

[*Batu Surendranath Banerjee ; Mr. Bose.*]

in the sense in which the word is used in the rules for the election of Municipal Commissioners, and they were duly elected by the rate-payers. I might instance the case of the late Dr. Troylukho Nath Mitter, who, though living in Bhowanipore, was an elected Commissioner of the Serampore Municipality, and was its Chairman. Again, take the case of the late Babu Bipro Dass Banerjee, Chairman of the Barasat Municipality, who also did great service as Chairman; but while residing in Calcutta he had a house at Barasat and he was therefore a 'resident' under the rules, and was an elected Commissioner. I take it that local interest is the essence of Local Self-Government. A man must feel interest in a Municipality with whose affairs he happens to be connected. But if the Government in its discretion wish to appoint an outsider, he cannot possibly feel the same degree of interest in the affairs of the Municipality as a person who is a resident within the meaning of the Act. I have heard complaints in respect of this matter, and let me mention a concrete case—the case of a gentleman connected with the Titaghur Municipality. This was not a case of a personal grievance, and, if it was, it has the complexion of a public grievance. A gentleman living in Titaghur has been appointed a member of the South Barrackpore Municipality. There is not much love lost between the two Municipalities. Titaghur was withdrawn from the South Barrackpore Municipality after a stern fight. This gentleman was appointed by the Government—I don't wish to challenge the appointment—as a member of the South Barrackpore Municipality, although he is a non-resident and a resident of Titaghur. It has been represented to me that his presence at the meetings of the South Barrackpore Municipality is at times a source of some little embarrassment to the members of that Municipality. I do think the Government ought to surrender its discretion in this matter. The Government did so in the Act of 1876, which has just been read to us. Under that Act nobody could be appointed by the Government as a member of a Municipality, unless he was a 'resident' of the Municipality. I think that was a wholesome provision, and I hope the Government will not take their stand on the lateness of the amendment, but will accede to the Hon'ble Member's proposal, and amend the Bill accordingly."

The Hon'ble Mr. A. M. Bose said :—"I should have somewhat wavered in my loyalty to this amendment if there were any foundation for the prospect, vaguely referred to in the concluding remarks of the Hon'ble Mr. Risley, of

[Mr. Bose.]

lady members gracing municipal meetings. But as that hope has not been held out, and as in the proceedings during the last twelve years no indication of that graceful desire on the part of the Government has been afforded, I think I shall be true to the amendment of which I have given notice. I entirely agree with my hon'ble friend, Mr. Surendranath Banerjee, that the question is not whether this amendment comes late or not, but whether it is a necessary and a proper amendment, whether it is an amendment which would be likely to strengthen the working of the Act. This is a matter which involves a simple question of principle; it is not buried or lost in a variety of details or a mass of facts. We have had the amendment before us for some time, and I may be permitted to say that the reference which the Hon'ble Member in charge of the Bill made to the fact that this provision existed in the Act of 1876, is to my mind an argument in favour of the amendment and not against it. The Hon'ble Member said that in the Act of 1884 this old provision of the Act of 1876 seems somehow or other to have dropped out. Surely the necessity for the introduction of the very Bill, now before the Council, might show to the Hon'ble Member that sometimes omissions or mistakes do take place through pure inadvertence. And there may possibly have been also this consideration that, as in 1884 for the first time the privilege of election was conceded to municipalities in the Mufassal, it was thought desirable that the Government should keep in its hands the absolute and unrestricted power of nomination. Since then twelve years have passed and the Act has been admitted on all hands to have been, on the whole, a success, including those who had some misgivings at its first introduction; and I submit the time has now come when the unrestricted power should be limited and defined in the manner now proposed. If the Government were able in 1876 to select the whole number of Commissioners from amongst the rate-payers of a municipality, it was not a compliment either to them or to the municipalities to say that in 1896 they could not select *one-third* of that total number from the rate-payers.

“Then coming to the merits of the amendment, I beg in the first place to say that it does not in the slightest degree imply any want of confidence in the Government. On the contrary I firmly believe that according to the light and the information placed before the Government, which sometimes is perhaps a limited light because the Local Government has no direct means of knowing all the facts, the Government has done and will continue to do its very best.

[*Mr. Bose ; Maulvi Muhammad Yusuf Khan Bahadur.*]

But it is a question of principle which is desirable in itself, and which is recommended by experience. In this connection I would also make this observation, with reference to what fell from the Hon'ble Member in charge of the Bill, that I support this amendment not because any individual may have a grievance—on that point I am not competent to say anything—but I support it on general grounds, I support it because I believe this provision would tend to the advantage of the municipalities and the strengthening of their working. As I have already said, the Government undoubtedly endeavours to exercise its discretion in the best way, but I would ask what is the reason that in the case of elected Commissioners, the limitation of residence or payment of rates is required. It cannot be on the ground of want of confidence in the rate-payers ; for then they would not have the privilege of electing at all, but because it is practically admitted that nobody should be on the Commission unless he has some link of connection with the municipality either by residence or by possession of property within its limits. That is the only justification for the limitation in the case of elected Commissioners, and that, after 12 years' experience, ought to be, I submit, the guiding principle in regard also to the nomination of Commissioners. Surely within the limits of a municipality the Government can have no difficulty in getting one-third of the Commissioners who are competent and qualified under the rules for election. In the case of the Calcutta Municipality that restriction as regards nominated Commissioners exists ; they must either be resident or pay certain rates. I submit that in the case of Mufassal Municipalities the same reason exists, perhaps even to a larger extent ; because owing to easy accessibility to Calcutta, people living outside Calcutta might easily transact business, and have some acquaintance with the various wants and circumstances of the town. But in the case of Mufassal Municipalities that would hardly be the case, and it was therefore more desirable that no one should be elected or nominated a Commissioner who is not either 'resident' or does not pay rates in the Municipality. Now that this amendment is before us, we should lay it down that the gentlemen to be appointed Commissioners must have some interest in the Municipality, some stake in its welfare, in one or other of the ways indicated in the amendment. In the interest of the Municipalities themselves, I hope this amendment will be accepted."

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR said:—"I have to offer a word or two of explanation in justification of the vote I propose to give

[*Maulvi Muhammad Yusuf Khan Bahadur ; Mr. Pratt.*]

in connection with the question raised in this amendment. No doubt, I am not prepared to differ from the broad proposition that, generally speaking, it is fairly reasonable that persons who are to have a voice in the management of municipal affairs should be those who have some interest in the well-being of the Municipality either as residents or as rate-payers. And if there had been absolute harmony and an absence of race-feeling in the Municipality, I would have joined hands with the Hon'ble Members who have spoken in favour of the amendment; but it is impossible for us to shut our eyes to actual facts and to the state of feeling in the mufassal, and to put the matter mildly, it is a subject of regret that there should be some little want of harmony between Hindus and Muhammadans. There are places where the Muhammadans ought to be represented in larger numbers, and I regret to say that they are not appropriately represented for fault not their own. It is therefore in every way desirable that Government should have power and should be in a position to restore or maintain the equilibrium between the two classes as the case may be. There must be sufficient discretion left in the hands of the Government to be exercised as occasion arises. I would strongly advocate the desirability of Muhammadans having a fair share in the administration of municipal affairs in the mufassal, where that community preponderates. When principles and theories lead to conflicting results, that principle which is most expedient and least mischievous in its results should be adopted. All theories must be tested by facts. It is undesirable in the protection of Muhammadan interests that I should support a proposition simply because it sounds well when read and reads well on paper. The provisions contained in section 14 of the Act have now been in existence since 1884. During the whole of this time no instance has been brought forward of misuse of the power. And apart from other views I think the very interests which are appealed to require that the existing provisions should be maintained. It may be that a case might arise where, for the protection of the interests of the Municipality itself, it might be necessary to appoint an outsider and to take full advantage of the wide power given by the section in question. I would therefore vote against this amendment."

The Hon'ble MR. PRATT said :—"Although at first sight this amendment does seem to be both moderate and reasonable, still I feel constrained to vote against it on two principal grounds. In the first place, as has already been remarked,

[*Mr. Pratt; Rai Eshan Chundra Mittra Bahadur.*]

this amendment has been somewhat abruptly brought before us. No notice has been given to the municipalities interested with regard to this question, and we have not had full opportunity of making enquiries regarding it. As has been already pointed out, this Council, after due deliberation, struck out from a former enactment, the provision which it is now proposed to re-introduce, and I should like to be in possession of the reasons which induced this Council to act as it then did, before I give my vote in favour of such an amendment. In the next place I believe it is the practice at the present time to appoint the Sub-divisional Officer to be a Commissioner of Municipalities which are not necessarily situated at the head-quarters of the sub-division; and I should conceive that no more fit individual could be appointed a Commissioner by the Government for such municipalities. And we can also quite understand that in the case of young and budding municipalities, instances will occur when it would be advantageous to appoint as Commissioners public-spirited men who, though not residing in a particular municipality, yet take a real interest in its affairs. Therefore I say that for these reasons I am not prepared to give my vote for this amendment. Perhaps on some future occasion, and when more information on the subject is placed before the Council, a provision of this kind may be accepted, but at present I feel constrained to vote against the amendment."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR, in reply, said :—"I was rather surprised to hear the Hon'ble Member in charge of the Bill raise a suspicion, for which there was absolutely no ground. I can assure the Hon'ble Member that nobody called on me for this purpose. I considered it a necessary amendment, and I put it forward for the acceptance of the Council, and I regret that such an observation should have been made. Certain persons might have called on the Hon'ble Member, but I say that nobody called on me on the subject. As regards the question which has been raised by the Hon'ble Mr. Pratt that the Sub-divisional Officer may be very useful as a Commissioner of a Municipality, I say it is difficult to imagine that a Sub-divisional Officer could not be paying some rates. Therefore I have used the words 'residing or paying rates.' He might possess a horse and carriage for instance, and, as I have said, I can hardly imagine that he would be excluded under this provision. It does not provide that rates must be paid for the previous twelve months or anything of that kind, or that he must be a resident, but merely 'residing.' As to the

[*Rai Eshan Chundra Mittra Bahadur ; the President.*]

objection that this amendment comes late in the day, I submit it is not a question of fact but a question of principle, and as the principle was admitted in the previous Act, I submit there is no reason why it should not be admitted in this Bill."

The Hon'ble THE PRESIDENT said:—"I do not wish to detain the Council by any lengthy remarks, but I myself am inclined to agree with the Hon'ble Member in charge of the Bill that this amendment has come upon us rather suddenly at the last moment. We have had no opportunity of consulting Local Municipalities, and of considering the matter in the Select Committee, of which I was a Member. It has been strongly brought to notice that no inconvenience has arisen from this power which has remained in the hands of the Government for the last twelve years. It was also said by the Hon'ble Member in charge of the Bill, that he is not aware of the reasons which actuated the Council, when passing the Act of 1884, to change the provision of law as it existed in the Act of 1876. Neither am I in that position, nor should I be without studying the debates of the Council. I may, however, be able to throw some light on the subject. The change may possibly have been introduced in view of the circumstances of the many small municipalities in the 24-Parganas, and on the other side of the river for which it was not always possible to secure suitable Commissioners or the most suitable Chairman among the residents. In the case of the Serampore Municipality, the right of Dr. Troylukhonath Mitter to be appointed a Commissioner was, I believe, challenged, he being a non-resident, but in the interests of the Municipality his appointment as Chairman was considered extremely desirable; and in my own case I once remained a Commissioner and Chairman of an important Municipality, though I had ceased to be a resident; but if the section of the Act of 1876 had been retained, it would have removed me from those posts; but whether that would have been an advantage to the Municipality or otherwise it is not for me to say. There is an instance within my knowledge where, owing to some rule of the High Court that Munsifs shall not be appointed Chairman of Municipalities, it was impossible to find a proper person to be Chairman within the limits of the Municipality itself, and where as Commissioner of the Division I solved the difficulty by suggesting the appointment of a person to be the Chairman, who was residing at a distance, and who was in no way connected with the Municipality. So that the law, as it now stands, has a superior advantage,

[*The President ; Mr. Bose ; Babu Guru Proshad Sen.*]

whereas if we alter it now it might possibly have a disadvantage which might interfere with the very working of the Municipal Law. I have no doubt instances will occur to other Hon'ble Members of persons living in Calcutta, who have some interest in neighbouring municipalities and are willing to devote a portion of their time and attention to the affairs of such municipalities."

The Motion being put, the Council divided:—

Ayes 5.

The Hon'ble Mr. Das.
The Hon'ble Babu Guru Proshad Sen.
The Hon'ble Rai Eshan Chundra Mittra
Bahadur.
The Hon'ble Mr. Bose.
The Hon'ble Babu Surendranath Baner-
jee.

Noes 10.

The Hon'ble Mr. Wallis.
The Hon'ble Mr. Gladstone.
The Hon'ble Maulvi Muhammad Yusuf
Khan Bahadur.
The Hon'ble Nawab Syud Ameer
Hosseini.
The Hon'ble Rai Durga Gati Banerjee
Bahadur.
The Hon'ble Mr. Glass.
The Hon'ble Mr. Finucane.
The Hon'ble Mr. Risley.
The Hon'ble Mr. Pratt.
The Hon'ble Mr. Grimley.

So the Motion was negatived.

The Hon'ble MR. A. M. BOSE, by leave of the Council, withdrew the following motion, identical with the one just disposed of, of which he had given notice:—

That in section 3 of the Bill, after sub-section (1), the following be inserted:—

"(1) After the words 'for election to be a Commissioner of such Municipality in the paragraph following the first proviso to section 15, the following shall be added, namely:—

'And no one, unless he is a male person, who has attained the age of twenty-one years, and either resides or pays rates in the Municipality, shall be deemed qualified for nomination as such Commissioner.'"

The Hon'ble BABU GURU PROSHAD SEN also, by leave of the Council, withdrew the motion of which he had given notice that in section 3, clause (i) of the Bill, for the words "three rupees" the words "one rupee and eight annas" be substituted.

[*Mr. Bose.*]

The Hon'ble MR. A. M. BOSE moved that in section 3, clause (i), after the words "three rupees," the following words be added:—

"in Howrah, and one rupee eight annas in any other Municipality."

He said:—"The principle of this amendment is that legislative sanction should now be accorded to the rules which have been framed by executive authority, which have been fully tested in operation for many years, and in regard to which there has been no complaint. Let me at the outset most fully admit that the provision of the law, as it now exists, was necessary at the time when the Act of 1884 was passed. At that time a maximum qualification was fixed, and the lower limit was left to be determined by the Government on the result of enquiries to be instituted by it. There was not then sufficient information before the Council to enable it definitely to fix what ought to be the rate of qualification in the Act itself. A maximum was laid down; and after that the Government set on foot enquiries, as the result of which certain rate-paying qualifications have been introduced and given effect to. No complaint, either in the Press or in any other way, has been made that the qualification, as it had been framed by rule, is liable to objection; therefore I ask that the qualification which has been so fixed be now embodied in the law. I fully express my gratitude to the Government that in spite of the limit of three rupees provided in the Act of 1884, they reduced it so as to place the franchise on a broader and wider basis; and I submit that the time has now come and the present opportunity should be taken advantage of, to fix that qualification by law. A vitally important matter like the qualification of voters ought to be determined by the Statute itself unless there are indeed strong reasons to the contrary. But no such reasons now exist, or can even be alleged to exist. I submit that the experience of the past does afford grounds for taking as the basis of legislation what the rules have so long laid down; that it ought not to be left to executive order to determine who shall have the franchise, but it is the duty of this Council to decide the question. I would leave the explanation as it is proposed by the Government, namely, reserve to the Government the power, if they think it necessary, to reduce the qualification still further in any case which seemed to them to require such reduction or to meet the case of newly-created municipalities; but subject to that provision, whatever qualification has been found by these twelve years' practical working to be expedient ought to be introduced in the Act; and this is

[*Mr. Bose ; Babu Guru Proshad Sen.*]

what my amendment proposes to do. I will not trouble the Council with all the opinions which have been sent in favour of this amendment; but one opinion I shall venture to place before them because it is the opinion of a late Secretary to the Government and a Commissioner of Division, and one of the most distinguished Members of this Council. I refer to Mr. Buckland. He says:—

‘With regard to section 3, (1), (2), (3), the Chairman of the Vishnupore Municipality writes that under the rules the right to vote has been extended to persons who pay rates to the amount of Re. 1-8, while under the Act the right is given to those who pay Rs. 3. The law should, he suggests, be brought into conformity with the rule and practice founded upon it. This appears to be worthy of consideration.’

“The British Indian and other Associations and public bodies have also supported this proposal. I say therefore that it is worthy of serious consideration that we should not leave this question of franchise to be decided by executive rules, but should bring the law and the practice into harmony with one another. I am told that besides the Municipality of Howrah, in the case of the Cossipore-Chitpore Municipality, the qualification has been raised to Rs. 3, and I have no objection to an exception being made in favour of that Municipality as well. But let not this important matter be left to be from time to time decided by the Government. It may be that long years hence the time may come for another important departure. Possibly by that time there would be occasion to revise this Act on other grounds also; but until that time comes I submit that the law should be brought into conformity with the practice, as established by rule—a practice which has been tested and not found wanting by the experience of the last twelve years.”

The Hon'ble BABU GURU PROSHAD SEN said:—“There are some cases in which we are told the rating qualification of voters has been raised. Besides the case of the Municipality of Howrah, we now hear that in the Cossipore-Chitpore Municipality the rating qualification has been raised to Rs. 3. That is a solitary case, but we have not heard of any case in which the rate fixed by the rule at Re. 1-8 has been lowered. So far, therefore, it has been a success, and that is a good reason why the rating qualification should now be fixed at that rate in the law. There has been no case in which, after the passing of the rules, the Government have thought fit to lower the franchise, but it has been thought fit to raise it in one case. Therefore I submit that it will be one of the strongest safeguards for the present franchise if, by an Act of the

[*Babu Guru Proshad Sen ; Mr. Risley.*]

Legislature, the rating qualification is fixed at the lower rate by the law and not left changeable by the action of the Executive. Section 15 of the Act may be read in two ways. The word there used is 'qualification.' It may be qualification according to money rate or qualification according to age. I do not mean to say that the Government would ever think of doing so; but there is nothing to prevent them from raising the rating qualification, if they think fit, to Rs. 3 in the case of every Municipality in the Province. In that case large numbers of people, who have been enjoying the franchise for the last twelve years, will have been disenfranchised. Under the rules there are two classes of voters, those who pay rates to the amount of Re. 1-8, and those who pay a rent of not less than Rs. 20; and there may be danger of the franchise being lowered still more, and you swamp the present real body of voters who come under the Rs. 3 rule. But if instead of swamping them thus you bring down the franchise to Re. 1-8, the effect will be that the Re. 1-8 men will then be the real voters under the law. Their number would be, I think, three times as many as the number of those who pay Rs. 3. Therefore, I submit it is but fair that the Legislature should fix the maximum amount of rates on the payment of which a man will be entitled to vote in conformity with the rules which have been in force for the last twelve years."

The Hon'ble MR. RISLEY said:—"I have watched with interest for the last half hour the efforts of my hon'ble friend, the member for Dacca, to ride two horses at the same time. The feat has been attempted before, but its difficulty is proverbial, and it takes a very old Parliamentary hand to do it really well. For the cause which has led my friend into this unfortunate position we must go back to an earlier meeting, when the Bill was referred to a Select Committee. The Council will remember that the Hon'ble Member's sense of the legal fitness of things suddenly became very tender. He was shocked at the supposed discordance of the law and the rules, and urged that they should be reduced to harmony. I endeavoured to the best of my ability to relieve his mind by pointing out, not on my own authority, but on that of the Hon'ble the Advocate-General, that there was no discord at all, and that under these circumstances this passion for harmony was a little out of place.

"My friend, however, stuck to his point in Select Committee, and after much discussion we eventually drafted the explanation which stands in the

[*Mr. Risley.*]

Bill. We did this, not because there was or ever has been any doubt in the minds of lawyers as to the meaning of the law as it now stands, but because it appeared from the opinion that this section had been misunderstood by some people, and in an Act which is worked to a great extent by Municipal Commissioners it seemed desirable to go out of our way to be clear. The explanation I submit leaves nothing to be desired in point of clearness. I have discussed it with the Hon'ble the Advocate-General, and I have his authority for saying that it adds nothing to the law and takes nothing away. It merely adds to the section an explanation in popular language of what the section really means.

"So far, the Council will see, there was not, nor has there been up to the moving of this amendment any suggestion of changing the law. My friend gave no indication of any such intention in Council. He expressly disclaimed any such intention in Select Committee. His soul only pined for harmony. Now he has got it in the form of the explanation; but still he is not happy and like a familiar personage in fiction he 'asks for more.' He wants to make a sweeping change in the law. He wishes to fix and stereotype the existing Municipal franchise and to prevent the possibility of its being changed except by the tedious process of legislation. That is what my friend's amendment really means. He has endeavoured to obscure the fact in his note of dissent which so curiously distorts the true position of the case that I must examine it a little. He says the qualification of voters is an important point. Granted. He goes on to say 'this point it is proposed to leave to the Executive Government to settle.' But is it possible that so learned a lawyer does not know that this power which he writes of as if it had been invented yesterday has, in fact, been exercised by Government for the last 20 years—in fact, ever since the passing of Bengal Act V of 1876, section 16 of which is practically identical with the first part of section 15 of the present Act? It is admitted that this power has been wisely used, no complaint as to the manner of its exercise has ever been made, and at the present moment, as I said just now, in reply to my hon'ble friend's question, the Government has before it several applications from some of the most advanced and intelligent Municipalities asking us to exercise this power by raising the voting qualification from Rs. 1-8 to Rs. 3 by doing in fact exactly what the Hon'ble Member wishes to render impossible.

"Again, my friend says 'if rules were to be the guide, there was no use whatever in bringing this matter of amendment of the Municipal Law before

[*Mr. Risley.*]

the Legislature.' But who brought it before the Council? Why my hon'ble friend himself, who insisted on the removal of an imaginary discord, and by the whole tenor of his speech, gave us to understand that he advocated no change in the substantive law.

"Now if my hon'ble friend had followed the proper course—the course which fairness and common sense indicate—he would have stated either in Council or in Select Committee what his real intention was, and we could then have taken opinions on the subject and have ascertained the views of District Officers, Municipalities, and Associations on the subject. It is neither seasonable nor reasonable to spring so large a change on the Council at the last moment.

"I may add that the amendment introduces so material an alteration in the Bill that would in any case be necessary to report it to the Government of India. If we adopted it now with no further consideration and no further evidence than is now before us, it is extremely probable that His Excellency the Viceroy would refuse his assent to the Bill.

"My friend says in his dissent that there is no hurry about the measure. That, as I explained on a former occasion, is not the case. Under the law the Municipal elections come on in November next. We must, therefore, pass this Bill in the present Session of Council, and we can only do so by declining to consider contentious amendments moved at the eleventh hour.

"So far I have stated what may be called preliminary objections to the amendment. These in themselves are obviously conclusive, and I might fairly stop here without going into the merits at all. To complete the case against the amendment, I may observe in the first place that the proposed change is unnecessary; in the second, that it would be inconvenient.

"On the first point I am content to rely on the authority of the Select Committee of 1893-94. That Committee may be described, so far at any rate as the non-official members are concerned, as a Committee of all the talents. It numbered among its members my hon'ble friend Babu Surendranath Banerjee, whose experience of municipal administration is large and varied: my friend Sayad Fazal Imam, the energetic Vice-Chairman of the great Municipality of Patna, and Mr. Lal Mohan Ghose, whose tact, common sense and knowledge of public business proved invaluable. In fact, you may say of it, as was said of the

[*Mr. Risley ; Babu Surendranath Banerjee.*]

Master of Balliol, that what that Committee did not know was not knowledge. Their attention was expressly called to the provisions of section 15 by the proposal to raise the amount qualifying for a vote in clauses (1) and (2) from Rs. 3 to Rs. 5. They had before them the opinions of 54 Municipalities and representative institutions, of whom 21 were in favour of the Re. 1-8 qualification, 23 in favour of raising it to Rs. 5, and 10 in favour of raising it to Rs. 3. But neither the Committee nor the persons who gave opinions proposed to change the law in the manner now suggested, and the opinions bring out very clearly the fact that different municipalities may in this matter require different treatment.

“That is the common sense view, and that also is the answer to the attempt to appeal to English precedent. We have in Bengal already 148 Municipalities, and the formation of others is under consideration. These Municipalities vary in size and importance from Howrah with a population of 116,000, of whom 16,000 are rate-payers, and a yearly income of nearly three lakhs, to Nalchiti, in Backergunge, with 1,645 inhabitants, 265 voters, and a yearly income of Rs. 1,908. Is it in reason to compare this state of things to the state of things that prevails in England? Can it seriously be argued that it should be made impossible for the Government to change the voting qualifications of Nalchiti without passing a special Act, that such a very big steam-hammer should be employed to crush such a very tiny nut? After all it is some objection to a proposition that it is absurd.”

The Hon'ble BABU SURENDRANATH BANERJEE said :—“No one could have listened to what has fallen from the Hon'ble Member in charge of the Bill without coming to the conclusion that there is a great deal to be said on the other side of the question. It is a question which admits of considerable difference of opinion. I have talked with persons versed in municipal affairs, and I have heard opinions expressed adverse to the view embodied in the amendment. I therefore think we ought not to come to the conclusion that any one who differs from the amendment of my hon'ble friend is necessarily an enemy of Local Self-Government or a traitor to the best interests of his country. I think differences of opinion in a matter like this are legitimate and may be expected. The Hon'ble Member in charge of the Bill has referred to the discussions which took place in the Select Committee of 1894, and has paid a compliment to the Select Committee for which I beg to tender my acknowledgments. This question was the subject of most careful and anxious deliberation.

[Babu Surendranath Banerjee.]

We contented ourselves by keeping the law as it was, and my reasons were these: An attempt was made to raise the maximum rating qualification from Rs. 3 to Rs. 5. I thought discretion was the better part of valour, and we thought we gained a point by keeping the qualification as it stood in the Act. That was the *raison d'être* of the vote which I gave on that occasion. This matter was considered very carefully by the Select Committee on this Bill. In fact I suggested the amendment which has now been placed before the Council, and a compromise was effected, which is embodied in the Explanation. If you read the original Bill introduced in March 1896, and compare it with the present Bill, you will find that the original Bill does not contain this Explanation. It was the result of a compromise which was come to on the discussion of the amendment I suggested. It reproduces what is really the present state of the law, and will, I have no doubt go far to popularize the Bill. At the same time I admit it would be advisable to stereotype in the law the concession which has been made by the Local Government in the rules which it has framed. The franchise has been deliberately lowered to Re. 1-8 with very few complaints. Here and there there have been complaints, and in the nature of things complaints were bound to be made, having regard to the number of Municipalities and the differences between them in respect of their size, their resources and other circumstances connected with them. But the complaints have been very few indeed. That being the case, namely, that the franchise has been fixed at Re. 1-8 by the beneficent policy of a progressive Government, I think the time has come when an advance might be made in the law, and that what has hitherto been embodied in the rules should be stereotyped in the law. My hon'ble friend in charge of the Bill suggests that this will represent a substantial change in the law. I do not think so. I say it will be an adaptation of the law to what is the present practice. It will be harmonising law with practice. It will be a step in advance. Now that we are amending the law, such an amendment, if accepted, will represent a distinct advance upon the system of Local Self-Government in this Province. A rule exists which is much more liberal than the law. It embodies the policy of the Administration of the day, and I am happy to say that the attitude, specially of the present Government, has always been one of sympathy with the system of Local Self-Government. It will only be an adaptation of the law to the existing practice, and I hope my hon'ble friend, the member in charge of the Bill, will see his way to accept the amendment."

[*Rai Eshan Chundra Mittra Bahadur ; Maulvi Muhammad Yusuf Khan Bahadur.*]

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"After the eloquent speech which the Council has just heard from my hon'ble friend, Babu Surendranath Banerjee, it is unnecessary for me to say much. It appears to me that the fact that the rule of Re. 1-8 franchise has worked well cannot be denied. I have been the Chairman of the neighbouring Municipality of Hooghly for the last twelve years, and I have heard no complaint against this rule. The people in fact seem to be under the impression that it is the law. I, therefore, contend that the law should be harmonised with the rule of Re. 1-8 franchise."

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR said:—"It is no doubt a sound principle that an Act of Legislation should be as complete as possible and that as little as possible should be left to the rules to be framed under the Act. I myself tried to enforce the recognition of that principle in this Council in connection with certain measures. But I failed to succeed in cases that came much better within the operation of this principle.

"It would no doubt be a triumph of legislation if all details relating to the working of the numerous Municipalities in Bengal, consisting of more than 100 in number, could be finally and formally laid down. But the causes which affect them are so varied and so many that to attempt to lay down rules—in however general terms they might be expressed—in respect to each and all would be a gigantic and hopeless task. Certain matters must therefore be dealt with in the Act in their outline, so that the details must be worked out by the rules as occasion arises in respect of each individual case. We must have confidence in the Government and we must hope that the right thing to be done shall be done. In fact, all the gentlemen who have preceded me have spoken in terms which shew utmost confidence in the Government. From the satisfactory way in which Municipalities have under the rules framed by the Government for a period of about twelve years, worked one may confidently expect the same satisfaction in future. The Government would enforce the same standard as before, but it has under the Act as it stands some discretion and some power which has only been exercised in cases of emergency. I do not think it would be to promote the interests of the community I represent if the Act is to be rendered less elastic and if the Government is to be deprived of the power which was hitherto vested in it."

[Mr. Bose.]

The Hon'ble MR. A. M. BOSE said:—"I trust that at any rate we shall have the vote of my hon'ble friend who has last spoken in support of this amendment. He admitted fully the soundness of the principle, but his objection to vote in its favour arose from what he believed to be the practical difficulty of carrying it out. That was an argument which was also advanced by the Hon'ble Member in charge of the Bill. But that argument is opposed to actual experience. The rules were framed in 1884, and with the exception of one Municipality to which the 3 Rs. qualification was applied, with regard to all the other Municipalities, the Government found on enquiry that the one rule of Re. 1-8 would be suitable; and it has been admitted that no complaints have been brought forward against this arrangement. Let not therefore the Council be scared away by the idea put forth by the last speaker and also by the Hon'ble Member in charge of the Bill as to the gigantic and hopeless task of framing a large number of rules. Experience has shown that that is not necessary. The gigantic task referred to has already been accomplished, was accomplished in fact 12 years ago; and the method of its performance has given uniform satisfaction. I was glad to hear of the compliment paid by the Hon'ble Mr. Risley to the Select Committee of 1894. But as that compliment has been used as an argument against the acceptance of this amendment, I may be permitted to remind the Council that the Hon'ble Member has not always spoken in such high terms of that Committee. In his Circular letter, dated the 28th April last, addressed to all Commissioners of Divisions, he says that 'owing to defective drafting, section 15(3) of the Act is wholly unintelligible in its present form.' Surely that drafting was placed before the Select Committee, was considered by the Select Committee, and was adopted by them. But the Circular says that a section which was considered and passed by the Select Committee has in fact no meaning at all.

• "Then coming to the other point which was urged, that this amendment will introduce a material change in the Bill, and that it is not right or fair that the change should be brought up in this *ex-parte* way, I submit that if there was any matter which was referred to all Municipalities and District Officers for opinion in connection with the present Bill, it was the question of this very section 15. It was prominently mentioned in the Statement of Objects and Reasons, and was referred to at the time when the Bill was sent to the Select Committee and from the prominence so given to it, section 15 in all its

aspects, was fully considered by all Municipalities. As a matter of fact a great many of the parties who were consulted have given their opinions on this very point, and many of them are in favour of the proposal to harmonise the rules and the law—the very principle which is now being contended for. Therefore, whether it is a sound principle or an unsound principle, at any rate it is not liable or open to the objection that it has been sprung upon the Council at this late hour. I have already referred to Mr. Buckland's opinion and I need not refer to it again.

“The whole question lies in a nutshell. What we ask is that the Government should not have the power to disfranchise a body of men, who have enjoyed and exercised the power of voting for so many years, without the sanction of the legislature. Is that asking for too much, or for what is unreasonable? After twelve years the law is being amended; the Government has enough experience whereon to base definite proposals, and the proposed explanation leaves to the Government the power of extending still further the benefit of its liberal policy by reducing the franchise.

“With reference to what is called the tedious process of consulting this Council, I consider that a desirable process, even if it should sometimes prove tedious; and I contend that it will be to the interest of the Government itself to adopt that procedure in all cases in which they may desire to deprive the people of a privilege which by its own action they have enjoyed for a long time. And after all it is not a very tedious process. If after a period of say from three to six years the Government find in the case of a certain Municipality or a group of Municipalities a slight raising of the rating qualification is necessary, a short Bill of one section will answer the purpose, if the materials placed before the Council are sufficient. That is the principle of the amendment, and I appeal to the Council to accept that principle as reasonable and sound. And I would appeal to the Government to consider that disfranchising people is not a popular thing. By taking the legislature into its confidence when circumstances rendered this course of disfranchising necessary, they would give publicity to their reasons, enlist public support on their behalf, and, if unpopularity there was to be, at least make the legislature sharers in that unpopularity.”

The Hon'ble THE PRESIDENT said:—“The course pursued by the Hon'ble Members, the movers of amendments 3 and 7, calls to mind an utterance ascribed to a former Lieutenant-Governor of Bengal, Sir John Peter Grant,

[*The President.*]

that the administration of this country could be appropriately described by the metaphor of changing six pence into half-pence and the same half-pence back into six pence every decade. The amendments are a singular example of the aptness of this illustration, for they propose to revert to a policy which was deliberately disapproved in this Council twelve years ago, and the abandonment of a policy as deliberately approved in the same debate, which has stood the test of all these years. In the Municipal Bill of 1884 the property qualification was placed at Re. 1-8; but before the Bill passed into law this was rejected and a Rs. 3 rate adopted. As a Member of the Select Committee I have read with attention the remarks of the Hon'ble Babu Guru Proshad Sen in support of his proposal, that the Legislature should provide for the qualifications of voters by positive enactment, and I have listened to the effective speeches before this Council of the Hon'ble Messrs. Bose and Surendranath Banerjee, but I venture to think that the Hon'ble Members have not clearly foreseen the full effect of the measure they advocate. It would, as the Hon'ble Mr. Risley has already said, fix and stereotype the franchise within narrow bounds, which cannot be passed without fresh legislation, while under the present elastic system it is possible to Government within certain limitations to extend the franchise at any time and in any manner it may think fit. The principle underlying the present Municipal Act, as formulated by the Hon'ble Mr. Reynolds, who introduced the Bill in 1884, is the recognition of the demand of the more intelligent classes for a large freedom in the management of their own affairs, and this was intended to be secured by permitting the people to choose their own representatives. To this end the Act provided that rules should be framed by Government for the conduct of Municipal elections. There was so much variety in size and importance in the different Municipalities that it was impossible to make provisions in the new law which would be applicable to each. 'But' said Mr. Reynolds (I quote from the debates in this Council), 'if this power of passing rules were subject to no restrictions, it is evident that the power might be so used as to nullify the principle of popular election. It would be of little use to extend the elective system to a Municipality and then to declare by a rule that the franchise should only be exercised by those who paid Rs. 50 a year in rates. The Bill therefore provides that while Government may lay down such rules as it thinks fit, and may cancel any rule at its pleasure, it may not make a rule which would have the effect of excluding

[*The President ; Babu Guru Proshad Sen.*]

from the franchise any resident of the Municipality who pays rates to the amount of two annas a month.' This passage from Mr. Reynolds' speech makes it clear that the restriction imposed of a property qualification in certain cases, was framed in the interest of the rate-payer, and was in fact, a restriction intended to bind the hands of Government not to raise the franchise. It practically dictates to Government 'you may lower the franchise as you will, but you may not place a limit, imposed by law, which says that every person who pays rates to the extent of Rs. 3 is entitled to a vote;' but it does not say that any one who has paid below this rate is not so entitled, for it leaves it open to Government by the rules to reduce the limit as it may think proper. As a matter of fact Government has acted liberally under the rules, as the Hon'ble Babu Surendranath Banerjee admits, and lowered the limit generally to Re. 1-8, the only exception being the large Municipalities of Howrah and Cossipore-Chitpore. The amendments suggested appear to me to be opposed to the first principles of Municipal legislation, as understood when the Act was passed, and I shall therefore vote against them."

The Motion being put, the Council divided:—

Ayes 5.

The Hon'ble Mr. Das.
The Hon'ble Babu Guru Proshad Sen.
The Hon'ble Rai Eshan Chundra Mittra
Bahadur.
The Hon'ble Mr. Bose.
The Hon'ble Babu Surendranath Banerjee.

Noes 10.

The Hon'ble Mr. Wallis.
The Hon'ble Mr. Gladstone.
The Hon'ble Maulvi Muhammad Yusuf
Khan Bahadur.
The Hon'ble Nawab Syud Ameer Hossein.
The Hon'ble Rai Durga Gati Banerjee
Bahadur.
The Hon'ble Mr. Glass.
The Hon'ble Mr. Finucane.
The Hon'ble Mr. Risley.
The Hon'ble Mr. Pratt.
The Hon'ble Mr. Grimley.

So the Motion was negatived.

The Hon'ble BABU GURU PROSHAD SEN moved that in section 3, after clause (iii), the following clause be added:—

"(iv) has paid not less than Rs. 20 as rent in respect of the occupation by him of a holding which is assessed with the rate under section 45, clause (b)."

[*Babu Guru Proshad Sen.*]

He said:—"Under the law as it stands it will be found by the Hon'ble Members of this Council that there is not a word with respect to what is called the 'lodger franchise.' Section 15 stands thus:—

'For the purposes of the aforesaid election of Commissioners, the Local Government, with respect to each Municipality, shall lay down such rules, not inconsistent with the provisions of this Act, as it shall think fit, in respect of the Division, where necessary, of each Municipality into wards, and the number of Commissioners to be elected for each of such wards, the qualifications required to entitle any person to vote for a candidate for election, and in respect of the mode of election. And the Local Government may at any time cancel any rule made by it under this section :

Provided that every male person who is at the time of such election, and has been for a period of not less than twelve months immediately preceding such election, resident within the limits of a Municipality, and who—

- (i) has, during the year immediately preceding such election, paid, in respect of any of the rates imposed by this Act, an aggregate amount of not less than three rupees ; or
- (ii) has, during the year aforesaid, paid, or been assessed to the tax imposed by Act II of 1886 (an Act for imposing a tax on income derived from sources other than agriculture); or
- (iii) being a member of a joint undivided family, one of the members of which has, during the year immediately preceding such election, paid, in respect of any of the rates imposed by this Act, an aggregate amount of not less than three rupees, is a graduate or licentiate of any University, or holds a certificate as a pleader or a mukhtear, or revenue agent,

shall be entitled to vote at the election of Commissioners of such Municipality.'

'No person who is not entitled to vote at the election of Commissioners of a Municipality shall be deemed qualified for election to be a Commissioner of such Municipality.

"Then comes the explanation which provides that the 'rules made under this section may reduce but not raise any of the sums mentioned in the first proviso thereto, and may declare that any persons who are not referred to in that proviso shall be entitled to vote.' There is a large class of persons paying Rs. 20 for holdings assessed under section 85 who have during the last twelve years enjoyed the franchise. Possibly it is not intended to deprive these persons of the franchise, but I submit that this explanation will not help to prevent their being deprived of the franchise, if the Government so determine. Some attempt has been made to father this explanation upon me. I deny that parentage, but I see that my hon'ble friend, Babu Surendranath Banerjee, owns

[*Babu Guru Proshad Sen.*]

its paternity. We have been told that any person who is a lawyer will not have any doubt regarding the correct interpretation of this section, but we have many opinions coming from Government officials and from public Associations with numbers of lawyers in them who have fallen into an error; and what is still more even the Hon'ble Member in charge of the Bill cannot but admit that the language of the section admits of two different interpretations. It is only the word 'qualification' in the early part of the section which one can rely upon to enable the Government to frame rules not inconsistent with the provisions of this Act which may reduce to a minimum the right given under the Act; for if a large number of persons with a qualification of a Re. 1 or As. 8 rate can be brought in in order to swamp the right of those who have the franchise under the law, then what is that right worth? Therefore strictly in accordance with the interpretation of the law it will not enable the Local Government to put a different construction to it than that of which it naturally admits, and you must read the word 'qualification' as meaning a qualification other than a monetary qualification. I am glad, however, that an assurance has been given that it is not intended to disfranchise this large body of voters. But if the rating qualification of Re. 1-8 has worked well within the last twelve years, why should we not, as a matter of principle, enact it by law?

"As for the other portion of my amendment, I hope I will not be misunderstood. This is an amendment which stands by itself. It has nothing to do with controlling the power of the Government. Even without controlling the power of the Government, you may form a class of voters under clause (iv) and still leave the section as it is. This also is the case with the first clause, the amendment upon which has just been lost. Under the amendment which I now propose persons will be entitled to vote who have paid not less than Rs. 20 as rent in respect of the occupation by them of a holding which is assessed with the rate under section 85, clause (b): that does not exclude the power of the Government to lower the franchise still further or to bring in other persons. I submit there is no reason why men who have been enjoying the franchise for the last twelve years should now be swept away, and which it is possible may be done. Well it may be said that there is no intention to sweep them away, and probably it will not be done under the present liberal Government. But what is the guarantee that this will never be done? It is the object of my amendment to prevent this being done, and it has no reference to taking away the power of the Government in any way."

[*Mr. Risley ; Babu Surendranath Banerjee.*]

The Hon'ble MR. RISLEY said :—"I understood the Hon'ble Rai Eshan Chundra Mittra Bahadur to say, when the question of grouping these amendments was discussed, that it would be convenient that the principle of all these amendments should be discussed upon the first amendment, and that it would be unnecessary to discuss it again when the other amendments came up. The rules which have been framed under the Act were drawn up in 1884 by Mr. Macaulay in consultation with the Advocate-General and the Legal Remembrancer of the day, and the Law Officers of the Government have now held that those rules are in accordance with the law as it stands, and they add that the alterations which the Select Committee now propose do represent the law as it stands. The attitude which the Government has assumed with reference to all these municipalities is to act in accordance with their wishes, and their wishes have been thoroughly considered with reference to the effect they are likely to have. It appears to me impossible to please any one who takes the view the Hon'ble Mover of the amendment entertains. If we raise the franchise, the complaint is that we disfranchise numbers of voters. If we lower the franchise, we are told we shall swamp the existing voters. It is difficult to see how an unfortunate Government can possibly be right under these circumstances. The Rs. 20 lodger qualification was introduced in 1886 to meet a want which was then suggested; it was carefully considered, and there is no intention to deprive this class of voters of the franchise. But it might happen that the circumstances of particular municipalities might be such that a different amount of rent might be suitable, either more or less than Rs. 20. Why should it be proposed to cut off from the Government the power of complying with the wishes of those municipalities in a matter of this kind? That is the whole point to be considered in regard to this amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said :—"I am sorry I cannot accept this amendment. The Hon'ble Mover of the amendment proposes that a particular rule should be incorporated in the law, and the argument in favour of his proposal is that there is no guarantee that the rule may not be done away with in the future, and a large class of people may thus be disenfranchised. We have the assurance of the Hon'ble Member in charge of the Bill that there is not the remotest idea on the part of the Government to disenfranchise the class of voters referred to in the amendment, and if ever there was any such danger, the fact of this discussion in the Council will afford an

[*Babu Surendranath Banerjee ; Maulvi Muhammad Yusuf Khan Bahadur.*]

effectual safeguard against such a proceeding on the part of the Government. That, I submit, is a sufficient safeguard against the possibility in the future of this right being taken away. We cannot possibly incorporate all the rules which have been passed by the Government into the law. I should have felt greater inclination to accept the amendment, if it were proposed to reduce the qualification from Rs. 20 to Rs. 10, if an attempt had been made to widen and broaden the franchise, and not to stereotype it. The Government ought to have the power of extending the franchise, but I do not think the Government have any intention to raise it in order to exclude those who now possess the right. The action of the Government in the past precludes the possibility of such an assumption. It has been a past of much sympathy and of generous encouragement of Local Self-Government, and we may take it that in the future it will be the same. For these reasons I am not prepared to accept this amendment."

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR said :—"The question raised by this amendment stands upon a footing slightly different from that on which the question, raised in the last amendment which has just been disposed of, stood. The argument in favour of the amendment might be stated thus: no doubt the rules framed under the Act relate to lodging franchise, but the section itself is silent in regard to such franchise, so that this amendment supplies a heading and an item, and points to a class of persons not indicated in the section. Considered in this light, the amendment seems to be a reasonable one. The section lays down certain principles as landmarks, and indicates certain classes in a general way, and the Government is empowered to frame rules thereunder: the rules are not necessarily to be restricted to the classes to which the section relates, but it would be more symmetrical if the classes could, with some approach to exhaustiveness, be laid down in the section. As the section at present stands, this class does not find a place there. The first clause deals with the qualification of payment of Rs. 3 rates, the second refers to the income-tax qualification; the third refers to the case of joint undivided Hindu families; but there is no clause relating to a lodging franchise.

"No doubt rules framed by the Government under section 15 comprise the case of lodging franchise, and there is also no doubt that such rules are not *ultra vires* in consequence of the omission of the class in the section. But it would be far more satisfactory to include a clause in section 15 introducing a

[*Maulvi Muhammad Yusuf Khan Bahadur ; Mr. Das.*]

heading relating to lodging franchise by way of recognition of a principle in the enactment itself. I do not understand it is the object of the amendment to lay down the limit of Rs. 20; for reasons already assigned by me whilst discussing the last amendment, I do not think it expedient to lay down a rigid rule and to restrain or limit the power of the Government in regard to the extent of the qualification. That must be left to the Government as a matter of detail. Hon'ble Members have already highly eulogised the action of the Government in framing the rules and carrying them into effect. If therefore the money qualification is the gist of the amendment, then I am not inclined to view it with favour, and the matter must remain where it is: but if the object of the amendment is to supply a class, then it has my sympathy. Therefore, regarded from this point of view, subject to some further light which might be thrown on the nature of the amendment and its effect in the course of the discussion, I am, as at present advised, inclined to vote in favour of the amendment."

✓The Hon'ble Mr. M. S. Das said:—"I was at first inclined to support this amendment, but in view of certain remarks which have fallen from the Hon'ble Member in charge of the Bill, I am not now prepared to support it. When this Bill was introduced, the Hon'ble Member said that it was one of the proposals—rather a prominent proposal—to grant what may be called a lodger franchise in future. I expected that the rule now under discussion would be embodied in the Act, because it certainly was in the nature of a lodger franchise. But as it has not been embodied in the Bill, I would have voted for the amendment, but for the remarks which fell from the Hon'ble Member in charge of the Bill, and which remarks were to the effect that a certain amount of latitude ought to be left to the Government so as to meet certain cases in which it may be necessary to reduce the amount of qualification and other cases in which it may be necessary to raise it; whereas if we embodied the rule as it stands in the Act, we would stereotype the qualification, and no latitude of discretion would be left to the Government. From the assurance which has been given by the Hon'ble Member in charge of the Bill and the remarks he made in introducing it pointing out the intention of the Government to confer a lodger-franchise, I venture to think we should rest satisfied that it is not intended by the Government to disenfranchise any persons who have been hitherto qualified."

[*Mr. Bose ; Babu Guru Proshad Sen.*]

The Hon'ble Mr. A. M. BOSE said:—"I wish to make one observation, and that is, to suggest to the Hon'ble Mover of the amendment not to press his Motion to a division. I do this on two grounds: first that he may well be content with the very favourable statement made by the Hon'ble Member in charge of the Bill, namely that the Government have no intention of lowering the franchise, and, secondly, that the question of principle involved has already been decided, namely, whether the legislature ought to leave to the Government the power of making rules in respect of these matters instead of embodying them in the Act. That question was raised and fully discussed on a former amendment, and I think it is better to accept the fact that the Government has certainly had the better in the voting."

The Hon'ble BABU GURU PROSHAD SEN, in reply, said:—"I regret I cannot accept the suggestion of the Hon'ble Member who last spoke, because by my next amendment on the agenda I propose to do what the Government are so much afraid of; that is to say, to control the power of the Government in these matters and have them determined by an Act of the Legislature. I have only heard a few remarks which ought to be answered in connection with this measure. My hon'ble friends who intend to vote against me on this occasion would like to give the Government a latitude to frame rules, in other words, to give an elasticity to the provisions of the Act, which is a favourite expression with some of them. As for that I have only to submit that elasticity will not be wanting if the Government would move the Legislature from time to time to amend the law as may be found convenient, and not leave it to be done by framing rules. It is also said that by leaving this power in the hands of the Government, the qualification might either be raised or lowered, as may be found expedient. I would not quarrel with the lowering of the franchise to any extent possible, but it will be dangerous to leave to the Government the power of raising the franchise. The Government might raise the lodger franchise from Rs. 20 to Rs. 100. That is what is meant by raising the money qualification, and we have no section corresponding to the section prescribing the 3-rupee rate as the maximum, that a man paying a rent of Rs. 20 shall be entitled to vote. If that had been inserted in the law, I may have seen the wisdom of Hon'ble Members opposing this amendment. There is no maximum fixed in the law. Everything is left in the hands of the Government, and they are left to provide this lodger-franchise at any amount they please

[*Babu Guru Proshad Sen.*]

under the words contained in the explanation—‘and may declare that any persons who are not referred to in that proviso shall be entitled to vote.’ That is something which appears to me—I will not say absurd—but something which is out of order. It will be, as was said by the Hon’ble Maulvi Mahammad Yusuf, not in the spirit of the law to frame rules by which you will confer a lodger-franchise. The spirit of the Act will be against such a rule.”

The Motion being put, the Council divided:—

Aye 1.

The Hon’ble Babu Guru Proshad Sen.

Noes 14.

The Hon’ble Mr. Wallis.

The Hon’ble Mr. Das.

The Hon’ble Mr. Gladstone.

The Hon’ble Rai Eshan Chundra Mittra
Bahadur.

The Hon’ble Mr. Bose.

The Hon’ble Maulvi Muhammad Yusuf
Khan Bahadur.

The Hon’ble Babu Surendranath Banerjee.

The Hon’ble Nawab Syud Ameer Hossein.

The Hon’ble Rai Durga Gati Banerjee
Bahadur.

The Hon’ble Mr. Glass.

The Hon’ble Mr. Finucane.

The Hon’ble Mr. Risley.

The Hon’ble Mr. Pratt.

The Hon’ble Mr. Grimley.

So the Motion was negatived.

The Hon’ble BABU GURU PROSHAD SEN also moved that the word “only” be inserted after the word “shall,” where it occurs in the concluding clause of the first proviso to section 15 of the Act, so as to make the clause run thus:—

“shall only be entitled to vote at the election of Commissioners of such Municipality.”

He also moved that in section 3, sub-section (3) be omitted, and that in its place the following be substituted:—

“*Explanation.*—The words ‘qualifications required to entitle any person to vote for a candidate for election’ relate to the qualification as to age and as to one’s being registered as a voter under the rules to be framed by the Local Government under this section.”

[*Babu Gurn Proshad Sen.*]

He said:—"This brings us to the question of principle, with regard to which we have heard the reply in anticipation, and I submit that the principle is a very sound one, namely, that instead of leaving everything to be done by rules, the most important matters should be provided by the law. The maximum rating qualification is Rs. 3. By putting it at Rs. 2-8 you will disenfranchise a large class of men who have been enjoying it for the last twelve years under the Re. 1-8 rule, and by putting it still higher at Rs. 3 you possibly disenfranchise three-fourths of the present voters. On the other hand, by putting it very low, you can swamp a number of voters to whom you have given the right and privilege. You minimise the right to nothing. If you have not got all the materials before you to come to a conclusion regarding this matter, you should wait until all the materials are obtained. We are told that we cannot do this, we cannot wait, because the next election will take place in October next. That, I submit, is no reason why in considering an Act of the Legislature there should be any hurry. The last elections took place under the existing rules. The concession, to be a real concession, must be a concession which is made by the Legislature, and not left to be provided for by rules made by the Local Government, however favourable that Government may be to lowering the franchise. No doubt the present Government is very liberally disposed to all kinds of local institutions, but at the same time I must say, and I must say distinctly, to those who are the supporters of the principle of Local Self-Government in this country, that this is a matter which ought not to be left to the will of the Executive alone. I appeal to those who desire to foster the principle of Local Self-Government, whether my amendment does not meet with their entire approval. I will not compare India with countries which have both the Municipal and Parliamentary franchise. I will not compare our little India with Great Britain; but, on consulting the English Statutes, I find that in many Acts qualifications are not only laid down for guidance, but even the details are regulated by the Legislature. They do not leave even the matter of registration to the Executive, but employ revising barristers for the purpose. In India, in the Presidency towns, the rating qualification is fixed by Statute, and even in the North-Western Provinces, where these matters are left to rules, there is a safe-guard under which the rules are to be framed, and that is that the people are to be consulted in framing these rules, and in other places you are allowed six months to consider the rules. Under these circumstances I submit that, as by the experiment which has been

[*Babu Guru Proshad Sen ; Maulvi Muhammad Yusuf Khan Bahadur.*]

tried within the last twelve years, it has been established that the Re. 1-8 rating qualification is suitable for all municipalities in these Provinces, and that the lodger franchise of Rs. 20 will also answer, we have now arrived at a time when these matters should be definitely provided by an Act of the Legislature, and not be left to the Executive. If this amendment is accepted, it will make as little change in the present rule of franchise as possible.

“One word as to the change of attitude with which I have been charged. I do not know of any such change of attitude or change of position on my part. I have never held that the matter should be left to the discretion of the Local Government, as some of my friends have thought fit to do on different grounds. I do not know the ground upon which some Hon'ble Members would proceed, but I know the ground upon which my hon'ble friend, Babu Surendranath Banerjee, is acting, namely, the ground of elasticity. I have contended from the very beginning that this matter ought not to be left to be determined by rules, but should be provided for by positive legislation, and I do not think I can be charged with any change of attitude. If the rules are to provide for everything, how is it that this amending Bill is brought before the Legislature. The rules might very well have provided for the few changes now sought to be made in the law. The only important matter embodied in the Bill is the proposal to confer the franchise on those who pay income-tax. If the interpretation of the law is as it is said to be, how is it that this Rs. 50 income-tax clause could not be provided for by rule. In this case my hon'ble friend, the Mover of the Bill, thought otherwise; he did not think it could be done without an Act of the Legislature. I say that if the rules are to be our guide on every point, in that case there would be no necessity for an enactment of this Legislative Council. I submit that those who are the friends of Local Self-Government should vote with me in this matter.”

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR said:—“I think after what has fallen from my hon'ble friend, Babu Surendranath Banerjee, the Hon'ble Mover of this amendment will be pleased to consider whether it would not be wise in him to withdraw the amendment. He has just been defeated in the amendment relating to lodging franchise, and the effect of introducing the little word ‘only’ might be that Government would be precluded from framing rules including the very persons for whose benefit statutory recognition was insisted on, viz., persons who pay Rs. 20 as rent

[*Maulvi Muhammad Yusuf Khan Bahadur ; Mr. Risley.*]

assessed under section 85. The Hon'ble Mover of the amendment would, by showing persistance in favour of his amendment, defeat the very object he had in view in moving the preceding amendment, which, although nominally lost, is really secured, though in a different shape."

The Hon'ble MR. RISLEY said:—"I do not think the Hon'ble Member has seen the consequences which will result from this amendment. By inserting the word 'only' in the concluding clause of the first 'proviso' to section 15, he proposed to stereotype his two earlier amendments, but these he has now lost, and if he passes this, he will stereotype the law as it now stands, and the effect will be that he will disfranchise all those who now have a right to vote under the Rs. 20 lodger-franchise. As to the question of principle, the position of the Government has been entirely misapprehended: we have no intention of reducing the franchise. All that the Government desires is to give each Municipality what it wants. To embody in the law the varied requirements of all the municipalities would save the Government a great deal of trouble. In point of fact this movement to stereotype the Re. 1-8 rating qualification surprises me extremely, because it is the one question in which the several municipalities have clearly expressed their wishes. Out of the whole number, 33 municipalities want to raise the franchise, some to Rs. 5, some to Rs. 3, and 21 want to keep it at Re. 1-8, and the Government agree that for the minor small municipalities Re. 1-8 is the best limitation, but in more advanced places the qualification of Rs. 3 and Rs. 5 might be introduced if people want it. I do not think the Re. 1-8 limit expresses the wish of the more intelligent classes of the community. The limit of the municipal franchise in England cannot be referred to by way of comparison, because it follows the Parliamentary franchise and refers to a wholly different state of things. Then the Hon'ble Member said that the Government of the North-Western Provinces took a more liberal view of things and regulated the franchise by Statute. I do not happen to have the Municipal Act of the North-Western Provinces at hand to refer to, but my impression is that in the whole of Northern India legislation is based on the principle of leaving as much as possible to be provided for by rules, and that I submit is distinctly better than to attempt to provide for all possible circumstances by legislation. As to consulting local bodies before passing rules, I may mention that I think the last proposed edition of the rules was sent out with a long explanatory letter and

*Mr. Risley ; Rai Eshan Chundra Mittra Bahadur ; Babu Guru Proshad Sen ;
Babu Surendranath Banerjee.]*

circulated to District Officers and Municipalities some time in May last. I do not wish to dwell on the question of my hon'ble friend's change of position. He said in April when the Bill was introduced that no change in the law is necessary ; now he says he wants to harmonise the law with the rules and the existing practice. My own opinion is that any attempt to do so will bring about rather discord than harmony."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"The circumstances of the several municipalities are so varied and different that it is impossible to say that no power should be left to Government to frame rules. We must have some rules, and every day there may be a necessity to frame some rule. I therefore cannot agree with my hon'ble friend that we should stereotype the existing practice by including in the law what is now provided by rules."

The Hon'ble BABU GURU PROSHAD SEN, in reply, said:—"After the assurance which has been given by the Hon'ble Member in charge of the Municipal Department of this Government, it is not necessary for me to press this matter to a decision, especially as my amendment regarding the Rs. 20 lodger-franchise and the Hon'ble Mr. Bose's amendment regarding the Re. 1-8 rating qualification have been negatived, I therefore beg leave to withdraw the motion which is now before the Council."

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

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "University" in line 6 of clause (iii) of section 3, the following words be added:—

"or has passed the First Arts examination of the Calcutta or any other Indian University."

He said:—"Clause (iii) of section 3 of this Bill proposes to confer the franchise upon a person 'being a member of a joint-undivided family, one of the members of which has, during the year aforesaid, paid in respect of any rates an aggregate amount of not less than three rupees—is a graduate or licentiate of any University,' and so on. I claim for my amendment that it is in entire accord with the principle which underlies this Bill. I am thankful to be able to say that this Bill represents a distinct advance upon the principle of

[*Babu Surendranath Banerjee.*]

Local Self-Government, inasmuch as it includes a large body of intelligent men who hitherto have not* enjoyed the franchise, and I beg to tender my acknowledgments for the conciliatory spirit which the Hon'ble Member in charge of the Bill evinced throughout our discussions in the Select Committee, and, as a proof of that conciliatory spirit, I desire to refer to the Bill as it has been amended by the Select Committee as compared with the Bill which was introduced in March, 1896. There is a great difference between the Bill as it now stands and the Bill as it was introduced. Many important and significant modifications have now been made in the Bill. The Bill has been practically recast in the light of the opinions which have been received by the Select Committee. It is not necessary for me to refer to the various modifications which have been made. I need only refer to the important changes which have been made in the section to which my amendment refers. When introducing this Bill, the Hon'ble Member in charge proposed to create a lodger franchise, to confer the franchise on all persons in occupation of holdings paying an annual rate of Rs. 3, provided they were in receipt of a monthly salary of Rs. 50. But this lodger franchise has now been abandoned in favour of the much wider proposal which confers the franchise on all residents of municipal towns, no matter whether they are in occupation of holdings which pay rates to the amount of Rs. 3 or not, provided only that they be assessed to the income-tax. The change broadens the franchise and confers it on persons who did not possess it before. It is not necessary that such persons should be in receipt of a salary of Rs. 50 a month, but that they should have an income of about Rs. 42 a month, and that their names should appear in the assessment books of the Income-Tax Department. I want to broaden the franchise a little further, to give fuller effect to the policy which underlies the Bill, and I claim the sympathy of the Council and of the Hon'ble Member in charge of the Bill in favor of my amendment. I have no hesitation in saying that undergraduates are at least as intelligent and as honest a class of men as Mukhtears and Revenue Agents. And having regard to one of the election rules, which provides that no person shall be allowed to vote who has not attained the age of 21 years, we have a safeguard which will prevent too young persons from exercising the franchise. The undergraduates upon whom I desire to confer the franchise represent a considerable constituency. I have made some rough calculations, and I desire to place the materials before

[*Babu Surendranath Banerjee ; Mr. Risley.*]

the Council, in the hope that Hon'ble Members will be in a position to form their own conclusions. The First Arts examination has been in force for the last 35 years in the Calcutta University. For the last 8 or 10 years the average number of those who have passed the First Arts examination is more than 1,000. The average of the last 5 years was about 1,200. If for the 35 years you take an average of 500 a year, you will have at least 17,000 undergraduates, resident in mufassal towns, who ought to be admitted to the franchise. But even taking 10,000 to be residing in mufassal towns, they represent a considerable number of intelligent people who ought to be invested with the franchise. It might be said why not include those who have passed similar examinations in connection with the English Universities. I have not the slightest objection to widen the scope of my amendment. But I look upon this matter from a practical point of view. How insignificant must be the number of English graduates in mufassal towns in Bengal, as compared with the number of Indian graduates. I proceed on the actual lines of the Act and of the Bill. You don't confer the franchise on barristers who have been reading in the Inns of Court, and have passed the examinations, and have gone through the important ceremony of eating their dinners, although these gentlemen may be residing in the mufassal. But you have conferred the franchise on the much lower class of legal practitioners, known as mukhtears and revenue agents. I thus follow the lines of the Bill. My amendment is in complete harmony with its principles. I therefore feel the less hesitation in appealing to my hon'ble friend in charge of the Bill, who being on the governing body of the University must feel an interest in the intellectual as well as in the political advancement of our young men, to accept this amendment. It is indeed a very small concession, but if granted it will popularize the Bill, strengthen the electorate, and broaden the basis of Local Self-Government by enlisting on its behalf the sympathies of the young, the ardent, and the intelligent."

The Hon'ble MR. RISLEY said :—" I have found myself, Sir, so much in accord with my hon'ble friend in respect of other sections of this Bill, and his attitude towards the Bill has been so generally reasonable, that I am sorry I cannot go with him in this. To start with, the amendment amounts to giving votes to undergraduates as such. There is no getting over that. You may define it in terms of the First Arts, but it really means giving votes to undergraduates. If the Council does that, the Council will lay itself open to comment, and will run

[*Mr. Risley ; Rai Eshan Chundra Mittra Bahadur ; Mr. Bose.*]

the risk of making itself ridiculous. Moreover, when once we have embarked on the course of enlarging these educational qualifications, where are you to stop? If the F.A. men are to get votes, why not the Entrance men, and I can imagine a plea being put in even for the fail-entrances? We shall have opened a door which ought not to be opened, and the tendency will be to try and open it wider.

"Then there is a more serious objection. You will see if you look at the Act that the proposal gives to under-graduates of Calcutta a privilege which is restricted to graduates of the elder Universities. This is a fatal flaw, and I do not see how it could be got over. I can see no solution.

"Lastly, even if you chose to ignore the illogical character of the proposal, it would in any case work unevenly. You might even have in the same joint family two members, one of whom had passed the Calcutta F. A., and the other had passed or even taken honours in moderations at Oxford, but had stopped there. The Calcutta man would have a vote; the Oxford man would not."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"I rise to support this amendment. I think that inasmuch as by this Bill the franchise has been given to gentlemen who have obtained licenses from vernacular medical schools, why should not the same privilege be given to a class of men who from their education are likely to exercise the franchise most intelligently? It is well-known that in the Mufassal it is most difficult to secure the votes of educated candidates, and those who have obtained a certain amount of education and position are not likely to be led away by the tricks which are played upon ignorant and uneducated men, such as cart-drivers and others of the same class. They are a respectable body of men, and they should have the privilege of voting in the same way as the holders of the diplomas of Government colleges and mukhtears and revenue agents, with whom under-graduates are at any rate equally educated."

The Hon'ble Mr. A. M. Bose said:—"I really hoped that the persuasive powers of my hon'ble friend the Mover of the amendment would have prevailed to secure the adhesion of the Hon'ble Member in charge of the Bill, but I confess myself disappointed. The first argument against the amendment is that if we adopt this proposal there will be no knowing where to stop. The Hon'ble Member is well aware that that is a stock argument which in the

[*Mr. Bose.*]

history of progressive legislation is always brought forward whenever any change is proposed. The answer to that argument is that a change should be resisted when for its own sake it ought to be resisted, but not on the ground that it may possibly in the future lead to other changes. The next argument of the Hon'ble Mr. Risley, which in fact was his strongest argument, was one with which I shall have felt considerable sympathy if it had any appreciable foundation in fact. This was that by this amendment you would draw an invidious distinction between under-graduates of Indian Universities and those who have passed similar examinations in connection with English and other European Universities. That, I submit, is hardly an argument of a practical character under the circumstances of the present case. I confess, speaking for our countrymen who have been to European Universities, that I cannot at present call to mind any instance of gentlemen resident in the mufassal who have proceeded to Europe and who have passed the previous examination of some University there but did not proceed to a degree. And with regard to European gentlemen similarly situated, one is not aware of any such residing in a mufassal Municipality. No instances were mentioned. At any rate, whether it is so or not, the number of such gentlemen is not likely to be of any appreciable magnitude. And in any case the difficulty, if any, can be easily removed by slightly broadening the scope of the amendment. I appeal therefore to the Hon'ble Member to reconsider the matter. Having regard to other classes of voters whom it is proposed to admit, those who have passed the First Arts examination and are 21 years of age, would form a most desirable addition to the electoral body. Another argument which has been advanced is that by adopting this amendment we shall be breaking new ground. I say, first, that this is not an argument which comes with very good grace from the Hon'ble Member in charge of the Bill, the very object of which is to break new ground. That is the reason for the Bill, and though the amendment of my hon'ble friend may go beyond the scope of the proposals contained in the Bill, it is a reasonable extension of the franchise; and after all it is new ground very much more limited in its character than that which is the groundwork of the amending legislation proposed by the Hon'ble Member. I again appeal to him to consider whether it will not be desirable to recognise the educational test as an important test in connection with the exercise of the franchise. It has been pointed out that gentlemen who have satisfied the requirements of the University, and who have probably entered life in various capacities, would be at least as well qualified, both intellectually and morally, as many of those on whom it is proposed by the Bill to confer the municipal franchise, and I appeal to the Hon'ble

[*Mr. Bose ; Maulvi Muhammad Yusuf Khan Bahadur.*]

Member to say whether education is not the best help towards good administration, its best ally, and its securest guarantee. By recognising it you not only liberalise your policy, but you strengthen your position and improve the practical results of the exercise of the franchise."

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR said:—"The strong and eloquent appeal which has been made in favour of this amendment has not failed to make an impression on my mind, although, correctly speaking, what has weighed with me more than the appeal is the favourable effect of the amendment, so far as it tends to the furtherance and promotion of Muhammadan interests. It is on this ground that I give my support to this amendment and add my voice in its favour. The persuasive powers of my hon'ble friends having failed to achieve success, I will try the effect of my arguments; and I put the matter thus: the sum total of convenience in favour of the amendment far outweighs the inconvenient points. There are a great many Muhammadan students who have passed the First Arts Examination who would be let in and have the right to vote by virtue of this amendment, but who would be otherwise excluded. In their early years, generally speaking, the Muhammadan students are engaged in the study of Arabic, and if so they are 21 years of age by the time they have passed their First Arts Examination; so there is not likely to be much difficulty as regards the question of age: the letting in of the amendment would therefore be a distinct gain to the Muhammadan community. The pleaders of the Zilla Courts must also be those who should have passed the First Arts Examination: the amendment will favourably affect that class also. But apart from the question of nationality, and applying myself to the quality of the material let in, it appears that in point of education and therefore of intelligence and character, the persons who would acquire the franchise are in no way inferior to those who are already in. In fact the higher the educational standard, the worthier the men you get. The objections which have been urged against the acceptance of the amendment are so small that they may very well be put aside and disregarded. The difficulty to determine the equivalent examination in English and other Universities is not insurmountable and might be easily provided for and that difficulty arises in so few cases that for the sake of the few, the many need not be sacrificed; because how many students of European Universities are residents of Mufassal Municipalities. I therefore express a hope that the Hon'ble Member in charge of the Bill will see his way to accept the principle of this amendment. By so doing he will promote the cause of Local Self-

[*Maulvi Muhammad Yusuf Khan Bahadur ; Mr. Das.*]

Government in more ways than one ; he will put the franchise in fitter and worthier hands in some cases. The case of failed or passed Entrance students stands on a different footing, and when their matter will be brought forward, it will, I submit, be time enough then to consider it : but in regard to the *passed* First Arts students, they are, from their intelligence, education and character, in every way entitled to the franchise. The principle of the amendment is fair and reasonable ; its particular wording is a question to be decided hereafter."

The Hon'ble MR. M. S. DAS said :—" I also must vote for this amendment. With regard to the difficulties pointed out by the Hon'ble Member in charge of the Bill, it has been said by the Hon'ble Mr. Bose that the difficulties are of a theoretical character, and are of no practical importance. ' If it is necessary to extend the franchise to persons who have obtained similar honors from English Universities, in order that this new franchise may be consistently and justly extended to First Arts passed students of the Indian Universities, I do not think the Hon'ble Mover of the amendment will have any objection to such extension. Local Self-Government is in its infancy in this country. The Hon'ble Member in charge of the Bill supposes certain difficulties which may be met with if the franchise is extended to certain classes of men, but with all possible deference to the Hon'ble Member, I say that he has no personal experience of the difficulties met with in Mufassal Municipalities, where we have to deal with a number of voters who are wanting in intelligence. When this Bill was introduced, it was said that one of the reasons for introducing the Bill was to extend the franchise to an intelligent class of voters ; and the franchise was, as proposed, extended to a class of men who have not been included, because they have the property qualification, but they seem to have been included because they have an educational qualification. That was no doubt an amendment in the right direction, and as this Bill has been amended by the Select Committee so as to extend the franchise to persons in whose case their education is a guarantee for the just exercise of the right of voting, I think it should on the same ground be extended to those who have passed the First Arts examination. I have known an instance in the Mufassal where a person who had worked for a municipality for twelve years (he occupied the position of an Executive Engineer, which went to show that he was a man who could do an immense amount of service to the municipality), stood for election as a Commissioner of that municipality, but I was the only person who voted for him. All the other electors voted for a

[*Mr. Das ; Mr. Risley ; Mr. Pratt ; Babu Surendranath Banerjee.*]

clerk in the Commissioner's office, who was in receipt of a pay of Rs. 35 a month. And I have also known an instance where a gentleman's own coachman and *durzies* voted against him, because a clerk in the office told them they would have their taxes remitted if they voted for him. These are examples which show that we should encourage intelligence in voters, and I think that in the interests of Local Self-Government it is necessary that the franchise should be extended to First Arts students. I do not think they are in any way inferior to mukhtears in intelligence and not certainly to revenue agents, and I do not see why the franchise should not be extended to them. We have heard from the Hon'ble Mover of the amendment that a very large number of this class of intelligent men are to be found in the Mufassal, and I dare say it will be to the interest of Local Self-Government, and of the municipalities themselves, to have intelligent voters to vote for people who really take an interest, and have the ability to administer, the municipal affairs."

The Hon'ble MR. RISLEY said:—"As the temper of the Council has been very distinctly indicated in this matter, I am prepared to come forward with a compromise which might possibly meet the case. I entirely admit the intelligence of the proposed class of voters. The question of age is covered by the rule which prescribes the age of 21. Perhaps the difficulty might be met by the addition of the words 'or the corresponding standard of any other University.' I accept the principle of the amendment, the exact wording of which can be settled hereafter."

The Hon'ble MR. PRATT said:—"The expression 'First Arts' examination was only applicable to the Calcutta and Madras Universities. In Bombay the corresponding standard was called the 'Previous' examination, and in the Panjab and Allahabad it was termed 'Intermediate.'"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If the principle of the amendment is accepted, the exact wording can be settled at a subsequent Meeting of the Council."

The further consideration of the amendment was accordingly postponed.

The Council adjourned to Saturday, the 8th instant.

CALCUTTA;
The 2nd September, 1896. }

F. G. WIGLEY,
Offg. Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 8th August, 1896.

Present:

The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General, *presiding*.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. PRATT.

The Hon'ble H. H. RISLEY, C.I.E.

The Hon'ble M. FINUCANE.

The Hon'ble J. G. H. GLASS, C.I.E.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble SURENDRANATH BANERJEE.

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR.

The Hon'ble A. M. BOSE.

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.

The Hon'ble GURU PROSHAD SEN.

The Hon'ble W. B. GLADSTONE.

The Hon'ble M. S. DAS.

The Hon'ble A. H. WALLIS.

PROTECTION OF WOMEN IN MYMENSINGH.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been called to a statement which appeared in the *Charu Mihir* of Mymensingh to the effect that a number of *budmashes* carried off the daughter of one Kumari Chandalini, of Bajipore, and committed outrages on her? Is it the case that the Judge in sentencing the accused to seven years' rigorous imprisonment remarked:—"I have already called attention to the need of protection of women in this district?" Will the Government be pleased to state what action it has taken to ensure this protection?

[*Mr. Risley ; Babu Surendranath Banerjee.*]

The Hon'ble MR. RISLEY replied:—

“The attention of the Government has been drawn to the statement referred to. The accused arrested in the case of Kumari Chandalini were fortunately convicted, and sentenced to imprisonment for seven years each. The Judge remarked, before passing sentence, that he had already called attention to the need women have for protection in the district, but this remark referred evidently to observations made by him in a previous case, when the accused were also convicted for an outrage on a young woman; and in both cases the remarks were intended by him to explain the severity of the sentences passed. The Judge has not addressed the Government as to the necessity for special measures for the protection of women in Mymensingh. Such measures have, however, been taken by the Magistrate's orders on the occasion of the Ashtami bathing festival, and the Commissioner has been instructed to renew them annually so long as necessity for them appears to exist. As regards isolated outrages on women which might occur anywhere and at any time during the year, it is impossible to take special measures. It may be hoped that the severe punishments which have been inflicted in Kumari Chandalini's and the previous case will have a salutary effect in deterring the bad characters who are disposed to this kind of crime. The Lieutenant-Governor has also directed that the most experienced and reliable police officers available should always be deputed to investigate these cases whenever they occur, and the District Superintendent of Police has been instructed to give his special attention to the cases.

“The Magistrate reports that these offences are usually committed by low class Muhammadan loafers of loose character, who, under Act X of 1872, could have been dealt with under section 505 as persons of notoriously bad livelihood or dangerous character, but who cannot be reached under section 110 of the present Criminal Procedure Code.”

SERIOUS ALLEGATIONS AGAINST MR. AINSLIE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been drawn to some paragraphs published in the *Hitabadi* newspaper of the 5th June, in which some serious allegations are made against Mr. Ainslie, the Subdivisional Officer of Govind-

[*Babu Surendranath Banerjee ; Mr. Risley.*]

pur? Is it the case that Mr. Ainslie harassed witnesses and parties by causing them to follow him from camp to camp and by holding *cutcheries* in the mufassal, but not always in the places notified? Is it true that he struck off from his file seven out of nine cases on the 11th May last, three out of six cases on the 12th, and four out of eight cases on the 15th, the parties not having been able to find out his camp and attend in time and committed several other irregularities referred to in the same paper? If so, will the Government take any steps to prevent a recurrence of similar proceedings in future?

The Hon'ble MR. RISLEY replied:—

“The attention of the Government was drawn to the paragraphs referred to, and the Commissioner was requested to issue instructions to Mr. Ainslie to make better arrangements for the convenience of parties in future. This has been done, and the Lieutenant-Governor trusts that similar cause for complaint will not recur. The figures in the paragraphs in question are generally, though not uniformly correct.”

MR. MORSHEAD'S CASE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(1) Whether it is true, as stated in the newspapers, that Mr. Morshead, Deputy Commissioner of Purulia, directed Babu Upendra Chandra Mookerjee, a Deputy Magistrate, at the instance of the District Superintendent of Police, to withdraw an order for bail issued by the said Deputy Magistrate in respect of some persons charged with an offence under section 392, I. P. C., and that in consequence the order was withdrawn and the prisoners were remanded to jail, where they remained from the 9th June to the 1st July, when they were ordered to be released after a full investigation by the said Deputy Magistrate?

(2) Is it the case that the Deputy Commissioner, in the order directing the withdrawal of the bail-bond, laid down the dictum that “when accused persons are sent up in A Form (by the Police) there are *prima facie* grounds for believing that they have been guilty of the offence of which they are accused”?

Does the Government approve of this interference on the part of an Executive Officer with the judicial discretion of a Magistrate subordinate to him? Will the Government be pleased to take such steps as to the

[Babu Surendranath Banerjee.]

Government may seem fit with a view to prevent the recurrence of proceedings such as these on part of Executive Officers?

In the absence of the Hon'ble MR. A. M. BOSE, who came late, the Hon'ble BABU SURENDRANATH BANERJEE asked—

(a) Has the attention of the Government been called to the facts and the

THE PURULIA PAPERS.

ORDER SHEET.

District Manbhum.

In the Court of Babu U. C. Mukerjee, Deputy Magistrate.

No. 111 OF 1896.

Kharakri of Jobla, thana Silli, district Lohardaga, versus (1) Sonaram Mura, (2) Panroo Mura of Gundhudi, pargana Bagnundi, (3) Naboo Dom of Uhatoo, pargana Jhalda.

Section 392, Indian Penal Code.

The 9th June, 1896.—The Court was occupied from 8 A.M. to 11-20 A.M. with the rioting case. No time to-day, and the file is full to-morrow. Case remanded till the 19th instant.

U. C. M.

Recognizance of Rs. 20 each from the witnesses. Accused may be enlarged on good bail of Rs. 200 each.

U. C. M.

The 9th June, 1896.—Under orders of the Deputy Commissioner, the order of bail is recalled and accused are committed to custody.

U. C. M.

URGENT

DEPUTY COMMISSIONER—

In this case Deputy Magistrate, Ugendra Chandra Mukerjee, has let out three men on bail in a special report case without first going into the evidence, though the witnesses for prosecution were present.

According to section 497, Criminal Procedure Code, the Deputy Magistrate should have first, I think, gone partly into the case and then given bail, if he considered the evidence against the accused weak or insufficient.

papers marginally given of a case at Purulia, which have been published in the *Amrita Bazar Patrika* of the 7th July, and in which, under the orders of the Deputy Commissioner, an order passed by the trying Deputy Magistrate admitting the accused persons to bail was cancelled and they were sent to *hajut*? Are the proceedings correctly given in the *Patrika*?

(b) Under what provision of any existing law did the Deputy Commissioner interfere with an order passed judicially by the Deputy Magistrate, and direct him to commit the accused to custody; and under what provision did the District Superintendent of Police appeal to the former against the order of the Deputy Magistrate? Is it not the fact that, under the law, the High Court alone could interfere with that order? Does the Government approve of such interference by District Officers? If not, will it be graciously pleased to take steps which may lead to its prevention?

[Babu Surendranath Banerjee.]

2. The men standing bails are mukhtears, and the man marked thus is said to be unfit to go bail. Necessary orders solicited.

C. B.

The 9th June, 1896.

BABU U. O. MUKERJEE—

Please report and return by bearer.

L. F. M.

The Explanation of the Deputy Magistrate.

I could not go into the evidence of this case, as I was very fully occupied with a rioting case in which six witnesses were cross-examined in great length by vakils engaged in the case. It is humbly submitted that it is illegal to send accused to *hajat* without satisfying one's self that there is anything like a case against them. I therefore allowed them to be released on bail.

I should note that when the Police first sent the accused to have their confessions recorded by the Senior Deputy Magistrate a few days ago, they made no confessions or incriminating statements of any sort, and on the express ground that the Police failed to send any evidence to justify their being put into *hajat*, that this Court ordered the accused to be released on bail. When the A Form was sent I thought it would be fair to examine the witnesses at the trial in the regular way. If the accused have offered any security who is unfit to stand bail, the matter should be reported to me in the usual way. My order on the record was that the accused should give good bail.

UPENDRA CHANDER MUKERJEE.

The 9th June, 1896.

DEPUTY MAGISTRATE—

It is a question of the interpretation of section 497, Criminal Procedure Code. When accused persons are sent up in an A Form there are *prima facie* grounds for believing that they have been guilty of the offence of which they are accused, otherwise they would not have been sent up. They should not be released on bail; therefore until it appears that such reasonable grounds do not as a matter of fact exist, you are requested to recall the bail and commit accused to custody.

L. F. MORSHEAD,

Offg. Deputy Commissioner,

The 9th June, 1896.

offence under the law is established at the hearing against the accused?

(c) Is it the fact that after the order referred to by the Deputy Commissioner the accused were taken to jail and kept there for several weeks, until on the case for the prosecution alone, and at its close, they were released from custody on bail and afterwards acquitted? Was the order committing them to jail passed in their presence?

(d) Does the Government approve of the general proposition which appears to have been laid down by the Deputy Commissioner and which would seriously affect the liberty of the subject, viz., that whenever an accused is sent up by the Police under any of the numerous sections relating to offences of a non-bailable character, it must be held that there are *prima facie* grounds for believing that he is guilty of the offence charged, and he should not be released on bail until the contrary is made out? Is it the fact that statements before the Police may be, and are, made behind the back of the accused, and he has no means of testing them at the time? Is the Government aware that, altogether apart from any question as to the credit or capacity of any section of the Police, sometimes on the facts deposited to before the Police alone, no

[*Mr. Risley.*]

The Hon'ble Mr. RISLEY replied :—

“One reply may be conveniently given to the separate questions asked by the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. A. M. Bose.

“These are the facts of the case.—Three men arrested by the Police on a charge of robbery (section 392, Indian Penal Code) were sent before Babu Atal Bihari Moitra, the Senior Deputy Magistrate at Purulia, on the 4th June, 1896, to have their confessions recorded. They did not, however, confess, and no evidence having been sent with them, the Deputy Magistrate allowed bail in the sum of Rs. 400 each. On their failure to furnish bail they were kept in custody. On the 6th an A Form, sending up the accused for trial, was submitted by the Police, and the Deputy Magistrate passed an order that the men should be kept in custody until the 9th. This rescinded the previous order granting bail. On the 9th the Deputy Magistrate made the case over for trial to Babu Upendra Chunder Mukerjee, another Deputy Magistrate. The latter, without recording any evidence, though the witnesses for the prosecution were present, very improperly postponed the case to the 19th June, on the ground that he had no time, although he might easily have taken up the case in the afternoon of the 9th, as his other case work only occupied him up to 11-20 A.M. He ordered at the same time that the accused might be enlarged on bail of Rs. 200 each. The District Superintendent of Police brought the order to the notice of the Deputy Commissioner, and the Deputy Commissioner, being of opinion that bail should not have been allowed, since the Deputy Magistrate, having taken none of the evidence, which was ready, could not assume that there were no reasonable grounds for the serious charge against the accused, requested the Deputy Magistrate to recall the bail and commit the accused to custody. The bail was accordingly not allowed, and the accused remained in custody. On the 19th the Deputy Magistrate took up the case and examined some witnesses, and rejected an application then made to him for bail, wishing to hear further evidence. The hearing was postponed to the 27th, and thence to the 29th, for want of time; and on the latter date a charge was framed against the accused under section 392, Indian Penal Code. There were then further adjournments to the 30th June, and the 1st, 2nd, and 3rd July, and finally, on the last date, the accused were acquitted; no witnesses for the defence having been examined, and only one of

[Mr. Risley ; Babu Surendranath Banerjee.]

the witnesses for the prosecution having been cross-examined after the drawing up of the charge.

“There is no doubt that Mr. Morshead was technically wrong in the order which he passed requesting the Deputy Magistrate to recall the bail. The mistake was, however, made in good faith, through misapprehension as to his judicial authority. The Deputy Magistrate's order allowing bail, with which he interfered, appears, moreover, to have been wrong. The Deputy Magistrate should not have passed that order without first satisfying himself that there was some doubt as to the truth of the charge. He actually refused bail on the 19th June after hearing some of the witnesses, and he also drew up a charge against the accused, thus showing that he considered a *prima facie* case to have been made out against them. It would appear that he allowed bail on the 9th merely because he had decided to postpone the case for 10 days, and not because he then entertained doubt as to the guilt of the accused.

“With regard to the third part of the Hon'ble Babu Surendranath Banerjee's question, the Lieutenant-Governor is satisfied that Mr. Morshead acted not executively, but on what he conceived to be his judicial authority. The mistake was made *bona fide* by an individual officer, and His Honour considers that no necessity exists for such steps as the Hon'ble Member suggests.

“With regard to clause (d) of the Hon'ble Mr. A. M. Bose's question, the Lieutenant-Governor does not feel called upon to interpret authoritatively the provisions of the Criminal Procedure Code, which both Magistrates and Police are required to follow, and which are sufficiently clear for their guidance.”

COOLIE-RECRUITING.

In the absence of the Hon'ble Mr. A. M. Bose, who came late, the Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been drawn to the many cases reported in the *Bankura Darpan* and several other papers, showing the gross evils resulting from the present system of coolie-recruiting for the labour districts?

Has the attention of the Government been drawn to the following remarks on this subject of coolie-recruiting, reported to have been made by Sir Stuart

[*Babu Surendranath Banerjee ; Mr. Finucane.*]

Bayley, late Lieutenant-Governor of Bengal, at a meeting held in London on the 14th of May last :—

‘Systematic recourse to fraudulent recruiting and even to kidnapping became common—sufficiently common to be felt as a discredit to the Administration’ (*vide Statesman* of 1st July) ?

And also to the following remarks reported to have been made at the same meeting by Sir Charles Elliott, late Lieutenant-Governor of these Provinces :—

‘The great evil which had arisen with regard to the competition for labourers had arisen from the immense number of different persons who were competing against each other, deceiving each other, stealing each other’s coolies, kidnapping women and children, or enticing them by false pretences, and even using force and wrongful confinement, so that they constantly figured in the Police Courts.’ (*Statesman* of 1st July.)

What steps does the Government propose to take on behalf of a most helpless and ignorant class of its subjects, both men and women, to put a stop to the sad abuses referred to in the above extracts ?

The Hon’ble MR. FINUCANE replied :—

“The special attention of Government has for some time been directed to the whole system of coolie-recruiting for the labour districts. The subject is still under consideration of Government.”

LABOUR COMMISSION’S REPORT.

In the absence of the Hon’ble MR. A. M. BOSE, who came late, the Hon’ble BABU SURENDRANATH BANERJEE asked—

Has the work of the Labour Commission been finished ? When is its report expected to be published ?

The Hon’ble MR. FINUCANE replied :—

“The report of the Labour Commission has been lately received, and been sent to the Chamber of Commerce, the Mining Association, the Tea Association, and other authorities for their remarks. It cannot be stated exactly when the report will be disposed of, but copies are available for purchase at the Secretariat Press, and are now being forwarded to the principal newspapers for information.”

[*Mr. Risley ; Babu Guru Proshad Sen ; Rai Eshan Chundra Mittra Bahadur.*]

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble MR. RISLEY moved that the consideration of the Bill to further amend the Bengal Municipal Act, 1884, be resumed.

The Motion was put and agreed to.

The Hon'ble BABU GURU PROSHAD SEN said:—"Before proceeding to move the first amendment which stands in my name, I should like to know, through the Hon'ble Member who represents the Local Government in relation to this Bill, whether the large class of carters, who have enjoyed the privilege of voting during the last twelve years, will, with the present definition of the word 'rates' in its most restricted sense, still have that privilege, that is to say, whether, the rules will confer the franchise on this large body of men. I may add that section 15 now gives the Government power to deal with such cases, even if they do not fall under the provisoes of that section under the explanation added to it."

The Hon'ble MR. RISLEY said:—"I understand the Hon'ble Member's intention is to offer to withdraw the amendment, of which he has given notice. As he has so gracefully retired from the uncompromising position he took up the other day, and is content to leave the matter to the discretion of Government, I am glad to be able to say that I have not the slightest hesitation in giving the assurance which my hon'ble friend wants, namely, that there is no intention of withdrawing the franchise which this body of men have had ever since the year 1886. Any action intended to restrict the franchise in any direction will only be undertaken on the strongest representation from a Municipality itself."

The Hon'ble BABU GURU PROSHAD SEN in reply said:—"Having received this assurance, I have much pleasure in withdrawing the amendment. I could not have advanced the cause any further by pressing for my amendment than what I have got from the assurance which has now been given."

The Motion that sub-section (2) of section 3 of the Bill be omitted was then, by leave of the Council, withdrawn.

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR moved that in section 6, clause (v) the words "and libraries" be inserted between the words "schools" and "either."

[*Rai Eshan Chundra Mittra Bahadur; Maulvi Muhammad Yusuf Khan Bahadur.*]

He said:—"The Bill recognises the principle that a certain portion of the Municipal Fund may be devoted to the establishment and maintenance of schools, either wholly or by means of grants-in-aid, and it follows as a corollary that a portion of the Municipal Funds may also be spent on the establishment and maintenance of libraries. Libraries are schools where boys and grown-up men may alike take instruction. They are in one sense hospitals in which those who are diseased in mind and body are ministered to by a class of superior doctors, who do not claim their fees. I find that provision has been made in the Calcutta Municipal Act to legalise the expenditure of a certain sum of money upon the maintenance of 'free libraries,' and there is a similar provision in the Bombay Municipal Act (VI of 1873). It is not with the object of incorporating into the Bengal Municipal Act provisions which are found in the Calcutta Municipal Act and the Bombay Municipal Act, that I press this amendment for the consideration of Hon'ble Members, but because the want of libraries has been sadly felt in mufussal Municipalities. I am personally aware that in Hooghly there is a library established by the munificence of the local zamindars for the use of the public, some thirty years ago, and there are still funds amounting to about Rs. 3,000 in the hands of the Collector of Hooghly, who is the trustee of that library. This library had its subscribers, but they have ceased to pay, and the library is now shut up, as it now receives no support at all from any quarter. With the extension of education and a consequent increase in the number of educated rate-payers, such a provision has become absolutely necessary, and I hope the Council will see its way to accept the amendment."

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR said:—"The Council will be pleased to observe that this amendment refers to clause (v) of section 69, and is not comprised within the group of clauses to which the proviso relates. This amendment ought not to be accepted. Libraries have all the advantages claimed for them in the eloquent and figurative language employed by the Hon'ble Mover of the amendment. Sir John Lubbock in his book, 'The Pleasures of Life,' says: 'Comfort and consolation, refreshment and happiness, may indeed be found in his library by any one who shall bring the golden key that unlocks its silent door. A library is true fairyland, a very palace of delight, a haven of repose from the storms and troubles'

° [*Maulvi Muhammad Yusuf Khan Bahadur ; Babu Surendranath Banerjee.*]

of the world. Rich and poor can enjoy it equally, for here at least wealth gives no advantage. We may make a library, if we do but rightly use it, a true paradise on earth, a Garden of Eden without its one drawback ; for all is open to us, including and especially the fruit of the tree of knowledge, for which we are told that our first mother sacrificed all the pleasures of Paradise. Here we may read the most important histories, the most exciting volumes of travels and adventures, the most interesting stories, the most beautiful poems ; we may meet the most eminent statesmen, poets and philosophers, benefit by the ideas of the greatest thinkers, and enjoy the grandest creations of human genius.' (See page 63, the 'English Citizen : his Life and Duties,' by Charles Henry Wyatt.)

"But although the advantages of a library have been set out in such glowing terms, still it is questionable whether the funds of the Municipalities should be diverted in the manner proposed by the Hon'ble Mover of the amendment to the establishment and maintenance of libraries in the mufassal. The resources and wealth of the Municipalities are pretty well known ; so also their immediate wants requiring immediate attention. I do not think libraries in the mufassal are matters of such necessity that municipal funds must be devoted to them. I am not therefore prepared to vote in favour of the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am not in agreement with the Hon'ble Member who has just spoken. We have been treated to some poetical effusions from a distinguished writer, notwithstanding that our work here is of the most prosaic order. The question is not whether the provision now under consideration should be made a compulsory obligation on the part of Municipalities, but whether power should be given to Municipalities which they may exercise in their discretion for the promotion of the interests of education in general. My hon'ble friend's amendment is in entire accord with the accepted principles of the municipal law. In section 6 of the Bill we have a statement of the objects to which the municipal fund may be applied ; Municipalities may devote their funds to the establishment and maintenance of schools, hospitals, dispensaries, and a variety of other purposes ; and, if my hon'ble friend's amendment be accepted, municipal funds may also be devoted to the establishment and maintenance of libraries. And then, as a matter of fact, we, in the Calcutta Corporation, make a grant of Rs. 4,000 a year as a

[*Babu Surendranath Banerjee ; Mr. Pratt ; Mr. Grimley.*]

contribution towards the maintenance of the Calcutta Public Library as a free library, and I submit that mufassal Municipalities ought to have a similar power conferred upon them. The principle is admitted that Municipal Funds may be devoted to educational purposes, and the enlargement of the power now proposed would involve only a slight amplification of this principle. I hope the Hon'ble Member in charge of the Bill will see his way to accept this amendment."

The Hon'ble MR. PRATT said:—"I regret I cannot agree to this amendment. It seems to me that in mufassal Municipalities, where the proportion of highly educated people is comparatively small, a library will be a luxury enjoyed by a very small portion of the community. The books in these libraries will be almost entirely in English, which probably not 5 per cent. of the population will read. I do not think it fair to compare mufassal Municipalities with Calcutta, where we have a very large proportion of the community highly educated, and in this respect I think a distinction should be made between the Calcutta Municipal Act and the Bill now before the Council."

The Hon'ble MR. GRIMLEY said:—"The amendment regarding 'libraries' will doubtless commend itself to many, though it might conveniently have been brought forward at a much earlier stage of this Bill, so as to have permitted of local opinion being obtained, and of its being considered by the Select Committee. The proper place, however, for it would be among clauses 8 to 11; for a library, as the HON'BLE MR. PRATT has said, is undoubtedly a luxury which should not be permitted or indulged in until all ordinary expenditure has been provided. A library must be free, and it may be necessary to impose a library rate, for there is the question of maintenance to be considered. In most mufassal stations there is a library for Europeans, and I feel no doubt that if free municipal libraries were started, the committees of many of these European libraries would be able to present many of their superfluous books to it, and gifts might also be expected from persons leaving a station on transfer. The idea of municipal libraries is one to be encouraged. If, then, the sense of this meeting is in favour of the proposal, I would suggest that the following words be placed either after clause (xi) or before clause (viii)—
'the establishment and maintenance of public libraries.'"

[*Mr. Risley; the President.*]

The Hon'ble MR. RISLEY said :—" I fully accept the principle upon which the establishment and maintenance of free libraries is permitted in the Calcutta Municipality, namely, that in questions of this kind we should give full discretion to the Corporation. Unfortunately in this particular case the proposal has been brought forward so late in the day that we have not been able to obtain any expression of opinion from the Municipalities which are concerned. I think that theoretically the matter may be taken as an open one. I regret I cannot altogether agree with my hon'ble friend Mr. Pratt, or my hon'ble friend on my left (Maulvi Muhammad Yusuf) that a library is merely a luxury. I know that in the stations of Gaya and Rangpur the people were much benefited by the establishment of libraries which were the gifts made by certain Judges on their retirement, and that they were much resorted to, and I should not be at all surprised to find that the Municipalities of those stations did contribute towards the support of those institutions. But it is quite clear that the interpretation which the Hon'ble Mover of the amendment attempted to put upon the section is not tenable. You cannot say that libraries are either schools or hospitals. It is also equally clear that any library which may be established or contributed to, must be a free library which is a distinct omission in the terms of the amendment, and I do not know that it would not be well to consider the provisions of the English Libraries Act which restricts the contribution by the local authority to a penny in the pound, or one two-hundred-and-fortieth part of the annual income, or say about a pie in the rupee. Whether some limitation of this kind should not be attached to the provision is a matter for consideration; but I am perfectly sure that if the amendment is accepted, it should come after clause (xi), so that it may be included among the forms of expenditure, which should only be undertaken after all the other forms of expenditure which are mentioned have been met and disposed of. Subject to that condition, I am prepared to vote for the amendment as a provision of the same category as those specified in clauses (viii) to (xi). The question is entirely an open one for the Council to determine."

The Hon'ble THE PRESIDENT said :—" I think that this amendment ought to be allowed. I consider that the range of subjects over which this section 6 travels is so large, and embraces so many useful purposes, that I cannot for a moment conceive why this very useful purpose, the establishment and maintenance of libraries, should not also be included. A man's education does not