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# LEGISLATIVE ASSEMBLY DEBATES

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THIRD SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1922



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# LEGISLATIVE ASSEMBLY.

*Wednesday, 13th September, 1922.*

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

## THE INDIAN BOILERS BILL.

**The Honourable Mr. C. A. Innes** (Commerce and Industries Member): Sir, I beg to move :

“ That this Assembly do recommend to the Council of State that the Bill to consolidate and amend the law relating to steam-boilers in India be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 14 Members.”

I do not think it is necessary for me to say anything on this occasion. I have already explained fully the reasons why we have introduced this Bill. Those reasons are that we think it necessary that the law relating to boilers in India should be uniform and that the safeguards which it is necessary to impose for the protection of human lives and property should be the same throughout India.

The motion was adopted.

## THE WORKMEN'S COMPENSATION BILL.

**The Honourable Mr. C. A. Innes** (Commerce and Industries Member): I beg to move, Sir, for leave to introduce :

“ A Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.”

I propose to make two motions in respect of this Bill to-day. If the House will grant me leave to introduce the Bill, I propose at once to move that the Bill be committed to a Joint Committee of both Chambers. The reason why I have ventured to adopt this procedure in accordance with rule 68 of the Manual is that the Bill has now been in the hands of Honourable Members for nearly a week and that a very full statement of objects and reasons and very detailed notes on clauses have been appended to the Bill. Honourable Members therefore have had an opportunity of acquainting themselves not only with the main provisions of the Bill, but also with the reasons why Government have thought it necessary to place this difficult and important measure before the Legislature. At a later stage in my speech I will indicate very briefly the main considerations which we have borne in mind in the framing of this Bill. For the moment I propose to address myself to a question which is probably exercising the minds of some Members of this House, I am

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quite sure that every one in this House accepts the principle of this Bill, indeed no one can deny the essential justice of that principle. But there are probably some Members who are asking themselves the question whether, however just the principle may be, the time has yet arrived to endeavour to apply it to India.

The first point I want to make is that this Bill is not the outcome of any hasty immature decision to speed up the process of labour legislation in India. The demand for workmen's compensation dates back in India as far as 1884 when a mass meeting of mill-hands in Bombay passed unanimously a Resolution claiming what was in effect a Workmen's Compensation Act. But I need not take the House as far back as that. It will be sufficient if I take them back to May 1920. In May 1920 Sir George Barnes, speaking at Lahore in connection with the North-Western Railway strike, announced that the Government of India had the subject of workmen's compensation under its consideration. The subject was then examined for eighteen months in minute detail in the Secretariat. In July last year our provisional ideas were sufficiently formed to justify our addressing Local Governments, and we put to them eighteen specific questions. That letter was published, and aroused wide interest in India. On the receipt of replies we established an Advisory Committee. The subject was again examined in 34 different categories, each one was the subject of a separate memorandum, and the Bill which I am introducing to-day represents 2½ years' hard work on the part of the Departments of the Government of India. I do not think that we can be accused of undue precipitancy; on the contrary, we may be charged with hastening altogether too slowly, but I make no apology. This Bill introduces a principle new to Indian legislation, if not new to Indian practice. I feel that we must proceed cautiously and that we must examine every inch of the ground before we advance.

Now, the best answer that I can give to the question whether the time has yet arrived for the introduction of legislation of this type is to analyse to the House the substance of the more important replies that we have received to the circular to which I have referred. That circular, I may mention, put prominently to Local Governments two main questions. The first question was, is it advisable to affirm in general terms the principle that an employer should be liable to pay compensation to his workmen for injury received by accident? The second question was whether legislation should be introduced on the model of the English Employers' Liability Act of 1880 and Workmen's Compensation Act of 1906. Those are the main questions which the House has got to decide to-day, and I make no apology for taking up the time of the House by giving them the substance of some of the major replies we have received to those questions.

I take first the Government of Madras. The Government of Madras write:

"Wide publicity was given to the letter and the opportunity was afforded to employers and the employed for expressing their views on the proposals. The Local Government have gone carefully through the proposals. They agree that the time has now come for affirming the principle of employer's liability to pay compensation and they consider that the intended legislation should proceed on the lines of the two Acts named."

The Government of the United Provinces say :

“ There is almost an universal agreement that it is desirable to affirm in general terms the principle of employer's liability and the Governor in Council is strongly of opinion that this principle should now be affirmed. The consensus of opinion is that the legislation to be introduced should follow the two Acts named.”

The Government of Bengal say :

“ This important subject has been referred to local Chambers and Associations of this Province as well as to other bodies and individuals whose interests are likely to be affected by the proposed legislation. The opinions received disclose a large measure of support for the main proposals. The Local Government are in full agreement with the Government of India that the time has arrived for legislation to be undertaken in the direction proposed.”

The Government of Bihar and Orissa say :

“ There is general agreement that it is desirable to affirm in general terms the principle of employer's liability and the legislation should follow in the main the English Employers' Liability Act of 1880, and the Workmen's Compensation Act of 1906. His Excellency in Council accepts this view.”

I may add that the Government of the Central Provinces, while they note that there are some differences of opinion as to whether legislation should now be undertaken or not, mention the fact that prominent industrialists in the Central Provinces are in favour of this view and the Local Government itself advises legislation. The same remark applies to the Government of the Punjab.

Here again there is a certain nervousness, but the Local Government after considering the replies advises cautious legislation. And again, Sir, in addition to the Local Governments, the following important Chambers of Commerce among others have not only expressed their view that the principle of this Act should be affirmed but have also stated that legislation is desirable. The Bengal Chamber of Commerce, the Bombay Mill Owners Association, the Bombay Chamber of Commerce, the Karachi Indian Merchants Association, The Indian Merchants Chamber and Bureau, Bombay, the Karachi Chamber of Commerce, the Ahmedabad Mill Owners Association and the United Provinces Chamber of Commerce.

Among the replies from major Local Governments there are only two dissentient voices. The Government of Burma stoutly oppose legislation. They maintain that the time has not yet come for such legislation. They dwell upon the special difficulties which exist in India, and they deprecate any attempt to force Indian labour conditions into line with labour conditions in western countries by premature legislative changes. Now, Sir, we have considered that representation with the care which its importance deserves, but I may say at once that our own views are unshaken. India is a member of the League of Nations. The representatives of its workers almost annually meet the representatives of workers of other countries at the Conferences of the International Labour Organisation, and the time has ceased when India could claim to stand aloof from labour movements which have affected the whole of the civilised world. India stands almost alone at the present day in not having an Act of this kind. Workmen's Compensation Acts have been passed in every country in Europe with the exception of Turkey. They have been passed in Canada, in North and South America, in Australia, in South Africa and in Japan. All these Acts differ in detail, but they are based on one common principle, and sooner or later that principle must be

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applied to India. There are difficulties, of course, but I do not admit that the difficulties are insuperable. The main answer to the Government of Burma is the fact that the replies which we have received to our circular disclose a general consensus of opinion that this legislation should now be undertaken. This is the view which, as I have shown, is taken by almost all major Local Governments, and this again is the view which has been accepted with a striking measure of unanimity by important employers of labour throughout India. In fact nothing has impressed me more in the correspondence on this subject than the reception which our proposals have met with from employers in India. We are often told, Sir, that these employers are grasping capitalists, and that their one idea is to take as much as they can out of their labour and to give back as little as possible. That is far from being the truth in this case. I should like to take this opportunity to say how much the Government of India appreciate the attitude which employers have taken up in this matter. The cost of our proposals will fall upon them, and yet their replies show that they are actuated by a high sense of duty towards those whom they employ. While I am on this question of cost, I may mention in passing that it will be open to any employer, if he so desires, to spread his risks by having recourse to insurance.

Another line of criticism has come from the Government of Bombay. Here the difference is not one of principle but one of method. They agree that the time must come sooner or later when we shall have to tackle this subject of workmen's compensation, but they are impressed with the difficulties in the matter, and they suggest that the way to legislation should be cleared by a further preliminary investigation in local centres of industries by a committee specially appointed for the purpose. A somewhat similar suggestion was made in the United Provinces, but was strongly objected to by the Government of those Provinces, and we agree with the latter Government. I am quite willing to concede that in a matter of this kind it is the details that matter. It is easy enough to accept the principle of workmen's compensation. Our difficulties begin as soon as we endeavour to embody that principle in a workable scheme of legislation, but, Sir, that is the very reason why we have preferred a course different from that advocated by the Government of Bombay. The preliminary issues have already been thoroughly explored. The ground has been fully covered by the replies which we have already received to that circular of the 29th July 1921. Those replies run to 164 pages of print. They discuss the question in all its aspects, and as I have said, they disclose a general consensus of opinion that this thorny subject must now be tackled. I do not agree that a further preliminary investigation would serve any useful purpose. On the contrary it would cause delay, and it would involve us in great expense. It is perfectly clear to me that our next step must be to formulate definite concrete proposals and put out those proposals for criticism. It is only in that way that we can reduce a vast subject to manageable proportions. It is only in that way that we can focus our proposals, that we can let all concerned, whether it be Local Governments or workmen or employers, know exactly what our proposals are. Then they will be able to decide for themselves how our proposals affect their

own particular interest. They will be able to see exactly where the shoe pinches. This, Sir, is precisely what we have done. We appointed in June last an Advisory Committee to which I have already referred. That Committee consisted of two representatives of employers, the Honourable Sir Alexander Murray and Mr. Saklatvala, whom I am very glad to see, a member of the House to-day, two representatives of labour, Mr. Joshi and Mr. Roy Chaudhuri of Bengal, an insurance expert in the person of Mr. Darcy Lindsay, a medical adviser in Colonel Gidney, and Mr. Neogy of this House together with Mr. Wright of the Legislative Department to keep us straight on all legal points. That Committee examined the replies received and sat continuously for several days in June last, and I take this opportunity of expressing our obligations to them for their self-sacrificing labours in the public interest. As the result of their work we have been able to formulate our proposals in the shape of this draft Bill. We do not pretend for a moment that we have attained finality. We have not the slightest doubt that our proposals will receive the most searching criticism, and that is the very purpose we have in view. All we claim is that our proposals are the best proposals we have been able to devise after taking the best advice possible and after the most careful examination of all the opinions which we have received.

I hope, Sir, that the House will not think that because I am moving to-day that this Bill be referred to a Select Committee that we have any idea of trying to rush legislation through this House or any idea of trying to stifle or burke criticism. That is far from being our intention. If the House will agree to the two motions which I am putting before them to-day, we propose at once to circulate the Bill to Local Governments, to Chambers of Commerce, to Associations of Employers and to the principal labour organisations. We expect and look for criticism, and the Bill will be examined in the light of that criticism, line upon line and clause by clause, by the Joint Committee, and I have not the slightest doubt that the Bill will emerge from the crucible a much better Bill.

So far I have endeavoured to establish two proposals, first that the principle of this Bill is beyond cavil. The second proposition is that the time has come when in the interests of labour in India we must attempt legislation. It would be wrong at this stage for me to go too much into detail. But if the House will bear with me a little longer, I should like to explain some of the main considerations which we have had in mind in framing this Bill. I desire first to correct an impression which appears to prevail in certain quarters. This Bill is not a slavish imitation, to use a stock phrase, of the British Act or of any other Act. It is perfectly true that certain principles which originally were formulated in England have obtained world-wide acceptance; it is also true that even in matters of detail it would be foolish to neglect and ignore the hard-won experience of other countries. But this Bill is an Indian Bill, designed for India with special reference to Indian conditions and Indian difficulties. Those difficulties are numerous. I need only refer to the paucity of medical men, to the illiteracy of workers, to the large size of the country, to the carelessness of many of the operatives, and to the undesirability of imposing undue burdens upon nascent industries. All these points have been steadily kept in view. But I should

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like to emphasise three main considerations which underlay all the recommendations of our Advisory Committee, and which underlie this Bill. The first point to remember is that legislation of this kind is an innovation in India. It breaks new ground. We think it advisable, therefore, to go slow, to make our Bill a modest Bill, and not to throw our net too wide. In a matter of this kind it is the first step that counts. Later on, as we get experience, we can make a further advance if we so desire, but at first, we think it a mistake to jeopardise the success of the whole scheme by being too ambitious in the initial stages. The next point that we have to bear in mind is that Indian labour is, in character, migratory. Indian workmen often work far from their homes, they are not industrialists for life, and sooner or later they tend to go back to the land. We have to see that this factor does not operate to prevent them from getting their dues. And the third point is that workmen in India are poor; therefore, if we make our machinery too elaborate, if we put obstacles and any large expense in the way of their getting compensation, this Bill will not help them; on the contrary, it may hurt them. Our aim, therefore, has been to simplify procedure as far as possible in order that employers of workmen may settle their disputes as far as may be without reference to outside authority; and since disputes probably must occur, we have endeavoured to arrange that they should be settled as rapidly and cheaply as possible. In a country so prone to litigation as India, I am quite sure that the House will realize the necessity for safeguards of that kind.

I have mentioned these three considerations because they inform the Bill through its every clause. The importance of going slow will be recognized in the classes which we propose for inclusion in the Bill, and in the scales on which compensation is to be paid. The Bill, as drafted, will cover only a small proportion of workmen in the country. The most important classes are of course those in factories, mines and on Railways. Some other classes have been included on the recommendation, in every case, of the Advisory Committee, but even so, the operation of the Bill will be confined to workers who are employed in the better organized industries and to workers who run more than the ordinary hazards of life. The scales of compensation of course are very controversial. There is inevitably a conflict of interest in this matter. But our proposals represent the unanimous view of our Advisory Committee that, on the whole, we have held the balance evenly between these conflicting interests. The influence of the factor of migration will be seen in the inducements which we offer to lump sum settlements, and in the fact that we propose to dispense with the necessity of proving dependence and in other features of that type. Lastly, our desire to avoid litigation and expense will be seen in almost every clause of the Bill. It will be seen in the definition of injuries, in the rigidity of our scales of compensation, in the method proposed for the calculation of wages, in the avoidance of vague phrases which appear in other Acts, such as "wilful and serious misconduct", and in a host of other details of that kind. What we have tried to do is to frame a Bill under which men without any expert legal knowledge, the employer and his workman, will be able to see for themselves whether in any particular case compensation is due and, if so, what that

compensation amounts to. It is for the same reason that we have proposed special Tribunals with a simple and inexpensive procedure. We hope that these Tribunals will not only settle disputes but will prevent them. This is a feature of the Act which commends itself much to our Advisory Committee. It is one to which we ourselves attach great importance ; in fact it is one of the central features of the whole Bill.

In Chapter II of the Act we have included just a few clauses which relate to employers' liability. These clauses will apply only to workmen covered by the rest of the Act. We have limited their application in this way because we have been advised that if we made these clauses of wider application, we should open the door to an entirely undesirable amount of litigation. The advantage of these clauses is that they do something for the higher-paid workman upon whom otherwise the rather low limits that we have set for compensation may operate hardly.

I will not detain the House longer. Before I sit down, there is one thing I should like to say. We do not regard this measure as a philanthropic measure ; on the contrary, we regard it as a sound investment. I hope and believe that if it is passed, it will confer great benefits upon Indian workers. But I also hope and believe that it will confer benefits on Indian employers. Employers in this House will bear me out when I say that one of their difficulties is that of obtaining a steady and adequate stream of labour. If this Bill does anything to remedy that difficulty, it will have conferred an advantage on the country at large. We hope also that the Bill will tend to increase the efficiency of Indian labour. A sense of security always makes a man do better work. In addition, one of the obstacles to efficiency is that fact to which I have already referred, namely the fact that the Indian industrial worker is, at heart, an agriculturist. After a short spell of industrial life, he always tends to drift back to the land. If this Bill increases the attractions of an industrial life, it will remove this obstacle to efficiency. And, finally, Sir, we hope that this Bill will not only provide for compensation for accidents, but that it will also tend to prevent accidents. This has been the experience in other countries, and I have not the slightest doubt that that experience will be repeated in India. If the Bill is passed in the first year or two after it has been passed there will be a nominal increase in accidents owing to better reporting. But as time goes on, as employers realize more and more that in their own interests they must make more and more adequate protection for their workers, I am quite sure that we shall find that the tale of accidents becomes yearly less. I ask the House, Sir, to accept the principle of this legislation. I admit that the details are controversial, but they can be considered later. I ask the House to recognize in this Bill an honest and carefully thought-out attempt to adapt to Indian conditions legislation of universal application.

I ask them to accept the proposition that in fairness to Indian labour we must attempt this legislation, difficult though it may be. And finally I hope that they will agree that the procedure which we are adopting is the procedure best calculated to ensure, not only that our proposals are fully criticised and fully canvassed in the country, but also that the progress of the Bill until it reaches the stage of law is expedited as



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much as is compatible with the careful, critical examination of its provisions.

I move, Sir, for leave to introduce this Bill :

**Mr. President :** The question is :

“ That leave be given to introduce a Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.”

The motion was adopted.

**The Honourable Mr. C. A. Innes :** Sir, I now introduce the Bill.

Sir, I move :

“ That this Assembly do recommend to the Council of State that the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 22 Members.”

I have ventured, Sir, to substitute 22 for 20.

The motion was adopted.

## THE COURT-FEES (AMENDMENT) BILL.

**The Honourable Sir William Vincent** (Home Member) : Sir, I move :

“ That the Bill further to amend the Court-fees Act, 1870, be taken into consideration.”

I explained in connection with this Bill when introducing it the other day that it really is a simple and uncontroversial measure, and I hope that the Assembly will have no hesitation in accepting this motion.

**Mr. J. N. Mukherjee** (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I beg to move an amendment :

“ That this Bill further to amend the Court-fees Act, 1870, be circulated for the purpose of eliciting opinion thereon.”

I shall very briefly state my reasons as to why I desire that this Bill should be circulated for eliciting opinion thereon. It was explained by the Honourable the Home Member that it was due to a mistake that the Court-fees Act, section 4 was worded in the way that it was. But on going into the matter a little further it seems to me, Sir, that there may be some room for doubt. Now the Allahabad Ruling to which reference was made, is, I think, the ruling which is reported in the last January number of the Indian Law Reports, Allahabad Series and a reference to that ruling will at once show to the Honourable Members of this House that, inasmuch as there was no Division Court in the Allahabad High Court that the confusion referred to in the ruling in question was created. I believe, Sir, that there are Division Courts in Calcutta, Madras and Bombay, and ordinarily every appeal in those

High Courts is expected to come up before a Division Court consisting of two or more Judges. I think the Honourable the Home Member will bear me out when I say that ordinarily a list is prepared in the Calcutta High Court, which used to be called "Appeal 50 cases." These are appeals of small value. This list is hung up, and nobody knows when the cases in such a list is to come on for hearing. But if some Judge falls ill, or for some other reason, two Judges can not be found for a Division Court, that list of cases is taken up at very short notice, by a single Judge, and then disposed of by him. At present, I believe the limit of the value of such cases triable by a single Judge has been raised in the Calcutta High Court to Rs. 1,000. The position of appellants so far as this class of cases is concerned is that if the Bill be passed he will have to pay court-fees again, *ad valorem*, upon an appeal which in the ordinary course ought to have been heard by two Judges, but which for no fault of the parties happens to be heard by a single Judge. Now, section 15 of the Letters Patent provides that if a single Judge disposes of these cases, a further appeal lies, and it has to be decided by two Judges. Therefore the House will readily see that the case in the Calcutta High Court is materially different from the case referred to in the Allahabad High Court judgment (43 Allahabad, page 13). Now, Sir, I am under the impression that such Letters Patent appeals are heard upon a memorandum bearing a two rupee court-fee stamp. I have written to the Secretary of the Vakils Association in the High Court of Calcutta as to the existing practice with reference to such Letters Patent appeals, but there has not been time enough for a reply. But my impression is what I have already stated. Therefore it will be seen that the appellant in such Letters Patent appeals will have to pay a further *ad valorem* court-fee for the fourth time. First the appellant pays in the original Court a full *ad valorem* court-fee; then in the first appellate Court; and again in the third Court the same full court-fee. And if there is a Letters Patent appeal owing, more or less, to fortuitous circumstances he will have to pay an *ad valorem* court-fee again for the fourth time. Now, Sir, my simple request to the House is that it may be in a position to consider the situation from the point of view I have taken up, and the Bill be circulated for opinion. A little delay in passing the Bill will not do any harm to anybody.

I refer to page 18 of the Indian Law Reports, XLIII Allahabad Series. I find that Justice Tudball there says "So far as I am aware no Division Courts have ever been constituted in this High Court" and he refers to section 108 of the Government of India Act, which says :

"Each High Court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges, of the High Court, of the original and appellate jurisdiction vested in the Court."

Therefore, Sir, the position so far as the other High Courts are concerned is somewhat different from that in the Allahabad High Court, and all that I ask the House to-day is to wait for a little longer. I do not believe in legislation in a hurry. Surely we can wait till November next, and then I presume there will be no difficulty in getting the Act passed, after opinion shall have been collected. My submission is that the House ought to obtain opinions from the High Courts concerned and then finally decide the question.

**Mr. President :** The original question was :

“ That the Bill further to amend the Court-fees Act, 1870, be taken into consideration.”

Since which an amendment has been moved :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The question now is that the Bill be circulated for eliciting opinion thereon.

**The Honourable Sir William Vincent** (Home Member) : Sir, I venture to suggest to this Assembly that the course proposed by the Honourable Member is entirely unnecessary. If I read for a moment the section as it stands and the section as it will be, I think this Assembly will agree with me that it is perfectly a simple amendment for which no circulation is necessary. Circulation takes time, labour and money, and finally when the Bill comes back here, once it is circulated, it will have of necessity to be referred to a Select Committee. Now, this is what the law is at present :

“ No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed or exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any cases coming before such Court in the exercise of its jurisdiction as regards appeals from the judgment of two or more Judges of the said Court or of a Division Court, unless in respect of such document there shall be paid a fee of an amount not less than that indicated by either of the said schedules.”

The section if amended on the lines suggested will be as follows :

“ No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by any of the said High Courts in any cases coming before such Court in the exercise of its jurisdiction as regards appeals from the judgments (other than judgments passed in the exercise of the ordinary original civil jurisdiction of the Court) of one or more Judges of the said Court.”

Why the Bill excepts appeals from decisions given in the exercise of the ordinary original jurisdiction is that fees in such cases are fixed by rules made by the High Court itself under section 107 of the High Courts Act. But it is a decision on a Letters Patent appeal, a judgment of Mr. Justice Tudball which has really made this Bill necessary. It is however stated quite clearly in his judgment that :

“ In the past, Court-fees have regularly been levied on such appeals from judgments of single Judges of this Court.”

And the Judge says later on :

“ For some reason unknown to me the word ‘ two ’ has been used and the Act does not cover the case of an appeal from the judgment of a single Judge under Letters Patent unless that single Judge constitutes a Division Court.”

Sir, Court-fees have to be paid on an appeal from a Division Court or an appeal from two Judges. It is only reasonable, I submit, that the same Court-fee should also be payable on Letters Patent appeals from the judgments of single Judges. These cases are not, generally speaking, of high value. Certainly in Calcutta the cases tried before single Judges used to be of low value. But there is no reason why if a man prefers an appeal before two Judges under the Letters Patent he should not pay the ordinary fee which every other appellant has to pay. I submit that to circulate a Bill which makes such a small change in the

law, a Bill which is intended really to bring the law in accordance with previous practice is quite unnecessary. The Judge of the Allahabad High Court himself says that he does not understand why the present wording has been adopted. I suggest therefore it is a waste of time to circulate this Bill.

**Sir Deva Prasad Sarvadhikary** (Calcutta : Non-Muhammadan Urban) : Sir, this plea of the Honourable the Home Member about a thing being so small and therefore having a right to be forced on brings back to one's mind a cartoon in one of the recent picture papers, which seeks justification for a person who had no right to have a baby pleading to her indignant mistress that the baby was so small. This scale of Court-fees has gone on for many years and all of a sudden the discrepancy is discovered and without ascertaining the views of the High Courts concerned, without ascertaining the views of the practitioners concerned, we are asked to agree to enhancement, because the measure is called "so small." Well, Sir, luckily, Letters Patent appeals have not been very frequent in Bengal because our Judges do their duty well. But, Sir, if you look at the other point of view, it makes really no difference in the revenue of the country. There need not therefore be this hurried legislation. If we expect something that would make up for our big deficits, then, there might be some reason in hurrying the measure. The plea for some delay in the interest of constitutional work on behalf of those who are actually engaged in the work and who do not happen to know all the facts of the case in every province ought not to be discarded, yet this unusual pleading is made by the Honourable the Home Member to pass the measure without circulation and without inviting the opinion as if it is an extremely emergent measure of the people concerned. We know circulation would cost money. But there is no reason why having regard to the objection of representatives of those who are engaged in the work this measure should be hurried. I therefore think that the amendment ought to be carried.

**Mr. T. V. Seshagiri Ayyar** (Madras : Nominated Non-Official) : I am sorry, Sir, to have to differ from my two Bengalee friends on this question. I do not think there has been any difference of opinion hitherto on this question. In all cases which has been decided by a single Judge it has been recognised that if there is to be an appeal there should be an *ad valorem* Court-fee. Until this judgment of Mr. Justice Tudball there has been hardly any doubt upon this matter. There is one other aspect which I would recommend to the attention of this House and that is this. There is a tendency, Sir, where cases have been decided by single Judges to prefer appeals, thereby delaying the finality of the judgment. While I was in Madras the High Court felt that this was a great abuse of right and we made certain rules by which we made it impossible for litigants to prefer appeals too often against judgments of single Judges, because they have a tendency of delaying the finality of judgments and of thereby defeating justice. Under these circumstances, Sir, having regard to the fact that this has been universally recognised as the right view, I do not see any necessity for this Bill being further circulated for opinion.

**Dr. H. S. Gour** (Nagpur Division : Non-Muhammadan) : I move that the question be now put.

**The Honourable Dr. T. B. Sapru** (Law Member) : Sir, as reference has been made to the practice of the Allahabad High Court, I think I may be permitted to explain one or two points. I believe it is not peculiar to the Allahabad High Court, but it is common to all the High Courts that the rules provide that the single Judge's jurisdiction is limited up to a certain amount so far as the pecuniary value of the appeal is concerned. About the Allahabad High Court, I may be supposed to know something. The rule provides that a single Judge is entitled to hear appeals of the pecuniary value of Rs. 500. (*Mr. T. V. Seshagiri Ayyar* : "In Madras too.") I am glad that *Mr. Seshagiri Ayyar* says that the same rule obtains in Madras. I do not know for certain what the rule in Calcutta is but my impression is that in Calcutta the jurisdiction of a single Judge extends to Rs. 1,000. Now, when you file an appeal against the judgment of a single Judge, you have got to pay, you had to pay at any rate until the decision of *Mr. Justice Tudball* was given, a certain amount of Court-fees. Now, when this appeal was filed against the judgment of *Mr. Justice Rafique*, Counsel in the Court raised objection that there was no provision of law authorising the demand of Court-fee upon an appeal filed against the judgment of a single Judge.

That is how the question was raised in the Allahabad High Court. The matter then went up to *Tudball, J.* *Tudball, J.*, claimed jurisdiction to dispose of this matter under section 5 of the Court-fees Act. Now, section 5 of the Court-fees Act provides as follows :

"When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter, and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any of the said High Courts, be referred to the taxing officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf."

I know that *Tudball, J.*, was the Judge under the orders of the Chief Justice, and therefore it went up before him. There is only one remark in the judgment of *Mr. Justice Tudball*, which I find it rather difficult to accept, and that is where he says that there are no Division Courts in Allahabad. As a matter of fact the rules provide that a certain class of cases may be heard by a single Judge, and a certain class must be heard by two Judges. I do not know whether the words "Division Bench" necessarily excludes the idea of a bench consisting of two Judges. I should have thought that, ordinarily speaking, a bench consisting of two Judges might be styled a Division Bench. I do not know on what ground *Mr. Justice Tudball* held that in the Allahabad High Court there were no Division Courts. I am not, therefore, prepared to subscribe to the view that there are no Division Benches assuming that a Division Bench means a bench of more than one Judge. Therefore the practice in the Allahabad High Court had been, until this decision was given, that Court-fees were paid on Letters Patent Appeals, just as there is the same practice in

Madras, which is borne out by a late Judge of the Madras High Court who is a colleague of ours in Council. I am not prepared to subscribe to the statement of Sir Deva Prasad Sarvadhikary, at any rate, so far as the Allahabad High Court is concerned, that Letters Patent Appeals are few and far between. So far as I know, these appeals have exceeded 100 in number, and have sometimes been in the neighbourhood of 120. I have not looked up the figures of other High Courts, but I venture to think that a substantial number of Letters Patent Appeals are filed in the Calcutta High Court also. If that is not so, then I can congratulate the Calcutta High Court. In every other High Court the number of Letters Patent Appeals is fairly large.

**Mr. B. N. Misra** (Orissa Division : Non-Muhammadian) : There is already a cry that litigation charges have gone very high, and the litigants themselves feel that they have to pay heavy expenses in law suits. The law provides second appeals to High Courts and generally in those appeals when a litigant comes he knows that he has to pay certain Court-fees. Because by the accident of some arrangement of the High Court certain appeals are heard by a single Judge, the necessity for Letters Patent Appeals arises. Of course the litigant never thought that by accident it would come before a single Judge, and not being satisfied with the judgment of that Judge, he would have to prefer another appeal and pay double expenses. I think the High Courts ought to remain satisfied with levying the Court-fees once and not expect payment of Court-fees twice from litigants, simply because of some arrangement whereby the case was heard by a single Judge. These second appeals are prepared simply because the client is not satisfied with the judgment of a single Judge in the lower courts. I think the High Court should not have these Letters Patent Appeals, or allow single Judges to hear these cases. The litigants had already paid in the lower court and were not satisfied, and expected better judgment by a Division Bench of two Judges sitting together. In such cases it is a mere accident that the case is heard by a single Judge, which was never anticipated by the litigant. I consider this payment of Court-fees a second time rather unjust. In such matters the case should be referred to the High Courts and to the members of the Bar, in order to ascertain their views. The simple fact that in cases heard by a single Judge the amount paid will be small is no answer to the question. (Formerly they were paying at the rate of 7½ per cent., while now it is increased to 11½ per cent.) Then also there is no guarantee that the case will be for Rs. 500, for different High Courts have different rules ; sometimes Rs. 1,000 cases may be heard by a single Judge. So in such cases it is necessary that the matter should be considered more properly by all parties concerned, and the Bill should be referred, as suggested.

**Mr. President** : The original question was that :

“ The Bill further to amend the Court-fees Act, 1870, be taken into consideration,”

Since which an amendment has been moved that :

“ The Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was negatived.

**Mr. President :** The question is that :

“ The Bill further to amend the Court-fees Act, 18'0, be taken into consideration.”

The motion was adopted.

**The Honourable Sir William Vincent :** I move that the Bill be passed.

The motion was adopted.

## THE PARSI MARRIAGE AND DIVORCE BILL.

**The Honourable Sir William Vincent** (Home Member) : Sir, I move :

“ That the Bill further to amend the Parsi Marriage and Divores Act, 1865, be taken into consideration.”

Sir, I explained the provisions of this Bill when introducing it on the 6th. It merely simplifies procedure under the present Act. Delegates to these Matrimonial Courts are human, like everybody else, even like policemen, and if one or two of them is forced to be absent from any hearing it is proposed that the trial should continue if a limited number of the delegates be present in Court throughout the proceedings.

I don't know if any Honourable Member thinks that this Bill should be circulated for opinion, but, if so, the only result will be to cause a great deal of inconvenience to the unfortunate Parsi litigants. I have, however, not received notice of amendments from anyone on this occasion.

I would point out also, as my Honourable friend Dr. Sapru says to me, that really a motion for circulation on this occasion may deprive unfortunate married people of obtaining much needed relief. There is only one other point I should like to mention. When the proposal first came to us, it was suggested that the Court was to proceed with the trial only if it was satisfied that a delegate was absent for good or sufficient cause. We have left that out of the Bill now as unnecessary because it is always left to the discretion of the Court to await the presence of any delegate if it thinks that necessary. I have no doubt that the Assembly will accept this Bill.

The motion was adopted.

**The Honourable Sir William Vincent :** Sir, I move that the Bill be passed.

The motion was adopted.

## THE OFFICIAL TRUSTEES AND ADMINISTRATOR GENERALS' ACTS (AMENDMENT) BILL.

**The Honourable Sir William Vincent** (Home Member) : Sir, I move that :

“ The Bill further to amend the Official Trustees Act, 1918, and the Administrator Generals' Act, 1918, be taken into consideration.”

I explained to the Assembly when I introduced the Bill that it was in my judgment of a formal character. It is designed to throw on provincial revenues now credited with receipts under these two Acts liabilities which, under the existing law, fall on the revenues of the Government of India under sections 15 and 39 of the two Acts.

I have received no notice of any amendment, and I trust that the Bill will be accepted by this Assembly.

The motion was adopted.

**The Honourable Sir William Vincent :** Sir, I move that the Bill be passed.

The motion was adopted.

### ELECTION FOR STANDING COMMITTEES.

**The Honourable Sir William Vincent** (Home Member) : Sir, I move :

"That this Assembly do proceed to elect in the manner described in the Rules published in the Home Department Notification No. F-49, dated the 22nd August 1922 :

- (a) a panel of six members from which the members of the Standing Committee to advise on subjects in the Home Department will be nominated ;
- (b) a panel of nine members from which the members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated ;
- (c) a panel of nine members from which the members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated ; and
- (d) a panel of six members from which the members of the Standing Committee to advise on subjects in the Department of Education and Health will be nominated."

On the 19th January last this Assembly adopted a Resolution recommending to Government to appoint Standing Committees which were to be associated with different Departments of the Government other than the Army and the Foreign and Political Departments. I do not want to go into the merits of these Committees again. I pointed out then the difficulties that I thought would arise, but it has now been decided, in deference to the wishes of the Assembly, to appoint Committees for certain subjects to be attached to different Departments and to advise on particular points. It is a distinctly new, constitutional development, as the meaning is that the Legislature, instead of exercising its influence over the Executive by means of questions, Resolutions or other debates in this Assembly, will be able to advise them on the action which they are to take on major questions of policy if those questions are referred to the Committee. I know that His Excellency himself devoted a great deal of time to the consideration of this question and the result of our deliberations is expressed in the Rules which were published on the 22nd of August last. The functions of these Committees will necessarily be advisory. I believe that copies of the Rules which were published have been circulated to all the Members and so I need not explain them. The intention is to have a Committee of 5, three being selected from a panel elected by this Chamber and two from a panel elected by the Council of State. The number of persons on the panel varies for different Departments but in the Home Department



[Sir William Vincent.]

the total number will be 10. The different Departments have chosen slightly varying figures for the numbers of their panels, but I do not attach any importance to this. In any case I think myself that a panel of the numbers I have described is sufficient for the Home Department. The duties of the Committees are as I have said fully described in the Rules to which I adverted, and I think I should only be wasting the time of the Assembly if I put them before them again. They follow very largely the rules adopted in Bengal, where, I am informed that the Committees have done very useful work. We are well aware, and I want to ask Honourable Members, particularly those who propose to stand or to allow themselves to be nominated for these Committees, to remember, that these Committees will make a very great call upon the time of Honourable Members. I must also say that, so far as the Home Department is concerned, it will be impossible for us to have Committees sitting for any length of time during the Sessions. I believe that Honourable Members will appreciate the reason for that, because really, in the Home Department, during the Sessions the work is overwhelming, and on top of that we have to attend a number of Select Committees on Bills, to which, indeed, we find it very difficult to attend. Of course, I shall not be here, but I cannot but anticipate that my successor will find the same difficulty of attending Standing Committees during the Sessions. I believe therefore, that it will be impossible for the real work of these Standing Committees to be done during that period, though we might in the slack times have some meetings, whether the Assembly was sitting or not. Sir, whatever my fears and apprehensions about these Committees were, we shall be very glad to have the advice of members who may be appointed to them, and we trust that this change will be of great educative and informative value to the Members of this Assembly who are appointed to them.

**Mr. P. P. Ginwala** (Burma : Non-European) : Sir, it occurs to me at times that some evil spirit possesses the Honourable the Home Member (Cries of "No, no") which prompts him to acts which destroy the peace of mind of many Honourable Members of this House. (Laughter.) (*The Honourable Sir William Vincent* : "I am sorry.") Sir, since this motion has been announced, my life has been rendered intolerable. A pack of hungry aspirants to membership of the Standing Committees have followed me from the House to the Lobby, from the Lobby to the Smoke Room, from the Smoke Room to the Library, and from the Library back again to the House, and, I have promised frankly all my votes to all the men who have approached me. And in that way, I have reserved to myself the right to make my own selection, because it is impossible for me to fulfil these promises which have been so abundantly given by me, besides, it is my practice never to deny anything to anybody who asks me when I know that he is not entitled to it. (Laughter.)

Sir, I will just give you one or two illustrations of the kind of claim that is put forward. One Honourable Member said he wanted to be on all Standing Committees. I said "What is your qualification?" He said "I know nothing about any subject." But he said, "I want to be on all these Standing Committees so that I may get acquainted with all subjects. Then when I know sufficient about all of them I shall select some of them." Another Honourable Member said he wanted to be on the Home Standing

Committee. "Oh," he said, "the Honourable the Home Member is now retiring" (loud laughter) and he said he ought to have practical experience of that Department in order that when he gets this office he may be more serviceable to the House. Well, Sir, I told him that his claims were very great and that he need not acquire any special knowledge by being a member of the Home Committee.

I understood that the object of the Resolution, moved, I think, by my Honourable friend, Mr. Neogy, was that opportunity should be given to Honourable Members to get intimately acquainted with the details of administration so far as they affect its larger principles. I was personally opposed to it. I saw no distinction between this Resolution and another Resolution about the appointment of Council Secretaries which I also opposed,—the only difference being that in this case there is no suggestion of payment while in the other case there was. If it is the object of this Resolution to give an opportunity to Honourable Members to learn the practical aspects of administration, I submit that a system should be devised by which only such men are elected who, if they are given this opportunity, would improve by their experience. I am not a great believer in any system of election, for committees. I offend against the first principle of democracy, no doubt; but I object to the single transferable vote on an occasion like this, because it does not lead to the selection of the best men from the House. (Hear, hear.) I can name half a dozen Honourable Members of this House of whom, I think, I am right in saying that though the House has the highest opinion of their abilities, not one of them will be elected. Now, Sir, I say that is a condemnation not only of the system but of the commonsense of the House.

Sir, what does the Honourable the Home Member want election for? Has not he taken measure of everyone of us here? We have been here eighteen months, and if he has not learnt the worth of each individual Member with whom he has come in official or other contact, I do not think he would have remained in office for so long a time. He knows very well how each Member of the House is qualified. He knows very well from whom he can obtain assistance, and he knows very well whose experience will be of use to him. But somehow or other an evil spirit has possessed him and he does not want to make any use of his own knowledge as to the respective qualifications of different Members of this House. He is like those mariners in danger, of whom we have read and who when they were followed by the Leviathan, threw a tub and whilst the Leviathan wrestled with the tub, ran away into a safe harbour. I think that the Honourable the Home Member in coming forward and asking us to elect a panel of members for nomination to the Standing Committee, is acting precisely on this principle.

Of course he will want to know what I wish to substitute for it. But as I have said many a time, I do not think it my duty to make any constructive proposals, so long as I sit here below the gangway. It is our duty to criticise the Honourable the Home Member and his Colleagues, it is for them to make constructive proposals therefore. On this occasion, I have no proposals to make except this one, perhaps, that I hope the Honourable Member will withdraw his motion and use his own intelligence and his own experience in selecting his men.

[Mr. P. P. Gihwala.]

I have done with the general aspect of the question. I am very loth to strike a provincial note in an All-India Assembly. There is only one occasion when, I think, an exception may be made, and that is when the interests of one Province come into conflict with the interests of other Provinces or are likely to be ignored by the other Provinces. And in this connection I would like the Honourable the Home Member to tell me whether if any proposals come from my Province they are going to be put before any of these Standing Committees, because if they are, I protest against it. Neither this House nor the Government—I say it without meaning any disrespect—knows anything at all about Burma. If any Honourable Member either sitting on the Treasury Benches or in any other part of the House questions my statement, my humble request is that he do stand on the floor of the House and submit himself to a cross-examination by the Honourable Member sitting in that corner (Mr. Arbuthnot) who officially represents Burma here, and the House will soon be convinced that the Honourable Member has an exaggerated idea of his own knowledge.

**Mr. President :** Order, order. I do not see the relevancy of the Honourable Member's remarks.

**Mr. P. P. Gihwala :** Sir, I am pointing out that if any proposal coming from my Province is to be laid before these Standing Committees, I protest against it, because I feel that nobody takes any interest in any matter coming from Burma and it will not receive that attention which is its due. I may point out to the House that I do not want to be on any of these Committees myself, because I do not believe that much useful work will be done by them or that I have any time at my disposal to devote to the work of these Standing Committees. To that extent, Sir, I am free to speak as I like. But my point is this, that Burma is a Province in which nobody in this House is taking any special interest, and of which nobody has got any special knowledge, and that therefore any matter coming from Burma should not be laid before these Standing Committees. I will give you one or two illustrations of this from what took place yesterday, when we had to consider Dr. Gour's two Bills, the Civil Marriage Bill and the Adoption Bill. Those Bills were to be made applicable to the whole of India. They were going to affect the personal law and the status of the whole population of India. Burma has got a peculiar law and has got peculiar conditions, but I did not see that any Member from Burma was proposed on either of these Committees. There could be no more suitable person to represent Burma on those Committees than the official Member who comes from Burma ; because my Government, whatever its faults may be, always sends up its ablest officers to this Assembly. (Hear, hear.) The Honourable Member who is here is the Financial Commissioner of Burma. The last Honourable Member who was here has now succeeded him as Financial Commissioner, an officer only next to the Lieutenant Governor himself ; and if there is any problem likely to affect Burma, I do not see how in fairness you can exclude him from any of your Standing or Select Committees.

In conclusion, I want the House to remember both aspects of the question in making their selections, and I want the Honourable the Home

Member also to bear in mind what I have stated now. I have not, I hope, spoken in any bad humour, but I have thought it my duty to make it clear to the House that in making these appointments they must have in view efficiency in preference to the representation of provincial, sectarian or communal interests.

**Mr. B. Venkatapatiraju** (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : Sir, I am not sure whether the Honourable the Home Member is possessed of the evil spirit, but I am quite certain that our Whip has been possessed of the evil spirit. His speech, though amusing was not edifying, and we expected him in these days of democracy to give some credit for the judgment of the audience, of the Members. If we have no respect for them, you cannot stand on a platform and say, we want democracy and we want also Swaraj for our country. (Hear, hear.) If the Honourable Mr. Ginwala has no confidence in any possible selected committee to look after the interests of his Government, the only way for him is that he should bring to the notice of Members of the Assembly proper persons to represent Burma and safeguard its interests. It is too late in the day for any member either on this side or on the other side to question the propriety or the reasonableness of election in these matters. Moreover, this House has already committed itself in favour of the Resolution that all should be elected, but the Government have chosen the course of having a panel out of which they want to select. Mr. Ginwala wants to curtail even that. I am sorry that he should have said anything which throws any aspersion on the reasonableness or the commonsense of the Members. I hope he won't repeat it.

**Rao Bahadur T. Rangachariar** (Madras City : Non-Muhammadan Urban) : Sir, when my Honourable friend behind me rose to speak, I thought he had the programme before him and finding that it was a short programme and would give us only probably two hours' work and leave us free for the rest of the day he thought he should throw in some work so as to keep us here all the day. That is how I interpreted the remarks when he began. I was amused, delighted, inclined to laugh as the rest of the Honourable Members did, but when he warmed up with his theme I thought that he had caught the contagion from his neighbour and had begun to sit in judgment not only on this House, but also on the House of Commons, on the Joint Committee, on the great men who contributed to the framing of the constitution, on the sections of the Government of India Act, on a former vote of this House, and Sir, I do not know whom else he had in view. It appears to me that we should not take him seriously just now. He has come from Burma, I quite admit I do not know it and I did not realise till this moment that Burma could have such an effect, that a few years' association with Burma could have such an effect on my Honourable friend behind me. Well, he has no objection to Honourable Members on the Government Benches. I do not think that any of them fulfil the qualifications which my Honourable friend would want with regard to persons who had to deal with Burmese questions. He has no objection to their dealing with great and mighty questions which may affect Burma. His objection seems to me, to us, poor unfortunates, who do not occupy the Treasury Benches. Probably that is a reason for cutting off Burma from India. (Mr. P. P. Ginwala ;

[Rao Bahadur T. Rangachariar.]

“Cut it off.”) We shall be mutually glad. Sir, this is a very important matter indeed, and I am glad that the Government of India have acceded to the request of this Assembly that Standing Committees should be constituted in order to assist the various Departments, and I am also satisfied that they have chosen the only reasonable course that they could have adopted in this matter. They have to trust to the judgment of this House. After all, no one person can claim the monopoly of wisdom. You have to trust to a number of people and their judgment which is indicated by the vote they cast. I am sorry the Honourable Member made fun of the people who asked him for his vote. I am glad that so many people are anxious to do work for the country, are anxious to spare time and associate themselves in the work of the Government of the country. I had thought that people would have hesitated to stand but when I find so many people ready to come forward, I consider it a happy augury for the self-Government of this country. I therefore congratulate those members who are really ready to stand. I do not look upon it with any derisive spirit and I therefore welcome so many candidates who are really in the field. I therefore gladly commend the proposition of the Honourable the Home Member to this House. The only interesting portion of the speech of my Honourable friend behind me is the one relating to the introduction of the Honourable the official Member from Burma, and we are glad to welcome him and be proud of him with such introduction.

**The Honourable Sir William Vincent :** Sir, I can only express my great regret for having caused any pain and sorrow to the Whip of the Democratic party. (Laughter.) I think he does me some injustice in ascribing this to any evil spirit or even to any evil intention. But I must say that I was a little surprised to hear from a leading Member of the Democratic Party,—I remember the name—sentiments than which anything less democratic I have seldom heard from the most sun-dried bureaucrat. (Laughter.) Sir, there was another thing which the Honourable Member said that attracted my attention, and indeed caused me further regret. That was the reference to this unfortunate Member who is only waiting for me to leave India before he enters the Standing Committee in the Home Department. Sir, I should like to have the Honourable Member's name in order that I may apologize to him for staying on so long and, even now I will gladly remove myself in order to make room for Mr. Ginwala's nominee.

Sir, in proposing this method of selection adopted in this Resolution, I, as on previous occasions, was under the mistaken impression that I was meeting the wishes of every Member of this House. I had no particular fancy for this method myself. Mr. Ginwala's democratic suggestion that the Home Member should choose all the Members of the committee would suit me quite well, and indeed I will say this that when the Government have nominated persons to committees, Mr. Ginwala and others will admit that we have never failed to recognise the merits of the leading Members of this Assembly. But what was the result of our nominating men? Every member of this Assembly knows, those fortunate people, really fortunate if they only knew their own good fortune, who are not

selected—come up and complain, “ Why should this Government always put on Mr. Rangachariar on the Committee, why should this Government always select Mr. Jammadas, Mr. Harchandrai Vishindas, or Sir Sivaswamy Aiyer ? ” It is to avoid accusations of that kind that I suggested this particular method of securing Members of the Assembly. There was another method which did suggest itself to me, and that was that I should get the Whips or the Leaders of the two main Parties in this Assembly to nominate persons and that is a proposal worthy of consideration on a future occasion, but then, too, there is this difficulty, that there are a number of Members who do not belong to any party and they can not be excluded entirely from sharing in the work of this Assembly because they have not joined Mr. Ginwala’s Democratic or any other Party.

But if the Honourable Members really feel that it does not want these committees and does not like this method of appointment it is quite open to the House to say so and if they reject this vote I for one shall not lose any appetite on that account, nor should I pass a sleepless night even if there were no Standing Committees at all. Mr. Ginwala said that this is a very unsound way of appointing members of the Committee, but admits he has no constructive proposal as an alternative. Now, I want to put it to this Assembly whether this is going to be the attitude of Members of this Assembly in future ? Are they going to confine themselves purely to destructive criticism ? Is it a very wise line for a growing new Legislature to take up ? Is it not possible that the Assembly will expose itself to a good deal of criticism if it accepts this view in places where the work done by this Assembly is not perhaps properly appreciated. A man like Mr. Ginwala, who is the Chief Whip of that organisation, the Democratic Party, comes forward and says : ‘ I do not like this method of selecting Members but I have no constructive proposals to offer.’ Does that augur well for the reputation of the Party of which he is a guiding spirit ? And now, Sir, I come to this question about Burma. There must be always great difficulties about Burma, but if the Honourable Member has such a strong feeling about Burman affairs, perhaps he will consent to sacrifice some of his time and personal convenience to serve on some of these Committees : If so, I am quite sure that Members of this House will elect him at once. Is he willing to do that ? There is no reply and a curious silence. Here is a man with the interests of Burma at heart, irritated at the Members of this House and the Members of the Indian Government for their lack of interest in Burma. Now, let us give him an opportunity of coming forward and assisting us. I understand the Honourable Member is himself not a Burman at all. Why then is there want of faith in fellow-Indians and fellow-Parsis in this Assembly ? Are they entirely wanting in wisdom or general experience as regards Burma questions ? I will however bear in mind what the Honourable Member has said so far as the Home Department is concerned when these Committees come to sit and will consider very carefully whether we should or should not put before the Standing Committees questions relating to Burma which are dealt with by the Home Department, for in the Secretariat we are at a great disadvantage in dealing with these Burma questions and there is really a great deal of truth in this respect in what Mr. Ginwala said. We endeavour to remedy this defect by associating in the Secretariat a limited number of officers from Burma

{Sir William Vincent.}

whom we do consult when these questions come up before us. I do not pretend, and no member of this House can pretend, to any personal knowledge of the conditions in Burma, but we are generally guided by the Burma Government in examining these questions. The difficulty of securing expert advice on Burman affairs on a Committee of this kind is the fact that we cannot get a gentleman from Burma to attend and if Mr. Ginwala himself is unwilling to attend and will suggest any non-official member, because the essence of these Committees, as I understand them, is that they should be non-official, who will serve on the Committee, we shall welcome his assistance.

**Mr. President :** The question is :

“ That this Assembly do proceed to elect in the manner described in the Rules published in the Home Department Notification No. F-49, dated the 22nd August 1922 :

- (a) a panel of six members from which the members of the Standing Committee to advise on subjects in the Home Department will be nominated ;
- (b) a panel of nine members from which the members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated ;
- (c) a panel of nine members from which the members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated ; and
- (d) a panel of six members from which the members of the Standing Committee to advise on subjects in the Department of Education will be nominated.”

The motion was adopted.

**Mr. President :** I have to announce that as a result of the decision just come to by the Assembly nominations for the Committees will be received by the Secretary up till 11 o'clock in the morning of Friday, the day after to-morrow. The first two elections for the Home Department panel and the panel for the Departments of Commerce and Industries will be held in this Chamber on Monday at 4 o'clock and the other two elections will be held in this Chamber on Tuesday at 4 o'clock.

In making nominations, the rules require that the name of a candidate should be proposed by a member or members. There is no need that the candidate should be seconded.

## RESOLUTION *RE* COMMITTEE ON ELECTORAL RULES.

**The Honourable Sir William Vincent** (Home Member) : I move that :

“ This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the Electoral Rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers.”

It will be remembered that when the Joint Committee sat on the Government of India Bill, they stated that they were of opinion that the franchise as settled by the rules to be made under this Act should not be altered for the first ten years and that it should at present be outside the



power of the Legislative Councils to make any alterations in the rules. The Committee, which this Resolution, which I have had the honour of moving, suggests, will deal not with the franchise but with the electoral machinery which was set up in the rules applicable to the various Chambers. The Government of India Act actually became law, I think, on the 23rd September 1919 and, only after that Act was passed, was it possible to settle what the final form of the electoral rules should be. Some of the rules were possibly framed in haste, as there was need for great expedition in the matter. Experience in working them has shown difficulties and even defects. The rules were in fact, if the use of the word is not prohibited, an experiment, an experiment of a novel character in many ways in this country and therefore on this account at least changes of those rules may be thought desirable and permissible where inconveniences have arisen. I do not want to take the Assembly into the details of this matter but I will just cite one or two instances of points that have arisen and caused difficulty. Rule (4) says :

" If any person has been a candidate or an election agent at an election..... and has failed to lodge any prescribed return of election expenses.....he shall not be eligible for election for five years from the date of such election."

Now, we want to examine again how far this provision should apply to an election agent. There are other rules in regard to which inconveniences have arisen and the election inquiries which have been held throw a considerable amount of light on this subject and will assist us in revising the rules. Another point that has been raised is the question whether a candidate for election should not be made to make a certain deposit before he is nominated, before he stands for election in order to prevent bogus candidates from putting themselves up for election when they really do not intend to stand and also to prevent men putting themselves up for election by a number of constituencies when they have no intention whatever of proceeding to election. I do not want to pre-judge that matter or to offer any opinion. It is a very important matter and involves questions of legal interpretation which are also difficult. Now it is impossible to say when the next general election to this Assembly will take place, but it cannot, in view of the provisions of the Government of India Act, be on a date very far removed from the 1st January 1924. I do not profess to have any knowledge as to the exact date ; it must be some time, I should think, before that. The electoral rules under the Act and any amendments made in them under the provisions of section 129 will have to be laid before Parliament either before or after they are made, and they will certainly require to have the approval of the Secretary of State. Then, again, there are subsidiary regulations which are made under the rules, where there are difficulties in working them, those regulations are made by the Local Governments. The regulations cannot however be revised, until the rules have been put in their final shape ; that is, the revision of the rules must precede the revision of the regulations, and even then the local authorities will have a great deal of work to do in revising the electoral rolls. I mention these points because I think it will be clear to Honourable Members that it is essential that the Governor General in Council, who is primarily responsible for these rules, should decide as quickly as possible as to what changes are necessary. Prior to making this motion we consulted Local Governments on changes which they might suggest, and we have collected



[Sir William Vincent.]

their opinions, and have had them examined by an officer who has made a speciality of election work and who really has expert knowledge on the subject,—the Honourable Mr. Hammond, now a Member of the Council of State ; and now we should like, before forwarding our recommendations to the Secretary of State, to have the advantage of the opinions of selected Members of this Assembly and of the Council of State on the proposed changes ; on this occasion we propose to adopt the method of appointment suggested by Mr. Ginwala, that is Members will be nominated by the Government. It is quite clear that Members of the two Chambers have a great interest in this matter and possibly some of them, practical experience, of the difficulties which occur under the rules, and we think that their assistance will be of the greatest value to us. We do not propose to put any official Members on to this Committee. I think I have now said all I need say on the main motion. I propose, with your permission, Sir, to address any remarks I have to the Assembly on the amendments at a later stage.

**Mr. President :** Resolution moved :

“ This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the Electoral Rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers.”

**Mr. K. B. L. Agnihotri** (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I beg leave to move an amendment to the Resolution moved by the Honourable Sir William Vincent. My amendment is to substitute the words “ including the ” for the words “ apart from ” in the last-but-one line of the Resolution. The Honourable Sir William Vincent has pointed out that there are some defects in the rules which require to be removed ; and this Resolution no doubt is welcome as our experience also shows that there are many defects in the rules which require to be removed very early. But my object in moving this amendment is to authorise this Committee to examine and report on the questions of franchise and constituencies as well ; there are many anomalies that exist in this matter at present. The Home Member has pointed out that the questions on franchise and constituencies cannot be changed within ten years, as reported by the Joint Committee of Parliament. I may for the sake of argument accept it, but can it be said that the anomalies also could not be remedied in the interim ? What I request is that at least the anomalies which create hardships and injustice in matters of franchise should immediately be removed. I shall give one or two illustrations to point out the anomalies.

The franchise has not been extended to certain areas, for instance to Scheduled Districts ; and the constituency which I have the honour to represent in this House has got a large area known as the Scheduled District, particularly in the Bilaspur District. All the Zamindaries in that district and in Raipur and Drug districts are included in the Scheduled Area. The Zamindaries are the same as Talukdaries of the United Provinces. One of the villages in Bilaspur which is in the midst of the Zamindaries and which now by accident happens to be the headquarters of the tahsil of the district has got that franchise extended to it, while all persons in the

area all around that village in about 50 miles radius have not got that franchise, though the people of the surrounding tract are as well advanced, if not better, and are as literate, as the people of that village. Further the people inhabiting the area through which the railway line passes have got this franchise, but those in the area beyond the railway boundary have not got that franchise ; for instance, take the railway stations in that district, such as Champa Kota, Pendra Road and others, the people who are living in the railway quarters have got the franchise but those outside have not. The persons occupying the railway quarters, in the Native States too, have got the franchise, while the British subjects in British territory but beyond the railway boundary have not been enfranchised. These stations, being railway stations, have naturally attracted people from other parts of the country, for instance, Bengal, the United Provinces, Madras, Bombay and big cities. These railway stations have in a way become big trade centres for the forest produce and even for other produce of the districts. These people in their own provinces have got the franchise, and I do not understand why, when they have shifted for trade and business to these places they should be deprived of the franchise which is given to them in their own provinces. These, therefore, are such anomalies as may easily be removed.

Now take the case of the taluqas of Chandrapur and Padampur ; by some accident these taluqas are included in the Scheduled District area. They are in the open country and are not situate in the hilly tracts ; the people are not so backward, and are not so undeveloped as not to be enfranchised ; on the other hand, these places form part of the most developed portions of the Bilaspur district. Still the people of these taluqas have not got the franchise. This matter was raised in this Assembly by the Honourable Mr. Pyari Lal Misra by means of questions, and the Government of India promised him, in reply, that they will consider the matter if they were moved through the Local Governments. If we authorise this Committee and do not restrict the scope of the inquiry of this Committee, it is probable that this Committee would recommend and report to the Governor General to extend the franchise to such areas which are in an anomalous position at present. Therefore, I submit that though the general question of franchise may not be considered or may not be put within the jurisdiction of the Committee, at least such anomalous questions of franchise may be put before them so that the anomalies may be removed. With these words, Sir, I commend my amendment for the consideration of the House.

**Mr. J. Chaudhuri :** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I have given notice of an amendment which reads thus :

In the 4th line for the words " apart from " substitute the words " including such " and at the end of the Resolution add the words " as the Committee may deem it proper to consider. "

I do not wish the Committee to go into the questions unless I can make out a good case for them to go into. The reason why I have given notice of this amendment is that I gave notice of a separate Resolution which I find has been admitted but has not yet reached the ballot stage. Instead of waiting for my Resolution, as the Honourable the Home

[Mr. J. Chaudhuri.]

Member has already brought in an analogous Resolution for the amendment of the electoral rules, I thought it fit to put in an amendment to his and abandon for the present my original Resolution. But still, for the information of the House, I will read my Resolution, which runs as follows :

" This Assembly recommends to the Governor General in Council that a Committee be appointed composed of Members of the Legislative Assembly representing the different Provinces and Presidencies to re-arrange the constituencies for the return of members to the Legislative Assembly at the next general election in such manner that at least every Commissioner's Division in such Presidencies and Provinces, and, where there are no such Divisions, similar areas by reference to the electoral rolls, may be adequately represented in the Assembly, and for such purposes, if necessary, the number of elected members be increased, maintaining the statutory proportion of the elected and non-official nominated members as provided in section 63-E. of the Government of India Act."

The reason why I wish that the Committee should go into the question of franchise and re-arrangement of the constituencies is that section 63-B of the Government of India Act gives power to the Government of India to increase the number of elected members of this House. We all want a progressive constitution and I think it is a great shame that the whole of India should be represented by only 100 members in this House. I do not wish to rush the Assembly, but I would like to point out how certain portions of India are very inadequately represented. Before I do that I may read to the House section 63-B, which is in these terms :

" 63-B. (1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred :

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members."

That is, for every 100 elected members there shall be 40 nominated members of whom at least a third shall be non-officials. The Act only says that this proportion may not be altered. If we raise the number of elected members from one hundred to two or three hundred, we shall have to raise the number of nominated members proportionately, that is, 40 nominated members for each 100 elected. I do not wish to go into this large question at present, but I shall point out how some very large and important portions of British India are very inadequately represented. Before I do so I repudiate the suggestion that has been made by the Honourable the Home Member that it is not competent for this House to go into the question of franchise, because the Joint Committee has expressed the opinion that for the next 10 years the question of.....

The Honourable Sir William Vincent : May I rise to explain, Sir, that I never said in any way that it was improper or incompetent for this House to go into the question of franchise. I merely pointed out that the Joint Committee had made a particular recommendation and therefore the Government were not justified in raising the question ; I did say

that this House could not alter the rules because those rules are made by the Executive Government though of course this House has every right to attempt to influence them.

**Mr. J. Chaudhuri :** No doubt the Government of India make rules, but it is competent for this House to make recommendations. It was the Honourable the Home Member who said I think about this time last year with regard to the Reforms, that they could not be regarded as the laws of the Medes and Persians. But apart from that, an expression of opinion by the Joint Committee, although entitled to respect, is not binding on us and is not binding on the Government of India. I do not agree with my Honourable friend Mr. Agnihotri that, because the Joint Committee has expressed an opinion, the question of franchise should not be gone into and that we should accept their *obiter dictum* with bowing and nodding heads. It is quite competent to us to make recommendations.

I shall now give specific instances to show how under the scheme of reforms various parts of India are most inadequately represented. The Honourable the Home Member recently referred to the Reforms as an experiment. I have myself wondered at times why there has been such a flutter in all the political dovecots, small and big, all over India, in regard to the word 'experiment'.

I regard the reforms as an experiment, and as a very unsatisfactory experiment too. For instance, I shall convince you by one instance how imperfect the experiment is. I happen to represent two Commissioners' Divisions in this House. One is Rajshahi Division, which, I need not remind the Honourable the Home Member, extends from Darjeeling down to the Ganges, from north to south, and then from Malda to Rungpur, *i.e.*, from the borders of Behar to Assam, from West to East. Rajshahi Division itself in all conscience is big enough. It comprises of 10 districts. It has a population of 10 millions of people; and over and above that, another Commissioner's Division has been tacked on to it, namely the Chittagong Division to form a single constituency. My constituency thus extends from the Himalayas to the Bay of Bengal. (Laughter.) Of course I am thankful to the Government of India that they did not expect me to join the Mount Everest expedition as a preliminary to the next election. They have left Darjeeling out of my constituency. But still I have to go into the deep sea for getting my votes. My Honourable friend the Home Member might ask what is the difficulty in these days of aviation. I am quite conscious that I could not visit my constituency in a couple of years, or three years, without the help of an aeroplane. But my Honourable friend knows how the aeroplane expedition which started from England, came all the way to Calcutta and then attempted to cross over to my constituency, came to grief over it and then ended in a disaster. After that, I hope my Honourable friend would not suggest that I should resort to a sea-plane or any aeroplane for going round my constituency. But apart from chaff, I seriously say that my constituency which comprises of the Rajshahi and Chittagong Divisions extends from the Himalayas to the seas and there are 16 millions of people there. The population of Bengal is 45 millions. So the population of my constituency is at least one-third of that of the whole of Bengal.

**The Honourable Sir William Vincent :** What about the Muhammadan voters ?

**Mr. J. Chaudhuri :** I represent the non-Muslims. My worthy friend Mr. Kabeeruddin Ahmed represents the Mussalmans, not of the whole constituency but only a part of it, that is Malda and Jalpaiguri, the districts of Dinajpur and Rungpur, intervening between them. The way in which constituencies in Eastern Bengal have been arranged is very curious. Rajshahi Division which comprises of 10 districts has been tacked on to Chittagong which comprises of 6 districts ; and between the two is sandwiched the Dacca Division, the constituency of my Honourable friend Mr. Neogy, just as he is now sandwiched between myself and Mr. Venkatapatiraju. I have to go by rail and go down the Ganges towards the sea by steamer and get to Chandpur, the famous place, known to all, through last year's non-co-operation and Assam labour movements. Then I proceed to Chittagong by rail and from there to Cox's Bazar, have to undertake a voyage. My Honourable friend the Home Member reminded me that I represent only the Non-Muhammadans. But the number of Non-Mussalmans in these two Divisions amounts to nearly 6 millions. The population of Rajshahi Division is 10 millions, out of which 6 millions are Muhammadans, and roughly speaking, 4 millions are non-Mussalmans. I represent the Non-Mussalmans of Chittagong also. The population of Chittagong Division is 6 millions, out of which I represent the Non-Mussalmans who are 2 millions. I have a very cosmopolitan constituency, in which there are about 1,50,000 Buddhists. There are in Chittagong a large number of Christians also, descendants of old Portuguese settlers. I am very proud to represent that constituency which consists of such diverse races, creeds and religions. I am the sole representative of this vast area. The whole of my constituency is about 30,000 square miles in area, which is the same as that of Scotland and there is but one member. It is three times the size of the native land of the Premier, Mr. Lloyd George, and of the Home Member, I mean Wales. Our Home Member is in very good company. But to turn to facts the area of Wales is 7,000 square miles. Even if the highlands of Rajshahi and Chittagong Hill tracts are excluded, the area of my constituency comes to 24,000 square miles. For all the people living in that area, Hindus, Buddhists, Christians, Animists, I am the sole, proud representative. Now I believe I have convinced this House that the reforms are far from perfect and that if it is an experiment, it is a very poor experiment, and that it behoves every member of this House to see that the powers that we possess under the Government of India Act is speedily enlarged. The strength of this House should be so increased as to give it a more representative character. I do not propose any drastic changes. The Honourable the Home Member says in his Resolution " apart from other questions affecting the franchise and constituencies." My amendment amounts to this. I want to leave it to the discretion of the Committee which will be appointed to consider whether they will go into the question of franchise or constituency at all. If they so desire they may give relief to the hard cases like the one I have mentioned. I do not want to turn the reforms topsy turvy all at once. What does section 63B of the Act say ? If you increase 5 non-official seats you will have to increase two nominated seats, the proportion being 100 to 40. So, if I can convince the Committee, which is to be appointed, that it is very unfair to give one member to the Rajshahi

and Chittagong Divisions, to give one representative to 6 millions of Non-Moslem people, then they may go into the question and split up the constituency into two. That will not bring about a revolution.

His Excellency has said, we have to progress by stages ; but we must be convinced that we are progressing at all. If we progress at the rate of a snail's pace, our patience will be tired. I would ask Government not to tire the patience of the people, and deny to us the progress contemplated under the Proclamation of 1917. We welcomed last year the assurance given by the Honourable the Home Member that the Government of India would not put us off till ten years expired. I have put before you a very typical case, and I hope I shall get the sympathy of the whole House in support of my amendment.

I shall conclude by appealing to the House, quite apart from this question, that unless you avail yourselves of the powers that have already been given to you under the Government of India Act, the cause of Reforms, of Dominions self-Government in this country, will never progress. You should all be jealous of protecting your existing rights and privileges and of securing the rights of equal citizenship in the British Empire by your own exertions. Unless you strive for it, you can never expect that the Government of India, or the British Parliament will ever bring it as a ready-made cake before you and ask you to eat it. You have to demand it, and if it is denied you have to exert yourselves in right earnest to secure it. I appeal to the whole House to be vigilant about their rights and liberties, and to make every effort to wrest them from the Government of India or the Home Government.

**Mr. K. Ahmed** (Rajshahi Division : Muhammadan Rural) : Sir, the matter is very simple, but my friend from the Rajshahi-Chittagong Non-Muhammadan constituency has been travelling too far. I am sorry for the disappointment he met with that he could not join General Bruce's party in the Himalayan Expedition. I know that from the Darjeeling district people who accompanied the party about half a dozen of the Bhutias were buried in the snow on the mountain and if my friend had joined the Expedition he would have met with the same difficulties as the Bhutia coolies did. However, Sir, we are pleased to find him in our midst and it is a good thing he did not join that party.

The district of Jalpaiguri is not a regulated district, a district which has no representation. The Reforms did not help them much. They are mainly Bhutias, though there are both Hindus and Muhammadans living there, who have no votes at all. But coming to the population of 14 millions of my friend I find that more than 8 millions of the population are chiefly Muhammadans. They have been very badly treated in this respect. Firstly, though they number nearly two-thirds of the population, they have got 40 per cent. of the seats, that is to say, out of 100 seats, the Non-Muhammadans have got about 60 per cent. and the Muhammadans 40, and that is not a very good distribution of seats. We have got at present 39 seats in the Provincial

[Mr. K. Ahmed.]

Council, and my Honourable friend's community has got 47. (Mr. J. Chaudhuri : "I have no community.") I thought my friend knew that the Non-Muhammadans were a community. However, Sir, when you have got the proportion of the Muhammadan population, which is 66 at least, if not more, under the present census, my learned friend still expects, that the Muhammadans of East Bengal at this time would not marry more than one wife. That being so, Sir, I don't think my Honourable friend has got much to complain about. In the Legislative Assembly the Non-Muhammadans have got 6 seats and the Muhammadans 6 also. That is a great injustice no doubt. I find in the European community also there are 3 seats, and I find that the number of Europeans is from two to three thousand only. With regard to the Council of State, the European community has got one seat. Of course they are entitled to one, or a fraction of it, but with regard to my Honourable friend's community, they have got three seats. We have only got 2 Muhammadan seats, though in the majority of our population, and the Non-Muhammadans have got 3 seats.

Then, Sir, one word more with regard to the constituencies : they are formed under the present Reforms. My Honourable friend has said that from the Rajshahi Division to go to Chittagong is a round-about way. You have got to go by different ways. You have to cross rivers, and he said something about aeroplanes. I can join issue with him on that point, but I suppose there is difficulty with regard to that, because he will have to divide or add one Division to the other, because they are small in number of their population, and if you want to divide yourself and want one seat, I don't know how you will divide the Division. If you want Presidency Division adjoining the Rajshahi Division you find again the difficulty, because there are West Bengal and East Bengal. Rajshahi is situated in East Bengal. If it is East Bengal, I suppose the nearest place that he can travel to is the Chittagong Division. Then, Sir, with regard to the Provincial Council, I think there is one difficulty. My friend has said something because we were travelling together during the last election time. Malda-cum-Jalpaiguri Muhammadan constituency is divided by two districts and in between them there are three or four districts situated : the language of the people is spoken different. You have got Jalpaiguri district adjoining the Darjeeling district, where they talk Bhutia or some Nepalese language.

**Mr. Harchandrai Vishindas** (Sind : Non-Muhammadan Rural) : I rise to a point of order. I apprehend the discussion is entirely irrelevant to the subject matter under discussion.

**Mr. President** : I do not think the argument is irrelevant. An amendment has been proposed to extend the scope of the Committee's reference in order to include the franchise and constituencies. The Honourable Member is discussing questions relating to his seat.

**Mr. K. Ahmed** : Sir, my Honourable friend from Karachi lives near the open sea and he does not feel the difficulties which we have in travelling about from place to place. That being so, Sir, I submit that the question



of these two districts, separated as they are by three or four districts in between them, must be considered, and, probably, the district of Malda should be joined to the adjoining district of Rajshahi, and thereby we can get one constituency no doubt without any difficulty. I support my Honourable friend so far as this matter is concerned. (Laughter.) Then, Sir, a large number of memorials have been sent from the Jalpaiguri district as well as from Darjeeling. The people living in Darjeeling are civilised people, though there are Bhutias and there are the people living in the tea gardens who may not be civilised. But, Sir, when the demand of revision has been made, I suppose the distribution of seats might again be considered, though I am afraid the Honourable the Home Member does not want to do anything in that way at all. As a matter of fact first of all the Honourable Members will remember, about two and a half years ago in the House of Lords, after Lord Sinha had said that there would be great disturbance in India unless this Joint Committee's Report was accepted, the six or seven Lords who wished the Bill to be deferred in the House for further discussion because many other matters had to be considered, withdrew their objections. Under these circumstances, Sir, I find it very very difficult to say that the matter was anything but an experiment the reform was expedited. Sir, after two or three years, we get our opinion of the districts, we get our experience much riper, and, therefore, accordingly we are to add, alter or amend the whole thing. Sir, it is not improper, as my Honourable friend, Mr. Chaudhuri has said, that what is after all; the same number of people in the Committee, which my Honourable friend the Home Member says will consider the matter, might consider the same matter again thoroughly because it concerns the whole thing and it is for the benefit of all. Therefore, Sir, I think it is advisable that the matter should be revised, all through. Well, Sir, I do not know whom to support. (Laughter.) Anyhow, I support the principle of these two amendments, the first is the amendment of my Honourable friend, Mr. Agnihotri and the second is the amendment of my Honourable friend, Mr. Chaudhuri, who is approaching me. I support, Sir, the substance of them, and the Honourable the Home Member might accept any of them or the sense of them. I shall be very thankful to him for it.

**The Honourable Sir William Vincent** (Home Member) : Sir, the object of my original proposal was really a very simple one, namely, to secure a Committee to examine proposed amendments of the rules which regulate elections in this country. On that matter we have actually collected, as I said, the opinions of Local Governments. We have had them digested and examined by an expert, and I have the material now which we are ready to put before a Committee. The Honourable Mover of the amendment said that he merely wished to move a small amendment to the Resolution and that he did not want any drastic change—I think I am using the same language as he did—but in fact he says that he wants the whole question of franchise and the number and size of constituencies to be examined; and he goes on further to press for a very large increase in the number of members of this Assembly. (Mr. J. Chaudhuri : "Not very large.") A large increase is, I think, what he said. I submit to this Assembly that the time is not yet ripe for such a change and in any case we have not the material to put before a Committee on it. We are anxious however to get through particular amendments of the rules for



[Sir William Vincent.]

the convenience of Members, amendments in the rules which provide the machinery for election. We want to do this for the convenience of the members of this Assembly and of new candidates. We can get these amendments through before the next election comes on, but, if it is to be a question of re-examining the number of constituencies and the franchise which have been settled lately—after prolonged inquiry, it would be quite impossible for us to do this before the next election comes on. Sir, I sympathise myself with the Honourable Member in the size of his constituency. He compared it just now with the constituency of the Prime Minister and made a small error, because Mr. Lloyd George's constituency is a borough constituency and not a county one at all ; but it makes no difference. I suggest to him that he gains in importance and prestige by the size of the constituency which he represents. In any case I think any one will really see that an attempt before the next election to re-arrange the whole of the constituencies and the franchise would be quite impossible, the real question therefore before the Assembly is whether they are going to prevent us from making reasonable changes in the machinery because they seek to enlarge the Assemblies and various Councils, and also whether they want to change the whole character of the constituencies. (Mr. K. Ahmed : " You have more than a year yet.") The last time that inquiries were made they took a very much longer time than a year.

There is another aspect of this question which is worthy of consideration. It does not affect me, but Members had it adumbrated just now by the Honourable Member who spoke last. Are they going to re-open the question of the number of seats to be held by Muhammadans and Hindus ? Was that not settled by what is commonly known as the Lucknow Compact ? Is this the moment, particularly in some of the provinces, to re-open that question ? (Mr. K. Ahmed : " Was it binding ? ") If I were anxious to do what I have often been told is the object of the British Government " to divide and rule ", I could not have chosen a better way of doing it. (Hear, hear.) I myself was not a supporter of the Lucknow Compact. I put in a minute of dissent to the despatch which accepted it. I regard the complaint of my Honourable friend, Mr. Kabeer-ud-din Ahmed, as to the representation of the Muhammadans of Bengal, as justified. I was overborne by other people equally competent, and I daresay better qualified, to judge than I was. But the thing is now settled and the man who wishes to re-open that controversy at this juncture by asking Government to go into the question of constituencies afresh is really suggesting an act of great unwisdom which will do a great deal of harm to this country. (Mr. K. Ahmed : " The Muhammadans were not a party to it.") I do not know whether the Muhammadans were a party to it or not ; I have always been told they were. (Voices : " The Moslem League were.") Other Voices : " Certainly not." Sir, if I may be permitted to say so, the protests here illustrate the danger of re-opening the question. I want to ask the Assembly to decide quite clearly now and here that they will not now re-open this question ; and that the present juncture is not an opportune one for doing so. In any case if we wanted to do it the Assembly will realise—and every reasonable man must realise, if he thinks for one moment—that it is impossible for

Government to do this before the next elections while it is important that these defects in the rules should be removed without delay.

**Mr. President :** The original question was :

" This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the Electoral Rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers."

Since which an amendment has been moved to substitute the words "including the " for the words " apart from " in the second last line. The question I have to put is that that amendment be made.

The motion was negatived.

**The Honourable Sir William Vincent :** Sir, may I make a suggestion ? If I promise that the particular question which the Honourable Member raises in his amendment will be considered by the Committee, may I suggest that he should withdraw his amendment ?

**Dr. Nand Lal :** I thank the Honourable the Home Member for his promise and will not now move the amendment :

" That at the end of the Resolution the following words be added :

' and to give special consideration to the question of the desirability of altering clause (4), rule 12, of the Legislative Assembly Electoral Rules, so as not to require presence of the voters of the general constituencies, of the Legislative Assembly at the polling stations, at the time of voting '."

**Mr. President :** The question is :

" That this Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the Electoral Rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers."

The motion was adopted.

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### MESSAGE FROM THE COUNCIL OF STATE.

**Secretary of the Assembly :** Sir, a Message has been received from the Secretary of the Council of State as follows :

*" I am directed to inform you that the Message from the Legislative Assembly to the Council of State desiring its concurrence in a Resolution to the effect that the Bill further to amend the Cantonments (House-Accommodation) Act, 1902, be recommitted to the Joint Committee with instructions to prepare a Bill consolidating with amendments the existing law, was considered by the Council of State at its meeting to-day, and that the Resolution was concurred in by the Council of State."*

The Assembly then adjourned till Eleven of the Clock on Thursday, the 14th September, 1922.

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