

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

The Council met in the Council Chamber at Shillong, on Thursday, the 8th 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 two Members of the Executive Council, the Hon'ble Minister of Education and 34 elected and nominated members.

QUESTIONS AND ANSWERS.

(UNSTARRED QUESTIONS.)

KHAN BAHADUR MUHAMMAD BAKHT MAJUMDAR
asked :—

1. (1) Will the Government please state to what extent the recommendations of the Muhammadan Educational Conference of 1914 has been given effect to ?

(2) Will the Government consider the need for calling such Conference soon for considering the problems of Muhammadan Education ?

Muham-
madan
Education-
al Confer-
ence.

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

1. (1)—A statement is laid on the table.

(2)—In view of the present financial situation Government do not consider the time to be opportune for the calling of such a Conference.

STATEMENT REFERRED TO.

SUMMARY OF IMPORTANT RESOLUTIONS OF MUHAMMADAN CONFERENCE, 1914, AND OF ACTION TAKEN UPON THEM.

SECONDARY EDUCATION.

RESOLUTION I : *Improvement of instruction in the classical languages.*

The course has been extended by two years, instruction beginning now in High Schools at Class V instead of, as previously, at Class VII. The scheme of work recommended by the Conference has been put into practice. The teaching of Arabic and Persian has been made more efficient by the regular inspection of the classes by the Assistant Inspector for Muhammadan Education, by the recruitment of well qualified men when vacancies have occurred and by encouraging the Maulavis already in employment, by the offer of promotion, to improve their qualifications.

RESOLUTION II: *The offer of the option of Arabic or Persian, and the appointment of Second Maulavis to this end.*

Every High School having an enrolment of about 100 Muhamadan pupils—the standard laid down by the Conference—now gives the option of Arabic or Persian. Sylhet, Katimganj, Maulvi Bazar, Sibsagar and Jorhat High Schools have each a Second Maulavi (although in some of them the Muhamadan enrolment has considerably declined).

RESOLUTION II(a): *Employment of English or the vernacular as the medium of instruction in the Arabic and Persian classes.*

An attempt has been made to render this generally practicable by improving the qualifications of the Maulavis.

RESOLUTION III: *Offer of facilities for religious instruction in classes III and IV.*

This option has been duly offered.

RESOLUTION IV: *A more liberal provision of free-studentships and scholarships.*

Instructions were issued to educational officers requiring a liberal interpretation of the 8 P. C. rule in respect of Muhamadan free-studentships.

It has not been possible to increase the number and value of the Primary Middle Vernacular and Middle English scholarships available for Muhammadans.

RESOLUTION V: *The establishment of a Central Muhamadan Institution at Sylhet.*

The Government Madrasa has been developed to the full standard of a Senior Madrasa.

RESOLUTION VI: *The establishment of 7 Government Junior Madrasas and of scholarships.*

For want of funds it has not been found possible to establish State institutions but four Junior Madrasas have been established on an aided basis.

Two scholarships of Rs. 7 each tenable for five years were created for Junior Madrasa pupils.

ELEMENTARY EDUCATION.

RESOLUTION I: *Offer of facilities for religious instruction in Primary classes.*

Such facilities have been offered with the result that many of the old Muktabs have chosen to come into line with Lower Primary schools.

RESOLUTION II : *Instruction in Urdu in Middle Vernacular Schools.*

It has not been possible to give effect to this resolution for want of funds.

RESOLUTION III : *Framing of a scheme of religious and Urdu instruction in vernacular schools.*

The task was entrusted to a small Provincial Committee; and the curriculum framed has been introduced.

MADRASA EDUCATION.

RESOLUTION I : *Revision of the Madrasa courses with due regard to the predominance of the religious purpose and the introduction of secular elements into the course.*

The courses were duly revised and introduced.

COLLEGIATE EDUCATION.

RESOLUTION II : *Appointment of a second Islamic Professor in Cotton College.*

Action has been taken, but at Sylhet instead of Gauhati, to provide the facilities for which this appointment was desired.

INSPECTION.

RESOLUTION : *The appointment of a Special Muhammadan Inspecting Officer, etc.*

An Assistant Inspector for Muhammadan Education was appointed in 1916.

The number of Muhammadan Inspecting Officers on the ordinary staff has increased by one.

SUPPLEMENTARY.

RESOLUTION : *Remodelling of the maktabs at Jorhat, Sibsagar, Nowgong and Gauhati with a view to their secularisation up to the Middle Standard.*

The first three have chosen to be Lower Primary Schools with Islamic classes; and the fourth has been raised to the status of a Junior Madrasa.

REV. J. J. M. NICHOLS-ROY asked:—

1. (a) Is it a fact that a certain percentage of seats in the Cotton College has been reserved for hill students?

(b) If so, will the Government be pleased to state what that percentage is?

(c)—Do the Government know that on account of lack of hostel accommodation some of the hill boys have been prevented from entering the Cotton College?

(d)—Will the Government be pleased to enquire about making arrangements to provide hostel accommodation for Christian and hill

Cotton
College.

boys or for non-Hindu and non-Muhammadan boys as early as possible so that such boys who want to join Cotton College during the commencement of the next College Session may not be prevented from doing so by want of hostel accommodation ?

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

1.(a) and (b)—There is no definite reservation of seats on behalf of students of the hill districts, but such students, up to a limit of ten annually, are allowed to rank for admission to the first-year class of the College with permanent residents of the Assam Valley.

It may be explained that this does not imply an absolute reservation. Thus, for example, in the event of the full number of seats being applied for by Matriculates in the first division from the plains, and of such hill students as applied having matriculated only in the second and third divisions, it would be in the power of the Principal to refuse admission to the hill students.

(c) The answer is in the affirmative. It is understood that the number is very small.

(d) Government regret that it is precluded by financial considerations from undertaking new expenditure for hostel purposes during the coming year. The Director of Public Instruction will, however, be instructed to arrange, if practicable, to reserve for this class of students a room or two in one of the existing hostel blocks.

REV. J. J. M. NICHOLS-ROY asked :—

Pay of
clerks of
Assam
Rifles.

2. With reference to the reply given to the question asked by Raj Kumar Chandra Narayan Singh in the last September Session of the Council in regard to the provision of pay of educational clerks, will the Government be pleased to state whether this general increase of 20 per cent. has been given to the clerks of the Assam Rifles also or not ? If not, will they be pleased to state the reasons why the clerks of the Assam Rifles have not been given the same benefit ?

THE HON'BLE MR. W. J. REID replied :—

2.—The clerks of the Assam Rifles are included in the scheme, but the details have not yet been completely worked out and consequently effect has not yet been given to the scheme.

MR. E. H. FEATHERSTONE asked :—

Gauhati-
Shillong
Motor
Service.

1. Will the Government be pleased to lay on the table a copy of the Public Works Department terms and conditions of tender issued about the middle of 1922 for the Pandu-Gauhati-Shillong Motor Service ?

2. Will the Government be pleased to lay on the table a copy of the Agreement it made in October-November 1922, with the Commercial Carrying Company, Limited, for the Pandu-Gauhati-Shillong Motor Service ?

MR. A. W. BOTHAM replied :—

1.—A copy has been placed on the table.

2.—A copy has been placed on the table.

THIS AGREEMENT made the fifteenth day of November one thousand nine hundred and twenty-two BETWEEN THE COMMERCIAL CARRYING COMPANY, LIMITED, a private company incorporated under the Indian Companies Acts and having its registered offices situated in Calcutta (hereinafter called the company, which expression shall where the context so admits or implies include the said Company and its assigns) of the one part and the SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called the Secretary of State, which expression shall include his successors in office and assigns unless the context shall be repugnant to such construction) of the other part. WHEREAS the Company have offered to contract with the Secretary of State to work a motor service for the carriage of passengers and their luggage and of goods to and from between Pandughat Gauhati and Shillong upon the terms and conditions hereinafter appearing and have deposited with the Secretary of State as security for the due performance of this agreement rupees ten thousand (10,000) in cash NOW IT IS HEREBY AGREED by and between the parties hereto as follows :—

1. This Agreement shall be held to have commenced on and from the first day of January, one thousand nine hundred and twenty-three and shall remain in force for a period of ten years up to and including the thirty-first day of December, one thousand nine hundred and thirty-two PROVIDED ALWAYS that the agreement may be absolutely determined at any time by either party (subject as to determination by the Secretary of State as hereinafter provided) giving to the other six months' previous notice in writing, which notice if given on the part of the Secretary of State may be signed by the Secretary to the Government of Assam in the Public Works Department (hereinafter called the Secretary to the Local Government).

2. The Company shall at all times have ready on the road in serviceable and running order to the satisfaction of the Secretary to the Local Government such number of motor vehicles with competent drivers attendants and accessories as in the opinion of the said Secretary are for the time being necessary for the due and efficient working of the various services detailed in the schedule hereto, which said schedule with the conditions therein contained shall be deemed to form part of this Agreement. All vehicles and their fittings including tyres shall be of such make pattern and design as shall for the time being be approved in writing by the Secretary to the Local Government.

3. The Secretary to the Local Government shall have power in writing under his hand to requisition and employ at any time and from time to time for the use of police and military transport the whole or part of the Company's stock of cars and lorries for the time being in use in the services and the Company shall permit the employment thereof accordingly. The Company shall also keep at all times in stock a reserve of petrol of two hundred gallons to meet any emergent call for transport of troops or police from Shillong at short notice. The amount to be paid for the use of cars and lorries thus requisitioned shall be fixed by the Secretary to the Local Government.

4. The appointment of the Managers and Assistant Managers of the Company both at Shillong and Gauhati shall be subject to the approval of the Local Government and any and every such Manager or Assistant Manager shall be discharged if in the opinion of the Local Government (which

shall in all cases be final and for which no reason in writing need be given) his discharge is considered desirable.

5. The Company shall pay the whole of the charge or charges levied by the Telegraph Department in respect of all telegraph and telephone offices which the Company shall deem it necessary to establish or maintain for the more efficient working of the said Services PROVIDED that if the telephone line connecting such telephone offices shall be required by the Local Government to be used in connection with public call boxes at Shillong and Gauhati and Pandu, one-half of the charges levied by the Telegraph Department in respect of such telephone offices and line shall be borne by the Local Government.

6. The Secretary to the Local Government shall have the right to appoint a Government officer or other person as Inspector to examine the drivers and servants of the Company as to their efficiency and to inspect the cars, buildings, garages, workshops and other property maintained by the Company for the purposes of this Agreement, and the Company shall at all times give such Inspector every facility for making such inspection. Such Inspector shall be entitled to prohibit the use of any car or lorry which may in his opinion be unfit for the efficient performance of the services detailed in the schedule or unsafe and any car or lorry so prohibited shall not be used until it has been rendered so fit and safe to his satisfaction. A breach of any such prohibition shall on any and every occasion thereof render the Company liable to a penalty of rupees five hundred or such smaller sum as shall be determined by the Secretary to the Local Government.

7. The Company shall, if required by the Secretary to the Local Government, discharge within such time as may be fixed by the said Secretary any motor driver or servant whom the Inspector appointed by the said Secretary under the last preceding clause shall state in writing to be in his opinion unfit for the purpose of employment as such driver or servant as the case may be and they shall not re-employ such discharged driver or servant without the previous permission in writing of the said Secretary.

8. The Company shall keep true and accurate traffic returns in English in the form to be approved by the Secretary to the Local Government of, or relating to, the services detailed in the schedule and such returns and the Company's books and accounts shall be open at all times at Shillong or such other place as may be agreed upon to the inspection of any officer or officers deputed by the Secretary to the Local Government for the purpose PROVIDED that if production of such books and accounts at any place other than Shillong is required not less than a week's notice shall be given.

9. The Company shall insert in the *Assam Gazette* weekly advertisement of the said services for which advertisement no charge will be made. This advertisement shall be submitted for the approval of the Secretary to the Local Government and no change therein shall be made without his previous sanction in writing.

10. The Company shall not transfer assign or sublet this agreement or any part thereof, or their interest therein or any part thereof, without the previous consent in writing of the Secretary to the Local Government nor shall the Company permit any Government servant to enjoy, directly or indirectly, any pecuniary interest in this agreement.

11. The Company shall pay to the Local Government annually commencing from the first day of October one thousand nine hundred and twenty-two up to and including the first day of October one thousand nine hundred and thirty-one the sum of one lakh of rupees (1,00,000) payable at the Shillong Treasury on or before the first day of October of each preceding year as a security for the due performance of their obligations under this Agreement and in consideration of the below mentioned right to run twenty goods lorries free of license fee in the succeeding year. In consideration of this payment the Company shall have the right to run twenty goods lorries free of license fee on the road Pandughat-Gauhati-Shillong for a period of one year beginning from the first day of January succeeding the year in which such payment is made.

The said twenty lorries shall be numbered individually and the Company shall not substitute any other lorry for any of the twenty lorries so numbered without the previous written sanction of the Secretary to the Local Government.

Provided that if this Agreement shall be terminated before the expiry of such period of one year by either party giving six months' notice as hereinbefore provided the Secretary of State shall refund to the Company a part of the abovementioned sum of one lakh of rupees bearing the same proportion to the total sum as the unexpired portion of the said period of one year shall bear to the whole period.

12. The Company shall have no right to object to the competition of other goods lorries not belonging to the Company which may be licensed to carry goods on the aforesaid road. The number of such lorries shall at present be limited to sixteen but the Secretary of State reserves the right to increase such number at any time without notice if in his opinion such increase shall at any time appear to be necessary in the public interest and consistent with the safety of traffic on the aforesaid road. The licenses for each of such lorries shall be put up to public auction annually in the month of November of each preceding year with an upset fee of rupees two thousand (Rs. 2,000) per lorry per annum in the court of the Deputy Commissioner of the Khasi and Jaintia Hills district at Shillong. The Company shall have the right to bid for any or all of such lorries.

The said upset fee of rupees two thousand shall not be increased by the Secretary of State during the period of four years commencing from the first day of January one thousand nine hundred and twenty-three but may be increased or decreased thereafter at his discretion. The license fee shall be payable in respect of each of such lorries individually whether such lorry is actually running on the road or not and the licensee thereof shall not substitute any other lorry for such lorry.

13. If the Company at any time commit any breach of the conditions of this agreement for which a penalty is not herein otherwise expressly provided they shall be liable to pay a penalty of such amount not exceeding Rupees one hundred and shall be determined and notified to them in writing by the said Secretary for each day during which such breach shall continue and such penalty shall be paid by the Company on demand.

14. If the Company commit any breach of, or any fraud in relation to any condition of this Agreement or offer any bribe or gratuity to any Government servant as consideration for his doing or abstaining from any act in connection with this Agreement or become insolvent or fail duly to perform the services

required hereunder, the Secretary of State may without prejudice to any other legal right or remedy of the Secretary of State by notice in writing under the hand of the Secretary to the Local Government determine this Agreement forthwith, and may also declare forfeited to the Secretary of State, the one lakh of rupees deposited by the Company as hereinbefore provided or such part thereof as shall in his opinion be sufficient to cover the loss or damage caused to the Secretary of State or to the public by the determination of the Agreement.

In the event of such determination the Secretary of State shall have the right to use and maintain the cars lorries workshops garages buildings and all other property provided maintained or used by the Company for the purpose of this Agreement for such time after such determination not exceeding six months as the Secretary of State may deem requisite and upon payment for such use of such compensation as he shall deem reasonable.

15. The maxima rates to be charged by the Company for the carriage of passengers luggage parcels and goods shall be those set forth in the schedule hereto and no alteration shall be made in such rates except with the approval of the Local Government signified by writing under the hand of the Secretary to the Local Government.

16. Nothing in this Agreement shall prevent goods or passengers being carried by cart subject to such timing restrictions as shall be laid down by the Local Government from time to time.

17. Nothing in this Agreement shall prevent the free circulation of private pleasure cars on the road subject to such timing restrictions as shall be laid down by the Local Government from time to time PROVIDED THAT the occupants are not charged fares.

18. Nothing in this Agreement shall prevent the said road being used for motor trials organised by any Automobile Association or similar body and sanctioned by the Local Government from time to time.

19. Nothing in this Agreement shall prevent cars or lorries from carrying Royal Mails or postal parcels on the said roads in accordance with the provisions of any contract which any other Company may have made or may in future make with the Postal Department.

20. If at any time during the term of this Agreement a railway to Shillong shall be declared open to traffic the Company shall have the right to determine this Agreement forthwith and as soon as may be after such determination the Secretary of State shall take over and purchase from the Company such part of the rolling stock for the time being belonging to the Company and in actual use for and in connection with the said services as shall be serviceable, and the price of such rolling stock shall be paid to the Company by the Secretary of State on a valuation to be settled by a representative of the Company and an officer appointed by the Secretary to the Local Government PROVIDED that if such valuation is not agreed upon by and between the parties hereto it shall be settled by arbitration as hereinafter provided. PROVIDED ALSO that in the event of such determination the Secretary of State shall refund to the Company so much of the sum of one lakh of rupees deposited by the Company in the manner hereinbefore provided as shall be proportionate to the unexpired portion of the abovementioned period of one year.

21. If any dispute or difference shall arise touching or concerning the subject matter of this contract or any covenant clause article matter or thing herein contained the determination of which is not hereinbefore otherwise expressly provided for it shall be referred to an arbitration committee whose decision upon such dispute or difference shall be final and conclusive and binding on the parties hereto.

Such arbitration committee shall consist of the Commissioner, Surma Valley and Hill Division, as Chairman and two other members, one of whom shall be nominated by the Local Government and the other by the Company.

AS WITNESS. The Commercial Carrying Company, Limited, has hereunto caused its seal to be affixed and the Secretary of State for India in Council has hereunto and to a counterpart hereof set his hand this fifteenth day of November one thousand nine hundred and twenty-two.

The common seal of the above named
Commercial Carrying Company, Limited,
was hereto affixed in the presence of



A. K. Bhattacharya, Managing Director, and	(Sd.) A. K. BHATTACHARYA, <i>Managing Director.</i>
S. Bhattacharya and	(Sd.) S. BHATTACHARYA, <i>Secretary.</i>
P. C. Kar.	(Sd.) P. C. KAR, <i>Solicitor, Calcutta.</i>

Witness to the signature of O. H. Desenne, Secretary to the Government of Assam, for and on behalf of the Government of Assam acting in the premises for and on behalf of the Secretary of State for India in Council.

(Sd.) O. H. DESENNE,
Secretary to the Government of Assam in the Public Works Department.

(Sd.) E. P. BURKE,

Under-Secretary to the Government of Assam, Public Works Department.

THE SCHEDULE ABOVE REFERRED TO.

(Terms and conditions of the contract.)

1. The services to be maintained and carried out by the Company daily shall be as follows :—

- (1) First class daily accelerated passenger service both up and down in connection with the Calcutta Mail.
- (2) Mixed class daily passenger service, both up and down.
- (3) Combined daily luggage and passenger and fast goods service to be run in connection with No. (1).
- (4) Combined daily goods, luggage and passenger service to be run in connection with No. (2).
- (5) Combined daily goods and passenger service.
- (6) Slow goods service.

2. No. 1 Service shall run between Pandughat and Gauhati railway stations and Shillong up and down. Not less than four cars carrying at least six passengers each shall be provided for this service.

No. 2 Service shall run between Shillong and Gauhati up and down. The cars used, which shall be at least four in number, shall each provide accommodation for at least four first class (A class) and twelve second class (B class) passengers. When there are not more than five second class passengers carried in any car, luggage and goods may be carried in such car at the rates detailed hereafter.

No. 3 Service shall run between Pandughat, Gauhati and Shillong up and down. The cars used on this service shall be capable of carrying at least twenty maunds of luggage or goods and six passengers each and of arriving within one hour of the No. 1 Service cars. The servants of passengers travelling by the accelerated cars detailed in (1) above shall have preference over other passengers except persons who are *bona fide* patients and hold certificates that they are proceeding to the Pasteur Institute, Shillong, for anti-rabic treatment; such persons shall have the first claim for accommodation at a concession rate of rupees five per head instead of the scheduled rate hereinafter mentioned. At least four cars shall be provided for this service.

No. 4 Service shall run in connection with No. 2 Service between Gauhati and Shillong up and down. The cars used for this Service must be capable of carrying twenty-five maunds of luggage or goods and have sitting accommodation for at least five passengers each. The cars shall be capable of running up to schedule time and of arriving within one hour of the mixed passenger cars (Service No. 2) in connection with which they run. At least four cars shall be provided for this Service.

No. 5 Service shall run daily from Gauhati to Shillong up and down, and carry luggage or goods and not less than five third class passengers, for whom sitting accommodation shall be provided, in each car.

No. 6 Service shall carry goods between Pandughat, Gauhati and Shillong up and down as occasion requires.

In the case of each car in which passengers are carried the number stated shall be exclusive of the driver and any attendant servant of the Company.

3. The speed of the cars used for all Services shall be subject to the orders of the Local Government.

4. If there are no passengers to be carried by any particular service the Company shall decide whether the car shall run that day or not, provided that at least one passenger car shall run daily in both directions.

5. The Company shall, if required, provide at the fares and rates hereinafter mentioned accommodation for twelve passengers by No. 1 Service and for thirty-two passengers by No. 2 Service and for twelve servants and twenty maunds of luggage by No. 3 Service and for ten passengers and fifty maunds of luggage by No. 4 Service.

6. Fares and rates for the abovementioned Services shall be those fixed and notified for the time being by the Company subject to the following maxima :—

	Rs.	a.	p.
By No. 1 Service—			
Passengers between Pandu and Shillong	24	0 0
Ditto ditto Gauhati and Shillong	22	0 0
By No. 2 Service—			
Between Gauhati and Shillong, "A" class	12	0 0
Ditto ditto ditto, "B" class	7	8 0
By No. 3 Service—			
Between Pandu and Gauhati and Shillong, 3rd class	10	0 0
By No. 4 Service—			
Between Gauhati and Shillong	5	0 0
By No. 5 Service—			
Between Gauhati and Shillong	5	0 0
Luggage accompanying passengers between Pandu, Gauhati and Shillong and to be delivered within 24 hours of booking :—per 10 seers or part thereof	0	12 0
Advance luggage and parcels—Between Pandu, Gauhati and Shillong per 10 seers or part thereof	0	12 0
Goods—Between Gauhati and Shillong only per 10 seers or part thereof, to be delivered within six days of booking	0	6 0

Packages weighing more than ten maunds shall be carried on special terms to be quoted by the Company on forty-eight hours' notice being given. Bulky articles may be charged for by measurement, for which purpose six cubic feet shall be taken as equivalent to one maund.

For intermediate distances the fares by No. 2 Service shall be $\frac{3}{4}$ th of the full fare, "A" or "B" class, between Shillong and Burnihat or intermediate stage Down, and between Gauhati and Umran or intermediate stage Up. Beyond these stages full fares will be charged. By Nos. 4 and 5 Service the fares shall be two annas per mile subject to a maximum of rupees five.

Potatoes shall in no circumstances be charged for at more than Rs. 2 (two only) per maund and shall be delivered ordinarily within forty-eight hours of the time of booking.

The rates to be charged, subject to the abovementioned maxima, shall be fixed by the Company periodically in advance for at least a fortnight, and goods offered for carriage shall be booked and despatched in strict order of

priority. The condition as to the fixing of rates a fortnight in advance as herein mentioned shall only be binding on the Company, if they have control of all the goods lorries running on the road.

Any rate charged by the Company shall include loading and unloading at the Company's godowns both at the starting station and at the destination. The rates for goods shall be at owner's risk.

7. In the accelerated and mixed class passenger cars (Service Nos. 1 and 2) each first and second class passenger shall be entitled to take with him free of charge one hand bag or suit case and loose cushions coat and rug. No other luggage shall be carried in the first class accelerated passenger cars.

8. In services Nos. 3, 4 and 5, 3rd class passengers shall be granted a free allowance of ten seers.

9. In all cars carrying passengers, infants not exceeding three years of age shall be carried free and except in the case of the 3rd class cars (Nos. 4 and 5) children over three and under twelve years shall be carried at half fares.

10. Teachers of Government Mission or Aided schools in Shillong shall be carried as second class passengers in the mixed passenger service only at a concession rate of rupees ten in the "A" class and rupees six in "B" class. Pupils of the same schools whose parents or guardians are not residents in Shillong and nurses shall be carried as second class passengers at a concession rate of rupees five.

11. Dogs shall be carried in luggage cars only at the rate of three rupees each for any journey.

12. One invalid car shall be run when required on twenty-four hours' notice being given.

13. The charge for the invalid car from Pandu or Gauhati to Shillong and *vice versa* shall be rupees thirty-five plus 1st class fare for the persons travelling with a minimum of two fares. The free allowance of luggage on the invalid car shall be the same as on first class passenger cars. Excess luggage shall be carried at three rupees per maund.

14. The Deputy Commissioner of the Khasi and Jaintia Hills or the Executive Engineer, Khasi and Jaintia Hills Division, or the Deputy Commissioner of the Kamrup district or a military officer travelling on public duty and requiring to break journey at any place on the Gauhati-Shillong cart-road shall be carried and charged for a seat in any passenger car at the rate of four annas per mile for himself and two annas per mile up to a maximum of rupees five for his servant, if any, for the actual distance travelled.

15. The Company shall carry free of charge to any station between Gauhati and Shillong and *vice versa* any Inspector or Sub-Inspector or Sergeant of Police who may be specially deputed for duty by the Deputy Commissioner of the Khasi and Jaintia Hills district or the Kamrup district and holds an order in writing.

16. The Company shall notify the consignees the arrival of goods or luggage by post card and shall be allowed to charge demurrage of annas two per package per day, if goods are not removed within forty-eight hours after the date of issue of the notice.

17. The Secretary to the Local Government shall have power to order one extra car to run at any time for the conveyance of passengers at the ordinary fares.

18. All cars shall run in conformity with the time tables which shall be issued from time to time by the Secretary to the Local Government who shall have power to fix a maximum speed for any part of the journey and the maximum weight of any loaded car which term shall include all cars and lorries shall not exceed eight tons.

19. All cars and lorries shall be numbered and every case of delay or breakdown or accidents shall be reported to the Secretary to the Local Government within 24 hours of the happening of the same with the name of the driver. In case of accidents resulting in serious injuries or loss of life the car shall remain stationary at the place of accident until an inquest is held.

20. Fines may be levied by the Local Government upon the Company for delays in cars starting from terminal and intermediate stations for exceeding speed limits or for breakdown of any car which causes stoppages aggregating thirty minutes in any one trip, provided that these fines shall not exceed a total of rupees twenty-five per car per trip : provided also that no fine shall be leviable for delay caused by the late arrival of the train at Pandu or by floods cyclones land slips or other uncontrollable events.

All fines imposed shall be paid by the Company on demand.

The Commercial Carrying Company, Limited, by
their Managing proprietor for and on behalf of the
Company.

Witness—

(Sd.) P. C. KAR,
Solicitor, Calcutta.

(Sd.) A. K. BHATTACHARYA,
Managing Director.

(Sd.) S. BHATTACHARYA,
Secretary.

Witness—

(Sd.) E. P. BURKE,
*Under-Secretary, Public Works
Department.*

(Sd.) O. H. DESENNE,
*Secretary to the Government of Assam
in the Public Works Department.*

(Sd.) ANATH B. DUTT,
*Assistant, Public Works Department
Secretariat, Assam.*

Terms of the new contract to be entered upon for the running of passenger services by mechanical transport on the Gauhati-Shillong Cart road for a period of ten years beginning from the first of January 1923.

SEALED TENDERS for the right to run passenger services by mechanical transport on the Gauhati-Shillong Cart road, a distance of 68½ miles, will be received by the undersigned until noon of the first of August, 1922. Such Services will be run in accordance with the time-tables which may be issued from time to time by the Public Works Department. All cars must be passed by the Executive Engineer, Khasi and Jaintia Hills Division, before being permitted to ply for hire on the said road. The maximum weight of any loaded car, which term shall include all cars and lorries, plying on the road must not exceed eight tons. The Executive Engineer may at any time condemn any car plying on the road, if he considers it to be unfit or unsafe. The running of the services will at all times be subject to such rules and regulations as may be framed by the Assam Government.

The number and description of the Services will be as follows :—

- (1) First-class daily accelerated passenger service both up and down in connection with the Calcutta mail.
- (2) Mixed class daily passenger service both up and down.
- (3) Third-class passenger service to be run in connection with No. (1) above.
- (4) Fourth-class daily passenger service to be run in connection with No. (2) above.
- (5) Combined daily goods and passenger car :—

(a) No. (1) will run between Pandughat and Gauhati railway stations and Shillong up and down and will connect with the Eastern Bengal Railway Up train No. 3 and Down train No. 4 at Pandughat and with Assam-Bengal Railway Up train No. 29 and Down train No. 30 at Gauhati. Not less than four cars carrying at least six passengers each shall have to be provided for this Service.

(b) No. (2) Service will run between Shillong and Gauhati, up and down. The cars used which shall be at least four in number shall provide accommodation for four "B" class and eight "A" passengers each way between Gauhati and Shillong daily.

(c) No. (3) Service will run between Pandu, Gauhati, and Shillong and *vice versa*. The cars used on the Service shall be capable of carrying at least 20 maunds of luggage or goods and six passengers each. The servants of passengers travelling by the accelerated car detailed in (1) above shall have preference over other passengers except in the case of persons who are *bona fide* patients and hold certificates that they are proceeding to the Pasteur Institute, Shillong, for anti-rabic treatment; in such cases, these passengers will have the first claim for accommodation at a concession rate of Rs. 5 per head instead of the scheduled rate hereinafter mentioned. At least four cars shall be provided for this Service.

(d) No. (4) Service shall run in connection with No. (2) Service between Gauhati and Shillong and *vice versa*. The cars must be capable of carrying 25 maunds of luggage and must have sitting accommodation for at least five passengers each, and at least four cars shall be provided for this Service.

(e) No. (5) Service shall run daily between Gauhati and Shillong and carry luggage or goods and not less than five third-class passengers for whom sitting accommodation shall be provided.

2. The goods traffic carried on the Gauhati-Shillong road has hitherto been borne partly by lorries of the Company carrying the passenger traffic for which no license fee was charged, and partly by privately owned lorries on payment of license fees. The total number of lorries plying on the road was fixed from time to time as traffic demanded and the capacity of the road allowed. This system which has the advantages of securing an efficient passenger service while protecting the public from the disadvantages of a monopoly, will be maintained. The successful tenderer for the passenger and luggage traffic will be permitted to run twenty lorries for goods traffic free of license fee. The maximum number of goods lorries which it is at present considered safe to allow on the road is thirty-six and the licenses for the balance of the sixteen lorries will be put up to auction annually with an upset fee of rupees two thousand per lorry per annum. The successful tenderer will be allowed to bid for these lorries against other private bidders. The upset fee of Rs. 2,000 per lorry will not be increased during the period of four years from the 1st January 1923. The license fee will be for every individual lorry in excess of the 20 lorries which are allowed free to the successful tenderer irrespective of whether such a licensed lorry is actually run on the road or not, and it will not be open to the successful tenderer or to private owners to substitute another lorry for the one in respect whereof the license has been obtained. Government reserves the right at any time to increase the number of lorries which are allowed to run on the road to a greater number than thirty-six, if in the light of the experience gained it is hereafter ascertained that the number can be increased with safety. In return for the 20 lorries which are allowed on the road free of license fee, a yearly payment will be made to Government by the successful tenderer and the amount of such payment must be quoted in the tender. The tender should be for a period of ten years beginning from the 1st of January 1923.

3. A sum of Rs. 10,000 as earnest money must be paid into the Shillong Treasury and a treasury *challan* for that amount must accompany every tender. This earnest money will be refunded to unsuccessful tenderers and in the case of the successful tenderer will have to be supplemented by the balance making up the fee for the first year, by the 1st of October 1922. Similarly a fee for every year will have to be paid in advance on the 1st of October of the preceding year.

4. The successful tenderer shall have at all times ready on the road in serviceable and running order to the satisfaction of the Secretary to the Assam Government in the Public Works Department such number of motor vehicles, as hereinbefore mentioned with such competent drivers, attendants and accessories as in the opinion of the said Secretary are for the time being necessary for the due and efficient working of the various services above detailed and for the carriage of goods. All vehicles and their fittings including tyres shall be of such make, pattern, and design, as shall for the time being be approved in writing by the aforesaid Secretary.

5. The aforesaid Secretary shall have power in writing under his hand to requisition and employ at any time and for such period as may be necessary for the use of military transport the whole of the successful tenderer's stock of cars for the time being in use in the service and the Company shall permit the employment thereof accordingly. The amount to be paid for such use shall be fixed by the said Secretary.

6. The appointment of the Managers and Assistant Managers of the Motor Service both at Shillong and Gauhati shall be subject to the approval of the Assam Government and any such Manager or Assistant Manager shall be discharged if in the opinion of Government, which shall in all cases be final, his discharge is considered desirable in the public interest.

7. The successful tenderer shall pay the whole of the charge or charges levied by the Telegraph Department in respect of all Telegraph and Telephone services and offices which the said tenderer shall deem it necessary to establish for the more efficient working of the said transport service.

8. The Secretary to the Assam Government in the Public Works Department shall have the right to appoint a Government Officer or other person to examine the drivers and servants of the successful tenderer as to their efficiency and to inspect the cars, buildings, workshops, and other property maintained by the successful tenderer for purposes of the contract to be agreed upon and the successful tenderer shall at all times give such Inspector every facility for making such inspection.

9. The successful tenderer shall keep true and accurate traffic returns in English in a form to be approved by the Secretary to the Assam Government in the Public Works Department of, or relating to, the said passenger and goods services and such returns and the successful tenderer's books and accounts shall be open at all times at Shillong or such other place as may be agreed upon for the inspection of any officer or officers deputed by the said Secretary, for the purpose, provided that if production at Shillong is required, not less than a week's notice shall be given.

10. The successful tenderer shall not transfer, assign, or sublet, the contract to be entered upon, nor their interests therein nor any part thereof without the previous consent in writing of the said Secretary to the Assam Government in the Public Works Department nor shall the successful tenderer permit any Government servant belonging to the Public Works Department to enjoy any pecuniary interest in the contract to be entered upon.

11. If the successful tenderer shall at any time commit any breach of the terms and conditions of the contract to be entered upon, he shall be liable to pay a penalty subject to maximum which will be entered in the formal contract. Similarly failure to run to the time-tables will expose the Company to fines.

12. The maxima rates to be charged by the successful tenderer for the carriage of passengers, luggage, parcels and goods, shall be as follows :—

By No. 1 Service.

			Rs.	a.	p.
<i>Passengers between Pandu and Shillong</i>	...	...	24	0	0
<i>Ditto ditto Gauhati and Shillong</i>	...	...	22	0	0

			Rs.	a.	p.
<i>By No. 2 Service.</i>					
<i>Between Gauhati and Shillong, "A" class ...</i>	...		12	0	0
<i>Ditto ditto, "B" ,, ...</i>	...		7	8	0
<i>By No. 3 Service,</i>					
<i>Between Pandu and Gauhati and Shillong, 3rd class ...</i>	...		10	0	0
<i>By No. 4 Service.</i>					
<i>Between Gauhati and Shillong ...</i>	...	...	5	0	0

Luggage accompanying passengers Between Pandu, Gauhati and Shillong and to be delivered within

<i>24 hours of booking :—</i>		<i>per 10 seers or part thereof</i>	0	12	0
<i>Advance luggage and parcels Between Pandu, Gauhati and Shillong per 10 seers or part thereof ...</i>					
<i>Goods</i>	...	<i>Between Gauhati and Shillong only per 10 seers or part thereof, to be delivered within six days of booking...</i>	0	6	0
<i>Potatoes</i>	...	<i>To be delivered within six days of booking per maund ...</i>	2	0	0

13. The maxima rates to be charged by the outside licensees for the carriage of goods, luggage, or parcels, shall be those as fixed herein for the Company undertaking the contract, and no alteration shall be made thereto by any one, except with the previous approval of the Secretary to the Assam Government in the Public Works Department in writing.

14. Nothing in the agreement is to prevent goods or passengers from being carried by carts subject to such timing restrictions as may be laid down by Government from time to time.

15. Nothing in the agreement is to prevent the free circulation of private pleasure cars on the road provided that the occupants are not charged fares.

16. Nothing in the agreement is to prevent cars or lorries from carrying Royal Mails or postal parcels in accordance with the provisions of the contract which has been entered upon between the Postal Department and the Gauhati-Shillong Motor Transport Company, Limited, for a period of ten years beginning from the first of January 1923.

17. The Contract to be entered upon with the successful tenderer can be terminated at six months' notice of termination on either side.

18. This Government does not undertake to accept any tender.

Dated Shillong,
The 7th June 1922. }

By order, etc.,
O. H. DESENNE,
Offg. Secretary, Public Works
Department.

THE ASSAM MUNICIPAL BILL.

SECTION 138.

MAULAVI MUNAWWAR ALI :—I propose, Sir, the following amendment to section 138 :—

That after the words ' at the time of sale, deposit ' in the 12th line of the section, the following be inserted, namely, ' forthwith 25 per cent. of the purchase money and the balance shall be paid within 15 days from the date of such sale ; in default the money, if any, so paid shall be forfeited and the holding shall be resold and the shortage, if any, may be recovered from the defaulter as arrears of municipal tax in the manner prescribed in this Act.'

This fulfils, Sir, our object. The section as amended will stand thus :—

' If money be due under this Act in respect of any holding from the owner thereof on account of tax, expense or charges recoverable under this Act, and if the owner of such holding or his whereabouts are unknown or the ownership thereof is disputed the Board may publish twice at an interval of three months a notification of sale of such holding, and after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder who shall at the time of sale deposit forthwith 25 per cent. of the full amount of the purchase money and the balance shall be paid within 15 days of the sale ; in default the money, if any, so deposited, shall be forfeited and the holding shall be resold and the shortage, if any, may be recovered from the defaulter, as arrears of municipal tax in the manner prescribed in this Act.'

I think, Sir, that is quite comprehensive and fulfils our object. I hope, therefore, that the Hon'ble House will give their consent to this amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, we had a lot of discussion about this yesterday, and I stated that the amount to be found due ordinarily in such cases would be very small and that it was not necessary that we should ask the purchase money to be deposited in instalments. However, if the Council agrees to accept the amendment I won't object.

KHAN SAHIB ALAUDDIN AHMAD CHAUDHURI :—It is quite reasonable, Sir.

THE HON'BLE PRESIDENT :—The question before the Council is :—

" That in line 13 for the words ' the full amount ' the words ' forthwith 25 per cent. ' be substituted and after the words ' purchase money ' in the same line the following be inserted, namely :—' The balance shall be paid within 15 days of the date of sale ; in default the money, if any, so deposited shall be forfeited and the holding shall be resold and the shortage, if any, may be recovered by the Board from the defaulter as arrears of municipal tax in the manner provided in this Act.' "

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 138, as amended, do stand part of the Bill.

The motion was adopted.

SECTION 260.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that for the words 'owner or occupier' wherever they occur in section 260 the words 'owner and occupier' be substituted.

Sir, section 260 gives power to the Municipal Board to lay pipes or carry cables, etc., to private grounds. In such cases it is quite possible that both the owner and the occupier may be affected and it is to provide that the owner and occupier, when so affected, may be entitled to damage or compensation from the Municipality that I propose that the words 'owner or occupier' may be changed into 'owner and occupier.'

SRIJUT DALIM CHANDRA BORAH :—I have no objection to the substitution of the words 'owner and occupier' for the words 'owner or occupier' in the body of section 260. But as regards the substitution of the word 'and' for 'or' in the second proviso to that section I have strong objection, because the owner may not necessarily be the occupier of the house. The occupier may only be a tenant and in that case he will not be able to recover any damage from the Municipal authorities.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Why?

SRIJUT DALIM CHANDRA BORAH :—Because the owner and occupier may only recover damages from the Municipality. The occupier may not necessarily be an owner. He may be a tenant other than the owner. The Municipal servants doing anything as mentioned in section 260 may commit an injury to the owner or to a tenant. If the word 'and' be substituted for the word 'or' in the second proviso, then the owner who is an occupier may only recover damage and not the tenant. So I say the words 'owner or occupier' should not be changed in the proviso. But in the body of the section that expression of course may be changed because the intimation must be given to the occupier as well to the owner because the occupier may or may not give sanction to the doing of certain things to the prejudice of the interests of the owner. So a notice to both the owner and the occupier is necessary. But in the case of recovery of damages the compensation should be given both to the owner or the tenant as the case may justify.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, as I said in moving my amendment what I want is that both the owner and the occupier should be entitled to recovery of damages when they are affected; and it is for this reason that I have moved for the change of the expression 'owner or occupier' into 'owner and occupier.' The Hon'ble member says that the owner and occupier may mean the same person. But that is exactly what I do not mean, and I am not sure that the expression as proposed to be amended does as a matter of fact mean that. I shall be prepared to put it like this—'shall be paid to the owner and the occupier.' I think that will meet the objection which has been raised.

SRIJUT DALIM CHANDRA BORAH :—That will solve the difficulty.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—To make the expression more clear we may put it like this "the owner or occupier or both."

SRIJUT DALIM CHANDRA BORAH :—That will be more explicit : more than what I demand.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Then my amendment, Sir, is this that in line 10 of section 260, for the words 'owner or occupier' the words 'owner and occupier' be substituted and that in the second proviso to that section after the word 'occupier' the words 'or both' be added and in the same proviso after the word 'him' the words 'or them' be inserted.

I hope, Sir, that will meet the objection of the Hon'ble Mover.

THE HON'BLE PRESIDENT :—The question before the House is :—

"That in line 10, section 260, for the words 'owner or occupier' the words 'owner and occupier' be substituted and that in the second proviso to that section after the word 'occupier' the words 'or both' be added and in the same proviso after the word 'him' the word 'or them' be inserted."

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 260, as amended, and section 261 do stand parts of the Bill.

The motion was adopted.

SECTION 262.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DATTA :—Sir, I beg to move that for the words 'owner or occupier' in lines 3 and 4 the words 'owner and occupier' be substituted. That is to make it clear that the previous notice shall be given to both the owner and the occupier.

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 262, as amended, and sections 263 to 276 do stand parts of the Bill.

The motion was adopted.

SECTION 277.

REV. J. J. M. NICHOLS-ROY :—Sir, I beg to move that in sub-section (1) of section 277 for the word 'shall' in the first line, the word 'may' be substituted. The section as it stands now compels the Board to provide a water meter. But as I have amended it the question of providing a water meter will be left to the option of the Board. In section 265 the question of the establishment of meters for the purpose of testing gas or electricity has been left to the option of the Board, and I do not see any reason why this question of providing a water meter also should not be left to the option of the Board. If we read section 265 we shall find that it runs thus :—

"The Board may prescribe the size of ferrules to be used for the supply of gas and water, and may establish meters or other appliances for the purpose of testing the quantity or quality of any gas or electricity supplied to the premises of any person or to or for the use of any person or business."

And in section 277 we find it is written that 'the Board shall provide a water meter.' These two sections ought to be under the same principle. If the option is left to the Board in the matter of establishing meters for gas and electricity, why the matter of establishing water meters should not be left to the Board?

Though the word 'shall' is a very small one, though the change is very small one, yet it involves a great principle—a principle of self-government. The Board should not be compelled to start water meters. This matter should be left to the option of the Board. In this House we have been discussing self-government and local autonomy, and we have given provisions in this Act which will enable the Board to use their option in many matters that are of vital importance. In the question which we discussed yesterday regarding the fixing of the limit of taxation it was decided that that question should be left to the discretion of the Board. I am sure that in this little matter of providing a water-meter the Board should not be compelled to do it, when we have left to the option of the Board many matters of more vital importance. As in leaving the word 'shall' the principle of self-government is violated, I think the House will have no objection in changing this word 'shall' to 'may.'

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, the Hon'ble members are aware that at present there is a good deal of waste of water through pipe connections and what is intended by this section is that such wastage shall be prevented. The Hon'ble Mover of the amendment has said that the discretion might be left to the Municipality in the matter, but I think that the water-meters should be compulsory, otherwise it would be difficult to stop or check the waste of water. I think that in the interests of the water-supply the Board should be allowed to see that their water is not wasted.

RAI BAHADUR MONOMOCHAN LAHIRI :—Sir, I am sorry I have to oppose this motion. The Hon'ble Mover is a rate-payer of the Shillong Municipality where the water is drawn from natural springs and nothing is spent on pumping the water as is done in other Municipalities, where the case is quite different. There a large sum of money is spent for pumping the water to a very high level for distribution. Now, Sir, if this amendment be accepted the rate-payers who have no house connections will suffer as a lot of water is wasted by rate-payers who have such connections. Therefore it is necessary that providing meters should be compulsory. If any Municipality wishes to be exempted from the operation of this section it should apply under section 8 of the Act to the Local Government, and I do not think the Government will have any objection to exempt it from the operation of this section.

REV. J. J. M. NICHOLS-ROY :—Sir, in reply to what the Hon'ble the Minister and Rai Bahadur Monomohan Lahiri have said, I want to say that my amendment does not prevent any Municipality from having meters of its own. Not at all. Let the Tezpur Municipality decide among themselves to have a water-meter. My amendment will not prevent that Municipality from having its own meter and it will not prevent any other Municipality, but it will only leave this question to the option of the Board. The Municipal Commissioners should decide for themselves and should not be forced by legislation to have water-meters. They ought to be able to see that no water is wasted. I do not see any reason for making this matter

compulsory by legislation. It will only mean that we do not have enough trust in our Commissioners. Yesterday we condemned the very sign of distrust in the Municipal Commissioners and to-day, are we going to support the same thing that we condemned yesterday? And again, if we turn to section 8 we shall find that this section does not at all give any power to the Board. It reads like this:—"Should the circumstances of any Municipality be such that any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, either of their own motion after consultation with the Board or on the recommendation of the Board at a meeting specially convened for the purpose, except the Municipality or nay part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the Municipality until applied thereto by notification after consultation with the Board." Now, this provision does not give any power to the Board but it rather leaves all the power to the Local Government. My contention is that as we have all along during these few days been fighting for self-government and local autonomy, so in this very small matter of establishing water-meters we ought not to compel the Municipal Board. I think that the Municipal Commissioners who cannot decide for themselves what is best in their municipality ought to be taught better. And for this reason I believe that this power should be given to the Boards. Now, regarding my being a rate-payer of the Shillong Municipality, I said nothing in my former speech about this, and it is not necessary at all to discuss that point. It is not the question of the rate-paying of any one in any Municipality. Leave that question aside. We the people of Shillong pay a high rate of Municipal tax but we have never grumbled, and the Government will bear witness to that. But I am fighting for the principle—the principle of self-government and local autonomy. It is not a selfish or a personal question at all. If we have given power to the Board to fix a rate of taxation why can we not give them the power to decide among themselves the question of water-meters?

The motion was put and adopted.

REV. J. J. M. NICHOLS-ROY :—Sir, I want to move that in section 277 after the word 'and' in the last line the words 'whenever a water-meter is provided the Board' be inserted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, to cut the matter short as this amendment is consistent with the other amendment which has just been accepted I am prepared to accept this amendment.

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 277, as amended, and sections 278 to 282 do stand parts of the Bill.

The motion was adopted.

SECTION 283.

SRIJUT BEPIN CHANDRA GHOSE :—Sir, from the attitude of the House as experienced by me during these days in regard to a similar amendment that stands in my name under section 283 I do not like to move the amendment, and so I beg permission of the House to withdraw it.

The following motion was, by leave of the Council, withdrawn :—

“ That from section 283, the words ‘ the Commissioner ’ and the words ‘ the Magistrate in charge of the subdivision or any officer of Government authorised in that behalf by the Local Government ’ be omitted.”

BABU HIRA LAL BOSE :— Sir, I beg to submit that after having had the experience of the sense of the House during the last two days with regard to the attitude adopted by it on similar amendments, I beg permission to withdraw my amendments under sections 283, 284 and 285. I do so in order not to waste the time of the House.

The following motions of Babu Hiralal Bose under sections 283 to 285 were, by leave of the Council, withdrawn :—

“ That in section 283, after the words ‘ may at all times ’ the words ‘ after giving 24 hours ’ previous notice thereof ’ be added.”

“ That in section 284, sub-section (3), after the words ‘ the Inspector of Municipal Works ’ the words ‘ after giving 24 hours ’ previous notice thereof ’ be added.”

“ That in section 285, after the word ‘ Commissioner ’ in both paragraphs, the words ‘ or the Deputy Commissioner ’ be omitted.”

SRIJUT DALIM CHANDRA BORA :— Sir, I beg to move that at the end of sub-section (2) of section 283, the words ‘ on reasonable notice ’ be added.

Sir, my amendment is a very simple one and I think the House would have no objection to accept it. The section says that the Commissioner, the Deputy Commissioner or any authority in control shall call for and inspect any book or document which may be, for the purposes of this Act, in the possession or under the control of the Board. Sir, reasonable notice is always given when any inspection of offices by any officers is sought to be made, and in this case, Sir, it is my intention that such reasonable notice may be given before calling for and inspecting any book or document of the Board. I do not want 24 hours’ notice; all I say is that it should be reasonable according to the circumstances—it might be more or less than 24 hours.

THE HON’BLE RAI BAHADUR PROMODE CHANDRA DUTTA :— Sir, the Hon’ble members will observe that the amendment relates to clause (2) of section 283, which provides that the Commissioner, Deputy Commissioner, the Magistrate in charge of the subdivision or any officer of Government authorised in that behalf by the Local Government by a general or special order may at all times call for and inspect any book or document which may be, for the purposes of this Act, in the possession or under the control of the Board.

Sir, the phrase 'will call for' in itself implies a certain amount of notice. The Commissioner or Deputy Commissioner or whoever he may be, may at any time write to the officer in charge of the Board's papers to send them to him. I really do not understand what is actually meant by the expression 'reasonable notice' in cases of this sort.....

SRIJUT DALIM CHANDRA BORA :—Sir, I wish that the words 'reasonable notice' be added after the phrase 'at all times' in the section immediately preceding sub-clause (1). I want notice to be given in the case of municipal officers only and not in the case of the Deputy Commissioner and the Commissioner.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, the amendment which appears on the agenda paper is not the amendment which it is now sought to be proposed by the Hon'ble Mover. It is stated on the agenda paper that the words 'on reasonable notice' be added at the end of sub-section (2).

SRIJUT DALIM CHANDRA BORA :—I am afraid, Sir, that this is a misprint. The words 'on reasonable notice' should not be added at the end of the section. It should be so added after the phrase 'at all times.'

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—However, Sir, as the Hon'ble Mover, now says that these words should be added after the words 'at all times' we may take that to be his amendment. The amendment therefore reads thus :—That the words 'on reasonable notice' be added after the words 'at all times' in section 283.

Now, Sir, I am unable to accept this amendment because the effect of it might tend to frustrate the very object which the inspection has in view. Surprise visits are sometimes necessary in order to discover the real state of things. It will also be noticed by Hon'ble members that the section does not give any power to the authorities concerned to enter on a private land but only to inspect the properties belonging to the Municipal Boards.

The motion was put and negatived.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—I beg, Sir, to move that section 283 do stand part of the Bill.

The motion was adopted.

SECTION 284.

SRIJUT DALIM CHANDRA BORA :—Sir, in view of the result of the previous amendment, I beg to withdraw the amendment standing in my name under this section. I suppose there must be a margin left for the surprise visit. (Laughter).

The following motion was, by leave of the Council, withdrawn :—

"That in sub-section (3), after the words 'at all times' the words 'on reasonable notice' be inserted."

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 284 do stand part of the Bill.

The motion was adopted.

SECTION 285.

SRIJUT BEPIN CHANDRA GHOSE :—Sir, I beg to move that after the words 'in writing' in the second line, the words 'if not satisfied after obtaining explanation from the Board' be inserted.

Sir, section 285 empowers the Commissioner or the Deputy Commissioner to suspend acts committed by the Municipal Board. Now, Sir, the Board does not do anything without having some object in view, and the Commissioner or the Deputy Commissioner might at first sight misunderstand the object or intention of the Board. So my reason for asking that this insertion be made is to give the Board an opportunity to explain the reasons which have prompted them to adopt any particular attitude.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, the power given to the Commissioner or the Deputy Commissioner in this section is to suspend the execution of any resolution or order of the Board. It is quite open to the Board to explain matters to the Commissioner or Deputy Commissioner in order that the suspension might be withdrawn, but if it becomes incumbent on the Commissioner or the Deputy Commissioner to obtain an explanation first from the Board and then to suspend a resolution, the result might probably be that the resolution would be carried into effect in the meantime.

THE HON'BLE PRESIDENT :—The question before the Council is that after the words 'in writing' in the second line the words 'if not satisfied after obtaining explanation from the Board' be inserted.

The motion was negatived.

MAULAVI MUNAWWAR ALI :—I beg, Sir, with the permission of the Hon'ble House, to withdraw the following amendment standing against my name under section 285. "That after the word 'suspend' in line 2 the word 'temporarily' be inserted."

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

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—I beg to move, Sir, that section 285 do stand part of the Bill.

The motion was adopted.

SECTION 286.

MAULAVI MUNAWWAR ALI :—I beg, Sir, to move that in section 286, sub-section (1), after the words 'call upon the Board to perform' the following words be inserted, namely :—

'so far as its funds may permit, if the performance of such duty involves an expenditure of the Board's money....'

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Might I suggest, Sir, that the Hon'ble Member might move all his amendments together because they involve the same principle.

MAULAVI MUNAWWAR ALI :—Yes, I am going to do so. But No. 3, Sir, though it involves the same principle, is slightly different. Nos. 1 and 2 might be taken together.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Yes, but I think the principle is practically the same.

THE HON'BLE PRESIDENT :—Then you are taking Nos. 1 and 2 together ?

MAULAVI MUNAWWAR ALI :—Yes, Sir. Then, my second amendment is :—

“ That at the end of sub-section (2) the following words be inserted, namely :—

‘ so far as its funds may permit, if the performance of such duty involves an expenditure of the Board's money.’ ”

Sir, it may happen that the Board might be called upon to perform a duty but it might not be able, its financial condition might be such as not to permit it, to perform that duty. In that case, Sir, the position of the Board will be critical. Either the Board shall have to borrow money or raise money by further taxation. I think, Sir, the Board should be asked to cut their coat according to their cloth. They should under those circumstances be asked not to go beyond their limits of their resources. I therefore, think, Sir, that it is quite reasonable and just that the Board may confine their attention to performing such duties to the extent of their resources ; and I hope this is reasonable and that the Hon'ble House will see their way to its acceptance.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I regret I am not able to accept these amendments. The Hon'ble member will observe that such an order is to be made by the Local Government and by no inferior authority. Secondly the Local Government must have before it a report from the Commissioner as to the facts. All necessary enquiries must be made before any report is submitted. Then, clause 2 provides :—‘ If such duty is not performed within such period the Local Government may after considering any representation which the Board may submit either revoke or modify the order or appoint some fit and proper person to perform the duty’. So that, there is room for representation to be made to the Local Government and the Local Government may modify the order after considering the representations. Therefore, I submit, Sir, there is no injustice involved in it ; on the contrary if these amendments are accepted the result would be that when the Boards plead want of funds the Boards cannot be called upon to perform a duty which is imposed upon them by the Act.

THE HON'BLE PRESIDENT :—The questions before the Council are :—

“ That in sub-section (1), section 286, after the words ‘ call upon the Board to perform ’ the following words be inserted, namely ‘ so far as its funds may permit, if the performance of such duty involves an expenditure of the Board's money ’ and

That at the end of sub-section (2), section 286, the following words be inserted, namely, ‘ so far as its funds may permit, if the performance of such duty involves an expenditure of the Board's money. ’ ”

The motions were negatived.

MAULAVI MUNAWWAR ALI :—Sir, as the principle involved in my third amendment is almost the same I beg to withdraw it.

The following motion was, by leave of the Council, withdrawn :—

“That at the end of sub-section (4), section 286, the following words be inserted, namely :— ‘if the same be a charge upon the Board under this or any other Act for the time being in force’.”

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that sections 286, 287 and 288 do stand parts of the Bill.

The motion was adopted.

SECTION 289.

SRINUT DALIM CHANDRA BORAH :—Sir, my amendment under section 289 is this :—“That in sub-section (4) after the words ‘Deputy Commissioner’ the words ‘and to the Local Government against an order of the Commissioner’ be inserted.”

Under section 289, sub-section (1), clauses (a), (b) and (c), both these officers, the Deputy Commissioner and the Commissioner, are authorised to perform certain acts. But in the case of the Deputy Commissioner his decision is made appealable whereas the decision of the Commissioner is not appealable to the Local Government. My contention is that as the decision of the Deputy Commissioner is made appealable to the Commissioner, so the decision of the Commissioner should be made appealable to the Local Government. I think I am not inconsistent in making this amendment. If this is accepted everybody will be satisfied as to the correctness of the decision made by the Commissioner, if the aggrieved party will have recourse to the highest authority in the land.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—I am not clear, Sir, as to what exactly the Hon'ble member wants. Does he want that there should be a second appeal from the decision of the Commissioner? An appeal lies from the decision of the Deputy Commissioner to the Commissioner. I am not clear whether the Hon'ble member wants a second appeal to the Local Government from the decision of the Commissioner.

SRINUT DALIM CHANDRA BORAH :—Sir, I do not mean the second appeal, but the first appeal. Here clause 1(a) says :—

‘If any dispute, for the decision of which this Act does not otherwise provide, arises between the Boards of two or more municipalities constituted under this Act, or between the Board of any such Municipality and a cantonment authority or any other local authority, the matter shall be referred—

(a) to the Deputy Commissioner, if the local authorities concerned are in the same district.’

So I do not mean the second appeal—I mean the original appeal in the case decided by the Commissioner independently.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Then, Sir, I would ask the Hon'ble Mover to consider whether he should add after the words “divisions or” in clause (b) the words “and to the Local Government against a decision of the Commissioner or Commissioners

SRINUT DALIM CHANDRA BORAH :—That amendment may serve my purpose. I want that the original case decided by the Commissioner should go to the Local Government. I want only that.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Will the Hon'ble member be pleased to look at sub-section (3) which runs as follows :—

“If, in the case mentioned in clause (a) the Deputy Commissioner is a member of one of the local authorities concerned, his functions under this section shall be discharged by the Commissioner.”

I think the Hon'ble member wants also an appeal against that order of the Commissioner. Then the amendment would be to add the words—

“and to the Local Government against a decision of the Commissioner or Commissioners under sub-section (1)(b) or sub-section (3).”

RAI BAHADUR BEPIN CHANDRA DEB LASKAR :—I think the amendment is reasonable. If the amendment is accepted, the Board will get an opportunity for another appeal.

The motion, as amended, was put and adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, I beg to move that section 289, as amended, do stand part of the Bill.

The motion was adopted.

SECTION 290.

BABU HIRA LAL BOSE :—Sir, I beg to move that from sub-section (2), clause (i), the words ‘provide for the distribution of elected members among the different sections of the community’ be omitted. Chapter IX, section 290 (1) says—“The Local Government may make rules for the purpose of carrying out the provisions of this Act. The clause runs as follows :—

‘In particular and without prejudice to the generality of the foregoing powers such rules may—

- (i) regulate the division of each municipality into wards and fix the number of members to be elected for each of such wards, provide for the distribution of elected members among the different sections of the community...’”

We are concerned, Sir, only with the last portion of the paragraph which I have read. Now, Sir, this is in my opinion a very important amendment and I wish it might have been moved by a much abler member than myself. I see there is an amendment in the name of my Hon'ble friend Srijut Nilmoni Phukan, one of the ablest orators of the House, and also another amendment in the name of my Hon'ble friend Rai Bahadur Amarnath Ray, who is also a very able debator; but unfortunately, as ill-luck would have it, I am afraid I was perhaps the first man to send up the amendment and so my amendment has come up first. However, I must try to say a few words in spite of it. The first thing I beg to impress upon this House, all my Hon'ble friends—Muhammadans, Englishmen, Christians, Hindus and of any other sects assembled here—what is the intention for which and under what circumstances we have come here. We have come here, Sir, to introduce and foster the improvements contemplated by the Reforms.

What the Reforms in the country have given? India is crying for self-government and those Hon'ble members who are assembled here of all sections were also trying to introduce self-government in the country. Now, Sir, if I am right and if our intention is that, to which nobody can have any doubt, then all that we are to do is to see that we are made into a compact whole and not divided ones. We should not be divided, we should not have divided interests at our homes in municipal matters as well as in matters of self-government. We must all be united. Of course we have heard from very high personages and from ablest of politicians that unless we are united, unless we can see and we can feel together in matters of self-government we cannot have self-government. Of course I may impress upon Hon'ble members that the fate of India depends on the Parliamentary Committee which will sit in about eight years from now to find out whether we are fit for self-government. And if we now try to divide ourselves in this way as we are doing here, I leave it to my Hon'ble friends whether we shall be considered fit for self-government. Of course I am very respectful to thy Hon'ble members of the Select Committee, but I am extremely sorry that in this particular case I cannot see eye to eye with them in introducing this matter which was not in the original draft Bill. The draft Bill, Sir, in my humble opinion had a better outlook. It had no such thing as communal representation which I am trying to remove. Now, Sir, the only thing is to see whether this will be of any good to us. It will be of no good to the municipalities. In municipalities have we any different interests? There may be some different interests in political affairs but in municipal affairs have we any different interests? Suppose there are Christians, Hindus, Muhammadans, persons of different sects in the municipality, what different interests have they in the municipality. Their interests are quite identical in matters municipal. They cannot have any separate interests over and above that. I have to impress upon my Hon'ble friends in this House that Government has the power under the law to appoint one-fifth of the members of the Board. Now it is very well-known that Government always, in appointing members, look to the interests of minorities which have not been represented. We cannot blame Government for that. The Government has that much power in their hands. If a particular minority is unrepresented in the election, well there is the Government. Government will look to that. But we want abler men, we want persons who are quite capable to do the work. If we reserve certain seats or if the Government keep the right in their hands to appoint certain persons from a minority, then what shall we do? Perhaps we will not get able men on the Board. Perhaps it would be in the interests of the minority itself to have a healthy competition in the Board. If a party be under the protection of Government, it will not be helpful to the same in the long run. This is also against the principle of autonomy. Sir, during the last three days we have heard much about municipal autonomy which is being given by this Act and I can quote the Hon'ble Minister in charge of the Bill that we should not restrict the power of the Municipal Boards. Then why shall this power be restricted? Why the Government should reserve this power? Let the electors decide whom to elect and whom not to elect, and if the power were usurped by the Government in the long run it would be against the cause of the people, against the cause of self-government and against the interests of everybody in India. Of course short-sighted politicians may say that it is good for

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a particular community but it will be no good for any community. In a sister provincial council recently this communal representation, though with certain limitations, has been accepted even by a great democrat like Sir Surendra Nath Banerji for whom I have the profound respect who was in charge of the Calcutta Municipal Bill, but that is no reason why we should have a thing here because the thing has been done in another province. We know that Sir Surendra Nath Banerji with great reluctance accepted communal representation but there are certain Muhammadan gentlemen in Bengal who strongly objected to communal representation headed by a Muhammadan gentleman who holds at the present day the highest respect from all Muhammadans and Hindus. So I submit, Sir, that this power of making rules should not be reserved and that the Government should be satisfied with the power that they have got of appointing one-fifth of the members as provided for in the law.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, there are three other gentlemen who are to move the identical amendment. After they have all spoken I would just like to say a few words.

SRIJUT NILMONI PHUKAN:—Sir, the amendment that stands in my name is identical with the one that has already been moved by my friend Babu Hira Lal Bose. So I beg to withdraw my amendment in his favour and want to support his amendment, and in supporting it I may be permitted to say a few words. I was also one of the members of the Select Committee and I found that this amendment, this clause, was not in the original Bill, and in my opinion it would have been well if it was not added. But unfortunately the section received a sort of communal bias at the hands of the Select Committee. This I take to be an unfortunate thing. This is a question of great principle on which the Local Board or Municipality or any local self-government exists, and this is a matter of so great importance, so urgent that I feel great diffidence in doing proper justice to it. In my note of dissent I have already said that "I am not in favour of providing for the distribution of members among the different sections of the community, my reasons being that in municipal affairs there can be no clash of communal interests except in very trivial matters. Municipal life is mainly based on community of definite interests, not on interests of any particular community. The objects for which a municipal Corporation exists affect all communities alike. No community can safely ignore them, nor attain them to its own advantage, to the detriment of others. I do not want to introduce this uncivic element in a small body like a Municipal Corporation where identical interests act and re-act on all communities equally. The question of important minority may arise. But there is a sufficient safeguard for that in the provisions for nomination." Sir, I honestly believe this is the principle on which the true civic life of each community will ultimately rest. I at the outset admit that at the present moment we are not above communal bias or communal interests. That is also a fact. But if it is a fact, it is at the same time a very unfortunate fact. So to my mind we must one and all—whether we belong to this community or that community—we must one and all try to do away with this communal bias as far as possible. So I find we must make a beginning somewhere. I find the Municipal body to be the smallest corporate body we can have where the line of resistance is the least. Here we should accept this principle once for all if ultimately we are to live as a nation. This very question has been raised often in the old Council, in the new Council, on public platforms and everywhere. Men like the late Mr. Gokhalee

dwelt on the subject at length at several times. And in the Franchise Committee though they have accepted communal representation in the Council they expressed the opinion, I think, that it is a sort of necessary evil. But as it has obtained its currency in Indian political life for a long time which it will not be safe to eradicate all at once they have, I think, with great reluctance accepted this principle. In that spirit now I support this amendment with the hope that let us make a beginning somewhere from where we can build up a civic life which is the ultimate goal of every Indian whether he be a Christian, a Hindu, a Muhammadan, a Buddhist or whatever he may be. So I have proposed that this clause in this section be omitted on the following ground: Firstly the expression "different sections of the community" may lead to many complications. In the last September session of the Council in respect of one of my questions as many as nine communities were mentioned as communal units for the purpose of recruitment to Government service. Will the Municipal seats be distributed on that basis? In that case I think the matter will be more complex and I do not know why all these communities which are at present accepted by Government as forming different units for the purpose of Government service should not be allowed to have their seats also on the Municipal Board! So in that case we shall have at least nine different communal units for this purpose. Again, secondly, to my mind a Municipal Corporation is a creature of law. Law creates a certain body in spite of creed or community for the performance of certain civic duties (I think the Municipality is a sort of State within a State). So in performing these duties which are all identical for all communities alike I do not know why we should perpetuate the difference that already exists in society. In this connection I should say something about our existing Municipalities of the province. So far as I am concerned in the Dibrugarh Municipality I find that out of 11 seats 5 have been well occupied for a long time by 5 Muhammadan gentlemen. There are Brahman members, there are Marwari members, there are Kayastha members, and yet all these Commissioners have been returned without much opposition, and the second non-official Chairman that we appointed in the Dibrugarh Municipality was a Muhammadan gentleman when there were only two Muhammadan Commissioners in the Board. It did not strike anybody whether the Chairman is a Hindu or a Muhammadan or a Marwari or a Kayastha. This question did not arise. In my opinion, I say again, the objects for which the municipality exists affect all communities alike, where no community can serve its communal interests better in detriment to others. But there might arise certain questions which may affect one community more than the others, as for example, take the general question which we always talk about, *i. e.*, cow killing in a Municipality. At the present moment there is great agitation regarding this cow killing. As far as I have studied the question this question is not raised on the ground of religious feelings but on the grounds of sheer economy. In this matter even Christians, Muhammadans and Hindus have all joined. Supposing there is a religious susceptibility of the great community of Muhammadans on this point. Suppose a Municipality wants to forbid cow killing within its limits, then it is a reasonable question that the Muhammadan Commissioners would object, and the Hindu Commissioners also with equally good reason would urge that there should not be any cow killing in the Municipality as that is against their religion. So when there can be such a clash I think that this particular question must be

solved not on its merits but the feeling of mutual forbearance. The Hindu Commissioners who know that there is a religious injunction for Muhammadans to kill a cow on certain occasions at least, should not forbid it for those occasions, and the Muhammadans should also tolerate the Hindu sentiment on the point of cow killing. So far as I understand, of course I may be incorrect, this very question has been raised in many Municipalities at the present moment—to forbid the killing of cows, I believe of prime cows. I cannot say that the Hindu Commissioners can reasonably say that no cows should be slaughtered within the Municipality on any ground whatsoever, and at the same time the Muhammadan Commissioners also cannot say that Hindus must not object to cow killing. So how can I say that these questions will or will not at all arise on the ground of civic rights. It does not fall under civic rights. If it should be accepted that it falls under civic rights then the Hindus may as well complain against cow killing. So I think that such questions must not be allowed to arise here and that it must be left to mutual forbearance as I have already said. In order therefore to make a beginning, I am sure the whole House will think over this question very seriously and not take it light-heartedly. The principle of self-government has been accepted by us and we want to live as citizens in our respective municipalities with a small state at our disposal without any differences of creed or community. I hope therefore that the House will support this amendment and that my Muhammadan friends will not take my spirit amiss. And I know the Muhammadan community is strong enough at this moment to hold its own against any odds.

RAI BAHADUR AMARNATH RAY:—Sir, I shall begin by reading out certain paragraphs of the Joint Report on the Reforms. The Author says:—

“Indian lovers of their country would be the first to admit that India generally has not yet acquired the citizen spirit and if we are really to lead her to self-government we must do all we possibly can to call it forth in her people. Division by castes and creeds means the creation of political camps organized against each other and teaches men to think as partisans and not as citizens and it is difficult to say how the change from this system to national representation is ever to occur. The British Government is often accused of dividing men in order to govern them. But if it unnecessarily divides them at the very moment when it professes to start them on the road to governing themselves it will find it difficult to meet the charge of being hypocritical or short-sighted.

There is another important point. A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down to a spirit of satisfied security. It is under no inducement to educate and qualify itself to make good the ground it has lost compared with the stronger majority.

On the other hand the latter will be tempted to feel that they have done all they need to for their weaker fellow country-men and that they are free to use their power for their own purposes. The give-and-take which is the essential of political life is lacking. There is no inducement to the one side to forbear or to the other to exert itself. The communal system stereotypes existing relations.”

Sir, in spite of this opinion expressed by the late Secretary of State and Lord Chelmsford, communal representation was conceded in the case of the Legislative Councils as the result of the Lucknow Pact. But I beg to submit that there would be no justification in carrying it down to local bodies. I may say, Sir, for the information of the House that not very long ago this question came up before the Behar Legislative Council. In Behar the Muhammadans are in a hopeless minority, but it was at the instance of the leading Muhammadar members of the Council that the amendment proposing the introduction of communal representation on local bodies was rejected by the House. One of those enlightened Muhammadan Members is the present President of the Council—Khan Bahadur Abdul Noor: I believe that is his name. Then, Sir, I do not know what really are the separate communal interests which require safeguarding so far as municipalities are concerned. If there are such interests there is an ample safeguard provided in section 285 which empowers the Commissioner or the Deputy Commissioner to prevent effect being given to any resolution of a municipal board. If in a particular municipality the Hindu members are in the majority and carry a resolution prohibiting cow-killing, or the Muhammadan members are in the majority and carry a resolution prohibiting the passage of a Hindu religious procession along the public roads, or again if the Hindu or Muhammadan members combine to impose on the business premises of European gentlemen tax at a higher rate than on other holdings, I think the best course for the aggrieved community in these circumstances would be to approach the Deputy Commissioner or the Commissioner and have the resolution set aside or its execution suspended. That would be by far the better way of doing things than the introduction of communal representation which will only perpetuate and accentuate class differences. Sir, in my own Municipality of Sunamganj these differences have never arisen. When the Municipality was first started with an official Chairman the first non-official Vice-Chairman elected by the Commissioners was a Muhammadan gentleman,—the eldest brother of my colleague Maulavi Munawwarali. Then, Sir, since the system of electing Commissioners was introduced, 11 Muhammadan gentlemen have contested the elections in all, of whom only one gentleman was unsuccessful; and I may tell the House that this gentleman was a ministerial officer of the subdivisional office, and his opponents were a very highly educated and promising young lawyer, and myself. When the municipality was allowed the privilege of electing a non-official Chairman for the first time I was unanimously elected Chairman, and when I vacated the office my brother Maulavi Munawwarali was again unanimously elected Chairman—there was no contest.

Now, Sir, I believe that so long as there are public spirited Muhammadan gentlemen like Khan Bahadur Dewan Gannir Roza and Maulvi Mahfuzali at Sunamganj there will be no necessity for communal representation in my municipality at least, and I for one do not understand why the state of things should be different elsewhere. With these words, Sir, I beg to support the amendment.

SRIJIT DALIM CHANDRA BORAH :—Sir, an identical resolution stands in my name and I beg to ask the Council for permission to withdraw it and to support the amendment moved by the Hon'ble Babu Hira Lal Bose. In supporting this amendment, Sir, I crave the indulgence of the House to remind Hon'ble Members that much has been said for and against this amendment from the political, social and religious points of view as has just

been remarked by my predecessors. I submit, Sir, that all that can be said in favour of this amendment would very much outweigh anything that can be said against it. I quite admit, Sir, that as it is the duty of every individual house-holder to look after his own interests, so also is it the duty of every section of the community to look after their own interests. But, Sir, so far as the Indian nationality is concerned, communal representation, I regret to say, is a retrograde step as the Author of the Montague-Chelmsford Report had to admit. Divide and rule may be the policy of an arbitrary Government but I am glad to say that it is not the policy of the British Government, and we, the representatives of the people, should not compel our Government to have recourse to such a policy. The electoral rules of the Assam Government, no doubt have made certain provisions for communal representation, but I submit, Sir, the interests set down in the electoral rules are much larger than the interests of our small municipalities. In municipalities such communal representation to my mind is not desirable as I consider it detrimental to the best interests of the rate-payers living within a limited compass. If such representation is admitted in the case of one particular community then I have no doubt that the various other communities will come forward clamouring for similar representation. That would in effect cause an anomaly in the administration of municipal affairs. If the affairs of any particular community are not adequately represented by the elected members the Government have ample powers in order to appoint particular members to any particular society. Another difficulty to be encountered if communal representation is introduced in Municipalities is this that the municipality is divided into wards for the purpose of election, and the persons living in a ward indiscriminately give their vote to any candidate of whichever caste, creed or nationality, he might belong provided of course that he is competent and trustworthy.

If any communal representation is recognised it will in my opinion cause an anomaly and the possibility of friction among the different sections of the community is likely sooner or later to reach a state of high tension.

On these grounds, Sir, I support the amendment already moved very ably by my predecessors.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, so much has been said and written on this topic lately that I daresay Hon'ble members are aware of the grounds for and against. Anything that I may attempt to say would, I fear, be a repetition of what has already been stated a thousand times over elsewhere, and I think the time of this Council is too valuable to be taken up in needless repetition. I would, however, say only one brief word. I am one of those who think that communal representation is not for the good of this country. If you emphasize communal interests you will never rise to the conception of a nation, and unless you are a nation, you will never become fit for self-government. I am, therefore, convinced that communal representation will only retard our progress to self-government. But while I say so I recognise that there is another side to the question. Hon'ble members will remember that communal representation came into prominence during the *Swadeshi* days when Lord Curzon was the Viceroy of India. He was succeeded by Lord Minto who made it an all-India policy and gave definite and specific pledges to the Mussalmans to give them special representation on the Legislative Council. Then the Indian National Congress which met at Lucknow set their seal of approval

on this by what is known as the Lucknow Pact. It is for these reasons that the authors of the Reforms although they condemned it in no measured terms as inimical to the best interests of the country found their hands forced and allowed it in the case of the Legislative Council and they expressed the hope that a day would come when the Mussalmans would themselves come forward and say that it should cease in the interests of the Indian nationality.

Now once the principle was adopted in the case of the legislative bodies its extension to other bodies was insisted on; and so far as this province is concerned, the Hon'ble members will find that not only does it exist in the case of Legislative Councils but that it has also been extended to the Local Boards without so much as a protest. The question now before this House is whether it should be extended to the Municipalities. Coming to the section itself, it says that the Local Government may make rules for the purpose of carrying out the provisions of this Act. In particular and without prejudice to the generality of the foregoing powers such rules may provide for the distribution of elected members among the different sections of the community. All that the section does is to give the option to the Local Government to make the distribution if it thinks fit. It is not at all obligatory on the Government to do so. And the Government in this particular instance will be represented by a popular Minister.

Secondly, 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.' So that, any rule that the Government might make in regard to this shall have to be laid before the Legislative Council and the powers of the Legislative Council are also stated as—'after the rules have been so laid the Council may annul or modify the rules or any of them'. So that, there will be power reserved to the Legislative Council to annul the rules which may be made under this section.

RAI BAHADUR MANOMOHAN LAHIRI :—Sir, I beg to support this motion for amendment on a point of law. Sir, this section says that the Local Government may make rules for the purpose of carrying out the provisions of this Act. In particular and without prejudice to the generality of the foregoing powers such rules may, etc. Now, these words 'without prejudice' are significant. The question of election is dealt with in section 10 of the Act which has been accepted. Section 10(3) runs thus :—'Of the total number of members at least four-fifths shall be elected and the remainder appointed by the Local Government', etc. If any Hon'ble member had wanted any communal representation then it should have been asked for under this section. The Hon'ble members have noticed that some of the sections of the Bill are prefixed by the words 'subject to rules'. It is significant that section 10 is not so prefixed. Section 10 therefore should be construed as it is without any modification whatever. Under paragraph 3 every qualified rate-payer can contest a seat at the time of election and the Government cannot restrict that right by rules under section 290 as that would prejudice the rights under section 10. Then again, Sir, I go to section 11 which says that 'the election of members shall be conducted in accordance with rule.' So, the Government can make rules only prescribing the manner in which the election should be conducted, and not to make rules making provisions for communal representation. The provision therefore should be deleted.

KHAN SAHIB ALAUDDIN AHMAD CHAUDHURI:—I regret, Sir, that I have to take upon myself the unpleasant duty of protesting against this motion which stands as a barrier to the interest to my community. Communal representation is a recognised principle of Government and this principle has been recognised simply to safeguard the conflicting interests of the different communities. What these conflicting interests are, I think the members will hear with interest. While Islam allows cow-killing and enjoins its sacrifice in the name of God, the Hindu religion strictly forbids it. On the other hand while the worship of images, or *Pratimas* is a religious injunction of the Hindu Sastras, it is strictly forbidden by the Quoran, and a Muhammadan commits sin even in looking on such images. Yet instances of the exhibition of images in public places in the form of processions or otherwise are not rare. But not a single Muhammadan has yet made any protest against such exhibitions much less to make any attempt for making legislation against them. But what have our Hindu brethren done against cow-killing? They have started a systematic agitation all over India in utter disregard of the religious injunctions of the Muhammadans. They have proceeded even so far as to make legislation against them. When, Sir, this is the situation and the circumstances, customs and interests are so very conflicting, will any Muhammadan content himself with an unequal combination which is always disadvantageous to the weaker side. Muhammadans may or may not be weak in any municipality but there is a lamentable want of organisation among them, and until they are in a position to formulate their organisation they can very justly and reasonably claim adequate representation separately to safeguard their own interests. It is said by the Hon'ble Minister if I heard him right that even in *Swadeshi* times this principle was condemned by the highest officials, say from the Governor downwards. But I submit, Sir, that it is this communal representation through which the Muhammadans can be seen in the different branches of the Administration.

It was said in the Select Committee that in these days when there is so much talk of Hindu-Moslem unity, communal representation would be a bar to the union. I for myself, Sir, have not been able to conceive the cogency of that argument. To me, on the other hand, it seems that it will create distrust rather sharpen the feelings of hatred and distrust if the opposition of this kind is not compromised and allowed to stand and the Muhammadans are thereby debarred from their legitimate share in the municipal administration as in the Council and in the other local body. My friend Srijut Nilmoni Phukan said that the Hindus do not oppose cow-killing on religious questions, but on the question of economy. This I should say, Sir, is only an intelligent way of denying our right. It has also been said that the provision of nomination will safeguard the minor interests but where is the guarantee in the Act that that provision will be applied only to the interests of a particular community? There is none. I then heard some members say in this chamber that there can be no Hindu-Moslem interests in the municipality in matters of improvements of communications, drainage, etc. To give my friends an idea as to how the Moslem interests are involved I can only tell them that there are the *Idgahs*, the mosques, the slaughter houses, etc. To safeguard the interests against the conversion of the *Idgah* land into some other purpose, the acquisition of land containing the graves of Muhammadans, the lands appurtenant to the mosque, and abolition of slaughter houses, an adequate number of Muhammadan members is absolutely

necessary in the Municipality. I would request the Hon'ble members therefore to consider this question impartially with its pros and cons and see how this problem has been solved by the Bengal Legislative Council by readily accepting the principle of separate representation and allotting separate seats to the Muhammadans. The Municipal Bill as emerged from the Select Committee simply gives Government power to make rules to provide for the distribution of seats among the different sections of the community. It gives only discretion to the Government to make such rules as may ensure the interests of different communities. They may do so either by reserving a certain percentage or by fixing the number according to the numerical strength. But I do not see how this section 290 is inconsistent with section 10 and does not empower Government to allot seats to a particular community as my Hon'ble friend Mr. Lahiri has said. The section 10(z) runs thus:—

“The number of members of each Municipal Board shall be such as the Local Government may by notification determine in this behalf.”

I do not therefore see how this is against consistency and how the Local Government cannot distribute the number so determined to represent the interests of different communities. Section 10 is thus quite consistent with the provisions laid down in section 290 just before us. With this view of the matter, Sir, I would request the Hon'ble members once again to consider that our opposition is quite reasonable and fair. We do not want anything unjust. We want only to safeguard our interest and not to injure any other's right. Thus the provision made in the Bill should remain as it is.

KHAN BAHADUR KUTUBUDDIN AHMAD :—Sir, I beg to oppose this amendment. The principle of communal representation should be followed in the Municipality also. We find that under section 4 of the Assam Local Self-Government, Act, 1915, members of the Assam Local Board have been elected on the basis of communal representation. This Act was passed before the Reforms Act came into force in India. And we again find that under section 64 of the Government of India Act that principle had been adhered to so that members should be elected according to the communal principle. Under that principle, we have been able to enter this House, as well as the members of the different communities have been able to enter in the Legislative Assembly and from our experience we have seen that we are all working in amity to reach that main object of our real self-government. I ask one and all the members of this House to point out whether any difficulty has been experienced by the introduction of this principle of communal representation since 1915. My friend, the Hon'ble the Mover, Babu Hira Lal Bose, as well as my friend, Srijiit Nilmani Phukan, said that in municipal matter the interests of different communities will not clash. I beg to draw the attention of the Hon'ble members to section 56 of the present Bill which runs as follows :—

“Every hospital, dispensary, school, rest-house, ghat and market, not being private property or the property of a religious institution or society, and all medicines, furniture, and other articles appurtenant thereto, not being such property, which at and after the commencement of this Act shall be found within any municipality, may, by order of the Local Government duly published on the spot, be vested in the Municipal Board of such municipality; and thereupon all endowments or funds belonging thereto shall

be transferred to, and vested in, such Board as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer.

Now, Sir, with reference to the question of property referred to in the section just quoted, who will represent the religious institution or society? All the supporters of the amendment go to say that if this clause is adhered to, Muhammadan members will predominate. I submit, Sir, in giving effect to section 247 of this Bill regarding the closure of the burial ground and the burning ghat in the Municipality and the opening of the new burial ground and burning ghat who will advise the Municipal Board? Under section 291, clause (xxvi), the Board may frame bye-laws for controlling and regulating the use and management of burial and burning grounds and disposal of corpses. If members from the Christian community or the Muhammadan community will not be represented in the Municipal Board, will members of other communities frame rules relating to the use and management of burial ground and disposal of corpses of those communities? Again, in the matter of opening roads under section 143 of the present Act if a new road is opened, it may go through a private family burial ground or the compound of a church or mosque. Who, in that case will advise the Municipal Board that it should not be constructed so as not to hurt the feelings of the communities concerned? If the work in the Municipal Board is to be done in amity, it is essentially necessary that communal representation should be adhered to.

The Hon'ble Minister in charge of the Bill has said that he is personally against this communal representation on the ground that it will retard the progress of the nation. I am very sorry to hear this. Can any of the Hon'ble members say that since the introduction of the principle of communal representation with the passing of the Assam Local Self-Government Act, 1915, the progress of the nation has been retarded in any way? I submit, it has been working in amity for the interests of all the communities.

MAULAVI RUKUNUDDIN AHMAD :—Sir, I rise to oppose this motion on just and equitable grounds. Sir, the principle of communal representation has been cried down very unjustly as if it seeks representation in an extraordinary manner. It has been said that communal representation is not at all necessary in a self-governing body like the Municipal Board and it has also been urged that municipal life is not based on the interests of any particular community. But all these contentions, Sir, in my opinion are hardly to the point. When it is seen that the the Local Board, a self-governing institution on exactly the same lines and performing almost the same objects as the Municipality, has conceded to communal representation, I think if the same privilege is given to the Municipality there can be no reasonable objection. The object of communal representation has in many quarters been misconstrued. Its object is not merely in my opinion to safeguard the interest of a particular community. On the other hand in my opinion its one of the main objects is to allow an opportunity to the communities—those who are in a minority to take part in administrative work. The Municipalities and Local Boards are admittedly the primary schools for learning the art of self-government. There are many towns in Assam with a very scanty population of Muhammadans and these

Muhammadans are also scattered all over the town. If the principle of open election be recognized, most of the Muhammadans of the same Municipality can never hope to get returned to the Municipality. But if the principle of communal representation be applied, then there will be a fair number of representatives of the Muhammadan community in all Municipalities. Thus they will have facilities for learning the art of self-government. This principle of communal representation is therefore in my opinion a *sine qua non* of municipal life as well. But in supporting the amendment my Hon'ble friend, Mr. Phukan, has spoken many things about forbearance. I beg to remind him of one unpleasant incident that has happened only at Dibrugarh in the whole Valley. I cannot give the exact year but I think it was year before last that during the *Bakrid* festival there was about to happen a riot among the Hindus and Muhammadans at Dibrugarh. It has not happened in any other district of the whole Valley. I now leave it to the House to find out where his argument of forbearance finds its place. And one of my friends in supporting the amendment has quoted from the Montagu-Chelmsford Report that the acceptance of a separate electorate would be a retrograde step but he forgot to bring to the notice of the House paragraph 213 of the Montagu-Chelmsford Report where it lays stress on the fact that Muhammadans regard communal representation as the only safeguard. And one of my friends has said that if we introduce communal representation then we will not have a field for competition, but if some wards were reserved for communal representation then I think there will also be equal competition. And Mr. Phukan also in his speech said that this question has been dealt with in the old Council, in the new Council and on public platforms and everywhere. Therefore it should be seen how very important it is and it is only for that reason that it has found a place in the Council as well as in the Local Board. And my Hon'ble colleague Rai Bahadur Manomohan Lahiri tried to find out some difficulties from the standpoint of law, but as for myself I do not find any complication to have arisen as far as law is concerned.

With these few remarks I very strongly oppose the amendment.

MAULAVI RASHID ALI LASKAR :—Sir, I wish to say a few words on an amendment of such a nature as it affects I think the entire body of Muhammadans of this Council. I see that there are only two objections against communal representation and not more than two. The first one raised by my Hon'ble friend Rai Bahadur Manomohan Lahiri, he says that the provision is illegal and he remains content with this one single and crushing argument. In my humble opinion—and perhaps this was his opinion too at the time of the Select Committee—he was present at the Select Committee, our Judicial Member was there, and many other legal experts were there—and even now in my opinion this provision does not collide with any other section of the Act. Section 10 to which he refers speaks of the difference among nominated and elected members and the proportion of the elected members to the nominated members. That is all and I do not know how it collides. There remains then the only other objection that this will perhaps be a retrograde step against nationality. This is the only other objection I think. Or may be there is another third objection, that it is at all unnecessary. But if the Hon'ble members look to the wording of the section they will find that this provision is so

carefully shut into an iron cage of double "mays", the Local Government may make rules, the rules again may provide or regulate, so many "mays". The main objection is as I said that it is not necessary and it would affect our future nationality, but seeing the number of amendments put forward and hearing the different arguments and the opposition raised against this provision it naturally strikes me why the Hon'ble members are so very particular about this point. From the nature of their arguments and from the number of amendments it appears that their fear is more fearful than the object of fear, that it will obstruct our future nationality. But, Sir, first of all I am not sure if the Hon'ble members are at all keen about unity, concord and nation-building, as I think they should be. But why do they overlook the more advisable matters of nation-building, and union and concord as adopted by Akbar the Great by inter-marriage between Hindus and Muhammadans, and as preached by Mahatma Gandhi? That would have made us all relatives, that would have saved us from clashing, that would have made us one nation, then there would be no necessity for communal representation. But we won't go so far. We want to catch the fish but not to touch water.

Then, again we have heard enough of this sort of lecturing inside and outside the Council Chamber; we have read enough of this sort of argument in the press, but, Sir, the arguments here and outside and in the press to me appear referring to what we should be and not what we are. We may very well lecture in some class room, in some lecture room, but is this a lecture room? Here we must look to the practical side of things, *i.e.*, what we are. If our Municipal rate-payers, voters and Municipal Commissioners, men like Raj Bahadur Amarnath Ray, like Mr. Nilmoni Phukan, like Srijut Dalim Chandra Borah, like Babu Hira Lal Bose.....

SRIJUT DALIM CHANDRA BORAH :—I rise to a point of order, Sir. Personal references are most objectionable.

MAULAVI RASHID ALI LASKAR :—I rather praised the Hon'ble member.

SRIJUT DALIM CHANDRA BORAH :—We are in the Legislative Council and not on the stage.

MAULAVI RASHID ALI LASKAR :—Then, Sir, what is meant by this? What is intended by this? It is not intended that by a separate electorate these people would act separately in the House. The intention is simple, that if some communities are not well represented they will be so represented. That those who will come in the vote will act as if returned by a mixed electorate. The intention is that no community will suffer from a mixed electorate. If that be so then from a separate electorate also you can apprehend no harm because we the Members of this Council are also returned by a separate electorate but once we are returned.....

SRIJUT DALIM CHANDRA BORAH :—I think the Hon'ble member has exceeded the time limit.

KHAN SAHIB ALAUDDIN AHMAD CHAUDHURY :—There is no time limit.

SRIJUT DALIM CHANDRA BORAH :—I want a ruling from the Hon'ble President and not from any member.

THE HON'BLE PRESIDENT :—Fifteen minutes.

MAULAVI RASHID ALI LASKAR :—Then, Sir, I must of necessity bring that forward.....

THE HON'BLE PRESIDENT :—I see that the Hon'ble member has exceeded the time-limit. He has already spoken for 20 minutes now.

MAULAVI RASHID ALI LASKAR.—One word more, Sir, and I am finished. The Hon'ble members of the other community may rest assured of the fact that all the representatives of the Muhammadan community in this Council are opposed to this amendment and if that be so and if any entire community wants this, is it not meet for you that you should at least forego this right, or if their community wants this should you not gallantly accede to their request? I appeal to the House in this light.

THE HON'BLE MR. W. J. REID.—I feel, Sir, that if I voted against this amendment without giving any reasons my action might be misunderstood. I should like to explain very briefly my mental attitude. In opposing the amendment I should not like to be taken as endorsing all that the speakers on that side have said, for I confess frankly that I do not myself like the idea of communal representation in the abstract. At the same time it is idle to ignore that, as the last speaker has said, there is a very widespread demand for it among the Muhammadan community. It is idle to ignore the fact that, as the Hon'ble Minister pointed out, concessions to this feeling have already been made not only as regards representation in the Legislative Council but with us in our Local Self-Government Bill. And for myself, Sir, I do not regard the voting on this motion as an absolute test. That is to say I regard it as possible to support the motion without utterly and altogether condemning communal representation as something too base for words, and possible to oppose it without holding that communal representation is in itself an excellent thing.

There is only one other point, Sir. What is the provision to which exception is taken? It is permissive, and permissive in the very strictest sense of the word. If this provision stands in the Bill it surely does not mean that in every Municipality steps will be taken to have separate representation for the Muhammadans or for any other community. There are many Municipalities in which nothing of the sort is required,—in which, I venture to say, nothing of the sort would be demanded. I am almost afraid to indulge in personalities, but surely in the Sylhet Municipality our Muhammadan friends require no outside aid to hold their own. And from what we have heard of the admirable relations that prevail in the Dibrugarh Municipality and the Sunamganj Municipality, I should think it extremely unlikely that any demand from these towns will come for action to be taken. As I read the provision action would be taken only if there was a very strong demand that such action should be taken and when this demand was backed by special circumstances that compelled the Government to listen to it. This being my view of the provision, I do oppose and I shall vote against the amendment.

KHAN BHADUR MUHAMMAD BAKHT MAZUMDAR :—Sir, I beg to rise to add a few words in favour of communal representation. My previous

speakers have said many things in favour of this scheme and they have also said many things against it. It is therefore needless for me to say anything more and before I resume my seat I would like to say that it is highly necessary that the House should pass this important question of communal representation.

REV. J. J. M. NICHOLS-ROY :—Sir, are we going to continue the discussion? If so, I would like to say a few words on the subject.

THE HON'BLE PRESIDENT :—Yes, the discussion will continue and you may speak now.

REV. J. J. M. NICHOLS-ROY :—Sir, the question is a very delicate one especially when it turns to be a religious question. I would not have spoken at all had it not been for the unpleasant discussions that we have had in this House to-day on this subject. I believe, however, that the solution is not far away. It is true that communal representation as we have already heard is not good for the country. If our ideal is to be self-government we must give up our special interests and view things from the broad standpoint of a nation. Communal representation has many evils. It increases the antipathy between different communities, it prevents the nation from getting the best men in public service, and it retards the progress of the country in building up a nation. There can be no real self-government unless we sink our special interests into the greater interests of the nation. And when we do this in building up the nation seek for the best men to serve its needs regardless of creed or party. But we are situated in a very peculiar position here in India. We are far from the ideal at present. I, as a Christian, am against communal representation from a religious standpoint and from the standpoint of nation-building. Our all-India Christian Conference in spite of the smallness of the community have decided against communal representation. We are striving for the ideal. But in legislation we have to deal with facts, and facts are stubborn things and we cannot get rid of them very easily. It will take some time to change these facts or to modify them in order to suit our ideal. From the very fact that there is such a discussion in the House and also an anti-feeling in regard to this question, I think that this provision which gives power to the Government to allow in certain circumstances, communal representation, is quite reasonable. But this is only a temporary measure. We are in a transition period. We hope the time will come when untouchability will no more exist in India. We hope the time will come when all this antipathy of one religion against another, which is now existing in India will vanish. We hope that a favourable time will come, but as to when that time will be no one now can tell. We may have to wait another ten years, we may have to wait a long time yet.

But as we are in a transition period communal representation with its attendant evils must be vanishing and a beginning should be made somewhere for general representation. Where should that beginning be made for a general representation? It is in those places where there will be no demand for communal representation. We have no communal representation in the Municipality of Shillong and yet we are getting on very well. There is no communal representation in the Sunamganj Municipality as also in some other places. So, let these places remain undisturbed; but there may be other places which may demand communal representation. So, this provision has been made to enable the Local Government under certain circumstances to comply with the demand. So this provision made by the Select Committee is very reasonable under the

circumstances; and I think that this House should have no objection in leaving this provision in this section. Under certain circumstances we find that we have to compromise for the sake of making peace; and for the sake of making such peace this provision has been put in this clause. There is ample opportunity for some municipalities to practise general representation. This would serve as an example to other municipalities desiring communal representation and would inspire them to give it up in favour of general representation. The time, I say, will come when general representation will be practicable everywhere but for the present I do not see that it is everywhere practicable. Therefore I consider that it is only wise that this provision remain in the section.

MAULAVI MUNAWWARALI:—Sir, I beg to say a few words in this connection. To me the question seems a veritable puzzle, and it looked as though I could not decide which side to incline. But, Sir, having regard to the fact that there is a strong feeling on the side of the Mussalmans which has just now been expressed in this Council Chamber, it has prompted me to make a few observations. Before I go into a discussion I want first of all to express my heart-felt gratitude to the Hon'ble Mr. Reid who has put the matter just in the manner I was myself thinking of putting it. Communal representation is urged by the Muhammadans to secure that their interests shall be safe, but circumstanced as they are in the municipalities, I have always doubted whether that secures any advantage to our community or not. To me, Sir, it does not appear to be advantageous, and the advocates of communal representation in municipalities probably forget that after all the questions in the municipalities will have to be decided by a majority of votes and that it is harmony and good feeling among the two communities that will secure the interests of the Mussalmans. Howsoever over-represented the Mussalmans might be in the municipalities they can never be in a majority.

In spite of all these things, Sir, I beg to submit that section 290 of the Municipal Bill is only a permissive section and even if that is carried in this Council to-day the matter does not end there. Rules will have to be framed at the discretion of the Government. Government will exercise their discretion, whether to frame rules or not. That will be the first stage. Having exercised that discretion all these rules will have to be put before this Hon'ble House for their acceptance, modification or alteration as the case may be. Therefore, Sir, if this amendment is accepted with deference to the wishes of the Moslem community as represented by the Muhammadan representatives in this Council, even if that is accepted, I do not think that the House is committed in any way. This, Sir, will afford an opportunity to my community to think out the question at greater length during the interval and probably it might be that the community after understanding the pros and cons of the whole question might not urge the point. Therefore, Sir, I think that the House may unanimously agree to accept the section as it stands. With these few observations, Sir, I beg to request the House to see the reasonableness of my argument and decide as they think best.

BABU HIRALAL BOSE:—I do not think any other Hon'ble member is going to speak on the subject, and so I shall add a word or two by way of reply.

Much has been said on this subject already. Before I begin to reply, I think I owe an explanation to the House. From the feelings, I see, that have been aroused on this subject in the House I see that everybody has

taken it as a subject of great importance, and many gentlemen here, at least my Muhammadan friends, might consider that I, as a Hindu, have sent up this amendment as against the Muhammadans. To this my first word, Sir, are these. Most of them, I believe, know that I am not a native of this Province. I come from Bengal, and if the Hindus of this Province get any benefit it is not exactly identical with the interest of my own community. If it were a question by which the Bengali community would be benefitted then it would have been a different thing. If this right is reserved I, as a member of the Bengali community, may sometimes claim that our party, the Bengali community in Assam should also be represented on the municipalities, and thus we might also get some seats. That is from my personal point of view. Then again, Sir, I may say that it is only on that right that we have got a member in this Council. On this right which the Government have, we have got a member from the Bengali community in this Council. So personally I have no intention of going against the interests of any community. The intention with which I sent up this amendment was primarily and solely for the good of all the communities, as I understand it. I am not still convinced by the arguments that have been advanced against my proposal. I do not think that communal representation is good. I am thankful to the Hon'ble Minister for his frank admission of what he thinks about communal representation, and the admission by him that communal representation is bad in principle goes to show whether I am right.

Now, Sir, it has been pointed out by my Hon'ble friend Rai Bahadur Manomohan Lahiri—I had not noticed it first—that section 10 would stand in the way of making these rules. I leave it to the Hon'ble Minister in charge of the Bill who is a distinguished lawyer and also to the Hon'ble the Legal Remembrancer who is a distinguished judge to decide whether this is a bar to the framing of these rules. But since it was pointed out by my Hon'ble friend, Rai Bahadur Manomohan Lahiri I have very carefully studied it and I think, Sir, that my friend the Rai Bahadur is perfectly right. Where power is not given to the Government to make rules, and if the Government make rules on that point that should be *ultra vires*. That is my humble opinion, and if the Hon'ble Minister and the Legal Remembrancer think that it would not be so, well and good. But I appeal to them to think on this point very carefully so that we might not make a mistake on a point of law, because that will be a very serious affair; if the Government under the law has not got the power to make the rules then it will be a very ridiculous affair if they make those rules. Well, then, I am Sir, extremely sorry for the feelings that have been evoked. I never meant anything disrespectful to my Muhammadan friends. I have profound respect for them and their community; and in India we know, Sir, that we cannot get on, we cannot have self-government unless and until we, the two branches, the Hindus and Muhammadans, join together. If we divide ourselves in this way, if we keep ourselves aloof in this way there will be no self-government. It will be a suicidal policy for us to remain divided.

SRIJUT NILMONI PHUKAN :—Sir, with your permission I beg to speak a few words by way of explanation to remove a misconception of some of my friends as regards cow-killing. One of my friends, Maulavi Rukunuddin Ahmad, has said that as a bigoted Hindu probably I may object. But I openly disclaim that I am a bigoted Hindu. Secondly, Sir, my friend, Khan Sahib Alauddin Ahmad Chaudhuri raised a point that perhaps I was not sincere

about telling that on the point of economy we raised this question of cow-killing, and that there might be some other reasons. If that issue is raised then that will be a serious thing. I am afraid, Sir, if it is not on the ground of economy and economy alone, if the question is raised in any other way, any municipality will be able to kill a cow or not to kill a cow. The result would be that Hindus would, on religious grounds, oppose the cow-killing and the Muhammadans would support it. Then there will be no cow-killing but killing of something else. Therefore I purposely, studiedly and with all seriousness said that it is only by mutual forbearance that the question can be taken up and on no other reason. So I hope that my friends will not misunderstand me in that light. Again, I seriously think that this is not a question between Muhammadans and Hindus, it must be a question for Hindus, Muhammadans, Bengalis, Assamese, Brahmins, Kayasthas, and what not!

THE HON'BLE PRESIDENT:—The question before the Council is: "that from sub-section (2), clause (i), section 290, the words 'provide for the distribution of elected members among the different sections of the community' be omitted."

The motion was put and a division taken with the following result:—

AYES—11.

NOES—24.

Rai Bahadur Amarnath Ray.	Hon'ble Mr. W. J. Reid, C.S.I.
Srijut Bishnu Charan Borah.	Hon'ble Mr. A. Majid, C.I.E.
Srijut Bepin Chandra Ghose.	Mr. A. W. Botham, C.I.E.
Rai Bahadur Bepin Chandra Deb Laskar.	Mr. A. J. Lainé.
Babu Biraj Mohan Dutta.	Mr. J. R. Cunningham, C.I.E.
Raj Kumar Chandra Narayan Singh.	Mr. J. N. Taylor, C.I.E.
Srijut Dalim Chandra Borah.	Mr. A. Mellor.
Babu Hira Lal Bose.	Maulavi Abdul Khalique Chaudhuri.
Srijut Lohit Chandra Nayak.	Khan Sahib Alauddin Ahmed Chaudhuri.
Rai Bahadur Manomohan Lahiri.	Haji Muhammad Abdul Ahad Chaudhuri.
Srijut Nilmoni Phukan.	Khan Bahadur Kutubuddin Ahmad
	Maulavi Munawwarali.
	Khan Bahadur Muhammad Bakht Majumdar.
	Maulavi Rashid Ali Laskar.
	Maulavi Rukunuddin Ahmad.
	Maulavi Saiyid Samiur Rahman.
	Munshi Safiur Rahman.
	Khan Sahib Sarafat Ali Chaudhuri.
	Rev. J. J. M. Nichols-Roy.
	Mr. A. J. G. Cresswell.
	Mr. E. H. Featherstone.
	Mr. E. W. Hobson.
	Mr. E. S. Roffey.
	Mr. D. M. Somerville.

The Ayes being 11 and Noes 24, the motion was negatived.

THE HON'BLE MR. W. J. REID :—Sir, there are only a few amendments more. I do not know whether the Council would prefer to finish them now or would like to meet again in the afternoon.

(The House wished to continue the sitting till the amendments were finished.)

SECTION 290(2).

BABU HIRA LAL BOSE :—This is a very short amendment, Sir, which runs like this :—

“That from sub-section (2), the clauses (x), (xiv) and (xviii) be omitted.”

SRIJUT BEPIN CHANDRA GHOSH :—On a point of order, Sir. What about the amendment on section 290 which stands in my name?

THE HON'BLE PRESIDENT :—Babu Hira Lal Bose is moving amendment No. (2) standing in his name with reference to section 290.

BABU HIRA LAL BOSE :—It says :—That from sub-section (2) the clauses (x), (xiv) and (xviii) be omitted.

Sir, clause (x) under section 290 runs thus :—

“Prescribe the maximum fees which may be levied by the Board under section 59, sub-sections (1) (g), (h) and (i).”

Sir, I leave it to the Hon'ble Minister in charge of the Bill to say whether this will not be conflicting with section 59. No power has been given to Government to make rules under section 59. If it will interest my Hon'ble friends I will read it :—

“Subject to the other provisions of this Act the Board may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the limits of the municipality the following taxes, fees and tolls, or any of them :—”

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Subject to the other provisions of the Act : section 290 is a provision.

BABU HIRA LAL BOSE :—If the Hon'ble Minister interprets it in that way I have no legal objection. In my humble opinion as I have perused this chapter where power has been given to Government to frame rules, it has been specially provided for in the section as will be found in other sections of the Act too. However, that is another matter. Then the question is why this power should be in the hands of Government? We hear of municipal autonomies and we should interfere with their rights and privileges and why should this power be reserved by Government? It is a question of fiscal

policy of the Municipal Board and why a fiscal policy of the Board should be interfered with by Government? Clause (xiv) runs thus :—

“Prescribe the qualifications of candidates for employment by the Board and declare what circumstances shall be a disqualification for continuance of such employment;”

Now, Sir, we have had much talk about municipal autonomies and powers and privileges. Why then Government should interfere with the right of the Municipal Board to appoint its own servants? That in my humble opinion sounds very bad. Then, again, clause (xviii) run thus :—

“Prescribe the conditions subject to which the Board (a) may permit connections and communications to be made between private houses or premises and mains or service cables, wires, pipes, drains, sewers and other channels established or maintained by the Board, (b) may direct that such connections and communications shall be cut off;”

In this connection I would refer the Hon'ble members to section 264 of the Act, which is as follows :—

“In municipalities to which the provisions of this section may at any time, by notification, be extended by the Local Government, the Board may establish any connection or communication from any drain or sewer to any premises, or may by notice require the owner or occupier of any such premises to establish any such connection or communication, in such manner and within such time as the Board may by notice in that behalf may prescribe, at the cost of such owner or occupier.”

Now, Sir, under this section the Board has been given power to do that and the Government wants to take away that power by rules which is inconsistent. The Government should not restrict the Board's power.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, the Hon'ble members will observe that powers in clauses (x) and (xiv) have been reserved to the Local Government so that there need be no risk of any hasty or ill-considered action being taken. In the second place, the object in making this provision is that there may be uniformity of action in this matter in all the municipalities of the province. I do not really see that there is any serious objection to allow the clauses in question to stand as they are.

THE HON'BLE PRESIDENT :—The question before the House is :—

“That from sub-section (2) the clauses (x), (xiv) and (xviii) be omitted.”

The motion was negatived.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—I beg to move that section 290 do stand part of the Bill.

RAI BAHADUR AMAR NATH RAY :—Sir, I beg to move a consequential amendment to section 290.

The other day this House accepted an amendment of mine providing the tax on inhabitants and the proviso to that amendment runs as follows :—

‘Provided that both the tax on holdings and the tax on inhabitants shall not be in force at the same time.’

Sir, the amendment that stands in my name runs as follows :—that the following clause (xx) be added after clause (xix) of section 290 and that clause (xx) be numbered (xxi) :—“prescribe a scale according to which public buildings, offices, etc., shall be assessed with a tax on holdings in a Municipality or any particular ward in the Municipality where a tax on inhabitants is imposed.”

Now, Sir, my present amendment seeks to give the Government specific power to prescribe by rule this scale according to which public offices, public buildings, etc., shall be assessed with a tax on holdings in a Municipality where a tax on inhabitants was imposed.

RAI BAHADUR MANOMOHAN LAHIRI :—Will not this cover :—“provide, in matters not specifically provided for in the Act, for the valuation of holdings and for the assessment, collection and refund of taxes imposed under the Act.”

RAI BAHADUR AMARNATH RAY :—I think that this will do. I need not press it.

The amendment was withdrawn.

SRIJIT BEPIN CHANDRA GHOSE :—Sir, with the permission of the House I beg to withdraw my amendment.

The motion as follows, was, by leave of the Council, withdrawn :—

“That from sub-section (2), clause (vi), the following be omitted, namely :—

‘and prescribe the authority by whom, and the conditions subject to which, such estimates may be sanctioned, provided that such rules shall not empower such authority to refuse to sanction such estimates except on the following grounds :—

- (1) That the minimum closing balance prescribed has not been maintained.
- (2) That due provision has not been made for the purposes specified in section 52 (1) (a), (b) and (c).
- (3) That the provisions of the Act and the rules and any standing orders of Government have not been complied with.”

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DATTA :—Sir, I beg to move that section 290 do stand part of the Bill.

The motion was adopted.

SECTION 291.

BABU HIRA LAL BOSE :—Sir, there are four amendments in my name.
 “ (1) That the latter portion of clause (viii), *i.e.*, ‘or which is situated within such congested areas as may be specified in the bye-law, or occupied by members of more than one family’ be omitted.”

This will be very hard. Suppose two brothers are living together in an ancestral house and suppose the Municipality considers them to be two families. It will be very hard to drive them away from their homes. Indians feel very reluctant to leave their paternal home and to shift to a new place. As I have already said power has not been given to Government to frame rules, so it appears *ultra vires*.

(2) “ That clause (viii) (d) be omitted.” And this clause is this :—“ in the case of hotel, serai and lodging house-keepers and the secretaries of residential clubs, for the maintenance of registers, in such form as the Board may prescribe, of visitors and lodgers.” Now, Sir, it is the first time I believe I hear that the Municipality has got anything to do with the antecedents and the character of people. In my humble opinion this is the duty of the police. It is very insulting and annoying if I go to a hotel to be asked what is my father’s name, where I come from, what I do, etc. So I think that this clause should be omitted.

(3) “ That clause (x) be omitted, or in the alternative the words ‘or a laundry’ be added after the words ‘dyeing house’ in clause (1), section 230.”

Now, Sir, with reference to this that if my learned friend the Hon’ble the Minister will have a look at section 230 he will wonder with me that the two do not agree. Section 230 says—“ Within such local limits as may be fixed by the Board at a meeting, no place shall be used without a license from the Board which shall be renewable annually, for any of the following purposes.” There is no mention of a laundry there. So my amendment is that either this portion of section 291 be omitted or the words “or a laundry” be added after the words “dyeing house” in clause (1), section 230. Otherwise this will be inconsistent in my humble opinion.

(4) Then the last clause is (xxvii) prescribing a standard of licenses for keeping dogs and prescribing the conditions for such licenses. Now, Sir, I have also to submit that under section 59 power has not been given to Municipalities to grant licenses for dogs, etc. These two sections would be inconsistent. In that view I think this amendment should be accepted.

RAI BAHADUR MANOMOHAN LAHIRI :—Sir, I have gone through the whole of section 291 and there is no provision for specifying any area as a congested area. The motion for amendment should therefore be accepted.

THE HON’BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Sir, the Hon’ble member will observe that the power is given to the Boards. “The Board may from time to time.....frame bye-laws as they deem fit.” His first objection to clause (viii) is that it might work hardship in

the case of members of a joint family. But seeing that the power has been given to the Board there is no reason for apprehending that this aspect of the matter will be lost sight of.

As regards (viii) (d), which relates to hotels, I think it is necessary that such a register should be kept.

As regards clause (x), I think this is also necessary.

Under (xxvii) we have the power to issue licenses for keeping dogs. The Shillong Municipality now does it. This provision is intended to check the increase of stray dogs.

There is another amendment I think here that xxix be omitted. I submit that the power is given to the Board which consists of the representatives of the rate-payers and that it should stand.

THE HON'BLE PRESIDENT :—The motions before the House are :—
 (1) That from clause (viii) the following words be omitted—"or which is situated within such congested areas as may be specified in the bye-law, or occupied by members of more than one family."

(2) That clause (viii) (d) be omitted.

(3) That clause (x) be omitted, or in the alternative the words "or a laundry" be added after the words "dyeing house" in clause (1), section 230.

(4) That clause (xxvii) be omitted.

The motions were negatived.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DATTA :—
 I beg to move, Sir, that sections 291 to 316 do stand parts of the Bill.

The motion was adopted.

SECTION 317.

SRIJUT DALIM CHANDRA BORAH :—I withdraw, Sir, my motion under this section.

The following motion was, by leave of the Council, withdrawn :—

"That sub-section (1) be omitted."

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DATTA :—I beg, Sir, to move that sections 317 to 325 together with the schedules do stand parts of the Bill.

The motion was adopted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DATTA :—Sir, I shall move that the Bill as amended be passed on Saturday just to enable me to see whether there are any changes necessary in consequence of the amendments which have now been accepted.

The Council was then adjourned to Saturday, the 10th March 1923, at 11 A.M.

SHILLONG :

A. MELLOR,

Secretary, Legislative Council, Assam.

The 12th March 1923.