary.

The motion was, by leave of the Council, withdrawn.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 11 do stand part of the Bill.

The motion was adopted.

SECTION 12.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that in clause (ii) of proviso (2) for the words and figures "Indian Income-tax Act, 1918," the following words and figures be substituted, namely :—"Indian Income-tax Act, 1922."

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that for the word “entitled” in the penultimate line the word “qualified” be substituted. Clause (iv) of that section runs thus :—“is a manager or person in charge of a company or firm or business owning or occupying any land or building within the limits of the municipality, separately numbered and of which the annual value shall not be less than Rs. 50 per annum,” shall be entitled to vote at the election of members of such municipality. This amendment is intended to make it clear that a man who happens to be in such circumstances cannot vote unless certain formalities are gone through. These formalities are described in another section.

The motion was adopted.

MAULAVI MUNAWWARALI :—Sir, I beg to move that in section 12, sub-section (2) after the words “immediately preceding” the words “the date of” be inserted. As there is some difficulty in the matter of calculating the amount of twelve months I have suggested the above amendment. Practically I had myself experienced difficulty during the last Municipal election when I was made to prepare the electoral roll. The question arose whether the amount of twelve months should be calculated from the date on which the election begins—the election continues for several days—or from the date when it ends. As a matter of fact it should be calculated from the date of the beginning of the election. In order that no confusion might arise I have suggested the amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, this is a question of mere phraseology and if the House think it is necessary I have no objection to the words being added as suggested in the amendment.

The motion was put and adopted.

MAULAVI MUNAWWARALI :—Sir, I beg, to move that in section 12, clause (i), sub-section (2), after the words “immediately preceding” the words “the date of” be inserted. I make the suggestion to remove the same difficulty as in the former case.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I have no objection.

The motion was adopted.

SRIJIT DALIM CHANDRA BORAH :—Sir, before I move this resolution I beg to point out that in the agenda supplied to us the day before yesterday there was no such item as the discussion of the amendments of the Municipal Bill to-day. There were only five items ending with Maulavi Munawwarali's amendment. I find in the agenda of to-day's business that the Bill is to be considered fully. I beg to submit that most of the Hon'ble Members are not prepared to discuss the amendments fully, so I pray that the Members who propose to make important amendments may be permitted to move them on a subsequent day, and I think my amendments will be very long so I beg permission for moving these amendments on some other day as I do not think that all these amendments could be finished to-day. There are some short amendments and these can be taken up to-day but as for the important ones are concerned they may be postponed.

THE HON'BLE MR. W. J. REID :—I am afraid, Sir, we must protest against this. The Bill is here and we have the whole day in which to discuss it. The Hon'ble Member need not be afraid. He may go on with his amendments one after the other as they are finished. I think it is a little unjust to say that Hon'ble Members have not had time for preparation. The Hon'ble the Minister in charge of the Bill has to reply to amendments at the spur of the moment and I think the balance of the advantage is with the Hon'ble Member, and I hope, Sir, that you will not agree to the suggestion just made.

SRIJUT DALIM CHANDRA BORAH :—Sir, I beg to move—

“ That proviso (1) be omitted.”

This proviso runs thus :—

“ (1) that no person, not being a British subject or a subject of any State in India, shall, unless this restriction is removed by the Local Government with the approval of the Governor General in Council in the case of any person or class of persons, be entitled to vote at such election.”

I submit, Sir, that the materials for the construction of the present Municipal Bill have been taken mostly from the Bengal Municipal Acts now in force in Assam and other Municipal Laws and Regulations in force in India and also in some other parts of the world. But I am afraid that in none of these municipal acts and regulations do we find the existence of such a provision disqualifying a person from giving his vote at any election simply on the ground of nationality or alienage. I remember however that there is such a provision in the Electoral Rolls of the Assam Council made under the Government of India Act but it must be said to the credit of the Government that electoral rolls have made ample provisions to safeguard the interests of various sections of the community by constituting different electors or constituencies, but the scope of the Assam Municipal Bill is very limited in order to provide such safeguards for people of all castes and creeds. The Hon'ble Members are aware that our municipalities are inhabited by people of different castes and creeds and colours belonging to different countries, or being the subjects of different sovereigns, princes and principalities. There are in our municipalities Nepalis, Japanese, Americans, and so on and if this provision be allowed to stand then some of those persons who have permanently settled in the municipalities will be disqualified from giving their votes at an election although they are otherwise qualified to give votes at a municipal election. There is however a provision that the Local Government with the approval of the Governor General in Council may remove that restriction. But we are fully aware of the impediments and obstacles in the way of obtaining such sanction from the supreme Government with the intervention of the Local Government. I therefore suggest that it is quite unfair to place this class of people wholly and entirely at the mercy of the Governor General in Council, and furthermore it is an injustice to deprive them of the liberties and privileges which they would otherwise enjoy but for the existence of this restriction.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I for one have not yet been able to make out for whom the Hon'ble Mover was pleading. The section says that a British subject, whoever he may be, or the subject of an Indian State shall have a right under certain conditions. As to others who do not answer this description the Bill lays down that if the Local Government agree to recommend, and the Governor General agrees, they might also be allowed to vote in municipal elections. Now, Sir, the persons interested in the Municipalities are really the persons who are permanently resident therein and there is no injustice involved in the provision made in this clause.

MAULAVI MUNAWWARALI :—I beg, Sir, to oppose the motion. The intention of the Hon'ble Mover, it seems to me, is one which might very well be carried out by the League of Nations. His intention is no doubt cosmopolitan, but, Sir, we do not know if he can at all be cosmopolitan here. I was thinking Sir, that the reason which actuated him to move this amendment was that he might have thought it was redundant. The next clause probably appeared to him to be quite sufficient, but, Sir, it seems that his view was quite different. Now, even if the Council agreed upon carrying this motion, the second clause would have marred his object. I therefore beg to oppose it.

The motion was put and lost.

SRIJUT DALIM CHANDRA BORAH :—Sir, the amendments suggested by me in reference to this clause have been subdivided into three parts. The first deals with the omission of the words "twenty-one years, being a British subject or a subject of any State in India". The second is the omission of the word 'a' in line 6, and the substitution of the word 'such'. In the third place the omission of the words 'an inhabitant therefore, and who'. I will deal with these amendments separately.

In the first place I propose that the words 'twenty-one years, being a British subject or a subject of any State in India', should be substituted by 'majority, as recognised by any law in force in India.' I think Hon'ble Members are aware that under ordinary circumstances a person is recognised to attain the age of majority on the attainment of the 19th year, that is after he has passed the 18th year of his age. But in the case of persons who are in charge of the Court of Wards or who are under the protection of a guardian appointed by a Court of Wards, under the Wards and Guardians Act the attainment of the age of 21 years is recognised as the age of majority. Now, Sir, such a person is considered by the ordinary civil law to sue and be sued for the defence of his civil right and property. If a person under ordinary circumstances attaining the age of 18 years and under particular circumstances attaining the age of 21 years is recognised by the ordinary civil law to do all things by himself on his own behalf without being under the help and care of a guardian, then why should not, I submit, this Municipal Bill recognise such an age or such a person who under ordinary circumstances attains the age of 18 years and under special circumstances must attain the age of 21 years, as being eligible for giving his vote at a municipal election. I therefore propose that instead of expressing my ideas in so many words, I would merely give expression to my ideas briefly by

saying that the age of majority as recognised by the law in force in India be accepted. This section in the Bill has made the ages of all the persons uniform, that is to say, 21 years, but I propose that the person on attaining the age of majority as recognised by the law in force in India should be inserted and the reasons for this suggestion have already been given.

Now as regards my amendments suggesting the omission of the words 'twenty-one years, being a British subject or a subject of any State in India', I have already given my reasons in connection with the preceding amendment, so I do not want to dwell in detail on this point again.

As regards the amendment, *viz.*, that the word 'a' in line 6 be substituted by the word 'such', this I now regret to say is a mistake. Through an oversight I made this amendment, and I therefore wish to withdraw it.

Now Sir with regard to the last part of my amendments to the section. Some mistake appears to have been committed here also. My intention was to omit the words 'or an inhabitant thereof'. I propose to retain the words 'and who'. These words 'and who' are appropriately used, but I propose to omit the words 'or an inhabitant thereof'. It was through an oversight that I added these words 'and who'. So, if I am permitted by the Hon'ble President to make an amendment I might amend this part of my resolution. I therefore propose to omit the words 'or an inhabitant thereof' and to retain the words 'and who'. The object of my making such an amendment is this, that in the preceding line the word 'resident' has been used and I do not think it necessary to again introduce the words 'or an inhabitant thereof'. It is simply a redundancy, a superfluity. In the original section also I do not think there is such an insertion of the words 'or an inhabitant thereof'. I of course do not know what nice distinction or discrimination is drawn between the words 'resident' and 'inhabitant'. It may be contended that one means a permanent interest and the other a temporary interest. Even so, it is all the same whether a person has temporary interest or a permanent interest. All that is required under this section in order to render him eligible for giving a vote is his residence for 12 months preceding the election. It does not matter whether the residence is temporary or permanent. If he resides for 12 months preceding the election then he is eligible for giving a vote at the election provided he has satisfied all the other conditions required in order to render him eligible for giving votes at a municipal election. It is for this reason, in order to avoid the repetition of the same words I propose the omission of the words 'or an inhabitant thereof'.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—
Sir, the Hon'ble Mover has dealt with three amendments together, I mean 2(a), (b) and (c). As for 2(b) he has asked permission of the President to withdraw it. I need therefore deal only with 2(a) and 2(c).

Now, the object of fixing the age at 21 is to secure that only men of mature understanding get into the Municipality. The Municipal Commissioners have got to do responsible duties and it is only fit that only those who are equal to these duties should be allowed to get in. True it is that under the Indian Majority Act the majority is attained on the completion of the 18th year. But this legal majority does not always coincide with the majority of understanding. It is for this reason that the age has been fixed at 21. And this I believe is the age that has been adopted in all the other Municipal Acts.

As to the other amendment which recommends the deletion 'or an inhabitant thereof,' I would refer the Hon'ble Member to the definition of the word 'inhabitant' in section 3, clause (15). It says :—"inhabitant' used with reference to a local area means any person ordinarily residing or carrying on business or occupying immovable property therein." The privilege is not intended to be confined to the residents alone but also to persons who may reside outside but may be carrying on business or occupying immovable property therein. An inhabitant need not necessarily be a resident. He may be a man who lives outside the municipality but carries on business within it. It is to cover these cases that the word inhabitant has been put in.

SRIJUT DALIM CHANDRA BORAH :—May I say a word in reply, Sir. The Hon'ble Minister in charge of the Bill wants to make us understand that a person only attains maturity of understanding at the age of 21 and not on the termination of the 18th year. I think that is a mistake. The ordinary civil law of the land recognises a man to have attained the maturity of understanding to have attained the majority of age in his 19th year, and I think the Hon'ble Minister being a lawyer, is not unacquainted with this provision of the law.

MAULAVI MUNAWWARALI :—I regret, Sir, that I cannot agree with the Hon'ble Mover. I shall satisfy myself by pointing out one thing, namely, that it did not probably strike the Hon'ble Mover that provision has been made in this Bill that whoever is entitled to vote is also entitled to election, and whoever is elected Commissioner is also entitled to be elected Chairman of a Municipality. I would ask the Hon'ble Mover whether he would like to leave the municipal affairs to be conducted by a young man of 18 years of age, ordinarily although I admit there might be special circumstances under which he might entrust it to one of this age.

SRIJUT DALIM CHANDRA BORAH :—I think Sir, that after my reply the Hon'ble Mover had no right to speak.

MAULAVI MUNAWWARALI :—I am speaking with the permission of the Hon'ble the President.

SRIJUT DALIM CHANDRA BORAH :—Of course I did not know that permission was given.

THE HON'BLE THE PRESIDENT :—Yes, I did permit him.

MAULAVI MUNAWWARALI :—Then, Sir, I think if this point had struck him he would not have proposed this amendment. At all events, he might put different ages for voting qualifications and eligibility for election, as he would find, Sir, that in the electoral rules for the election of members of the Legislative Council a man can vote if he has attained the age of 21 but to become a member of the Legislative Council the age-limit is 25 years. If he had come forward with such a proposal it would have deserved our attention. In that case, of course, he would have to make corresponding amendments elsewhere in order to make the whole thing fit in. So, Sir, I think the Hon'ble Mover may kindly see his way to withdraw his proposal.

SRIJUT DALIM CHANDRA BORAH :—I am very sorry, Sir, I cannot accept the valuable suggestion of my Hon'ble friend.

THE HON'BLE THE PRESIDENT :—The question is that in proviso (2) for the words ' 21 years, being a British subject or a subject of any State in India', the words ' majority as recognised by any law in force in India ' be substituted.

The motion was negatived.

THE HON'BLE THE PRESIDENT :—The next motion is—

“ That for the letter ' a ' in line 6, the word ' such ' be substituted.”

The motion was, by leave of the Council, withdrawn.

SRIJIT DALIM CHANDRA BORAH moved :—“ That the words ' an inhabitant thereof, and who ' be omitted.”

The motion was negatived.

The Council then adjourned for lunch.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—I beg to move that section 12 do stand part of the Bill.

The motion was put and adopted.

SECTION 13.

BABU HIRA LAL BOSE :—The motion for amendment that stands in my name is “ That in clause (vii) the words ' other than a Ministerial Officer ' after the words ' is a salaried servant ' be omitted.” Sir, my reasons for moving this Resolution is firstly to see that Government officials should have less control and concern in matters municipal and secondly, that the people should have greater opportunities to get themselves acquainted or learned in the art of self-government. At the very outset, Sir, I must thank the Hon'ble Minister in charge of the Bill that he has very rightly excluded the higher Government officials from the scope of this section. I wish therefore I could have congratulated him to the same extent with reference to the ministerial officers for whom he has made a provision in the Act. However, it may with some show of force be urged against my amendment that by it I am proposing to deprive the ministerial officers who happen to be tax-payers the right of their participation in municipal affairs to which they are entitled as tax-payers and at the same time I am also proposing to deprive the Boards of the services of a set of people who are capable of and trained in official work. But I beg to submit, Sir, that the principle which excludes higher Government officials applies to ministerial officers as well with rather stronger reasons.

If other Government officers are excluded for fear of their legitimate duties being interfered with by their participation in municipal affairs, I do not see why that should not apply to ministerial officers as well. I think I echo the voice of the House, Sir, when I say that ministerial officers are rather hard-worked set of people and if they are allowed to come in, their legitimate duties will be interfered with. That would rather be to the disadvantage of the Government. Then, Sir, if superior Government officers were excluded on the ground that by their participation they are likely to influence and take undue advantage of their position with the rate-payers and other members, that applies to ministerial officers with greater force. It is not desirable, Sir, that Government servants should have direct control in self-

governing institutions. It is in my humble opinion, Sir, against the fundamental principles of democracy and is not in keeping with the spirit of the reform. If they are allowed to come in, they and through them, I am afraid, the District and Subdivisional Officers, if they are so included, may dominate the Municipalities which would be a highly undesirable thing in view of the Reforms. Sir, what the Government do not like to get at by the front door, they should not get it by the back door. I beg to appeal to the Hon'ble Minister in charge of the Bill and the Hon'ble Members of this House to keep in view the fact that in the present day of reform greater scope should be given to the persons who are not under Government to get themselves educated in the art of self-government. In persons of superior Government officers we are excluding better educated and better cultivated persons than these ministerial officers whom the Bill allows to come in.

With these few submissions I leave it to the Hon'ble Minister in charge of the Bill and the Hon'ble Members of the House to consider whether the reasons which I have advanced in support of my proposal are acceptable to them and whether they can vote for it or not.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—I hope the Hon'ble Members will repudiate the suggestion which has been made here that Government wants to dominate the Municipal Boards by getting into them certain ministerial officers by the back door. There is absolutely nothing of that kind in the minds of Government. As a rule Government officers are not entitled to stand for election either to the Municipality or to the Local Board. An exception has, however, been made in the case of the ministerial officers because they are more or less permanently located in a particular place and because their interests as rate-payers are such as to entitle them to representation on the Municipal Boards. It may be said that the higher officials of Government may in the same way claim a right to representation. But the higher officials are not fixtures like the ministerial officers. Therefore, the general policy of the Government is not affected by granting representation to them on the Municipal Boards.

SRIJUT NILMONI PHUKAN :—Sir, I rise to oppose this motion on the ground that ministerial officers also pay taxes in a municipality and if they exercise undue influence at the time of election, that may also be done by any of the rate-payers. But even there are sufficient safeguards which have been contemplated by the Act itself inasmuch as the higher officials, whose very presence might influence the rate-payers, had been excluded from the provision of the law and there are other safeguards also, if I remember aright. Even in the case of these ministerial officers the higher authorities may forbid them to stand for election if thereby the official work suffers. When there are so many safeguards and when these ministerial officers also pay a municipal tax, when they are supposed to have the civic life as well, I do not think there is any reason to exclude them on the ground of a mere suspicion that they might influence the rate-payers at the time of election. That suspicion may be aroused against any of the rate-payers who may use undue influence. So on a matter of principle I do not think there is any objection to having the ministerial officers in municipal boards.

MAULAVI SAFIUR RAHMAN :—Sir, I concur in the opinion expressed by my predecessor.

SRIJUT DALIM CHANDRA BORAH :—Sir, I do not understand what the Hon'ble Mover is driving at when he suggests the omission of the words "other than a Ministerial officer". So far as I could hear his argument, because unfortunately I was absent during the first part of his argument, his intention is to debar Ministerial officers from standing as candidates at Municipal elections. If this be the case, I think the Hon'ble Mover will not get the fulfilment of his desire because if these words be eliminated the rest of the section will be this, *i.e.*, "is a salaried servant of Government." Then all salaried servants of Government will be prevented from standing for election at Municipal elections, and there will be no mention whatever of Ministerial Officers to stand as candidates for Municipal election. If these words are eliminated then there will be no word whatever for the Ministerial Officers. So I think he has made a mistake in submitting his amendment.

THE HON'BLE MR. W. J. REID :—I think, Sir, the Hon'ble Member who has just spoken has ignored the fact that the section begins "No person". "No person shall be eligible for election if such person is a salaried servant."

The motion was put and lost.

SRIJUT BEPIN CHANDRA GHOSE :—Sir, as my amendments (1) and (2) are identical with those of Rai Bahadur Amarnath Ray and Maulavi Munawwarali, I withdraw these two amendments in favour of Rai Bahadur Amarnath Ray. As regards (3) and (4), I beg leave of the Council to withdraw these.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA : Then, all the amendments standing in the Hon'ble Member's name are withdrawn?

SRIJUT BEPIN CHANDRA GHOSE :—Yes.

The motions were, by leave of the Council, withdrawn.

RAI BAHADUR AMARNATH RAY :—Sir, as identical amendments stand in the name of Maulavi Munawwar Ali, I beg leave to be permitted to withdraw these amendments.

The motions were by leave of the Council withdrawn.

MAULAVI MUNAWWARALI :—Sir, may I begin with the identical amendments or from the beginning.

THE HON'BLE THE PRESIDENT :—You can begin from the very beginning.

MAULAVI MUNAWWARALI :—Sir, the words "immediately preceding" occur in (1), (6) and (7). I think it would be convenient to take them all together, as it is only a formal motion which has already been accepted by the Government.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I have no objection to that if the House agrees.

MAULAVI MUNAWWARALI :—*Amendment* (2).—I beg to move, Sir, that in clause (iv) for the word "any" in lines 2 and 6 the word "an" be substituted. I propose this as it would improve the language and the language would sound more legal.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :— Sir, personally I do not think that the language will be improved or rendered legal by the substitution, but if it satisfied my Hon'ble friend I have no objection.

The motion was adopted.

MAULAVI MUNAWWARALI :— I beg to move, Sir, that under the same section, clause (iv) after the words " offence involving " the words " moral turpitude or " be inserted.

RAI BAHADUR AMARNATH RAY :— Sir, I suggest that No. (4) asking for the omission of " or imprisonment for a period of more than six months " be discussed together with this.

MAULAVI MUNAWWARALI :— May I take 3 and 4 together, Sir ?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :— But the conclusions in the two amendments are different altogether. We might take them up one by one.

MAULAVI MUNAWWARALI :— There might be some difficulty, Sir, if these are taken piecemeal, but as the Hon'ble Minister thinks

THE HON'BLE MR. W. J. REID :— You, Sir, have given the ruling and that is all the Hon'ble Member has to consider.

MAULAVI MUNAWWARALI :— Sir, I would not press against this, but take them separately.

That in clause (iv) after the words " offence involving " the words " moral turpitude or " be inserted. The intention of the words " moral turpitude or " being inserted is to change the nature of this section from one which debars many a resident from (interuption) for an offence which under circumstances might not be looked down upon by society. This only is one aspect of the question. I will deal with the other aspect later on. In reference to this, Sir, I want to read the whole clause so that the Hon'ble Members might be in a position to understand what I am driving at " has during the three years immediately preceding the date of election, been convicted by a criminal court of any offence involving moral turpitude or a sentence of transportation or of any offence under Chapter IXA of the Indian Penal Code or served any portion of a sentence on such conviction unless such conviction has been set aside or such offence pardoned by competent authority." Those of the Hon'ble Members who have gone through the Indian Penal Code must have seen that there are many sections which might be thought in society to contemplate offences which are not looked down upon so much or thought to be of no very great nuisance or degrading in morals, yet, Sir, those sections contemplate a punishment, that is a maximum punishment, which exceeds six months. Suppose, for example Sir, under the section which metes out punishment for simple hurt a person has been convicted for a rupee or a pice even, or anything like that, such a person would be debarred from entering the municipality on that account. Would it be just, Sir, to keep such a man debarred from entering the Municipality? It is in order to avoid such a contingency that I have put in this amendment. Sir, in our daily dealings sometimes on the spur of the moment we are likely to get into a fit of temper, for after all we are human, and what is more, frail human beings. So I have recommended the

words 'moral turpitude' so that a person who is really looked down upon in society should be shut out. I say that a man who has been convicted even for a pie or a rupee for theft, forgery, perjury or something like that should, under all circumstances, be shut out because he would be looked down upon in society. If we take the section as it stands now it will be seen how many a man is shut out from entering the municipality. Many persons of exemplary character and social status often give way to sudden outbursts of passion and sometimes apt to do things which in society do not characterise them as degraded men. So, Sir, this is a very serious question which I commend to Hon'ble Members to take into consideration, especially to those Hon'ble Members who sat on the Select Committee, many of whom are here present to-day, and I would ask them to realise the importance of these changes and to see that they are not in any way committed to the Report of the Select Committee. It is after all nothing but merely an improvement upon what they have recommended. They should take it in that light, and if they do so, I think I would then deserve their support. Fifteen members sat on the Committee and the majority of them are present. If they do not think so, then let me tell the Hon'ble House that it will not be possible for any human being to effect any improvement whatsoever upon the Report of the Select Committee, and that will be fatal to our interests.

RAI BAHADUR AMARNATH RAY :—Sir, I beg to say a word in support of this amendment. At the meeting of the Select Committee I proposed this very amendment, but as I was then suffering from a sore-throat, I am afraid I could not make myself understood. The Hon'ble Rai Bahadur Ghanasyam Barua's only objection to the expression 'moral turpitude' was that the expression was very vague. My Hon'ble friend Maulavi Munawwarali has attempted to give some explanation, and as I have already said in my note of dissent, the expression is not more vague than the term 'disaffection' in section 124(A) of the Indian Penal Code. If the expression is a bit vague we might well leave it to the Law Courts to decide what it actually means. To me it does not seem to be vague at all and my Hon'ble friend has named some offences which he thinks are offences involving moral turpitude. I am afraid that some of the Members of the Select Committee did not actually notice what was meant by the expression 'involving imprisonment for a period of more than six months.' Some of them might be under the impression that this meant that a man who had been sentenced to imprisonment for 6 months would not be allowed to contest the elections. But that is not the case but I think I should not say anything more, as the Hon'ble Mover has made himself abundantly clear on this point. I only hope that the Council will have no hesitation in accepting this amendment. If it is allowed to stand, many respectable people will be shut out. For instance, a man may strike another just in the heat of the moment and he may be fined, as my friend has just said, one rupee for the offence of simple hurt, and if you allow this section to stand as it is, you will not be allowing that man to contest the election.

With these few words I beg to support the amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I would ask the Hon'ble Mover of the Resolution to consider just for one moment what will be the effect of the amendment proposed by him. What he says is this, and I will ask the Hon'ble Members to read his section along with the amendment.

"No person shall be eligible for election as member of a Municipal Board if such person has during the three years immediately preceding election been convicted by a Criminal Court of any offence involving moral turpitude or a sentence of transportation or imprisonment for a period of more than six months....." That is the amendment which is proposed.

RAI BAHADUR AMARNATH RAY :—That is not correct. I do not think it was the intention of my Hon'ble friend Maulavi Munawwarali to convey this meaning.

MAULAVI MUNAWWARALI :—I am afraid, Sir, the amendment has been cut up by the Legal Remembrancer's office.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Does the Hon'ble Member suggest that the amendment proposed has not been put correctly by the Secretary to the Legislative Council?

MR. A. MELLOR :—I may say, Sir, that it has been necessary to revise these amendments very considerably because as originally put in some of them were very vague and could not have been allowed before the Council as they stood. But what happened in this particular case of course I cannot say, as we have not got the papers here.

MR. A. J. G. CRESSWELL :—Sir, I rise to a point of order. There seems to be some sort of controversy over this particular clause. Possibly there may be some mistake. I suggest that the discussion be postponed till to-morrow when the Members concerned may satisfy themselves as to the correctness or otherwise of the amendment.

THE HON'BLE THE PRESIDENT :—Very well; the amendments of Maulavi Munawwarali must stand over till to-morrow.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, there are no amendments to sections 14 and 15. I beg, therefore, to move that sections 14 and 15 do stand as parts of the Bill.

The motion was adopted.

MAULAVI MUNAWWARALI :—I want, Sir, to know whether the consideration of all the clauses standing in my name has been postponed till to-morrow?

THE HON'BLE THE PRESIDENT :—Yes, excepting those which have already been accepted.

SECTION 16.

SRIJIT BEPIN CHANDRA GHOSE :—Sir, I find this section also in the name of Rai Bahadur Amarnath Ray and that being so; I beg to withdraw my amendment in favour of the Hon'ble Member.

SECTION 16.

RAI BAHADUR AMARNATH RAY :—Sir, I should rather prefer to support Maulavi Munawwarali's amendment on the subject and accordingly beg to withdraw my amendment.

MAULAVI MUNAWWARALI :—Sir, with your permission I would like to draw the attention of the Hon'ble Rai Bahadur Amarnath Ray and say that this section contemplates the "Oath of Allegiance" and probably he might be willing to move the amendment himself.

RAI BAHADUR AMARNATH RAY :—I am sorry, Sir, that it skipped my notice. I may be permitted therefore to move the amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :— I am afraid, Sir, that the Rai Bahadur has already withdrawn his amendment. He can support the amendment if he likes.

MAULAVI MUNAWWARALI :—I must confess, Sir, that I am taken by surprise. However, as the ruling comes from the Chair I must submit. Before moving this resolution I must tell the House that there was an understanding between myself and the Hon'ble Rai Bahadur that he would move it. However, Sir, I beg to move that section 16 of the Assam Municipal Bill, 1922, be omitted.

I crave the indulgence of the House to read the section. It runs :— "Every person who is elected or appointed to be a member of a Board shall before taking his seat make at a meeting of the Board an oath or affirmation of his allegiance to the Crown in the following form, namely," etc., etc.

In the first place, I must say that by bringing in this oath of allegiance to Municipalities we do not show sufficient respect and reverence for an oath. In the second place there are persons who might be thinking in one way and yet not acting in that particular way and they might be shut out from entering a municipal institution. In the third place, Sir, I take the view point of religious commandments, religious commandments of Christianity, of Islam, of Hinduism. We as religious people generally shudder at the idea of an oath and except in very special circumstances we do not have recourse to it. Oath in the English language is Oath, in Sanskrit it is *Shapatha* and in Arabic it is *Quasam*. In all the religions the injunction not to take an oath is to be met with, that is to say, except under very special circumstances; and Muhammadans, Sir, before they take an oath have to perform a ceremony and thus prepare the mind to take an oath. So also the Christians and the Hindus. Sir, an oath is a thing which should be confined to Parliament because the members therein have to perform great duties and discharge great responsibilities. And oath-taking is also done in the Indian Legislative Councils. I think that may be well and good so far. But, Sir, bringing it down to Municipalities shows no great respect for an oath, it rather indicates the contrary.

In the next place, Sir, I beg to reiterate what I said just now that a man entertaining a particular opinion and yet not acting according to that opinion, one who might be a very capable man and might do very useful work in a municipality would be shut out from a municipality only

because of his opinion. Sir, legislation has been undertaken in all the other provinces, I mean municipal legislation, but nowhere has such a clause found its place. In the Municipal Bill of the United Provinces, in the draft Bill, I mean, the provision for an oath of allegiance did not find its place, but an attempt was made to insert it in the Act when the Bill was under consideration in the United Provinces Legislative Council. One member was found willing to insert a clause on oath of allegiance, but Sir, we all know what fate his attempt met with. It was discarded outright. And, should we, Sir, show our originality in this respect? We, the legislators of Assam, have been accused of following the lead of other provinces very much, or in other words, accused of being imitators, although I do not admit that we are imitators. We have our own originalities. And should we, Sir, show our originality on the wrong side? I think, Sir, we should not be original at least in this respect. I therefore, with a full sense of responsibility, request the Hon'ble Members of this House to think over this question. It may be said, 'well, it does not matter if a clause like this finds its place in the Bill.' 'It is redundant and superfluous and it does not matter.' I say, Sir, should an unnecessary thing find its place in an Act? Brevity is the soul of wit. We should not be superfluous. Let us also have our virtues. With these few words, Sir, I commend my motion to the Hon'ble Members.

RAI BAHADUR AMARNATH RAY :—Sir, in supporting this amendment, I shall attempt to make amends for a mistake due to an infirmity and I hope my Hon'ble friends will favour me with a patient and sympathetic hearing. This provision relating to the oath of allegiance is an innovation so far as the Municipal Act is concerned, as my Hon'ble friend, Babu Krishna Sundar Dam said in his note of dissent, and it calls for justification. Hon'ble Members will have noticed that in my note of dissent appended to the Select Committee's report I have given some reasons in favour of the deletion of this section. What I stated there was necessarily very brief, and I wish to deal with the matter more precisely and exhaustively here.

The practice of swearing has its origin in the belief in supernatural interference of peoples of the primitive and classical ages. All the great religions of the world have condemned it, as the Hon'ble Mover has said. Every one knows Christ's clear, unequivocal injunction 'Swear not at all', and it is also known that the early Christian Fathers were keenly averse to swearing. But the vice was not eradicated and the recrudescence of the belief in supernatural interference in the Middle Ages almost all over the world is responsible for an expansion of the institution of oath-taking and its persistence till this day.

So long as such belief lasts oath-taking may have the desired result but with the weakening of this belief the institution degenerates into an instrument of moral disintegration. I may refer Hon'ble Members to Mill on Liberty for a scathing condemnation of the oath administered in law courts. I shall in this place read out an extract from the article on 'Oaths' in the Encyclopædia Britannica :—

"Politicians and moralists have placed much reliance on oaths as a practical security." (Here follow a quotation from Lycurgus and an extract from

the judgments in the well-known case of *Omychund versus Barker* which I omit.) Then it goes on :—

“ On the other hand whenever the belief in supernatural interference becomes weakened and oaths are taken with solemn form but secret contempt or open ridicule they become a serious moral scandal as had already begun to happen in classical times. The yet more disastrous effect of the practice is the public inference that if a man has to swear in order to be believed he need not speak the truth when not under oath.”

Then follows the frank admission :—

“ Oaths of allegiance and other official oaths are still taken throughout Europe but experience shows that in times of revolution they are violated with little scruple and in the case of the United Kingdom it is doubtful whether they have any more practical value than, if so much as, simple declarations. ”

Hon'ble Members are aware that a certain section of the non-co-operators who are not believers in the British connection nevertheless feel little hesitation in entering the Councils and taking the oath of allegiance with the sole object of wrecking these very institutions.

I have said, Sir, in my note of dissent that there is an idea among illiterate witnesses appearing before law courts that while they should not generally tell lies in private life they are free to indulge in any amount of falsehood after they have solemnly affirmed themselves before a court. But if the phenomenon is carefully analysed it will be found that one of its main causes is the sub-conscious tendency in the mind of the perjurer to question the authority which imposes the oath or the correctness of the procedure followed in the law courts, or both. So oath-taking is a two-edged weapon—it cuts both ways.

The political atmosphere of the country is such that the oath of allegiance cannot now have the desired result in the case of many people. If it is to be still resorted to let it be strictly restricted to high offices where there is the least chance of its abuse. The attempt to democratise it is unwise and is bound to be futile.

Then, Sir, there is another point of view from which the present question might be looked at. There are men in this country—men of the highest character and attainments who have unfortunately ceased to be believers in the British connection. Suppose there are a few such men here at Shillong. Suppose they are otherwise very respectable people, well posted in many of the questions which generally come up before a Municipal Board and suppose also that they do not preach sedition from their house-tops or standing at the crossings. Their political creed will, however, stand in the way of their taking the oath of allegiance. Will it be right and just, I say, to deprive them of the valued right of serving the town they live in or will it be right to deprive the Municipal Board of Shillong of their valuable services? The answer must be an emphatic “ No. ”

I am no believer, Sir, in any attempt to manufacture loyalty by legislation or to render miserable the lives of honest people for no greater sin than entertaining a particular belief. I am a believer, Sir, in the British connection. I do not care to rake up past history and enquire what brought the British people to India or how territory was acquired. As a practical politician, it suffices for me if I find that British rule in India has made for the uplift of the people. I judge things only by their results.

But it is just because I am a believer in the British connection that I cannot without difficulty reconcile to myself the proposition that a simple statement of mine should carry less weight than one made under an oath or solemn affirmation. I believe British Government should stand on other foundation than that of right and justice. Any artificial prop cannot strengthen a weak foundation. Let me now turn, Sir, to the case of those who have ceased to believe in the British connection, who do not share with me the faith that it should be possible for us to attain as equal partners of the Empire that freedom which is necessary to enable us to rise to the full height of our manhood. If we trace the root causes of this want of faith we find that two of these causes are the over-cautious conservatism of the British Government and its occasional mistakes and, secondly, the imperfect political education of the people which magnifies these mistakes and misunderstands this over-cautiousness. Now the real remedy lies in avoiding such mistakes, in accelerating the pace of progress if necessary and, last but not the least, in affording facilities for a sound political education. The best training ground which is accessible to the many is the region of the Local Self-Government, and the next, and necessarily a more limited one, is the training ground of the Legislative Councils. It will never be wise to attempt to shut out any class of people from these schools of political education by any device however cleverly invented. Once a man faces the actual affairs of Government and has an insight into its inner workings, his delusions vanish and his angularities disappear.

I may be permitted to cite an example near home in this connection. Sir, I entered this Council a believer in the Reforms and my Hon'ble Friend, Babu Krishna Sundar Dam, when he entered the Council was almost of the opinion that the Government was satanic or very nearly satanic. On coming here I found that the Reforms had not changed the angle of vision of officialdom to the desired extent and my friend found that Government was not so perverse or so satanic as he had imagined. But there is very little difference, very little to choose, between him and me to-day. When the taxation proposals came up last year, he withdrew his opposition and I accepted taxation for a period of three years only.

Now—then—a man's delusions will vanish and his angularities will disappear only if he is allowed to set out upon his work honestly and with the sole idea to do good. It will be suicidal to make him practise dishonesty at the very start. If at the very start you ask him to take an oath against his wish he may do it in solemn form, all time treating it as a mockery in his heart of hearts. You compel him to approach his work in the wrong spirit. If, on the other hand, he is more honest and refuses to take the oath you deprive him of the only opportunity of rectifying his mistakes. It may be said that several municipalities went wrong and that forgetting their legitimate position as a limb of the Body Politic they went astray and offered homage to wreckers of the Empire. To this I may say that the Bill contains several provisions for preventing repetition of such errors. There are the provisions for preventing an undesirable person from contesting an election, for removing a man of a questionable character, if elected, for withdrawal of Government grants if money is squandered, for suspending the execution of a questionable resolution and, lastly, for suspending a municipality for the time being. These are, in my humble opinion, more than sufficient to avert

the evil. We should not take fright at a municipality going wrong once or twice. We should not forget the golden rule which lays down that persons as well as institutions should be allowed to profit by their mistakes. Hon'ble Members know as much as I do the state of political ferment in the country which induced these aberrations. The whole country stood hypnotised as it were by the magnetic personality of a great idealist who lives and moves and has his being in a world all his own. But it is already clear that the dreams of his most ardent adherents are vanishing through contact with reality one cannot accept the municipalities will again go beyond their legitimate duties in the near future. Too much should not be made of these really involuntary acts on the part of a few municipalities. The oath of allegiance will never prevent such lapses as have been referred to.

Members may take the oath of allegiance on entering their office, but occasions may arise later on when they may commit similar mistakes in spite of the oath.

With these words, Sir, I beg to support this amendment.

KHAN BAHADUR KUTUBUDDIN AHMAD :—Sir, I beg to oppose this amendment. The section apparently does not affect the interests of the rate-payers of the Municipality. But any representative of the rate-payers in the Municipal Board is bound to be faithful to bear true allegiance to His Majesty the King-Emperor, His Heirs and Successors and is expected to do his duty faithfully entrusted to him. Further, rate-payers as well as the Government will have full confidence in him and rely on him, whether he be elected or appointed, for the faithful discharge of the duties entrusted to him. If he takes such an oath or affirm he will also be careful in the discharge of his duty. If any member will have any sinister motive, let him not come in the municipality. As to the form of oath I fail to see that any member of the House should object to it. I fail to see why objection should be taken to this form of oath. Now, Sir, as to the duty that is discharged in this House and as well as the duty done by the members of the Municipality, I do not see, Sir, any difference between the two, because in the Municipal Boards meetings the members will represent the interests of the rate-payers within a certain area although that area is very little in comparison with the area of the province the interests of which the Members of this House represent; but the principle is the same and I submit, Sir, that this section should remain as it is.

MAULAVI SAFIUR RAHMAN :— I beg to support the last speaker.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, we have listened to a learned disquisition on the iniquities of the oath. I will not emulate him beyond saying that we have on Statute Book of India, an Act known as the Oaths Act. So far as I am aware such an Act finds place in the Statute Book of every civilized country. In the second place this section is not innovation which we are introducing into a Municipal Act for the first time. There is a provision for taking oath in the Calcutta Municipal Bill which has just been accepted by the Bengal Legislative Council and there is such a provision in the Madras Act IV of 1922. In the third place, the Hon'ble Mover on

entering this Council had to take an oath, what is it then that prevents him from presenting such an oath for the Municipal Commissioners? Frankly speaking I am no believer in the efficacy of an oath. I do not believe that a man who is disloyal will become loyal by taking an oath or a man who is loyal will cease to be so because he does not take an oath. My objection to this provision at one time was that this might dissuade the non-co-operators from seeking election to the Council. I am anxious that these gentlemen should come into the Municipal Board and get into touch with the realities of the Administration; for I am sure if they once do so, they will realise that it is quite possible to do real good service to the country by utilizing the institutions which have been provided for us by the British Government. But that fear is now happily gone, because the non-co-operators themselves have declared that there is nothing in their creed to prevent their taking an oath of allegiance to His Majesty the King Emperor—a very hopeful outlook by the way. Now, Sir, if people professing all sorts of political opinions are ready to take the oath, I do not see why there should be any objection to it at all. It has been said that those who come to the Municipal Board must be presumed to be loyal to the constitution which has brought the municipality into being. Well, Sir, that is true but why should he ask people to rest on presumption? Why not frankly declare which you wish the world to presume?

The Hon'ble Mover of the amendment has raised an objection on the ground of religion. I am not disposed to think that he really attaches very great importance to it because he was elected to this Council he took the oath without any objection whatsoever.

MAULAVI RASHID ALI LASKAR :—Sir, I am sorry if I could not delve out the deeper, inner, and learned meaning of the oath which seems rather simple to me, perhaps a simple man. If we look into the form of the oath we shall find that there are only two aspects, one is to be loyal and the other is doing your duty. Only two things and nothing more. If you are not loyal, if you are disloyal you should not go to the Board, and secondly, if you do not like to do your duty what is your business to go there? There are only two things loyalty and duty. Then it is urged that perhaps it is objectionable from a religious point of view. I am not a scholar in the Christian religion but so far as I know the Muhammadan religion I do not see any objection in taking the oath. In the Quran we meet with such phrases where God himself takes an oath and thus declares this and that. If there are really any objections why so many Muhammadans take the oath without any objection whatsoever. Then it appears that there is no objection to taking the oath when coming to the Council but it might have some sort of local objection when going to the Municipal Board. Then it is urged that it is something new, but is that any reason that because a thing is new we should not entertain it. If it is new there is perhaps some new circumstance also for it. There was no oath before, perhaps there was no necessity for the oath before. Does any Hon'ble Member wish that some man who is disloyal or some man who does not like to do his duty should come and spoil everything and every business of the Board and put obstructions in the way of the business of the Board? But there is fear that sometimes such obstructions might occur. So this fear is new and so the necessity of this oath also. The oath though new is necessary. So I for myself at least see no reason whatever against this oath. So I strongly oppose this motion.

THE HON'BLE MR. W. J. REID:—Sir, if I offer a few observations I trust that my position will be understood. The Member of the Government responsible for this Bill is the Hon'ble Minister, and I am merely exercising my privilege as a Member of this Council in addressing the Council.

One Hon'ble Member gave us a learned disquisition as it has been called on oaths in general and their history. The Council I suppose need hardly be told that the Encyclopædia Britannica, great work as it undoubtedly is, has no pretensions to sanctity. It is not the law laid down on Mount Sinai or a law of religion that governs any community in the world. The articles in it were written by very eminent men, but an article on oaths or on anything else merely expresses the opinions of the writer. I am sure that some of us here would dispute the suggestion, if indeed such a suggestion is contained in the article, that the oath of allegiance means nothing or next to nothing in the British Isles. That is not a doctrine to which any one here who belongs to the British Isles would subscribe. Then my Hon'ble friend has talked a good deal about the supernatural features of an oath. After all what is an oath? Surely it is a solemn promise made with an appeal to all that one holds sacred, with every attendant circumstance of solemnity. But it seems to me that the chief answer to his argument is to be found in the wording of the section itself, which gives every one the opportunity of either solemnly swearing or solemnly affirming. There need be no appeal to the supernatural in a solemn affirmation.

Then he spoke about the 'British connection'. I have failed, Sir, to find any reference at all to the 'British connection' in the words of the oath, but this subject has been dealt with so ably by the last speaker that I need add nothing. As he pointed out the oath only mentions personal allegiance to the Sovereign and the discharge of one's duty. It provides for nothing else. I should have said the oath or the solemn affirmation provides for nothing else.

There is one question, Sir, to which I have been waiting for an answer, but it has not yet come. Who are the persons who will be kept out of the Municipality if this section remains in the Act? It may keep out those who are disloyal. It may keep out those who do not intend to do their duty. Do the Municipal Commissioners or the inhabitants of a Municipality wish to take on their Boards men of either of these descriptions? And to finish up with a personal reference as the Hon'ble Member himself made the reference, first—he told us how our friend Babu Krishna Sundar Dam came to the Council with certain ideas and how his ideas have been modified. There is an interesting commentary on the discussion to be found in the fact that the oath which has to be taken by every Member of the Council fortunately did not deter Babu Krishna Sundar Dam from entering it.

The motion was put to the vote and a division was taken with the following results:—

AYES.	NOES.
Maulavi Munawwarali.	Hon'ble Mr. W. J. Reid.
Rai Bahadur Amarnath Ray.	Hon'ble Mr. A. Majid.

AYES—*concl'd.*

Srijut Bepin Chandra Ghose.

NOES—*concl'd.*

Hon'ble Rai Bahadur Promode
Chandra Dutta.
Mr. A. W. Botham.
Mr. A. J. Lainé.
Mr. J. R. Cunningham.
Mr. J. N. Taylor.
Mr. A. Mellor.
Khan Sahib Alauddin Ahmad
Chaudhuri.
Khan Bahadur Kutubuddin
Ahmad.
Khan Bahadur Muhammad
Bakht Majumdar.
Maulavi Rashid Ali Laskar.
Maulavi Rukunuddin Ahmad.
Munshi Safur Rahman.
Khan Sahib Sharafat Ali Chau-
dhuri.
Srijut Bishnu Charan Borah.
Rai Bahadur Bipin Chandra Deb
Laskar.
Raj Kumar Chandra Narayan
Singh.
Srijut Dalim Chandra Borah.
Babu Hira Lal Bose.
Rai Bahadur Krishna Chandra
Chaudhuri.
Srijut Lohit Chandra Nayak.
Rai Bahadur Manomohan Lahiri.
Srijut Nilmoni Phukan.
Rev. J. J. M. Nichols-Roy.
Mr. A. J. G. Cresswell.
Mr. E. H. Featherstone.
Dr. H. G. Roberts.
Mr. E. S. Roffey.
Mr. D. M. Somerville.

The Ayes being 3, and the Noes being 30, the motion was declared lost.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, there is no other amendment to section 16, nor is there any amendment to section 17. I beg to move therefore that sections 16 and 17 do stand part of the Bill.

The motion was adopted.

(The Council was then adjourned to Tuesday, the 6th March 1923, at 11 A. M.)

SHILLONG,

The 9th March 1923. }

A. MELLOR,

Secretary to the Legislative
Council, Assam.