

6th February, 1922

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

SECOND SESSION

OF THE
LEGISLATIVE ASSEMBLY, 1922



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CONTENTS.

	Page
TUESDAY, 10TH JANUARY, 1922	1333-1487
New Year's Greetings.	
Oath.	
Statements laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Address of Welcome to H. B. H. the Prince of Wales.	
Statement of Government Business.	
Resolution <i>re</i> : the Abandonment of the Policy of Repression.	
Congratulation of Honours.	
Panel of Chairman.	
Committee on the Functions of the Deputy President.	
Ruling on Standing Order No. 38.	
Notice of Motion under Rule 11.	
Motion for Adjournment.	
The Indian Electricity (Amendment) Bill.	
The Indian Factories (Amendment) Bill.	
WEDNESDAY, 11TH JANUARY, 1922	1489-1512
Statements laid on the Table.	
Amendment of Standing Orders.	
Resolution <i>re</i> : Policy of Repression.	
THURSDAY, 12TH JANUARY, 1922	1513-1560
Oath.	
Resolution <i>re</i> : Indigenous Systems of Medicine.	
Resolution <i>re</i> : Indian Mercantile Marine.	
Resolution <i>re</i> : Prevention of Overcrowding in Railways.	
MONDAY, 16TH JANUARY, 1922	1561-1612
Oaths.	
Questions and Answers.	
Unstarred Questions and Answers.	
Statement laid on the Table.	
Address of Welcome to H. R. H. the Prince of Wales.	
Select Committee on Standing Orders.	
The Code of Criminal Procedure (Amendment) Bill.	
The Delhi University Bill.	
• Vol. II—Pt. II.	

TUESDAY, 17TH JANUARY, 1922 1613-1656

Unstarred Questions and Answers.
 Select Committee on Standing Orders.
 The Civil Marriage (Amendment) Bill.
 Message from the Council of State.
 The Civil Marriage (Amendment) Bill.
 The Mussalman Waqfs Registration Bill.
 The Code of Criminal Procedure (Amendment) Bill.
 The Code of Civil Procedure (Amendment) Bill.
 The Interest Act 1839 Amendment Bill.

WEDNESDAY, 18TH JANUARY, 1922 1657-1736

Oaths.
 The Civil Marriage (Amendment) Bill.
 The Indian Emigration Bill.
 The Indian Income-tax Bill.
 Resolution *re* : abandonment of the Policy of Repression.

THURSDAY, 19TH JANUARY, 1922 1737-1789

Unstarred Questions and Answers.
 Ballot for Bills.
 Statement of Government Business.
 Resolution *re* : Committee on certain sections of the I. P. C. and C. P. C.
 Resolution *re* : Elected Standing Committees with the Government of India.

FRIDAY, 20TH JANUARY, 1922 1791-1813

Governor General's Assent to Bills passed by the Legislature.
 The Civil Marriage (Amendment) Bill.

TUESDAY, 24TH JANUARY, 1922 1815-1889

Questions and Answers.
 Unstarred Questions and Answers.
 Messages from the Council of State.
 Resolution *re* : Committees on Currency and Exchange.
 Resolution *re* : the abolition of Impressed Labour, Conveyance and Provision.

WEDNESDAY, 25TH JANUARY, 1922 1891-1941

Statement laid on the Table.
 The Code of Civil Procedure (Amendment) Bill.
 The Delhi University Bill.
 The Indian Income-tax Bill.

THURSDAY, 23TH JANUARY, 1922

Situation in Guntur.
Statement laid on the Table.
Questions and Answers.
Situation in Guntur.
Statement of Government Business.
Governor General's Assent to Bills passed by the Legislature.
Resolution *re* : Votable and Non-votable items in the Budget.
Resolution *re* : Export of Manures and Oil Seeds.
Message from the Council of State.

SATURDAY, 28TH JANUARY, 1922 1991-2050

The Delhi University Bill.
The Indian Income-tax Bill.
Amendment of Standing Orders.
The Police (Incitement to Disaffection) Bill.
The Civil Procedure (Amendment) Bill.
The Indian Emigration Bill.

TUESDAY, 31ST JANUARY, 1922 2051-2073

Questions and Answers.
Unstarred Questions and Answers.
Arrangement of Government Business.
The Code of Criminal Procedure (Amendment) Bill.
The Land Acquisition (Amendment) Bill.
The Code of Criminal Procedure (Amendment) Bill.

WEDNESDAY, 1ST FEBRUARY, 1922 2075-2102

Bills passed by the Council of State.
The Indian Lunacy (Amendment) Bill.
Resolution *re* : Women's Franchise.

FRIDAY, 3RD FEBRUARY, 1922 2103-2151

Questions and Answers.
Statement of Business.
Resolution *re* : Examination of the Indian Penal Code.
Resolution *re* : Reduction of Madras Contribution to Central Government.
Resolutions withdrawn.
Resolution *re* : Separation of the Andhra Districts from the Madras Presidency.
Resolution *re* : Committee of Inquiry on Expulsion from Cantonments.
Presentation of Report of Select Committee on Standing Orders.
Resolution *re* : Committee on Retrenchment.

	PAGE
MONDAY, 6TH FEBRUARY, 1922	2153-2220
Questions and Answers.	
Unstarred Questions and Answers.	
Motion for Adjournment.	
The Civil Procedure (Amendment) Bill.	
The Benares Hindu University (Amendment) Bill.	
The Indian Emigration Bill.	
TUESDAY, 7TH FEBRUARY, 1922	2221-2243
The Indian Limitation (Amendment) Bill.	
The Code of Civil Procedure (Amendment) Bill.	
Resolution <i>re</i> : Suppression of Traffic in Women and Children.	
The Code of Civil Procedure (Amendment) Bill.	
Discussions in Select Committee.	
WEDNESDAY, 8TH FEBRUARY, 1922	2245-2282
Presentation Ceremony and Royal Durbar.	
The Indian Lunacy (Amendment) Bill.	
Resolution <i>re</i> : Committee on New Arms Rules, 1920.	
Disturbances in the United Provinces.	
Resolution <i>re</i> : Withdrawal of Martial Law in Malabar.	
Disturbances in the United Provinces.	
THURSDAY, 9TH FEBRUARY, 1922	2283-2342
Oath.	
Question and Answer.	
Unstarred Question and Answer.	
Statement of Business.	
Resolution <i>re</i> : Improvement of Medical Education in India.	
Resolution <i>re</i> : Equality of Status for Indians in Africa.	
SATURDAY, 11TH FEBRUARY, 1922	2343-2366
Questions and Answers.	
Unstarred Questions and Answers.	
Governor General's Assent to the Benares Hindu University (Amendment) Bill.	
Resolution <i>re</i> : Indianisation of the Services.	
MONDAY, 13TH FEBRUARY, 1922	2393-2428
Oath.	
Questions and Answers.	
Unstarred Questions and Answers.	
Motions for Adjournment.	
The Civil Procedure (Amendment) Bill.	
The Delhi University Bill.	
The Special Laws Repeal Bill.	
The Indian Criminal Law Amendment Repealing Bill.	
Amendment of Standing Orders.	
Time for Balloting.	

WEDNESDAY, 22ND FEBRUARY, 1922 2499-2498

Questions and Answers.
 Unstarred Questions and Answers.
 Message from the Secretary of State.
 The Indian Limitation (Amendment) Bill.
 The Civil Procedure (Amendment) Bill.
 The Delhi University Bill.

THURSDAY, 23RD FEBRUARY, 1922 2499-2558

Questions and Answers.
 Government Policy in regard to Non-co-operation Movement.
 Governor General's Assent to Bills.
 Statement of Legislative Business.
 Resolution *re*: Technical Training of Indian and Anglo-Indian
 Youths.
 Resolution *re*: E. and P. Service and Military Officers in Judicial or
 Administrative Posts.
 Messages from the Council of State.

MONDAY, 27TH FEBRUARY, 1922 2559-2615

Statements laid on the Table.
 Questions and Answers.
 Unstarred Questions and Answers.
 Amendment of Standing Order.
 The Indian Income-tax Bill.
 The Indian Ports (Amendment) Bill.
 Resolution *re*: India's participation in the British Empire Exhibi-
 tion.
 Resolution *re*: Prohibition of Traffic in Minor Girls.

LEGISLATIVE ASSEMBLY.

Monday, 6th February, 1922.

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

QUESTIONS AND ANSWERS.

CONSTRUCTION OF THE AKOLA-BASIM AND YEOTMAL-DHAMANGAON RAILWAYS.

136. ***Khan Sahib Maulvi Abdul Quadir** : Will Government be pleased to state when the construction of the Akola-Basim and the Yeotmal-Dhamangaon Railways will be taken in hand, and how long their completion will take ?

Colonel W. D. Waghorn : The project for a broad gauge railway from Hivarkhed to Akola and thence to Basim was estimated to pay only 3·32 per cent. and it was, therefore, decided in 1920 not to proceed with it. The Local Government have since suggested the construction of the line on the 2'—6" gauge and this suggestion will be considered. The survey of the Dhamangaon-Yeotmal Railway has been deferred for want of funds. It is not possible to say when the construction of these lines will be taken in hand.

CONCESSION TO STUDENTS FOR EDUCATIONAL EXCURSIONS AND GAMES.

137. ***Khan Sahib Maulvi Abdul Quadir** : Do Government propose to impress on the Railways the necessity of restoring the concessions to students going out on educational excursions and for playing games which obtained before the war ?

- (a) Are Government aware that the Great Indian Peninsula Railway has been persistently refusing requests for such concessions to students in Berar ?
- (b) If not, will they be pleased to inquire into the matter and address the Railway Company to restore such concessions ?

Colonel W. D. Waghorn : The concession referred to by the Honourable Member and a number of other similar concessions were withdrawn during the war. The question of restoring them was considered at the last Railway Conference, but it was unanimously decided that sufficient progress had not been made towards the restoration of normal conditions to permit of the concessions again being allowed. The question will be periodically examined.

PURCHASE OF A PART OF THE HEDJAZ RAILWAY.

138. ***Haji Wajih-ud-Din** : Is it a fact that the proposal of purchasing a part of Hedjaz Railway is being discussed between Colonel Lawrence and Amir Abdullah, and if so,

- (a) whether half the value of said part is proposed to be paid by the Government ;

- (b) whether a commission consisting of seven Engineers has been appointed to settle the problem of its present value ;
- (c) whether it is a fact that the said railway was constructed by public contributions and donations, and that it is not the property of any one ?

Mr. Denys Bray: As was stated in a communiqué issued on the 22nd January, telegraphic inquiries instituted by the Government have failed to reveal the existence of any foundation whatsoever for the mischievous rumour current in certain sections of the press that the sale of part of the Hedjaz Railway is contemplated (a), b) and c) therefore do not arise.

COST OF PROFESSOR HORNE'S PROPAGANDIST TOUR IN AMERICA.

139. * **Rai G. C. Nag Bahadur:** (1) Is it true that Professor Horne of the Patna College is now in America deputed by the Government of India to lecture on Indian conditions with a view to counteracting the pernicious reports regarding India appearing in the American press ?

(2) If the answer is in the affirmative, will the Government kindly inform the House, (1) whether the idea of deputing the Professor for the purpose originated with the Government of India or with the Secretary of State for India, (2) as to the estimated cost of the deputation, and (3) the head of expenditure to which the cost will be charged ?

(3) Will the Government also kindly state how long the said Professor is expected to be in America on his propagandist tour, and whether copies of the lectures, if any, delivered by him in connection with his mission will be made available to the Members of this Assembly ?

The Honourable Sir William Vincent: I would invite the attention of the Honourable Member to a speech delivered by me in this Assembly on the 11th March last year. Professor Horne was placed on deputation to enable him to take up a temporary lectureship in Harvard University at the invitation of the authorities of that University. The cost of his deputation was borne by Indian revenues, as the appointment enabled the Professor to lecture on Indian conditions generally with a view to counteracting the false and mischievous reports regarding India appearing in certain sections of the American press. I am unable to state what the exact cost of the deputation was, but, approximately, the expenditure incurred has been about Rs. 18,000 *plus* the cost of passage. Professor Horne is no longer in America, his deputation having terminated some months ago. If the Honourable Member so desires, I will inquire whether copies of the lectures delivered by him are available.

Rai G. C. Nag Bahadur: I want to ask a supplementary question, Sir. Last year, during the Budget debate, there was a discussion as to the desirability of bringing in an American lecturer to study Indian conditions, so that he might, on his return to America, remove the misconceptions that exist in the American mind in regard to India. There was a demand for Rs. 5,000.

Mr. President: Order, order. The Honourable Member appears to be delivering a speech, not asking a question.

Rai G. C. Nag Bahadur : I will come to the point, Sir. That demand was cut out. The Assembly felt that through the efforts of a single lecturer the misconceptions that might exist in America could not be removed. Government, I believe, accepted that decision. I want to ask whether Government have changed their mind on the subject, because this Professor has been deputed there with the very same object.

The Honourable Sir William Vincent : Government have given full effect to the Resolution of this Assembly. I believe also that at that time I informed the Assembly what the position was with regard to Professor Horne.

PROPORTION OF SUPERIOR POSTS HELD BY INDIANS.

140. * **Rai G. C. Nag Bahadur :** With reference to Home Department Resolution No. 2559 of 1st December, 1920, declaring certain posts as superior posts, of which 33 per cent. were to be recruited at once in India, will they kindly furnish a comparative statement to show, province by province, the total number of such superior posts and the number of such posts held by Indians on 1st January, 1921, and that held by them on 1st January 1922?

The Honourable Sir William Vincent : I am afraid, the Honourable Member has misunderstood paragraph 12 of the Resolution that he quotes, if he takes it to mean that 33 per cent. of the superior posts are to be filled at once by officers recruited in India. What the Resolution states is, that an increasing percentage, starting from 33 per cent., of annual recruitment will be reserved for Indians recruited from all sources, not in India only, and this is being done. The effect is of course not to place Indians in 33 per cent. of the superior posts immediately, inasmuch as many newly recruited officers are not, except in the cases of those appointed from the Provincial Civil Service or the Bar, appointed directly to superior posts; they have normally to pass two years on probation in England, to pass departmental examinations and to undergo several years' training in India before being entrusted with a superior charge.

For the numbers of Indians holding superior posts in each province in 1921 and 1922, I would refer the Honourable Member to the Provincial Civil Lists.

PROVISION OF 'LISTED' POSTS FOR PROVINCIAL SERVICE MEN IN ASSAM.

141. * **Rai G. C. Nag Bahadur :** Is it a fact that no members of the Provincial Service in Assam have yet been provided with any 'listed' posts? If so, will the Government kindly state why the Provincial Government have not found it possible to comply with the instructions of the Central Government?

The Honourable Sir William Vincent : The Honourable Member's attention is drawn to the answer given to him on the 14th March, 1921. With reference to the latter portion of that answer, the Local Government have submitted certain proposals which are now under consideration.

DOMICILED EUROPEAN AND ANGLO-INDIAN NURSES EMPLOYED DURING THE GREAT WAR.

142. * **Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state how many domiciled European and Anglo-Indian nurses were employed during the past Great War?

Sir Godfrey Fell: During the Great War, that is, between August, 1916 and November, 1918, 520 nurses, engaged in India, were temporarily employed on military duties; of these, 80 per cent. were untrained nurses.

There are no records available to show how many of these nurses were Europeans, domiciled Europeans, or Anglo-Indians.

DOMICILED EUROPEAN AND ANGLO-INDIAN NURSES ON THE PERMANENT CADRE OF QUEEN ALEXANDRA'S NURSING SOCIETY.

143. * **Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state if there are any domiciled European and Anglo-Indian nurses (giving names) employed at present on the permanent cadre of the Queen Alexandra's Nursing Society, India? If none are on the cadre, are they eligible for employment?

Sir Godfrey Fell: I presume the Honourable Member refers to the Queen Alexandra's Military Nursing Service for India. At present no domiciled European or Anglo-Indian nurses are employed on the permanent cadre of this service.

Domiciled European and Anglo-Indian nurses are eligible for appointment as 'nursing sisters' in the Queen Alexandra's Military Nursing Service for India, provided they fulfil the necessary conditions of appointment.

CORRESPONDENCE RE : ESTABLISHMENT OF PUBLICITY BUREAUS.

144. * **Mr. T. V. Seshagiri Ayyar**: Will Government be pleased to lay on the table of the House the correspondence that passed between the Government of India and the Right Honourable the Secretary of State for India relating to the establishment of the Publicity Bureaus in Central and Provincial Governments?

The Honourable Sir William Vincent: Government do not propose to lay the papers on the table. If the Honourable Member desires information on any particular point, I will endeavour to supply it.

SECURITIES FROM NEWSPAPERS UNDER THE PRESS ACT.

145. * **Mr. T. V. Seshagiri Ayyar**: Will Government be pleased to make a statement showing:

- (a) the names and addresses of newspapers, the printers whereof have been asked to deposit fresh securities under the Press Act, giving the amount of such fresh securities and the amount of securities forfeited in each case; and
- (b) the names and addresses of newspapers and printing presses which have ceased to exist as a result of any action under the Press Act.

since the introduction of Press Act Amendment Bill in the Legislative Assembly in September, 1921 ?

The Honourable Sir William Vincent : The information is being collected and will be laid on the table when available.

COMMITTEE ON THE ABOLITION OF THE PENAL SETTLEMENT IN THE ANDAMANS.

146. * **Rai Bahadur Pandit. J. L. Bhargava :** With reference to the statement made by the Honourable the Home Member in this Assembly on the 22nd September, 1921, to the effect that he proposed to suggest the appointment of a small Committee of the Assembly to examine the report of the officer sent by the Government of India to the Andamans to see what steps could be taken in the direction of abolishing the penal settlement, will the Honourable the Home Member be pleased to state whether it is intended to appoint such Committee and, if so, when ?

The Honourable Sir William Vincent : As implied in the question, I had intended to suggest the appointment of a small Committee to examine the proposals contained in Mr. Gwynne's report. Since I made that announcement, however, the situation has appreciably changed. Owing to the stoppage of deportation to the Andamans and the inability of Local Governments to find funds at the present moment for the construction of new jails, overcrowding in existing jails in certain provinces has unfortunately become most serious. This is particularly the case in the Punjab, North-West Frontier Province and in Madras, in all of which the existing accommodation is taxed to a point which gives rise to serious apprehension. Overcrowding necessarily means deterioration in discipline and there is also serious risk of the outbreak of some epidemic disease. In the circumstances, the Government of India have very reluctantly come to the conclusion that there is no alternative except to reopen temporarily the deportation to the Andamans of prisoners sentenced to transportation from certain provinces, and this decision has been approved by the Secretary of State. It will unfortunately mean some delay in giving effect to the decision to abolish the penal settlement at Port Blair, and, in these circumstances, I am afraid it would be premature at the present time to appoint the Committee of this Assembly which I had in mind. I shall, however, be very glad to consider any suggestions or advice that may be given to me by any Member of this Assembly who takes an interest in the subjects dealt with in Mr. Gwynne's report.

COMMISSIONS FOR INDIANS AND THEIR ADMISSION TO THE ARTILLERY AND OTHER ARMS OF HIS MAJESTY'S FORCES.

147. * **Sir P. S. Sivaswamy Aiyer :** Will the Government be pleased to state what steps, if any, have been taken to carry out the Resolutions of the Assembly passed on the 28th of March, 1921, with reference to the Esher Committee's Report and specially the recommendation regarding the admission of Indians to the Artillery and other arms of His Majesty's forces, from which they have been hitherto excluded, and the recommendation regarding Commissions in the Indian Territorial and Auxiliary Forces ?

Sir Godfrey Fell : The attention of the Honourable Member is invited to the statement† laid on the table by the Honourable Dr. T. B. Sapru on the 16th

† *Vide* Legislative Assembly Debates, Volume II, pages 1607-08.

January last, which showed the action taken with regard to these Resolutions. As regards the two particular matters to which the Honourable Member refers, the Government of India have been for some time past in communication with the Secretary of State on the subject of the admission of Indians to the commissioned ranks of the Artillery and other arms of His Majesty's forces : and the question of the form of commission in the Indian Territorial and Auxiliary Forces is also the subject of correspondence with the Secretary of State. No final orders have yet been received on either subject.

COMPARATIVE COST OF MAINTENANCE OF NURSES IN INDIA.

148. * **Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state if the cost to the Indian Exchequer of maintaining the nurses in the Queen Alexandra's Nursing Society, India, is greater, nurse per nurse, than those nurses trained and enlisted in India and now doing duty in Indian station hospitals?

Sir Godfrey Fell: The answer is in the affirmative.

EQUALITY OF TREATMENT AS BETWEEN ENGLISH AND INDIAN TRAINED ARMY NURSES.

149. * **Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state whether they make any distinction (a) in professional qualifications, (b) social recognition, and (c) salaries between English and Indian trained Army nurses? If yes, why? If not, will Government be pleased to state whether it is prepared to bring all nurses, trained and recruited both in England and India, on an equal footing, in every way? If not, why not?

Sir Godfrey Fell: With regard to the first part of the question, the attention of the Honourable Member is invited to the reply† given on the 24th January, 1922, to his starred question No 101.

As regards the latter part of the question, I would refer the Honourable Member to the reply‡ given on the 26th September last to part (b) of his Question No. 626.

INADEQUATE SCALES OF PAY OF CLERKS IN ATTACHED OFFICES.

150. * **Rai Bahadur Bakshi Sohan Lal**: With reference to the answers given by Sir William Vincent in the Legislative Assembly in September, 1921, in reply to Question No. 237 (g) to Sir P. S. Sivaswamy Aiyer and to Question No. 500 (a) (ii) to Rai Bahadur Bakhshi Sohan Lal with regard to the scale of pay of attached offices, will the Government please state :

- (a) The difference between the duties and work performed by routine clerks, such as Cashiers, Despatchers, Typists, Receipt, Reference and other clerks of the attached offices and those of the Secretariat and Army Headquarters.

† *Vide* Legislative Assembly Debates, Vol. II, page 1826.

‡ *Vide* Legislative Assembly Debates, Vol. II, page 978.

- (b) The reasons for the justification of granting almost half the maximum scale of pay, *viz.*, Rs. 175 against Rs. 350 and Rs. 300 and half the annual increment, *viz.*, Rs. 4 against Rs. 8 to such routine clerks in the attached offices and to those of the Secretariat and Army Headquarters, respectively?

The Honourable Sir William Vincent: It is impossible, within the scope of an oral answer to a question, to define accurately the different classes of work done by the officials referred to in the question; but, generally speaking, it has always been held that the duties of the clerks and others in the Government of India Secretariat are more onerous, and that a higher standard of work is expected from them than from officials of the same status employed in the attached offices. This is the reason for the differentiation in the scales of pay.

DISCONTENT AMONG CLERKS IN ATTACHED OFFICES AS REGARDS SCALES OF PAY.

151. * **Rai Bahadur Bakshi Sohan Lal:** Is it a fact that there is a great discontentment among the members of the ministerial establishments of the attached offices against their present scale of pay and allowances and that several of these officers have submitted to Government memorials for the removal of their grievances? If so, will the Government please state what action they are taking to remove these grievances?

The Honourable Sir William Vincent: The Honourable Member is referred to the reply† given on the 16th January, 1922, to Lala Girdharilal Agarwala's Question No. 171 on the subject.

REVISED SCALES OF PAY IN DIRECTOR GENERAL, INDIAN MEDICAL SERVICE'S OFFICE AND THE DIRECTOR, MEDICAL SERVICES' OFFICE.

152. * **Rai Bahadur Bakshi Sohan Lal:** With reference to the answer given by Sir William Vincent to Question No. 237 (g) asked by Sir P. S. Sivaswamy Aiyer in the Legislative Assembly in September, 1921, will the Government be pleased to state if it is a fact:

- (a) (i) That before the recent revision the scale of pay of the ministerial establishment of the office of the Director General, Indian Medical Service, was higher than, or almost equal to, that of the scale of pay of the establishment of the office of the Director, Medical Services in India, *viz.*, Rs. 50—660 and Rs. 40—600, respectively?
- (ii) That after the recent revision of the scales of pay of the ministerial establishments of these two offices there has been no change in the nature and standard of work performed by them?
- (b) If the reply to (a) (i) be in the affirmative and to (a) (ii) in the negative, will the Government be pleased to state the reasons for granting in the recent revision such a lower scale of maximum pay to the establishment of the Office of the Director General, Indian Medical Service, than that granted to the establishment of office of the Director, Medical Services in India, *viz.*, Rs. 175

† *Vide* Legislative Assembly Debates, Vol. II, page 1594.

against Rs. 300 per mensem with Rs. 4 against Rs. 8 annual increment in the lower division and Rs. 350 against Rs. 440 with Rs. 8 against Rs. 12 annual increment in the upper division?

- (c) If the reply to (a) (ii) be in the affirmative, will the Government please explain those differences?

Sir Godfrey Fell : (a) (i) The scale of pay of the ministerial establishment of the office of the Director General, Indian Medical Service, before the recent revision was Rs. 50 rising to Rs. 650 as compared with Rs. 40 rising to Rs. 600 of the office of the Director, Medical Services.

- (ii) There has been no such change.

(b) The Honourable Member is referred to the reply† given by Mr. O'Donnell on the 1st March, 1921, to clause (b) of Question No. 337 and to that ‡ given by me on the 21st September, 1921, to clause (b) of Question No. 448. The pay of the clerical staff of the office of the Director, Medical Services, is based on the scales of pay authorised for the Army Headquarters offices, of which the former is a part; whereas the scale of pay of the office of the Director General, Indian Medical Service, which is an attached office, is based on the general rate of pay laid down for attached offices.

- (c) In view of the replies given above, this question does not arise.

INELIGIBILITY FOR APPOINTMENTS IN THE SECRETARIAT OF CLERKS IN ATTACHED OFFICES.

153. * **Rai Bahadur Bakshi Sohan Lal :** Is it a fact that instructions have been issued by the Staff Selection Board to the Attached offices that members of the clerical establishment of these offices will not be allowed to take up an appointment in the Secretariat except in very exceptional circumstances? If so, will the Government please state reasons for the issue of such instructions?

The Honourable Sir William Vincent : I am informed that no such instructions have been issued by the Staff Selection Board.

FIRING WITHOUT WARNING IN THE HOWRAH AFFRAY.

154. * **Mr. K. C. Neogy :** With reference to the reply to my starred question No. 84 of the 24th January, 1922, will Government be pleased to state :

- (a) if it is a fact that warning was not given in all cases before fire was opened; and
- (b) whether it is a fact that in the Howrah affray, referred to in the reply, no one has come forward to acknowledge the responsibility of having given the order to open fire on the crowd?

The Honourable Sir William Vincent : (a) In two of the eleven cases referred to, fire appears to have been opened without orders. There is no reason to think that warning was not given in all the other cases.

(b) The Honourable Member's attention is drawn to the Resolution of the Bengal Government on this subject which was published on the 18th January.

† *Vide* Legislative Assembly Debates, Volume I, page 428.

‡ *Vide* Legislative Assembly Debates, Volume II, page 653.

Mr. K. C. Neogy : May I know what has happened to the Bill that was introduced in Simla to provide for certain safeguards in regard to firing on crowds ?

The Honourable Sir William Vincent : That Bill is still under the consideration of Government.

INDIAN SECRETARIES, DEPUTY SECRETARIES AND UNDER SECRETARIES IN THE GOVERNMENT OF INDIA SECRETARIAT.

155. * **Rai Bahadur Luchmi Prasad Sinha :** Will the Government be pleased to place before the House a statement containing the following :

- (1) Number of Secretaries in each of the Departments of the Government of India in 1922 and in 1916.
- (2) How many of them are Indians ?
- (3) Number of Deputy Secretaries in each of the Departments of the Government of India in 1922 and in 1916.
- (4) How many of them are Indians ?
- (5) Number of Under-Secretaries in each of the Departments of the Government of India in 1922 and in 1916.
- (6) How many of them are Indians ?

The Honourable Sir William Vincent : A statement, giving the figures for 1st April 1917 and 1st April 1921, is laid on the table. These will, it is hoped, serve the Honourable Member's purpose.

*Statement showing the number of Indians and non-Indians holding posts of Secretaries, Deputy Secretaries and Under Secretaries in the Government of India Secretariat on the 1st April 1917 and the 1st April*1921.*

Appointments.	Departments.	ON 1ST APRIL 1917.		ON 1ST APRIL 1921.	
		Indians.	Non-Indians.	Indians.	Non-Indians.
Secretaries	Home . . . .	...	1		1
	Foreign and Political . .	...	2	...	2
	Finance		1	...	1
	Legislative . . . .	...	1	...	1
	Army . . . .	...	1	...	1
	Public Works . . .		1		1
	Revenue and Agriculture .		1	...	1
	Education and Health . .	...	1	...	1
	Commerce		1	...	1
	Industries . . . .		...	1	...
	Railway Board . . . .	...	1	...	1

Statement showing the number of Indians and non-Indians holding posts of Secretaries, Deputy Secretaries and Under Secretaries in the Government of India Secretariat on the 1st April 1917 and the 1st April 1921—contd.

Appointments.	Departments.	ON 1ST APRIL 1917.		ON 1ST APRIL 1921.	
		Indians.	Non-Indians.	Indians.	Non-Indians.
Deputy Secretaries	Home		1	...	1
	Finance		1	...	1
	Legislative		1	1	1
	Industries . . . . .			...	2
	Education and Health			1	...
	Public Works		1		1
	Army		1		1
	Foreign and Political		2		2
Under Secretaries	Home		1		1
	Finance		1		1
	Revenue and Agriculture		1		1
	Commerce		2		1
	Foreign and Political		1		1
	Public Works . . . . .	...	1	...	1

RATIO BETWEEN INDIAN AND EUROPEAN MEMBERS OF THE INDIAN CIVIL SERVICE.

156. ***Rai Bahadur Luchmi Prasad Sinha** : Will the Government be pleased to state what is the present ratio between Indian members and European members of the Indian Civil Service cadre?

The Honourable Sir William Vincent : The Government of India have no information on the subject except such as can be gathered from the Civil Lists of the various provinces. They understand, however, that on the 1st October, 1921, the percentage of Indian officers holding posts usually held by members of the Indian Civil Service was 12 per cent. They further understand that this percentage has recently been materially increased owing to the arrival in India of Indian members of the Service appointed under the Indian Civil Service (Temporary Provisions) Act, 1915, but they have no exact information as to the present percentage.

INSTRUCTIONS TO, AND DEPOSITION OF, MR. SASTRI AT THE WASHINGTON CONFERENCE.

157. ***Mr. K. C. Neogy** : With reference to the answer to my starred Question No. 111 of the 24th January 1922, will Government be pleased to

state whether they have any official information as to what instructions were given by the Secretary of State to the Right Honourable Mr. Sastri in regard to the Disarmament Conference at Washington, and what views were put forward by the latter at the Conference on behalf of India ?

• INDIA AND THE PACIFIC COMPACT.

158. * **Mr. K. C. Neogy** : With reference to the answer to my starred Question No. 112 of the 24th January, 1922, will Government be pleased to state :

- (1) whether India is among the contracting parties to the Pacific compact ; and
- (2) whether Government have any official information as to what views were put forward by Right Honourable Mr. Sastri in that connexion on behalf of India ?

The Honourable Sir William Vincent : I invite the attention of the Honourable Member to the fact that under the first proviso to Rule 8, sub-rule (1), of the Legislative Rules, no question can be asked in this Assembly which affects the relations of His Majesty's Government with any Foreign State. Any instructions issued to Mr. Sastri or views put forward by him must, I think, be regarded as coming within that prohibition. The Government of India have, however, no information on these points. The British Empire is one of the High Contracting Parties to the Pacific compact. The British Plenipotentiaries appointed by His Majesty the King-Emperor to conclude the Treaty included the Plenipotentiary for India.

ACTION ON THE RECOMMENDATIONS OF THE INDIAN RAILWAY COMMITTEE.

159. * **Mr. K. C. Neogy** : Will Government be pleased to state whether they propose to give immediate effect to those among the unanimous recommendations of the Indian Railway Committee that do not entail any considerable expenditure, particularly the recommendations about the constitution of Central and Local Advisory Councils and the Rates Tribunal ?

Colonel W. D. Waghorn : The Railway Board are already in correspondence with Local Governments and Railway Administrations in regard to the establishment of Local Advisory Councils. The Government of India hope to be able to make shortly an announcement regarding a Central Advisory Council. The remaining recommendations of the Railway Committee are under examination.

REDUCTION IN THE NUMBER OF MEMBERS OF SOME PROVINCIAL EXECUTIVE COUNCILS.

160. * **Mr. K. C. Neogy** : (a) Have Government received any communication from the Secretary of State in regard to the question of reduction of the number of Members of the Executive Council in the provincial Governments of Madras, Bombay, Bengal, and Bihar and Orissa ?

(b) If so, will Government be pleased to state the purport of the same ?

The Honourable Sir William Vincent : The Secretary of State has not addressed the Government of India officially on the subject.

COMMITTEE ON THE STAFF SELECTION BOARD.

161. * **Mr. P. L. Misra :** (a) Will Government be pleased to state if a Committee is intended to be appointed to inquire into the working of the Staff Selection Board ?

(b) If so, will Government be pleased to appoint at least two members of the Government of India Secretariat service on the said Committee ?

The Honourable Sir William Vincent : (a) The Committee has been appointed.

(b) No.

DAILY AND CONVEYANCE ALLOWANCE FOR THE DELHI MEMBER OF THE LEGISLATIVE ASSEMBLY.

162. * **Mr. P. L. Misra :** (a) Will Government be pleased to state if the Delhi Member in the Legislative Assembly draws any daily or conveyance allowance ?

(b) If so, how much ? If not, why not ?

The Honourable Dr. T. B. Sapru : (a) and (b). The daily allowance is admissible only to those Members who are required to leave their official headquarters or usual places of residence to attend meetings of the Assembly. Honourable Members who do not reside at Raisina are not entitled to draw any conveyance allowance. The Delhi Member would be entitled to a daily allowance should he attend a Session in Simla.

ANGLO-INDIAN BOYS NOMINATED AND FINALLY SELECTED FOR THE INDIAN ARMY.

163. * **Lieut.-Col. H. A. J. Gidney :** Will Government be pleased to state (a) how many Anglo-Indian boys appeared before the various Provincial Selection Committees for nomination into the Indian Army, (b) how many of these were nominated, and (c) whether any Anglo-Indians were selected by the Final Selection Committee within the past 12 months ?

Sir Godfrey Fell : Presumably, the Honourable Member is referring to the arrangements under which Indian candidates for admission to the Royal Military College, Sandhurst, are recommended by Local Governments and Administrations, in the first instance, and, if approved, are permitted to attend the entrance examinations which are held at Simla twice a year ; if so, the reply to his question is that these arrangements apply only to Indian candidates. European and Anglo-Indian candidates, residing in India, who wish to enter the Royal Military College, Sandhurst, must attend the Army Entrance Examinations which are held in the United Kingdom. No Selection Committees are held in India to nominate Anglo-Indian candidates.

ANGLO-INDIANS IN THE SUPERIOR AND IMPERIAL SERVICES.

164. * **Lieut.-Col. H. A. J. Gidney :** Will Government be pleased to state how many Anglo-Indians have been employed, either by

nomination or by examination, in the various provinces in India, (i) since the termination of the war ; (ii) since the last 12 months in the following services :

- (a) Indian Civil Service.
- (b) Imperial Police Service.
- (c) Imperial Forest Service.
- (d) Superior Railway Service?

The Honourable Sir William Vincent : (a), (b), (c) and (d). The information is being collected and will be supplied to the Honourable Member in due course ; but I must warn him that it is very difficult indeed to secure accurate information, as the meaning of the term 'Anglo-Indian' is so vague.

PROVISION OF EMPLOYMENT FOR DEMOBILISED ANGLO-INDIAN OFFICERS OF THE INDIAN ARMY RESERVE.

165. * **Lient.-Col. H. A. J. Gidney :** (a) Will Government be pleased to state (i) the total number of members of the Domiciled Community who were employed during the past war, including the Frontier war, as officers in the Indian Army Reserve of Officers ? (ii) Out of this total, will Government be pleased to say how many have been granted permanent Commissions in the Army ?

(b) Will Government be pleased to state what is the total number of such officers who have been demobilised up to date ?

(c) Will Government be pleased to state what per cent. of these demobilised officers has received employment (i) in the various Government services and (ii) in the various mercantile and other firms in India *via* the various Resettlement Committees, etc. ?

(d) Is Government aware that a large percentage of such officers are still unprovided for ?

(e) Is Government aware of the fact that one of the main reasons why these officers have not been given employment is because they are 'country-born' and have received their education in India ?

(f) Does Government propose to take any steps to remedy this state of affairs ? If so, will Government be pleased to state what steps they propose taking ?

Sir Godfrey Fell : (a) to (e). It is regretted that the information asked for cannot be furnished, as no record exists of the domicile of the candidates who were selected for appointment to the Indian Army Reserve of Officers. Provided an applicant was a British born or naturalised British subject, his selection for appointment to the Indian Army Reserve of Officers depended on the recommendation of the authorities through whom the application was submitted.

His ordinary place of residence was not taken into account.

(f) This question does not now arise.

INDIAN TRAINED LADY SUPERINTENDENTS OF INDIAN STATION HOSPITALS TO BE DIRECTLY RESPONSIBLE TO OFFICERS COMMANDING.

166. * **Lieut.-Col. H. A. J. Gidney**: With reference to the reply given on the 24th January, 1922, to my starred Question No. 116, regarding revised paragraph 62, Army Regulations, Volume VI, will Government be pleased to say whether they are prepared to consider the question of so altering it as to allow the Lady Superintendents of Indian Station Hospitals, who, by training in India, are familiar with tropical diseases, languages, habits, customs, diets, etc., of Indian troops, to be alone responsible to the Officers Commanding for the Nursing Staff of such Hospitals?

Sir Godfrey Fell: I would invite the Honourable Member's attention to the answer† given on the 24th January last, to his starred Question No. 102. Indian Station Hospitals are under the charge of Matrons, and not Lady Superintendents, of whom there are only four in India. Government do not consider it advisable to remove these Matrons, who are only temporarily employed and are frequently liable to change, from the supervision of the Senior Nursing Sister of the station, who is usually a lady of considerable service and experience.

DESPATCH FROM SECRETARY OF STATE ON FURTHER REFORMS.

167. * **Dr. H. S. Gour**: Will the Government be pleased to lay on the table a copy of the despatch understood to have been received from the Secretary of State for India in reply to the Assembly's Resolution on the subject of further Reforms, of which a short summary has already appeared in the Press?

The Honourable Sir William Vincent: The Government of India have not received the despatch referred to by the Honourable Member.

RESERVED COMPARTMENTS FOR THIRD CLASS PASSENGERS.

168. * **Rai Bahadur Luchmi Prasad Sinha**: (a) Is it a fact that third class passengers are not allowed to reserve compartments even on payment of full fares for the compartments except on the Kalka-Simla Railway?

(b) If the answer is in the affirmative, will the Government be pleased to state the reasons for refusal of such concessions to third class passengers?

Colonel W. D. Waghorn: (a) There is no such rule having general application.

(b) The question does not arise in view of the reply to (a) above.

REASON FOR BIG THIRD CLASS COMPARTMENTS.

169. * **Rai Bahadur Luchmi Prasad Sinha**: Will the Government be pleased to state the reasons for the construction of big third class compartments for numbers of passengers varying from 30 to 50 to seat in each?

Colonel W. D. Waghorn: The chief advantages of large over small compartments in 3rd class carriages are that they are more economical in seating accommodation, that larger compartments are better ventilated and

† *Vide* Legislative Assembly Debates, Volume II, page 1827.

airier than small, and that in large compartments 'certain conveniences can be provided which, for reasons of economy, it would not be possible to supply in small compartments.

EXTENSION OF PASSENGER SHED AT KIUL JUNCTION.

170. * **Rai Bahadur Luchmi Prasad Sinha :** (a) Is it a fact that the major portion of the passenger shed on the island platform of the Kiul Junction Station on the East Indian Railway is being occupied by Tea Vendors and the Parcel Godown?

(b) Is the Government aware that the remaining space available for passengers is not sufficient to protect them from sun and rain?

(c) If so, will the Government be pleased to issue instructions to the Railway Company concerned to extend the shed and thereby to remove the grievance?

Colonel W. D. Waghorn : (a) and (b). The covered shed over the island platform at Kiul Junction on the East Indian Railway is not provided solely for the use of passengers. It is used for sheltering parcels and luggage which are loaded on, or unloaded from, trains. There is also a small tea vendor's stall in the shed for the convenience of passengers, but the major portion of the shed is available for the use of passengers. There is also a separate waiting hall which is intended for the convenience of passengers waiting for trains.

(c) In the circumstances, Government do not propose to issue instructions to the Railway Company as suggested.

BETTER LIGHTING FOR KIUL JUNCTION STATION.

171. * **Rai Bahadur Luchmi Prasad Sinha :** (a) Is it a fact that at such a big and important junction station as Kiul no high power lamps are kept burning throughout the night on the platform?

(b) Is it a fact that owing to darkness on the platform some casualties occur every year by people being run over by trains?

(c) If the answer is in the affirmative, will the Government be pleased to issue necessary instructions for the burning of high power lamps on the Kiul station platform throughout the whole night?

Colonel W. D. Waghorn : (a) High power lamps are employed at this station for lighting the yard continuously during the night. Platform lamps are also kept lighted during the arrival and departure times of passenger trains practically all night.

(b) The reply is in the negative.

(c) In view of the reply to (a) above, the question does not arise.

CONSTRUCTION OF SAFE ROUTES TO THEIR QUARTERS FOR RAILWAY EMPLOYEES AT KIUL JUNCTION.

172. * **Rai Bahadur Luchmi Prasad Sinha :** Is it a fact that at Kiul Junction Station railway quarters have been built at such a place that the employees are to go by crossing 5 or 6 siding lines?

If so, will the Government be pleased to take steps for the construction of a safe route to these quarters?

Colonel W. D. Waghorn: The information is being obtained from the East Indian Railway Administration and will be sent to the Honourable Member.

INADEQUATE MEDICAL AID IN THE CASE OF HORI LAL, BANKSMAN AT THE CRADDOCK COLLIERY.

173. * **Lient.-Col. H. A. J. Gidney:** (a) Is it a fact that Hori Lal, a Kalar by caste, working as banksman at the Craddock Colliery, Central Pench Coal Company, Limited, was seriously injured on the 9th of March while working underground, and did he sustain a compound comminuted fracture of the left side of the lower jaw? If so, was the injured man compelled to walk to Barkuhi Hospital, a distance of 5 miles, without any First Aid being rendered, and was he sent to the Main Hospital, a further distance of 23 miles, because there were no facilities for the proper treatment of such cases at the Barkuhi Hospital?

(b) Is it a fact that although the Manager received immediate information of the accident, 24 hours elapsed before he made any inquiries whatsoever as to the injured man's condition?

(c) Is it a fact that the Manager and Chief Mining Engineer received an official report from Dr. Baker regarding the seriousness of the accident; if so, did the Manager make an official report to the Chief Inspector of Mines in India as required under Rule 8 (Rules applicable to Coal Mines under section 20, Indian Mines Act, 111 of 1901); if not, why not?

INSUFFICIENT MEDICAL STAFF AT THE EKHLARA COLLIERY TO COPE WITH INFECTIOUS AND CONTAGIOUS DISEASES.

174. * **Lient.-Col. H. A. J. Gidney:** (a) Is it a fact that an epidemic of cholera broke out at the Ekhlara Colliery, Pench River Coal Company, on or about the 25th of March, 1921, and that the medical staff consisted of one unqualified Sub-Assistant Surgeon and one uncertificated Compounder; if so, was the medical staff considered adequate to cope with the requirements of the 20,000 souls who inhabit the various collieries in that district; if not, were any arrangements made to improve the then existing conditions, between the date of the outbreak of the epidemic and the end of June? If not, why not?

(b) Is it a fact that the Chief Medical Officer strongly recommended that arrangements should be made for the segregation and isolation of infectious and contagious diseases; if so, were any steps taken to meet the requirements?

(c) Is it a fact that dead bodies of cholera victims were dragged along the ground and placed in the nearest nullah, having not more than two inches of earth sprinkled over them, and that animals devoured the dead bodies?

(d) Is it a fact that no latrines nor sanitary arrangements of any kind exist on the coalfields?

MANAGERS OF COLLIERIES IN PENCH WITH CERTIFICATES OF COMPETENCY.

175. * **Lieut.-Col. H. A. J. Gidney** : Is it a fact that Messrs. Shaw, Wallace and Company are the Managing Agents of about 8 or 9 collieries in Pench ; if so, how many of the managers of the said collieries possess Certificates of Competency as prescribed by law ?

The Honourable Mr. C. A. Innes : With your permission, Sir, I propose to answer Questions Nos. 173, 174 and 175 together. The answer in all cases is the same.

The Central Provinces Government and the Chief Inspector of Mines have been requested to furnish the information asked for and a reply will be given in due course.

RULE UNDER WHICH MEMBERS QUESTIONING ARE REFERRED TO PROVINCIAL GOVERNMENTS.

176. **Mr. W. M. Hussanally** : (a) When a sufficient long notice of questions put by Members of the Assembly is given, and if any information is wanted from Provincial Governments, which rule or Standing Order authorises the Government to refer Members to Provincial Governments for such information ?

(b) Are Provincial Governments bound to answer questions by, and give information upon any point to, Members of the Assembly ?

Mr. President : The Honourable Member's question appears to be based on a misapprehension. As he is doubtless aware, section 45-A of the Government of India Act divides the function of Government into central subjects and provincial subjects which are set out in the Devolution Rules. Rule 7 of the Indian Legislative Rules empowers the President to disallow a question on the ground that it relates to a matter which does not primarily concern the Government of India, and is intended to give effect to this classification by excluding questions on provincial subjects, the control of which is an essential element in provincial self-government.

If a question relates to a central subject (or in other words, to a subject which primarily concerns the Governor-General in Council) the mere fact that the information has to be collected from or through Local Governments would not justify disallowance of the question under Rule 7 nor would it justify the Government in referring the questioner to Local Governments. But if a question relates to a provincial subject, it may be disallowed by the President under rule 7 ; or if it is admitted, the Government Member, to whom the question is addressed, would be justified in referring the questioner to Local Governments. It is open to the questioner to obtain the information from the Local Governments either direct or through some Member of the local Legislative Council.

The answer to part (b) of the question, as drafted, is ' No '.

UNSTARRED QUESTIONS AND ANSWERS.

ISSUE OF RAILWAY TICKETS IN ADVANCE.

237. **Khan Sahib Maulvi Abdul Quadir** : Do the Government propose to instruct Railways to direct booking offices to issue tickets for any train

at any time of the day to avoid the inconvenience and congestion arising from tickets being issued just a short time before the arrival of a train ?

Colonel W. D. Waghorn: Government do not propose to issue such instructions. The Honourable Member is referred to the answer† given on 26th September, 1921, to Rai Bahadur Pandit Jawahar Lal Bhargava's Questions Nos. 633 and 635 on the same subject.

Railway Administrations and Government Inspectors have recently been asked to give special attention to the question of booking arrangements for passengers at railway stations and in large towns.

LISTED APPOINTMENTS FOR PROVINCIAL SERVICE MEN.

238. **Mr. W. M. Hussanally:** Will the Government please place on the table a statement showing :

- (a) The total number of listed appointments in the Executive and Judicial Departments separately in each Province in 1920 ?
- (b) How many in each branch were open permanently and how many acting, to Provincial Service men in each Province ?
- (c) How many more have been thrown open to Provincial Service men in each branch acting or permanent in each Province, in consequence of the Resolution of the Assembly passed on 17th February, 1921 ?

The Honourable Sir William Vincent: (a) The attention of the Honourable Member is invited to the statement laid on the table on the 15th February, 1921, which will probably serve his purpose.

(b) The posts included in this statement are all permanent posts.

(c) The Honourable Member is referred to the reply‡ to Lala Girdharilal Agarwala's Question on the subject on the 16th January last.

STATE MANAGEMENT OF RAJPUTANA-MALWA RAILWAY.

239. **Mr. W. M. Hussanally:** What were the reasons for which the management of the Rajputana-Malwa State Railway was transferred to the Bombay, Baroda and Central India Railway Company and when ?

(b) What are the terms of the said transfer ?

(c) How long is that contract to last ?

(d) Is it proposed to resume the management and working of the Rajputana-Malwa Railway by Government at the expiration of the lease in consequence of the widespread Indian opinion now that all Railways should as far as possible be State-owned and State-managed ?

Colonel W. D. Waghorn: (a) The working of the Rajputana-Malwa Railway was transferred to the Bombay, Baroda and Central India Railway Company in 1885 with a view to securing unity of management on the line of communication between the North-West and Bombay.

† *Vide* Legislative Assembly Debates, Volume II, pages 981 and 982.

‡ *Vide* Legislative Assembly Debates, Volume II, page 1404.

(b) The terms for working are as laid down in the contract with the Company, a copy of which is available in the library of the Legislative Assembly.

(c) The contract may be determined by Government on the 31st December, 1941, or on 31st December of any succeeding fifth year by giving to the Bombay, Baroda and Central India Railway Company in England 12 calendar months' previous notice.

(d) The date of determination is so far off that it would serve no useful purpose to attempt an answer to the Honourable Member's question.

ENGAGEMENT OF MR. ALSTON AGAINST THE ALI BROTHERS AND OTHERS.

240. **Mr. W. M. Hussanally :** Is it the Government of India or the Government of Bombay who engaged the services of Mr. Alston in the case against the Ali Brothers and others at Karachi, or was it at the recommendation of the Government of the United Provinces ?

The Honourable Sir William Vincent : The Government of Bombay.

CONSIDERATION OF THE REPORT OF THE INDIAN JAIL COMMITTEE, 1919-20.

241. **Maulvi Abdur Rahman :** Will the Government be pleased to state whether the Government propose to take into consideration the Report of the Indian Jail Committee, 1919-20, in near future ? If so, when they propose to do so ?

The Honourable Sir William Vincent : The attention of the Honourable Member is drawn to pages 253—280 of the Report of this Assembly's Debates on the 15th September, 1921. He will there find copies of the letters issued by the Government of India to the Local Governments on the subject of the recommendations of the Jails Committee. We have since addressed Local Governments regarding the creation of children's courts and other questions dealt with in Chapter XV of the Report. A copy of this letter is laid on the table. A special officer has just been appointed to discuss the various questions raised in the Report personally with Local Governments with the object of expediting their disposal.

IMPERIAL SERVICE INDIANS IN IMPERIAL SECRETARIATS.

242. **Maulvi Abdur Rahman :** Will the Government be pleased to lay on the table a statement showing the number of Indians, both Hindus and Muhammadans, in the Imperial Services in the Imperial Secretariats, stating the posts they hold mentioning their present pay as well as that of the year 1920 ?

The Honourable Sir William Vincent : The Honourable Member's attention is invited to the statement which has been laid on the table to-day in reply to a somewhat similar question by Rai Bahadur L. P. Sinha. I hope this will serve his purpose. Only one of the Indian officers there shown is a member of an Imperial Service. His pay on the 1st April, 1921, was Rs. 4,000 a month. The statement does not include Indian officers holding posts of Assistant Secretaries or graded as Under Secretaries.

MUHAMMADANS IN THE IMPERIAL SERVICES.

243. **Maulvi Abdur Rahman :** Will the Government be pleased to lay on the table a statement showing the number of Muhammadans promoted

or directly recruited to the Imperial Service in the Civil, Military, Medical, Educational, and other services up to the end of December, 1921 ?

The Honourable Sir William Vincent: The attention of the Honourable Member is invited to the replies given in this Assembly to questions on this subject by Khan Bahadur Mir Asad Ali on 7th March† and 19th September,‡ 1921. As was then pointed out, the information asked for is not available.

CONSTRUCTION OF PROPOSED INDO-BURMA RAILWAY.

244. **Maulvi Abdur Rahman:** Will the Government be pleased to state when the construction of the proposed Indo-Burma Railway line will begin, mentioning the route finally approved by the Government and the Railway Board ?

Colonel W. D. Waghorn: As the results of the Hukong Valley Railway Survey undertaken in this connection are still awaited, the question of the construction of an Indo-Burma connection railway has not yet been considered nor has any route been finally approved.

UNIFORM TREATMENT OF POLITICAL PRISONERS.

245. **Maulvi Abdur Rahman:** Has the attention of the Government been drawn to Provincial Governments' Press Communiqué regarding certain privileges to the political prisoners? If so, has the attention of the Government been drawn to the fact that in different provinces different arrangements have been proposed? If the answer be in the affirmative, will the Government be pleased to state whether the Indian Government propose to take any action in the matter ?

The Honourable Sir William Vincent: Yes. There are no great variations between the arrangements in force in various provinces. The whole subject is under the consideration of the Government of India.

INDIAN TERRITORIAL FORCE.

246. **Sir P. S. Sivaswamy Aiyer:** Will the Government be pleased to lay on the table a detailed report showing the progress made in the organisation of the Indian Territorial Force ?

Sir Godfrey Fell: A statement is laid on the table.

Statement showing the progress made with regard to the organisation of the Indian Territorial Force.

INDIAN TERRITORIAL FORCE.

Actual strength returns have not yet been received, but the present position, as obtained from information available, is as stated below :—

PROVINCIAL BATTALIONS.

United Provinces.

1st (Territorial Force) Battalion, 2nd Rajput Light Infantry.—Enrolment is proceeding, and about 300 men are forthcoming immediately. It may not, however, prove possible

† *Vide* Legislative Assembly Debates, Volume I, page 655.

‡ *Vide* Legislative Assembly Debates, Volume II, page 454.

to undertake training this year, *i.e.*, before the end of March. It is considered that during 1922-23 at least two more units can be formed in the area.

Punjab (E.).

1st (Territorial Force) Battalion, 25th Punjabis.—Training for the year has commenced at Jullundur. The number present is about 100 and some 250 more are expected. Recruits have come principally from the south of the Ambala Division, and there is a general desire to form a separate battalion for that area, with Delhi as a training centre.

Punjab (W.).

1st (Territorial Force) Battalion, 62nd Punjabis.—Progress has been delayed unavoidably owing to the difficulty experienced in obtaining a suitable adjutant. An officer has now been appointed, and some 350 applications for enrolment have been received. Expansion will be necessary in the coming year, and there is a demand for a separate unit in the North-West Frontier Province.

Burma.

1st (Territorial Force) Battalion, 70th Burma Infantry.—An adjutant has been appointed and recruitment is in progress. No figures are yet available.

Madras.

1st (Territorial Force) Battalion, 73rd Carnatic Infantry.—Applications largely exceed the establishment and proposals to form a 2nd Battalion are under consideration.

Sanction has been requested to the constitution of the 1st (Malabar) Territorial Battalion, 75th Infantry. Some 800 men have been enrolled, and training can commence forthwith.

Two other units, the 1st (Territorial Force) Battalion, 79th Carnatic Infantry, and the 1st (Territorial Force) Battalion, 83rd Wallahabad Light Infantry, have been proposed, and it is understood that these can be completed during the coming financial year.

Bengal.

1st (Territorial Force) Battalion, 94th Russell's Infantry.—An adjutant has been appointed and enrolment is proceeding; but the number actually enrolled is at present too small to warrant the expectation of training during the current year 1921-1922.

Bombay.

1st (Territorial Force) Battalion, 103rd Mahratta Light Infantry.—Enrolment is proceeding and it is hoped that one company will be trained during the next month.

1st Territorial Force Battalion, Bombay Pioneers.—This is a newly constituted unit recruited from Parsis, and has already attained a strength of some 400 men. Training is to commence immediately.

Bihar and Orissa.

The question of a separate unit for the Province of Bihar and Orissa is under consideration.

Ajmer-Merwara.

Proposals have been made to constitute a battalion for Ajmer-Merwara, and these are under examination. It is estimated that a full battalion could be raised in the coming year.

University Training Corps.

1st (Bombay) Battalion.—This unit has a strength of some 400 of all ranks. Training is proceeding, and a successful camp was held at Deolali in October.

2nd (Calcutta) Battalion.—Over 200 have been enrolled, and training has been conducted regularly.

3rd (Allahabad) Battalion.—An adjutant has been appointed, but so far few enrolments have been reported. It is proposed to form separate companies at Lucknow and Agra. The question has been raised of forming a unit, with the initial strength of one company at Aligarh.

4th (Lahore) Company.—Training is in progress, and it is proposed to raise the establishment to three, if not four companies.

5th (Madras) Company.—No progress has yet been achieved.

6th (Rangoon) Battalion.—This is in process of formation.

7th (Patna) Company.—This unit has recently been sanctioned. It is proposed to have one company at Patna in the first instance, and subsequently a second at Cuttack.

8th (Benares) Company.—This also is a recently created unit, and it is expected that a full company will be obtained at once.

COST OF CONSTRUCTION OF CERTAIN RAILWAYS.

247. Rai G. C. Nag Bahadur: Will Government kindly lay on the table a statement showing, in connection with the Trans-Indus, the Katwa-Barharwa, the Akhaura-Tangi and the Gondia-Chanda lines,

- (i) cost of construction as completed;
- (ii) cost of construction as estimated by the Railway Administration at the time of construction;
- (iii) amount of estimate as accepted by Government when sanctioning construction;
- (iv) maximum return on capital outlay obtained during any pre-war year;
- (v) return as estimated by the Railway Administration at the time of construction; and
- (vi) return as accepted by Government when sanctioning construction?

Colonel W. D. Waghorn: The information is being collected and a statement will be furnished to the Honourable Member as soon as ready.

PLATFORM ON THE RESHIKESH ROAD STATION, OUDH AND ROHILKHAND RAILWAY.

248. Rai Bahadur Pandit J. L. Bhargava: (a) Is it a fact that there is no platform on the Reshikesh Road Station of the Oudh and Rohilkhand Railway?

(b) If so, will the Government be pleased to direct the Oudh and Rohilkhand Railway authorities to remove this cause of public grievance as soon as possible?

Colonel W. D. Waghorn: (a) The reply is in the affirmative.

(b) Government do not propose to take up the matter at present.

MAINTENANCE OF WATERWAYS IN INDIA.

249. Lala Girdharilal Agarwala: (a) Have the Government ever considered the advisability of maintaining and extending waterways in India and, if so, with what result?

(b) Will the Government be pleased to lay on the table any information on the subject that may be easily available?

Colonel Sir S. D'A. Crookshank : (a) and (b). The policy of Government was fully explained in their despatch No. 21-P. W., dated 4th September, 1919, which will be found printed in No. 2 of Volume II of the Council of State Debates.

NAVIGABILITY OF THE LARGE RIVERS OF INDIA.

250. **Lala Girdharilal Agarwala :** (a) What portions of the Ganges and the Jumna and other large rivers of India were navigable throughout the year before the introduction of railways and which parts have now ceased to be so navigable?

(b) Will the Government be pleased to lay on the table such information as may be easily available?

Colonel Sir S. D'A. Crookshank : (a) and (b). The conservation of rivers is a provincial matter and the Government of India have no information on the point raised, but there is no reason to believe that the introduction of railways has affected the navigability of rivers though it may have rendered navigation unprofitable in certain localities.

RIVER TRAFFIC TO RELIEVE RAILWAY TRAFFIC.

251. **Lala Girdharilal Agarwala :** (a) Have the Government got any information as to the present conditions of river traffic, and what proportion does it bear to railway traffic?

(b) Have the Government taken any steps or do they propose to take any steps to encourage river traffic to relieve the congestion of railway traffic in such parts of India where river traffic is possible?

Colonel Sir S. D'A. Crookshank : (a) The Honourable Member is referred to the annual reports on rail and river borne trade which are published by the Local Governments.

(b) Inland waterways and navigation being a provincial subject, the reply is in the negative in so far as the Central Government is concerned.

GOVERNMENT ACTION AGAINST THE 'ISLAMIC NEWS'.

252. **Maulvi Abdur Rahman :** Is it a fact that the Government of India stopped the entry of the '*Islamic News*' in India because it published the English translation of Madame Gaull's letter from the French paper '*L'Opinion*,' regarding the atrocities committed upon the Muslims in Asia Minor when Greeks were beaten at Ismid?

The Honourable Sir William Vincent : The entry of the '*Islamic News*' into India has been prohibited by a notification under the Sea Customs Act, but not in consequence of the article referred to in the question.

ALLEGED SECRET HELP FOR GREEKS FROM ENGLAND.

253. **Maulvi Abdur Rahman**: Has the attention of the Government been drawn to the statement, that in spite of the statements to the contrary, Britain is secretly helping the Greeks? If so, whether the Government has inquired into the accuracy of these statements?

Mr. Denys Bray: Yes. There is no truth whatever in the statement that Great Britain is secretly helping the Greeks.

THE BRITISH CABINET AND THE GRECO-TURKISH CONFLICT.

254. **Maulvi Abdur Rahman**: Has the attention of the Government been drawn to the copy of the telegram by the Aga Khan, Mr. Kidwai, and Mr. Chotani, of the Indian Muslim Delegation, to Lord Reading for pressing certain point regarding the Greco-Turkish conflicts to the British Cabinet? If so, will the Government be pleased to state what action has been taken by His Excellency Lord Reading and the Government of India in the matter, and to what effect?

The Honourable Sir William Vincent: Government have not seen the telegram referred to.

MOTION FOR ADJOURNMENT.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I rise to ask for leave to move the adjournment of the business of the Assembly to-day for the purpose of discussing a definite matter of urgent public importance, namely, the grave position of Indians in Kenya on account of the recent pronouncement of the Right Honourable Winston Churchill at the East African Banquet in London, and the immediate action which the Government of India should take in connection therewith.

Mr. President: The Honourable Member asks leave to move the adjournment of the House in order to discuss a definite matter of urgent public importance, namely, the grave position of Indians in Kenya on account of the recent pronouncement of the Right Honourable Winston Churchill at the East African Banquet in London. The question which the Honourable Member desires to discuss has already been set down for discussion on a Resolution which has obtained the fourth place in the ballot for the ninth of this month, namely, Thursday. Under rule 12, sub-rule 4, his motion is, therefore, one which does anticipate a matter which has already been previously appointed for consideration, and with reference to which a notice of motion has been previously given. I am, therefore, unable to admit it.

Mr. N. M. Samarth: Well, Sir, that motion refers in general terms to equality of status for British subjects in all parts of South Africa, and my motion is to discuss the speech which the Right Honourable Winston Churchill has made with reference to the Kenya colony alone. I do not wish to go into the larger question of equality of status, in all parts of Africa, for Indians; I wish to confine myself to the two or three particular points which were the subject of negotiation between this Government and the Secretary of State for India and the Colonial Secretary and the British Cabinet and in regard to which the Secretary for the Colonies has made a pronouncement.

I am going to bring to the notice of the British Cabinet the indignation of this Assembly in regard to the pronouncement made by the Right Honourable Winston Churchill in respect of those matters. It has nothing to do with the larger question of equality of status for Indians in the whole of Africa.

Mr. President: The question is as to whether it has anything to do with the larger issue, which deals with the merits of a policy on which I am not called on to pronounce. But I may put this point to the Honourable Member. The speech having been delivered by the Secretary of State for the Colonies, the discussion of the position of Indians in any other part of His Majesty's Dominions will inevitably turn upon the words used by Mr. Churchill. I would, therefore, suggest to the Honourable Member to consider whether if he were delivering a speech on the Resolution standing in the name of Mr. Agnihotri, that speech would not be identical with the one he proposes to make this afternoon.

Mr. N. M. Samarth: No, Sir. It would not be identical, because I would confine myself only to the specific points relating to Kenya, on which the Government of India had sent a Despatch to the British Cabinet. The Government of India have not sent a Despatch in regard to the qualifications necessary for immigrants to the whole of Africa. This issue has been raised on a specific and separate matter, and I respectfully submit, Sir, that I should be permitted to move my motion.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, in associating myself with the Honourable Mover of this Resolution, I wish to point out that the Honourable Mr. Agnihotri's Resolution, which is set down for discussion on the 9th, has nothing whatever to do with the views expressed, by the Colonial Secretary at the East African Dinner. The subject-matter of the motion for adjournment, now before the House, relates to the views of a particular Cabinet Minister, and I submit that the discussion will centre round the views expressed in that particular pronouncement made on that day. I submit, therefore, that the larger question as to the status of Indians in the south and other parts of Africa has nothing whatever to do with their own pronouncement on the subject that the Members of this Assembly wish to transmit to the British Cabinet for the purpose of enunciating their decision with reference to the remarks which occur in the telegraphic summary of the Right Honourable Winston Churchill's speech.

The Honourable Mr. B. N. Sarma (Revenue Member): It is entirely for the Chair to give a ruling on this point and I have nothing to say as to that. But, subject to that ruling, Government are perfectly willing to have a discussion on the subject to-day or any other time.

Mr. President: I am afraid I cannot accept the statement of the Honourable Dr. Gour that the motion for adjournment and the speech delivered by Mr. Churchill have nothing to do with the Resolution which Mr. Agnihotri proposes to move on the 9th. He proposes to move:

'That this Assembly recommends to the Governor General in Council that he do represent to the Imperial Government, that the failure on the part of the Imperial Government to meet the lawful and modest claims of Indians, for equality of status of British subjects in all parts of Africa, will be regarded as serious violation of equal status promised to Indians in the British Empire.'

[Mr. President.]

Now, if you substitute the words 'Secretary of State for the Colonies' wherever the words 'Imperial Government' occur, the substance of the Resolution is identical with the present motion. My two Honourable friends are practised adepts in constitutional law and procedure and they know the doctrine of Cabinet responsibility as it prevails in the United Kingdom. Therefore, in so far as Mr. Churchill may have been speaking for the Imperial Government, I am entitled to substitute his name for the words 'Imperial Government' in Mr. Agnihotri's Resolution, and to rule the 'Honourable Member out of order.

But I may add—this is merely a footnote to what I have already said—that the opportunity for discussion will arise in a more effective form for an expression of the opinion of this House, on a Resolution than on a motion for adjournment. A motion for adjournment is merely a discussion in which the Government have an opportunity of expressing their views. A Resolution is an explicit statement of the considered judgment of the House in a form which is easily transmissible to the Imperial Government.

Mr. N. M. Samarth : The question is whether the Resolution will be reached on the 9th. There is no doubt that Mr. Agnihotri's Resolution is tabled for that day, but it is fourth on the list of business, and generally the fourth Resolution is not reached, unless the Members in charge of preceding Resolutions are absent. Supposing, therefore, the Resolution is not reached, what, Sir, will be the position? The Cabinet will not be in possession of the expression of the indignation of this Assembly on the pronouncement made by the Right Honourable Winston Churchill and this opportunity will be lost. I, therefore, moved for an adjournment to discuss this particular matter, this urgent matter of definite public importance. With great respect to you, Sir, I do not identify the British Cabinet with the pronouncement made by Mr. Churchill. He has made it personally as a Minister of the Crown, and I have yet to learn either that the Secretary of State for India was apprised of it or that the British Cabinet endorsed the pronouncement which Mr. Churchill made at that banquet. The Resolution which Mr. Agnihotri is moving about the policy of the Imperial Government in regard to Indians in Africa is a different thing altogether from the discussion which I wish to raise; and my difficulty is that that Resolution might not even be reached.

The Honourable Sir William Vincent (Home Member) : Sir, may I make a statement which may relieve the Honourable Member to some extent. From the information which has reached me, it seems probable that Mr. Agnihotri's Resolution will be reached on the 9th; I say this as two Resolutions which precede that Resolution in the List of Business on that day will, according to my information, not be moved. I do not know whether this is any comfort to him.

Dr. H. S. Gour : While we bow to the decision of the Chair, we only desire to convey to the British Cabinet our intense indignation at the pronouncement made by a responsible Minister in a post-prandial speech in which he has libelled the people of this country and has made a pronouncement which we on this side of the House should like to have discussed at the earliest moment. However, Sir, as the Honourable the Leader of the House has announced that Mr. Agnihotri's Resolution will in all probability

be reached on the 9th February we will abstain from discussing this motion to-day. But if it should not be reached on the 9th, then we would ask the good offices of yourself, Sir, to give us an opportunity of discussing this speech at the earliest possible date.

The Honourable Sir William Vincent : Sir, we can hardly allow to pass entirely unanswered one of the statements made by Dr. Gour, namely, the statement that the speech was a libel on India. I would suggest to this Assembly that it would be well to bide a little before accepting a charge of that kind, that they should wait until we have more complete and accurate information as to what exactly was said. It is unsafe to accept telegraphic summaries as entirely correct and I do not want the House to act precipitately, or to take any course that might court rebuke, and justifiable rebuke, at a later stage of the proceedings. But I again say that we have two Resolutions down for the 9th which will not be moved. One is Mr. Ginnwala's; I think he has already given notice that he will not move it; another motion is that of Mr. Kabeer-ud-Din Ahmed regarding Mr. Mohamed Ali. Well, Sir, I have some reason to think, from past experience, that he will not appear on that date. (Laughter.) Those were my reasons for saying that Mr. Agnihotri's Resolution will probably come on second; and if it does not come on on the 9th, I will do my best to find a suitable date for this discussion.

Mr. President : In the decision I have made I took into consideration the probability that the Resolution standing in Mr. Agnihotri's name would come up for discussion; but I must point out that the terms of the rule are strict and that they preclude a discussion in anticipation, such as the Honourable Member wished to raise this afternoon.

THE CIVIL PROCEDURE (AMENDMENT) BILL. *

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

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings, be taken into consideration.'

I have explained this so often to this Assembly that I am not going to do it to-day. I believe every one must be familiar with it and we have had no objections formulated to the general principle of the Bill. What happened last Session was that the Government referred back the Bill informally to a Committee composed of eminent lawyers of this House who made certain proposals, which have now been embodied in the Bill. For that reason, I proposed to-day to move that the Bill be taken into further consideration without going through the formality of another Select Committee, because this matter has been discussed in committee already. But there are various points raised in the amendments put before us to-day, and though I know that in some quarters it is felt that it saves time to deal with a Bill of this kind, even if amendments are proposed, in the full Chamber, yet, in the present case, for various reasons which I need not explain to the Chamber, I am doubtful if that would be the case; and, if the Assembly thinks that the Bill should be referred to a Select Committee, as will be proposed, I believe, by my Honourable friend, Mr. Subrahmanayam, Government will not oppose the motion in any way and I would suggest that he should add to his motion the

[Sir William Vincent.]

following names of persons whom he might invite to sit on this Committee. I may say that I have, in anticipation, ascertained, whether they would be willing to serve. My suggestion is that the Committee should consist of Dr. Sapru, Mr. Mukherjee, Mr. Subrahmanayam, Mr. Srinivasa Rao and myself. If the proposal to refer the Bill to a Select Committee commends itself to this Assembly, I may say that I have chosen all the Members who have thought fit to put in amendments to the Bill. So I hope on this occasion at least I shall have met the objections of all my critics.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, I rise to move this amendment that the Bill be referred to a Select Committee. There are some technical points and also some points of substance, which some of us feel ought to be considered and we do not agree on those matters as the Bill at present stands. Therefore, in some manner it will be useful if it is re-considered in a Select Committee. The form the Bill has now taken is substantially different from the one that was presented to us last year. Therefore, without taking up more time, I move this amendment and hope that it will be accepted. The names have already been mentioned, and they are, the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Mr. J. N. Mukherjee, Rao Bahadur P. V. Srinivasa Rao, and myself.

Mr. President: Amendment moved :

‘ That the Bill be referred to a Select Committee composed of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Mr. J. N. Mukherjee, Rao Bahadur P. V. Srinivasa Rao and Rao Bahadur C. S. Subrahmanayam. ’

The Honourable Sir William Vincent: I have already explained the attitude of Government on this matter and the only request I have to make, which I may as well make now, is that the Select Committee on this Bill should sit to-morrow immediately after the proceedings of this Assembly are concluded. I do not think the business in the Assembly will take long to-morrow, and I am really anxious to get the Bill off the stocks. I have ascertained that some of the Members of the Select Committee will not object to that course. If the House thinks that the Bill should be so referred, Government will not object, though even now I am not prepared to say that I think it is entirely necessary.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : I should like to make a few observations on the principle of this Bill. I entirely agree with my Honourable friend, Mr. Subrahmanayam, that certain new principles have been introduced into this Bill, and for that very reason it is just as well that the House should stop to consider those principles. But, apart from that question, the principle of the Bill itself is a new departure, if I may say so, from the principle which has hitherto been followed in respect of civil suits, and therefore it stands to reason that the point should be well considered before the Bill becomes an Act on the Statute Book. Generally speaking, I may say, Sir, that it is not an actionable wrong to institute civil proceedings without reasonable cause even if the plaintiff or claimant is unable to prove his case and the reason is that if a defendant is unreasonably sued, he is indemnified by a judgment in his favour which gives him his costs in the suit. Now, Sir, these costs ordinarily mean costs put down in a decree, i.e., costs on account of court fees,

process fees, etc., *plus* lawyer's fee. But what is attempted to be done by the present Bill is that costs by way of damages are to be awarded against the party failing to prove his case in Court and without any definite issue being raised as to the amount of damages which one party or the other ought to receive. The Court is now going to be authorised by the Bill in order that it may grant the suffering party a sum of money by way of compensatory damages in a summary manner. Such a procedure involves a very important principle of law. The law hitherto did not follow such a course on the ground that, if in civil suits damages were to be allowed in such manner, there would be no finality. In criminal cases, the House is aware, the Criminal Procedure Code provides for the award of damages for frivolous and vexatious cases. But in civil suits, such damages are not awarded. Sir Frederick Pollock says :

'It is common knowledge that the cost allowed in an action are hardly ever a real indemnity. The true reason is that litigation must end somewhere. If A may sue B for bringing a vexatious action, then, if A fails to persuade the Court that B's original suit was vexatious, B may again sue A for bringing this latter action, and so on *ad infinitum*.'

So, this is the first time in the history of the Indian Legislature that you are taking an important step like the one proposed by the Bill in connection with civil actions. Then, Sir, the House will notice that the right of appeal of an injured party is being limited by the present Bill. What the Bill provides is that, where a man is given a small sum by way of compensation or damages, because the case against him is a false or frivolous one, he ought to be satisfied with that sum and must not have a right of appeal. For instance, if he has been compelled to spend Rs. 1,000 or Rs. 2,000 in conducting his suit or defence and the Court thinks that it should grant him only nominal damages, say to the extent of Re. 1 or Rs. 5, he cannot appeal from such an award, though he may have suffered considerable loss.

The Bill says that he ought to be content with the small pittance granted by the Court by a summary order. All these questions will no doubt be deemed to be of great importance by this House, and the motion to refer the matter to a Select Committee seems to me to be a very proper one. At the present stage, the House cannot, to my mind, reject the Bill, but it cannot, at the same time, do without having the matter thoroughly considered by a Select Committee. By the Bill what is proposed is the award of regular costs, which should stand apart, *plus* the damages due to the falsity of a suit or defence. Then again, as regards the vexatious character of a suit, some Courts may interpret the evidence as establishing a true case while others may consider the suit or defence to be vexatious. The alternative form in which the words 'false or vexatious' have been put may also give rise to difficulty hereafter. There may be cases also where the suit may be of a trivial character though true, but where the plaintiff may consider himself entitled to damages, while some other person may consider it to be frivolous. Like the criminal law, the civil law no doubt also lays down that no reasonable man ought to take notice of very slight and petty matters; but, on this point also, there is a great difference as to legal consequences and as to procedure as between civil actions and criminal cases.

As I have already submitted to the House, civil actions, even if false and malicious, cannot, generally speaking, form the basis of a claim for damages,

[Mr. J. N. Mukherjee.]

though there are exceptions to the rule. It has been stated that there are proceedings which, though civil, are not ordinary actions, but fall within the reason of the law which allows an action to lie for the malicious prosecution of a criminal charge. There are cases, for instance, which have for these objects to have a man declared an insolvent on false allegation. These cases assume the colour of a criminal charge, and therefore in these and similar exceptional classes of cases, a civil action for damages would lie.

There are matters, I submit, which have to be very carefully considered by the House in passing a Bill like the present, specially, as I have already submitted, because it marks a departure from the ordinary course of the law.

I, therefore, support the motion for referring the Bill to a Select Committee.

The Honourable Dr. T. B. Saprú (Law Member): I believe the main object which my Honourable colleague, Sir William Vincent, had in view, when he accepted the suggestion that this Bill should be referred to a Select Committee, was to save the time of this House. Well, if that was his object, I am afraid he has failed, not due to any fault on his own part, but to the somewhat surprising speech which has been just delivered by my Honourable friend, Mr. Mukherjee. Once you accept the motion that the Bill should be referred to a Select Committee, I would respectfully venture to submit that there is no occasion just now to discuss the principles of the Bill. I may point out that we had prolonged meetings in Simla, which were composed of some very eminent lawyers, both in this House and in the other. I will mention to you the names of the gentlemen who attended those meetings: Sir Benode Mitter, Mr. Hammond, Mr. Srinivasa Rao, Mr. Khaparde, Mr. Summers, Mr. Price, Rai Bahadur Pandit J. L. Bhargava, Mr. Iswar Saran, Mr. Lyall, Mr. Moncrieff Smith, Sir William Vincent and myself. We went into the question of the policy and principle of this Bill at great length, and it was as the result of the discussions at those meetings that this Bill was drafted and is in the shape that it has come out of the hands of the draftsman.

I am aware that there are certain gentlemen, both in the legal profession and outside, who have a horror of a Bill of this character; but it will not surprise many Honourable Members of this Assembly when I tell them that even in England they have had to pass a Vexatious Suits Act, which is far more stringent in some of its provisions than any you have here.

So far as the necessity of legislative action is concerned, I think that that was clearly pointed out last year, when this matter was engaging the attention of the Assembly. That the need is very urgent, and is a real one, I submit, there can be no room for doubt. False suits are instituted almost every day in Courts, and the attention of the Government was drawn to a large number of suits of that character which sprang up in the United Provinces and in certain other parts of India.

As regards the objection which has been raised by my Honourable friend, Mr. Mukherjee, namely, that the word 'vexatious' is a word of very indefinite import, I join issue with him. The words 'vexatious suit' have a technical meaning, and no one who knows what the interpretation placed on those words in England is, can have the least doubt of the meaning of that

expression. Anyhow, these are matters which I think will be taken up by the Select Committee, of which my Honourable friend will be a Member. Therefore, I would beg the House, if it is disposed to accept the motion of my Honourable friend, Mr. Subrahmanayam, to wait until the report of the Select Committee is before them, because I have every reason to hope that the conclusions arrived at by the Committee which met in Simla, will be, if not wholly, at least in the main, endorsed by the Select Committee.

Mr. President : (On Rao Bahadur C. S. Subrahmanayam attempting to speak) I thought the Honourable Member was getting up to withdraw his amendment. The Honourable Member just made a speech five minutes ago.

The general question was :

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings, be taken into consideration.'

Since which an amendment has been moved :

'That the Bill be referred to a Select Committee consisting of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Mr. J. N. Mukherjee, Rao Bahadur P. V. Srinivasa Rao, and Rao Bahadur C. S. Subrahmanayam.'

The question is that that amendment be made.

The motion was adopted.

The question is :

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings, be referred to a Select Committee, consisting of :

The Honourable Sir William Vincent,

The Honourable Dr. T. B. Sapru,

Mr. J. N. Mukherjee,

Rao Bahadur P. V. Srinivasa Rao, and

Rao Bahadur C. S. Subrahmanayam.'

The motion was adopted.

THE BENARES HINDU UNIVERSITY (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I
12 Noon. move :

'That the Bill to amend the Benares Hindu University Act, 1915, as passed by the Council of State, be taken into consideration'.

The Assembly may be a little surprised at seeing me engaged in proposing a Bill of this character—one which relates to what are called the beneficent and nation-building branches of the administration, but I only do so owing to the unavoidable absence of Mr. Sharp who has been called away. The Bill is also of a very simple character. If Honourable Members will look at section 9(2) of the Benares Hindu University Act, they will see that it prescribes that :

'Save in the case of the first Court, no person not being a Hindu shall become, or be appointed, a member of the Court.'

[Sir William Vincent.]

Now, under the provisions of the Act and rules, those who are now members of the Court will cease to hold office at a comparatively early date, and I understand that there is one member of the Court who is not a Hindu. The University have themselves asked us to modify the law so as to allow this person to continue to be a member of the Court, as she has been hitherto. In view of the expressed wish of the University themselves, I have no doubt that this Assembly will accept this proposal.

The motion was adopted.

The Honourable Sir William Vincent: Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE INDIAN EMIGRATION BILL.

Mr. J. Hullah (Revenue Secretary) : Sir, I move :

'That the Report of the Select Committee on the Bill to amend the law relating to emigration be taken into consideration.'

The motion was adopted.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I beg to move :

'In sub-clause (2) of clause 1 of the Bill, after, the word 'India' add the following, *viz.* : 'and shall remain in force for a period of five years since the date of its passing'.'

Sir, my object in putting forward this amendment is to make the Bill a temporary one and prevent its being put on the Statute Book permanently. The Members of this Assembly will admit that, after all, it is a legitimate thing for any labourer to try to go out of the country if he thinks his economic, social and material condition will be improved thereby. By going out of the country he commits no offence ; he is in no way a criminal. Therefore, as far as possible, we should not interfere with such a man when he tries to go out of the country. He goes out to improve his economic condition, and we have no right to come in the way of his doing it. Again, sometimes, people go out when they feel that they are not properly treated in this country.

Mr. President: The Honourable Member is discussing the whole merits of the Bill on clause 1 which says :

(1) This Act may be called the Indian Emigration Act, 1922.

(2) It extends to the whole of British India'.

* The Honourable Member's amendment is to limit it to five years. He must confine himself to the time limit.

Mr. N. M. Joshi : May I point out, Sir, that I want the Bill to be made temporary. Unless I explain the objects of the Bill, I think it will be very difficult for me to make out a case for the Bill being made a temporary one. I certainly bow to your decision, if you say I cannot discuss the general question, but I should like to have your decision on this point.

Mr. President: I will let the Honourable Member go a little further, but he seemed to me to have already gone far enough.

Mr. N. M. Joshi : My objection to the Bill being put permanently on the Statute Book is this. This Bill is being passed, in my humble opinion, on account of political considerations, such as that our countrymen, when they go abroad, are not given equal political status in those countries. It is also pointed out that, when we send our labourers abroad, we get a prejudice created against ourselves as being a country of coolies or labourers. Now, I do not want to go into the whole question at this stage, as there is going to be another amendment regarding this point; but what I urge is this, that this reason is, after all, but a temporary one. Our status in the Colonies or in the whole Empire is not going to remain what it is to-day. It is improving day by day, and I am quite sure it will soon improve. We hope, at least, that our status of equality will be recognised very soon. Therefore, there is no reason why we should put this clause permanently on the Statute Book. There is another reason why I urge this amendment, and it is this. It is the peculiarity of all Legislatures, and not only of this Legislature, that they are unwilling to repeal a measure which is once put on the Statute Book. I find this unwillingness in several other cases. Only last Session, I requested the Government of India to repeal the Workmen's Breach of Contract Act which was passed in the year 1859. I am quite sure that, if the Government of India comes before this Assembly to pass a similar measure to-day, they will not receive the sanction of this House; but, at the same time, we all see how difficult it is for any one to secure the repeal of this measure. In the same way, if you once put this measure permanently upon the Statute Book, it will be difficult to get it repealed after five years or after ten years. The difficulty is not only due to the natural disinclination of the Legislature to repeal a measure which it has once passed; but there is another danger in putting this legislation permanently on the Statute Book. This legislation is in restriction of the rights of labourers to go abroad to better their condition, and a time may come when employers in India, the landlords or the manufacturers, may find it to their advantage to keep labourers in this country and to prevent their going out in order that wages in this country should not go up. And if the Legislature at that particular time is very strongly dominated by these two classes—I mean the landlords and the manufacturers—it will certainly be very difficult indeed to secure the repeal of that measure. At the same time, it will not be easy for them, if this piece of legislation comes automatically to an end, to get it passed again. There is a great difference between new legislation being passed and allowing legislation to remain on the Statute Book. From that point of view, it is dangerous to the interests of the working classes that this measure should be allowed to remain on the Statute Book permanently.

Sir, it may be said that, when I ask this Legislature to make this legislation a temporary one, I am showing a want of confidence in the Legislature that may be in existence after five years. It is nothing of the sort. I have referred to the disinclination of Legislatures generally all over the world to repeal a measure which may be found very useful to some classes. Then, Sir, if I am showing want of confidence in the Legislature that may come into existence after five years, the Government which tries to put this legislation on the Statute Book permanently is also equally showing want of confidence in the Legislature that will come into existence after five years. If they feel that this measure is absolutely necessary after five years, the Legislature itself

[Mr. N. M. Joshi.]

will give consent to Government to continue this Bill after that period. So, if there is want of confidence, it is want of confidence on both sides. Personally I do not admit that I have any want of confidence in the Legislature that will be in existence after five years. But I feel that it is not right that we should put these restrictions upon the liberty of the working classes permanently on the Statute Book. I admit that there is a strong public opinion in the country at present in favour of these restrictions, but I am quite sure that public opinion will veer round to the right point, namely, to give freedom to the labouring classes to go out of the country if they choose to do so to better their conditions. This change in public opinion will come about when the public see that it is in the interests of the labourers that they should go out, and this change in public opinion, in my judgment, is sure to come very soon. Therefore, there will be no pressure from public opinion upon Government to have such restrictions upon the liberty of the working classes after five years. I, therefore, move my amendment and I strongly hope that the House will accept it.

The Honourable Mr. B. N. Sarma (Revenue Member): I beg to oppose this amendment. The Honourable Mr. Joshi proceeds on an entirely wrong conception of the object of this Bill and the purpose which it is intended to serve. He has assumed that the Government have introduced this legislation more with the object of satisfying the political craving in the country than for any other purpose, and, inasmuch as he hopes that Indians will be able to secure a better status abroad within the space of five years, he thinks that the ordinary liberty of the subject to migrate freely to any country where he may seek to earn his living should not be curtailed by means of this legislation. I deny that the object of this legislation is based upon any political grounds whatsoever in the way that it suggested. The fundamental object with which the Government has been legislating for over 50 years is to safeguard the interests of the working classes, of the illiterate masses who may have to seek, and who legitimately seek, to earn a living abroad, and not with a view to achieve any political object. It is true that the two Houses—the Legislative Assembly and the Council of State—are empowered by certain clauses in this Bill to determine to what countries emigration may be lawful or may be permitted; but the main provisions of the Bill do not prohibit the emigration either of unskilled or skilled labour. They provide that the necessary safeguards may be forthcoming and that the labourers who may emigrate (skilled or unskilled, to other countries should be properly treated while they are proceeding, and during their stay there, and that their health and security may be safeguarded and that they may not be cajoled or manœuvred into leaving this country on false pretences. I have said that emigration legislation has been on the Statute Book for more than 50 years, and I do not think that the state of the masses is going to change fundamentally within the next five years and that they are going to become literate, vocal and able to safeguard their own interests, bargaining with those who may try to secure their labour in foreign countries for the purpose of improving the resources of those countries. No one objects to labour seeking a livelihood abroad on fair, free and equal terms. What we do intend by this piece of legislation is to safeguard their interests, and I submit, therefore, that I am right in saying the Honourable Mr. Joshi proceeded on an entirely wrong conception of the

fundamental basis on which this legislation is framed. He admits that public opinion is against him ; that the Select Committee was against him . . .

Mr. N. M. Joshi : The Select Committee did not consider my point at all.

The Honourable Mr. B. N. Sarma : I am sorry my Honourable friend's memory is so short : he did raise the point in Select Committee.

Mr. N. M. Joshi : It was ruled out by the Chairman.

The Honourable Mr. B. N. Sarma : It was raised and considered as to whether in its ultimate stages it was ruled out, I am not in a position to state ; but it *was* considered.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I rise to a point of order, Sir ? Is it permissible for any Honourable Member of this House to refer to what transpired in the Select Committee ? I understood, Sir, that the Honourable Sir Malcolm Hailey once pointed out, on a reference being made to the proceedings in Select Committee . . .

Mr. President : Order, order. The Select Committee is a legislative body. The Honourable Member is confusing the proceedings of the Select Committee with the Standing Finance Committee.

The Honourable Mr. B. N. Sarma : I may say, Sir, that I wish jealously to guard the secrets of the Select Committee. I am not going into what has taken place there ; but I have every right to state that the point was taken up by the Select Committee because a Minute of Dissent has been recorded by Mr. Joshi—by him and by him alone—on that point. Therefore, I am not disclosing any secrets of the Select Committee when I refer to a matter which has already appeared in the report of the Select Committee. However, public opinion is against him, and the basis, therefore, on which he proceeds is that we shall be cruelly attempting to cripple the freedom of the labourer, and that the interests of the capitalist classes, whether landholders or commercial men, may in future imperil the interests of the labouring population if this Statute be made a permanent piece of legislation.

I submit, there is no ground for any such suspicion or fear ; we are democratising rapidly and, therefore, we can safely trust the Legislature to provide against any such contingency as my Honourable friend contemplates. I further state that it is perfectly competent for any State to fix for itself the conditions under which emigrants may proceed to other countries ; it might prohibit emigration altogether ; there is no such thing as a right of emigration to every individual or a natural right to emigrate from his own State . . .

Mr. N. M. Joshi : You are referring to immigration.

The Honourable Mr. B. N. Sarma : I am talking of emigration, not of immigration. Therefore, while the Government of India are as solicitous as my Honourable friend in securing the freedom of the subject, in securing the freedom of the agricultural labourers as well as other labourers, and do not in any way desire to keep him here as a serf to serve the purposes of the capitalist classes, whether commercial or landed, there is an imperative duty that they should safeguard their interests and protect them, possibly sometimes against themselves, against their foolishly embarking upon emigration when .

[Mr. B. N. Sarma.]

their interests are not safe in foreign countries. I hope, therefore, that the House will reject this amendment.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban): Sir, I oppose this amendment. I should have better understood Mr. Joshi if he was speaking to or against amendment No. 3 on the paper, which may or may not be moved. Sir, I yield to none, not even to my friend, Mr. Joshi, in the desire to see that the fullest possible opportunity should be afforded to those who want to go out of the country and better their prospects. I do not regard this Bill, which has come in obedience to an insistent and long public demand, with the fear that has filled my friend quite unnecessarily. If he was objecting to any particular section in the Bill, that it ought not to have a longer life than five years or any other stated period, one could have understood it, because it is possible to pick out clauses and sections where such circumspection might be useful or necessary. Would he object, however, to the continuance of safeguards like this, at any time, even when would-be emigrants are enlightened and educated and capable of taking care of themselves, as they are expected to become within the span of Mr. Joshi's five years? To protect them and aid them with his advice is one of the objects with which the Protector of Emigrants is appointed. One of his duties is to inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage and report thereon to the Local Government, and to aid and advise return emigrants so far as he reasonably can. I need not take up the time of the House by detailing the various healthy measures of safeguard that the Bill provides. As I say, if we take the Bill, clause by clause, there may be objections from certain points of view and it may be said that the life of certain clauses should be circumscribed.

Then, Sir, in clause 13 and other clauses, we have safeguards which will enable this House as well as the other House to declare from time to time how emigration to particular countries should proceed. That does not necessarily mean retaliation but means protection.

From all these points of view it strikes me that this Bill cannot be contemplated as one which is meant to prejudice the rights of emigrants, but is really one that is intended to, and I am sure, will be able to help the emigrant, and help and not retard emigration.

Sir, the apprehension was expressed that, owing to the attitude of capitalists and the landholding classes, people willing and anxious to go away and better their prospects will be handicapped. I shall not look forward to the day when such a contingency arises, for it would mean serfdom. Nor can there be occasion, for there will never be lack of workers willing to work. The latest census figures, I am afraid, will be all against my friend. There is difficulty of labour, undoubtedly, with regard to various avocations of life; but I am afraid, if we were to look closely into the matter, we must recognise that there are worked-up difficulties which ought not to exist here or in any country, and which are preventing people from getting employment. If people are honestly and genuinely anxious to secure employment and if the capitalist and landlord were actuated by similar motives and were prepared to employ all that could be found ready and willing to work, I do not think even

Mr. Joshi will want them to go away elsewhere and improve their prospects if they get here all that they want. That, however, is not likely to be. It all depends on who gives the better pay and better terms and no power, either in this Legislature or in the Government, will be able to prevent people who have good reasons to go away from doing so. Therefore, I do not have any of the apprehensions that unnecessarily fill my friend and I think the House ought to reject this amendment.

Bhai Man Singh (East Punjab: Sikh): Sir, I rise to support the amendment. The law is desired under special circumstances. Why are we bringing forward this law? Why do we want that certain rules should be framed by the Governor General in Council deciding whether emigration should or should not be allowed to such and such countries? Why are we so very particular, specially in the case of this Act, that those notifications should be placed on the table of the two Legislative Chambers and should be amended according to the vote of the two Houses? Because we find certain circumstances in existence in certain other countries, and we see that, when our men go to those countries, they are not meted out the same treatment as they ought to be, and our experience has shown that in certain countries when our men go as labourers they are treated as slaves and sometimes worse than slaves. The existence of such circumstances make it compulsory for us to pass such sort of legislation with a view to safeguard the interests of our men who emigrate to those foreign countries. Again, as the Honourable Mr. Sarma has just said, this is also to safeguard the interests of the illiterate masses. Why do we safeguard their interests? Because they are in a state of illiteracy; they are not well-informed about the circumstances of other countries, and, therefore, we have to safeguard their interests because they are ignorant. Now, Sir, I submit that both these circumstances are temporary circumstances. They are not necessarily to remain permanent. It is the existence of special circumstances that forces us to pass this Bill. Sir, when those circumstances are removed, we shall have to consider whether this Bill should or should not remain. I shall put it just the other way. Something that is required only under special circumstances should be made a special Act for a special period, so that we may be able to consider about it after that period whether that special Act is or is not needed at all. The State has a right to stop emigration of its subjects only under certain circumstances. I can be stopped from leaving my mother country only under circumstances that the State could justify, for some valid reasons. Therefore, Sir, we cannot say that such a measure should exist for all time. Some time after we may find that the circumstances in the Colonies are changed. We may find the so-called state of illiteracy among the masses is also changed. If we find that the restrictions we are now putting on their action are no more needed, if we find that they are capable enough to understand their own interests, there is no reason why we should give any power to any authority by legislation to stop their emigration. I do say, and I am firmly convinced, that this measure is adopted in the interests of the emigrants. I have not the least doubt about that; but, at the same time, I submit that it does place restrictions over emigration and that a man is not free to go out, if he finds favourable circumstances for himself, unless there are certain provisions fulfilled by him.

Under section 10, we can decide to what countries an emigrant should or should not go. Section 17 is so very wide, though it refers only to

[Bhai Man Singh.]

skilled labour, that the Local Government has every right to withhold permission to the emigrant or to the employer to take him out. This shows, Sir, that we are giving a power to the Local Governments to stop the free right of emigration and when we are giving them those powers, when we are placing those restrictions, I respectfully submit that we should give them these powers only for a certain period. If we find that those circumstances exist and the restrictions are still needed, the life of the Act may be extended or a new Act may be passed to suit the changed circumstances. Again I would draw the attention of the House to another fact. We are depending on the Local Governments for certain things in the Act. Section 17 is so wide that it gives the Local Governments power to withhold permission, and, if we see that the Local Governments have not used the power vested in them in the interests of the emigrants, we may have to withdraw that power. If we find that sufficient safeguards are not provided in the Act, we will have to make the Act sufficiently stringent. On the other hand, if we find that undue restrictions have actually been placed on emigration, we may have to make it, more liberal. Therefore, I would most strongly request that the amendment placed by my Honourable friend, Mr. Joshi, should be adopted by the House.

Dr. H. S. Gour : Sir, I fear the Honourable Mover in moving his amendment is trying to frustrate the very purpose he has in view, namely, of safeguarding and protecting the best interests of the community of which he is a worthy representative. He tells us that his amendment is intended in the interests of labour, and that while there is an insistent demand in the country for a restrictive legislation of the nature before this House, its life should be limited to five years. Now, Sir, I ask the Honourable Mover if he seriously thinks that, after five years, the labour conditions in this country would so improve as to call for no legislative protection. Has he adverted, for instance, to the salutary provisions of section 26, which says :

‘Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.’

Does my Honourable friend think that the offenders who kidnap people from this country by coercion and fraud will entirely disappear after five years? My Honourable friend, Bhai Man Singh, is, I am afraid, too sanguine if he thinks that in five years’ time illiteracy shall have been banished from this land and the labourer in this country would be able to take care of himself so as to need no legislative protection. I ask, Sir, the Honourable Mover further to reflect upon the mischief which the repeal of this Act after five years will work upon the emigrants who have already left this country under the salutary protection of that measure. If Honourable Members will refer to section 24, they will find that it is the duty of the Governor General in Council to make rules to provide for accommodation for the transport of emigrants, for the reception and the despatch to their homes of return emigrants and generally the security, well-being and protection of emigrants on their return to India. Let us assume, Sir, that a large number of emigrants leave this country during the next five years, and after these five years this Act *ipso facto* ceases to operate, and after the lapse of that period the emigrants desire to return to this country. Does my friend think that the Governor

General in Council, after the expiration of that period, should do nothing to assist the emigrants, who have left during this period, for the purpose of helping them to return home? That would be the inevitable consequence if this measure ceases to operate after the expiration of five years. My friend referred to the Workmen's Breach of Contract Act and lamented the attitude of this Assembly which refused to repeal that measure, but my friend could not have forgotten that the Honourable the Home Member had assured this House that the question would be referred to the Provincial Governments and adequate measures taken after consulting them. I think, Sir, the Honourable Mover is wrong when he says that, if there is a necessity for the repeal of a measure, this House is slow to act. I further submit, Sir, that, if it is the intention of the Mover of this amendment that this Act should cease to exist on the betterment of the condition of the labouring population of this country, he should not ensure the life of this measure in the manner he desires to do. If my friend is so sanguine as to expect that public opinion in this country will veer round and desire free and unassisted and unprotected emigration from this land, I submit, Sir, it is open to him to move a small Amending or Repealing Bill and give his reasons therefor, which the Assembly will consider, and, if found satisfactory, pass it. I submit that the measure, as it is proposed to be enacted, is in the interests of the would-be emigrants of this country, and I ask, Sir, that this House should reject his amendment.

* **Mr. Harchandrai Vishindas** (Sind : Non-Muhammadan Rural) : Sir, it is really a surprise to me that my Honourable friend, Mr. Joshi, who is a distinguished labour Member, should lend himself to holding a brief for merchants and manufacturers and work in the long run against labour itself. Now it is quite obvious that the interpretation which has been put upon this measure by the Honourable Mr. Sarma, Dr. Sarvadhikary and Dr. Gour is the correct one, that this measure is intended for the protection of the labouring classes.

The argument that has been urged both by Mr. Joshi and by Bhai Man Singh that it is in the interests of the community that such legislation should cease when literacy has obtained a hold upon the country has been sufficiently answered by Dr. Gour. I may add one thing more. I may show how far from realisation is the expectation that, within the next 5, 10, 15, 20 or 25 years, illiteracy will be removed from this country. Three years ago—or probably five years ago—a Bill for the introduction of compulsory education was passed by the Bombay Legislative Council. That Bill permitted municipalities to introduce compulsory education as they thought fit. A month or two after that, the President of the Karachi Municipality, who was a Member of the Legislative Council, got a Resolution passed by the Karachi Municipality that compulsory education should be introduced. Five years have elapsed and still the preliminaries could not possibly be settled. Perhaps five years more will elapse before funds are found to introduce compulsory education. So, it will be ten years before the Karachi Municipality will be able to have compulsory education in Karachi. Other municipalities will take years. I can predict that, within the next 50 years, illiteracy will not be removed from this country to the extent contemplated either by Bhai Man Singh or by Mr. Joshi. That being so, is it right on the part of Members of the Assembly to take away the protection which this Bill affords for the illiterate poor labourers who will be

[Mr. Harchandrai Vishindas.]

migrating? As far as one can see, the tendency of the present times, and especially of the representatives of Indians on Assemblies and Councils, is to promote liberty and freedom of action. Therefore, I wonder at Bhai Man Singh or Mr. Joshi saying that Government should provide more restrictions upon the free movement of labour than they have done in certain clauses of the present Bill itself. My answer to that is this. Those restrictions upon their freedom are in the interests of the labourers themselves. After all, such restrictions as appear in the draft Bill are in the nature of exceptions rather than rules. Suppose this Bill were to last only for five years. Of course a very crushing argument has been used by Dr. Gour. But add to that another. Supposing this Bill were repealed after five years, or expires by this clause after five years. What will be the result? Can you possibly prevent people from going outside this country? No. And people going outside this country will go without the protection that is afforded by this Bill. So the condition of the labourers is not at all bettered, but is made worse, and that by the action of a gentleman whom we all honour as being a representative of labour. Therefore, Sir, I would seriously and earnestly request the House to reflect for a moment on this particular question, *viz.*, whether they are going to serve the interests of the labourers and those of the country by supporting this amendment or defeating them. With these few words, Sir, I strongly oppose the amendment.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): Sir, I feel that in proposing this amendment, the Honourable Mr. Joshi has lost sight of certain facts. I do not think that for another 50 years illiteracy could disappear from this country, nor do I think that people in foreign countries will give up the race prejudice which prevails in those countries. The object of the Bill is two-fold: first, to come to the help of those who cannot protect themselves, and secondly, to maintain our national self-respect in foreign countries. As regards the first point, Government helps these men who migrate simply because they are not able to take care of themselves. As Government comes to the help of minors, idiots, lunatics and persons of weak mind who cannot see the effect of their actions on themselves, so, in the same way, it comes to the help of those persons, who are unskilled labourers, who are utterly unable to realise the effect of their step in going to foreign countries, and who do not know the conditions prevailing there. In the case of minors, the action of Government is direct. It appoints guardians. In the case of lunatics, the action of Government is to appoint curators, and in the case of persons of weak mind, Government comes to their help in the course of the law by cancelling any arrangement or any contract that they may make. So, in the same way, when persons of weak intellect are induced, by coercion or undue influence or by other objectionable means, to enter into any contract to go abroad, Government, before they go out of the country, examines the contract and sees if any such influence has been used on them. I think that this state of things cannot possibly be cured in five years or ten years or 15 years, and in this sense I think the amendment suggested by my Honourable friend is not right. As regards the second point, *viz.*, our national self-respect, we know, as a matter of fact, that this question has been agitating us for the last many years. It is a sore point with us. We have made attempts again and again, here, there and everywhere, that this state of things should not prevail, but it is prevailing. Consequently, when

our people go to those countries, they entail on us a loss of national self-respect. To prevent that sort of thing, Government, by the provisions of this Bill, is prepared to see that these people shall not go there so as to save us the ignominy which otherwise might arise.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I rise to support the amendment of Mr. Joshi. I do not question the object of the introduction of the Bill but admit that the object of the Bill is to safeguard and protect the interest of our labourers in foreign countries and the colonies. But, such a purpose can not be served by passing such Bills in this country and by not allowing the labourers to migrate, but their interest can only be protected by sending out our men into those countries and letting them fight it out with them for the rights of equality. The difficulties could be overcome only by braving, and not by avoiding them. If we were to look to the reason for the treatment accorded to us in foreign countries, we find that it is not on account of the illiteracy or the inferiority of our labour that our men are so treated, but is due to the selfishness of the employers and other classes of labourers and to the race prejudice of the white settlers who deny us our rights. Such causes can not be removed by a legislation of this nature. Free migration of labour should not therefore be restricted. It is true that the public opinion in this country has been insistent for such a legislation, believing that the avoidance of those Colonies was the only remedy, and, having regard to this opinion—which we should respect—we may agree to this Bill being passed. But the time will shortly come when public opinion will veer round to this point that, being an economic question, it can only be solved by sending out our labourers freely to those countries.

Now, imagine what would be the result of the passing of this Bill. Under this Bill, the emigration will be regulated and will be permissible in certain number and on certain conditions. The Bill will thus restrict emigration to an appreciable extent, moreover the emigration will be permitted to such countries as accept our terms. We know that the Colonies and other foreign countries do not want Indian labour to migrate into the country, and they will be too glad to refuse the terms and would, in all probability, welcome the restrictions placed by this Bill on the emigration of Indian labour. We will, on the contrary, indirectly help, protect and safeguard the selfish interest of those Colonies by this legislation. This will also have the effect of putting a stop to emigration of our labourers. No country can maintain the sons of the soil in that country for all time to come and a day will come when she will have to send out her sons to other countries.

It is thus probable that the public opinion may change and we may have to do away with such a legislation. In these circumstances, I submit, that the amendment moved by Mr. Joshi should be accepted, and we would again decide, after five years, whether or not we should keep this Bill on the Statute Book. If the Indian Legislature after five years finds it unsuitable, the law may be changed. It is very difficult to repeal a law once it is on the Statute Book. By accepting this amendment the Bill will automatically come before the Legislature for consideration after five years and we may then again decide whether to continue it or not.

Rai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, I beg to submit that I do not see my way to accept this amendment. Our

[Rai D. C. Barua Bahadur.]

laws are not like the laws of the ancient Medes and Persians. If this Bill is passed as it is, without any time-limit, then there is nothing to be found in the body of this Act or any other Act why this law cannot be amended after five years or two years or at any time whatsoever. I am for keeping our hands free. If the provisions of this Bill, when it becomes an Act, are not suitable, they may be changed to-morrow. It is in our hands. We shall not have to go to any other body asking for its repeal or amendment. We can repeal it ourselves or our successors will repeal them. There is, therefore, no use in spending any energy whatsoever in regard to the time-limit that is sought to be imposed in regard to this law. Surely, Sir, if the provisions of this Act are not found suitable, we can take it up at the next Session or, if it should suit us, we may continue them for any number of years. So it is meaningless to put any sort of time-limit whatsoever in regard to this Act. With these few words, I oppose the amendment.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I regret that I cannot support the amendment, as it is, because it says 'shall remain in force'. That is fettering the powers of the Legislature. On the face of it, this House should not support it. That is all I have to say.

Mr. N. M. Joshi: May I point out that, when the Bill regarding income-tax was being discussed, Members of this Assembly who moved amendments were allowed to reply, and on this question particularly several personal references were made to me and I want to have the right of reply.

Mr. President: The Honourable Member can make his reply when I put the question that the clause stand part.

Amendment moved:

'In sub-clause (2) of clause 1 of the Bill, after the word 'India' add the following, viz:

'and shall remain in force for a period of five years since the date of its passing.'

The question is that that amendment be made.

The motion was negatived.

Clauses 1, 2, 3, 4, 5, 6, 7, 8 and 9 were added to the Bill.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): The amendment which I propose to move to clause 10 reads as follows:

'That in clause 10, the following be inserted as sub-clause (2) and existing sub-clause (2) be re-numbered (3):

'(2) Emigration for the purpose of unskilled work shall ordinarily be permitted to countries only in which:

- (a) Indians when not naturalised are subjected to no disabilities to which nationals of European countries are not subjected;
- (b) Indians can be naturalised on the same essential conditions on which nationals of European countries can be naturalised;
- (c) Indians if naturalised enjoy full rights of citizenship; and
- (d) in the opinion of the Governor-General in Council Indians enjoy substantially the same political rights as other classes of His Majesty's subjects.'

The object of this amendment is to lay as much emphasis as lies in the power of this Assembly in telling those whom it may concern what our ideas and what our feelings are in regard to the treatment and the status which emigrants from this country receive in the countries to which they emigrate. Now the clause as it stands is general in its terms. It says :

'Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council, by notification in the Gazette of India, may specify in this behalf.'

It might be said that the Governor General in Council may be trusted to make rules which would practically bring in all those conditions and all those terms which we desire to embody, but my point is that the terms shall be made clear and that they shall take a place permanently on the Statute Book, that is, the terms which we wish to impose upon other countries which desire our labour. In the first place, in regard to unskilled work, there are one or two ideas with which I cannot agree. Unskilled work in this country is at a premium. It is in great demand. Now, everywhere works are springing up, works undertaken by Government; for instance, irrigation works, building works, Town Improvement works, and so on. Industrial works are also undertaken on a large scale and agricultural work also is in great demand and wages have risen considerably. It cannot be said that unskilled work in India is under-paid or that it does not get what it ought to. I may say from my own personal experience in the Madras Presidency that in municipal towns labour is very dear. In agricultural areas, of which also I have experience, labour is very dear and, in that part of the country from which I come, the emigration of unskilled work is playing moral havoc among the emigrants.

The men who emigrate are tempted, are seduced, to sign, and, practically, they are prisoners. They are taken away to Natal, to Mauritius, to Zanzibar and several other places. We know some of these young men are unruly in their own homes, and in a fit of anger or huff they run away. They are caught hold of by the touts, and the result is that after they go to these countries they feel that they have been deceived. But there is no one there to whom they can go for help. They cannot take care of themselves. They are illiterate. They are also very ignorant. The result is that they have to remain there for years,—and then what happens? In their own homes, the ordinary illiterate man, whatever the social reformers may say, is restrained by social conventions, social restrictions, that keep him in the straight path. But, unfortunately, the people who emigrate are thrown into a condition in which all the old moorings are lost, and the result is that their moral fibre is completely loosened. I will not dilate upon the causes of this loosening. The fact is that the number of women, the percentage of the women in these areas, is very small. Naturally, young men, able-bodied adults, are placed in situations of very great difficulty, however good it may be for cultured men to liberalize their own social conventions, illiterate and ignorant persons who were under the restraint of their homes and their communities are here brought into contact pell-mell with miscellaneous sets of castes and races,—well, they are obliged to fall into habits which are utterly detrimental to their health and morals. Therefore, so far as we have heard of the condition of these unskilled labourers in these countries, it shows us that it is not to the advantage of unskilled labourers to leave their homes and go to these regions.

[Rao Bahadur C. S. Subrahmanayam.]

There is another aspect. From the point of view of these countries which want our men to emigrate, they want our labour ; they want our work ; but they do not want our company. They do not want to give us, in return, anything: which any civilized, cultured man would value. They want to treat these men simply like cattle, beasts of burden, and nothing more: and, therefore, for us, sitting in this Assembly, to encourage unskilled labour to go away in large numbers and to form outposts, thus proclaiming in various countries of the world that the Indians are of this low type, because of the sample which goes forth to those countries is not right. The better class of people from here are not known. It is only the lowest type of the people that go to these countries. Naturally, they judge us, Indians, by the types they see there. Therefore, on any view, the amendments which I propose in this clause are necessary. In the first place, our men need not go, for their own self-respect or for our own self-respect, to those countries which do not recognize us as their equals. On that strong ground, I say, it should be made a condition of the emigration of unskilled labour that, unless they are treated on equal terms, let not our men go there. Now, we were just a little while ago discussing what was happening in Kenya. That is, our men go there, do all the spade work, improve the country, enable the colonials to make money, put them on the way of living in comfort. Then, after the work is done, we are spurned. They want us just as long as we help them in such work, as they themselves cannot have it done, and then treat us worse than they treat their own cattle. Now, Sir, I have heard my friend, Mr. Joshi, speaking about the liberty of unskilled labour. What is the meaning of the liberty of unskilled labour ? (Laughter.) Does he really mean that the unskilled labourer, when he leaves the protection which he has in this country under the Government and under his own community, should forfeit that protection, with nothing to take its place ? Is it not necessary that we should see that these men, who cannot take care of themselves, should not be landed amongst surroundings of a practically hostile character ? And, therefore, this liberty, of which he speaks, we find it to be inconsistent with any clamours for protection under the Factories Act and other legislation of a protective character. It is commonly seen now that labour *has* to be protected. That needs no proof. But if you do not want protection under this Act, you should also abandon the idea of protection under the various other enactments where this question comes in. Sir, from the Report of the Select Committee and also from Sir George Barnes' speech in the Legislative Assembly last year, it is clear that unskilled labour requires protection. My amendment carries the matter a little further. What is the nature of the protection, what are the places to which unskilled labour should be sent ? I amplify and strengthen and emphasise the points which I consider to be essential in governing the emigration of unskilled labour. Therefore, Sir, I hope that the Assembly will calmly consider the two main points which I put forward; namely, that the unskilled labourer should not be sent adrift to those countries where he is considered no better than cattle, and also that we owe a duty to ourselves; our own self-respect and all the agitation that we are making in regard to the claim for equality of treatment, here or elsewhere, should also be borne in mind, and we should not be sending out numbers of these men to these countries to further lessen our reputation and our claim to be treated as a civilized community. It is these unskilled men, who have gone to these countries, that have done a vast amount of mischief; having gone there; and

those people taking them to be the ordinary, the average type of this country, well, no wonder that those Colonials probably have a certain amount of contempt for the people of this country. I do not mean to say that they are justified in this, but you must remember that the Colonial is a hardened man, a man in whom the ordinary graces of life do not exist. His conditions of life, his environment, make him less than a man and something of a beast. Every moment of his life he has to protect himself not only from wild beasts but also from indigenous and aggressive populations. Therefore, you must also recognize that you cannot compare the sentiments, the feelings and the humanity of the Colonial with the standards of the European you find in this country, especially those Europeans in the Services with whom we come into contact. They are a cultured race; they know their obligations; they know that, after all, the Indians are a civilized community and a civilized people. Also they have obligations, by virtue of their being a part of the Government of the country. But what are the obligations which determine the course of conduct of the Colonial?

By nature, he is, I may say

The Honourable Mr. B. N. Sarma : I think the Honourable Member is speaking, not to his amendment but to the Colonial policy generally.

Rao Bahadur C. S. Subrahmanayam : The unskilled labourer should not be sent to those countries where you find a type of men who are simply going to work him and harass him; who are not the type to which you are accustomed here. You can only object to my amendment if you say that the Colonial has the same standard which the European has in this country. But, if I am able to show that the Colonial is not of as good a type as the European you find here, that is a strong reason why you should impose certain conditions upon the emigration of unskilled labourers to the Colonies. No doubt, I have said things which are a little bit harsh. I have drawn an inference from the difference between the Colonials and the Europeans who sit here. But that is a fact. The evolution of the Colonial has been quite different, and, therefore, with all deference to my Honourable friend, Mr. Sarma, that is the plain fact and I have said it. The Assembly ought to recognize these points and accord its support to my amendment.

Mr. N. M. Joshi : Sir, I rise to oppose this amendment. In the first place, when the Honourable Member moved this amendment, he referred to the fact that labour in India is already very dear, and, therefore, it is wrong for us to encourage the working classes to go out of the country. Then he also said further on that, while we supply the labour to other countries we get nothing in return. The whole assumption underlying this statement is that labour is a commodity which, if it is very dear in this country, should not be exported; labour is a commodity which, if we supply it to the Colonies, must bring us some reward in return. Sir, I ask the Members of this Assembly, is that a right kind of assumption? Is the liberty—I say again the liberty—of the unskilled labourer the same thing as the export of wheat or the import of wheat? The Members of this Assembly should very seriously consider whether we should treat the working classes of this country as mere commodities, and discuss this problem on that assumption. I feel that this point of view has not yet received serious consideration from the Members of this Assembly. If it had received that consideration, an amendment like the one which my Honourable friend has moved would not have been moved.

[Mr. N. M. Joshi.]

at all. In the first place, what does he ask for? He asks that we should not send labourers to those countries where our political equality of status is not recognized. Now, my first question is this: Is the political status of the labourer in India itself recognized? Does the labourer enjoy the same political status in which my Honourable friend finds himself? My Honourable friend has a vote for the election of Members of the Assembly. Has the labourer got a vote? It may be said that, if the labourer begins to pay income-tax, then certainly he will have a vote, and in that sense he has got an equal status. But I should like to ask my Honourable friend how many labourers, out of many thousands, hope in their life-time to be able to pay income-tax and to get that status? One man out of a thousand may secure that right; but 999 can never hope to arrive at that equality of status in this country. Although, theoretically, it may be said that the labourer in one sense has got an equal political status with the educated classes of this country, for practical purposes labourers in India have not the same political status as the educated classes and the land-owning classes have. And, Sir, when the labourer considers this question of equality of status, he considers it from the practical and not from the theoretical point of view. Sir, two years back, I went to the United States and I studied the condition of the Negroes in the United States, where also all people are supposed to be equal. But I was surprised to find that, out of the ten million Negroes in the country, there was not a single representative of their community either in the House of Representatives or in the Senate. I made inquiries. They said, politically every one is equal. How is it, then, that they have no representatives in the Legislatures? By the operation of practical devices. So, it is quite possible that my Honourable friend may insist upon theoretical equality with Europeans in the Colonies for our labourers, but is it possible that even this theoretical equality will be conceded in the near future, and even if it be conceded, will it be considered worth having by the working classes if measures are devised to deprive him of it in practice? Is the labourer who does not have a vote here in his own country likely to get a vote in another country?

Then Sir, there is another matter. My friend referred to the protection that we ought to give to our labourers. But what he is giving is not protection. He wants to stop the labourer going out altogether. If he had meant that we should give them protection, I would certainly have supported him. But he did not ask for that; if he had asked for that, he would have said: 'Let our people go and we will certainly protect them with all the resources of this country'; and we are prepared to place all the resources of this country at the disposal of those labourers. But he has not done that. He has not given them protection. He told them: 'We will not allow you to go out.' Is that protection? Is that making the Colonies recognize your equal status? You are, on the contrary, shirking the battle. The Colonies do not recognise your equal status. You ought to fight them; instead of fighting, you shirk the fight. I think, Sir, this Assembly should not accept this attitude at all.

Then, Sir, the Honourable Mover of this amendment referred to the fact that when we send these unskilled labourers out, our country gets a bad reputation. I referred to that in my first speech. Now, what I would like to say is this. If you want to prevent other countries taking you as a nation of coolies, you must take measures to see that there are no coolies in this

country. As long as there are coolies in this country, is it possible for you to prevent the people of other countries seeing those coolies in India? Are you going to keep a wall round the whole of India to prevent these people seeing the coolies here? How will you prevent them considering you to be a nation of coolies as long as coolies exist in this country? Therefore, this is not a right way of preventing your country being considered a nation of coolies, a nation of unskilled labourers. If you want to prevent your country being called a nation of coolies, give them education, give them better wages and make them look as well-dressed as my Honourable friend is. Then, no outsider will regard this country as a nation of coolies. Sir, I feel that this method of restricting the liberty of labourers is a wrong method of securing equal status in the Colonies. By this method you will not succeed. You try through the labourers to secure equal status for Indians. Is it really right that that burden of fighting for equal status should be thrown on the labouring classes and we, the educated classes, should not take up that responsibility? If you feel indignant against Colonies for treating your people badly, why prevent only the labourers going there? Why don't you prevent merchants and pleaders going there? Merchants and pleaders should equally feel ashamed to go to a Colony which does not give them equal status. Sir, my friend referred to Kenya. I ask him whether Kenya contains labourers or merchants. As far as my information goes, Kenya is a Colony where Indians go as merchants and not as coolies, and the equal status of merchants is not recognised, the equal status of barristers and pleaders is not recognised. Why does he not bring forward a Bill here to say that no merchant of India and no barrister from India should go to Kenya? If he brings forward such a Bill, the Kenyan Europeans will send him a letter of thanks. They want to prohibit your people going there. The situation which exists to-day is not rightly understood. Does the Honourable Mover of this amendment believe that countries all over the world are anxious to get Indian labour in as large a number as possible? On the contrary, as far as my information goes, in Fiji our people are not wanted to-day. They are willing to send back your men. Go to other Colonies. South Africa does not want your men. They are willing to repatriate those who are already there. Mr. Andrews is against repatriation. If my Honourable friend prohibits labourers going to South Africa, Indians going to Kenya Colony, he will be doing what the Colonies want themselves. Is it really right that we should take up that attitude? Whose interests are you serving? You are not serving the interests of the labourers. You are doing what the Colonies want. Of course, you are serving the interests of one body, *viz.*, the employers of labour in this country. That I admit. When you prevent labourers going out of your country, naturally the wages in this country will tend to go down. That is what my Honourable friend wants at heart and he spoke it frankly also in the beginning. But is it really right that, in order that we should get cheap labour in this country, we should prevent labour going out? Is it really fair to the labourers? Is the labourer a commodity like wheat that, in order that it may not become dear, we should not export it? I ask my Honourable friend to consider this question very carefully from the labourers' point of view. With these remarks, I oppose this amendment.

The Honourable Mr. B. N. Sarma: I feel sure that, on reconsideration, my Honourable friend, Mr. Subrahmanayam, will see his way not to press his

[Mr. B. N. Sarma.]

amendment. If he does, I shall have to oppose it. He recognises that the Bill, as it stands, does duly safeguard the interest of the labourers and enables the Legislature to prescribe the conditions under which alone assisted labour (not free labour—free emigration is permitted and no conditions whatever have been imposed upon it), described in the Bill, can be permitted to go to other countries. The Government of India have to be satisfied, first of all, that it is desirable that emigration should be permitted. But they cannot, whatever may be their view, enforce it upon the country, because both the Houses will have a chance of prescribing the conditions and the terms on which emigration should be permitted and the countries to which emigration should be permitted. The Mover regards this as fairly satisfactory, but what he further says is : ' I want our views about equality to be definitely recorded a little more clearly, by amending section 10 as proposed by me.' I submit, Sir, that it is a case of clear confusion of ideas. He is mixing up the question of naturalisation laws with the laws under which emigration ought to be permitted to countries. Emigration does not necessarily mean that the man should be settled down for good in the country to which he is emigrating.

Rao Bahadur C. S. Subrahmanayam : No.

The Honourable Mr. B. N. Sarma : It may be for a short time. He says that no emigration shall be permitted to any country unless the emigrant is naturalised on certain conditions and in certain defined ways.

Rao Bahadur C. S. Subrahmanayam : Indians, not he.

The Honourable Mr. B. N. Sarma : Yes, unless Indians can be naturalised on the same essential conditions on which the nationals of European countries can be naturalised, and, if naturalised, they should enjoy full rights of citizenship, and so on. So he does contemplate that they should be in a position to be naturalised on certain conditions, and, if naturalised, they should possess certain rights, and, when not naturalised, they should have certain rights.

Rao Bahadur C. S. Subrahmanayam : Not necessarily the moment they are naturalised. Indians as a class.

The Honourable Mr. B. N. Sarma : I would ask him not to mix up this question of naturalisation laws with an Emigration Bill, because, even to the most expert international lawyer, I think naturalisation laws are somewhat perplexing. It is sometimes a question of double nationality, no nationality, or mixed nationality, and I think, therefore, we shall be travelling in a wilderness if we undertake to prescribe the conditions under which emigration shall be permitted to other countries by mixing up our emigration laws with naturalisation laws.

Before I proceed to examine this question in detail, I may say that all that the Mover really wants has been provided for, and it is open to the Government, in determining the conditions under which migration should be permitted, to consider the question of naturalisation laws. It is also perfectly open to them to further examine the point, and to the Legislative Assembly and the Council of State to consider whether this question of naturalisation laws need be mixed up with the matter at all ; and, if they then deliberately think that these points should also be taken into consideration,

I would submit that there is ample provision in the existing Bill to meet such a contingency. I, therefore, do not think that we should embark on exploring this vast field now, and limiting our discretion to a certain extent with regard to the exact position which we may have to take up in respect of any territory or country, foreign or within the empire, when we have to treat a request for migration on the merits of any particular scheme which may be placed before us.

The amendment further would be absolutely useless because it says :

‘ Emigration for the purpose of unskilled work shall ordinarily be permitted to countries only.’

Who is to determine what the exception should be? I think the word ‘ ordinarily ’ there practically gives the discretion either to the Government or the Legislature, a discretion already given to them in being allowed to prescribe the conditions under section 10, and is therefore meaningless.

But what I would like to point out, in connection with the naturalisation laws is that the Government of India has been following, since 1852, a policy under which a restricted certificate may be given by the Government when aliens are naturalised in this country. I would just refer to Act XXX of 1852, which ordains that a petition should be presented by an alien if he wishes to be naturalised, and then proceeds to say :

‘ The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of naturalisation under this Act, except such rights, privileges or capacities, if any, as may be specially excepted in such certificate.’

Later on it is presented :

‘ Rights, etc., derived from certificate. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist, shall within the said territories under the Government of the East India Company, be deemed a natural-born subject of His Majesty, as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges and capacities, of a subject of His Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.’

And it is generally recognised that each country may make its own naturalisation laws, and it is hardly fair that we should, in enacting our emigration laws, prescribe what the naturalisation laws of foreign countries are to be before we permit migration to such countries.

I will just quote a passage from a work on International Law recently published by Oppenheim :

‘ It is left to the discretion of the naturalisation State to grant naturalisation under any conditions it likes, . . . and it must be specially mentioned that naturalisation need not give an alien absolutely the same right as are possessed by natural-born citizens. Thus, according to article 2 of the Constitution of the United States of America, a naturalised alien can never be elected President.’

According to the English Law, there are some restrictions in regard to the ownership of a ship. Therefore, what I would submit to the House is that we should steer clear of this intricate problem of naturalisation laws when we proceed to consider section 10.

Further, the amendment presents limitation as it were, and why should we limit the discretion of the Legislative Council of the Government of India in the manner proposed to be done. There is no question of large

[Mr. B. N. Sarma.]

principle raised because the limitation operates only in respect of unskilled labour. As Mr. Joshi rightly put it, if you want to secure certain rights and don't want to send your people abroad otherwise, the proper thing would be to prohibit all labour to those countries which do not permit naturalisation on the same terms as in the case of other Europeans; but that is not proposed to be done. I do not see any reason whatsoever why this limit should come in only in the case of unskilled labour.

A further point that has been raised is, that we should not ordinarily encourage unskilled labour to foreign countries, and consequently we might do well, inasmuch as our policy ought to be to discourage emigration of unskilled labourers, to take advantage of this opportunity to prescribe the conditions under which foreign countries should enact the naturalisation laws, if Indian settlers wish to settle down there; and I fear I shall have to take exception to many of the propositions laid down by Mr. Subrahmanayam. They are not relevant to the amendment, but I would say that no Government can be a party to discouraging emigration of labour on the ground that labour may become costly. Each case would have to be adjudged on its merits. No Government can settle its policy rigidly in anticipation of and without regard to the actual requirements of the situation; but they should welcome labour becoming enterprising, seeking foreign markets in order to better its condition. I do not think that any enlightened Government can embark on a policy of restricting the freedom of unskilled labourers to better their lot in foreign countries, if they may do so with safety to themselves and safety to the country from which they migrate.

Another unfortunate controversial point introduced into this subject is the treatment of unskilled labourers in foreign countries. It is not necessary for me at this stage to dilate on that point; but my only regret is that it should have been introduced into the discussion of this amendment in the manner it has been done and we only invite the Colonial's retort that the upper classes in India might well search their hearts and see as to whether their treatment of the depressed classes is not all that they attribute to the most perverse Colonial. I am not justifying either, but I may say that it would be a complete retort. They could point out to similar happenings in our own unfortunate country. Therefore, there is not much gained by undue importance being attached to this unfortunate aspect of the problem, and I would leave it at that.

Khan Bahadur Zahiruddin Ahmed (Dacca Division : Muhammadan Rural) : Two injustices never make a justice.

The Honourable Mr. B. N. Sarma : I may, however, state, Sir, that the policy of the Government has been steadily to set its face against emigration—not free emigration, but assisted emigration—to countries which do not recognise the equality of status of Indians in those countries. When we were asked to send labourers to Fiji, British Guiana and other places, we stipulated that we could not contemplate any such measure unless and until the Governments concerned issued Ordinances which distinctly proclaimed the perfect equality of status of Indians with the other classes of His Majesty's subjects in those countries. To that policy the Government of India adhere now and propose to adhere to-morrow, and it is because they follow that policy that they have readily and willingly sought the co-operation of the Legislature and have introduced this Bill, and are further seeking the assistance of the Legislature

in finding a solution of the emigration problem on sound and satisfactory lines. The Government have taken as coadjutors, as advisers, as guides, both the Assembly and the Council of State, and in respect of many matters provided for in the Bill with regard to administration also, they propose to have a Committee of this House and of the other House to assist them. Therefore, while readily acknowledging the propriety of the motive which actuated my Honourable friend, Mr. Subrahmanayam, in bringing forward this amendment, namely, his desire to have the equality of status of Indians with Europeans recognised in all countries, I think he has gone further than the requirements of the case dictate and has introduced complications by bringing foreign countries within the purview of his amendment. Indians are all British subjects, and, therefore, his amendment cannot touch the other parts of the British Empire, as far as we are advised by our legal experts; this amendment, therefore, will not be of any very great use in determining our policy with regard to the countries within the British Empire. Many of the countries which restrict the rights of Indians do not want Indian labour there. Therefore the problem does not arise there. In the case of other countries, which do require Indian labour, the Government of India have already distinctly proclaimed their policy and mean to adhere to it; and it is, therefore, unnecessary to bring in any complication by specific allusion to foreign countries with regard to whom our policy may have to readjust itself in the near future, and encumber this Act with provisions intended to secure a solution of problems which are not really pertinent to the immediate problem we are trying to solve.

I, therefore, ask my friend to reconsider as to whether he cannot withdraw his amendment. If he does not, the Government will have to oppose it.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock. Mr. President was in the Chair.

Rai G. C. Nag Bahadur (Surma Valley *cum* Shillong : Non-Muham-madan) : Sir, I rise to oppose this amendment. The object of the Mover is no doubt a very laudable one. We all desire that our fellow-countrymen going abroad to work as labourers should be under no disabilities, but enjoy the full rights of citizenship along with other classes of His Majesty's subjects. But, looking at the matter from a practical point of view, do we in this country enjoy the full rights of British citizenship? Do we not live under various disabilities? Let me give concrete cases. We know that few of us can keep arms for the protection of life and property because the rules are so stringent. We know that there are distinctions in the Criminal Code based on racial considerations which the Racial Distinctions Committee are trying to remove. Then, there are compartments in railway carriages specially labelled as reserved for Europeans

Mr. President : Order, order. The Honourable Member is not entitled to go into the entire social, political and economic condition of the country in dealing with this amendment.

Rai G. C. Nag Bahadur : Sir, I mention these cases only to show that we in India do not yet enjoy the full rights of British citizenship. Now, I

[Rai G. C. Nag Bahadur.]

ask, does it not seem an extravagant demand to require that the labourers going to the Colonies should be under no disabilities such as these when we have got to put up with them in our own country? I think it is nothing short of a mockery to stipulate that Indian labourers going to the Colonies to work for wages should be treated on terms of equality with their employers at once and should be under no disabilities whatsoever when we do not enjoy the rights of freemen yet in our own country. Now take the case of the tea-garden labourer. How many Honourable Members here have cared to acquaint themselves with the conditions of their life? Do they live under ideal conditions? The average wage earned by an able-bodied man is not more than Rs. 6 a month. We do not get domestic servants for less than Rs. 10 to Rs. 15 per mensem. In Assam, the planters coerce the labourers to work in the gardens for which they are recruited. They have entered into an agreement among themselves not to admit a labourer if he wants to leave one garden and go to another. This is certainly a disability. The other day I pointed out that the coolies are without any law to recognise their matrimonial alliances and legalise their issues. I could easily multiply instances of disability under which the labourers on the tea-gardens suffer. The conditions being such in our own country, I do not think we should by stringent rules prevent labourers from going out of their own free will to other countries in the hope of earning higher wages than they can expect here and of bettering their condition. All that we have to see is that they are not recruited on false pretences. When we have acquired the rights of citizenship in our own country, it will then be time, and our duty, to see that our fellow-countrymen do not go abroad to work unless they are placed under no disabilities of any sort. Sir, I oppose this amendment.

The Honourable Dr. T. B. Sapru (Law Member) : Sir, I shall occupy the time of the House very briefly, but I think it is necessary that I should address the House with respect to some lurking legal dangers which are to be found in these amendments which stand in the name of Mr. Subrahmanayam. The whole basis of these clauses, excepting clause (d), is that Indians should be naturalised in the Colonies where they emigrate. Now it is a matter which is known to every lawyer who has studied the law with regard to naturalisation that you cannot be naturalised in your own Empire. A British Indian subject, therefore, if he goes to any of the British Colonies, cannot be naturalised for the simple reason that he is not a foreigner for the purposes of the law of naturalisation. If that is borne in mind, the whole basis of these amendments which are to be found in clauses (a) to (c) disappears.

Then I would invite the attention of the House to an Act passed by the Parliament of the Union of South Africa in 1910. It is an Act which was passed to consolidate and amend the laws in force in the Union relating to naturalisation of aliens, and in section 2 of this Act the word 'alien' is defined as meaning a person who is not a British subject. It would, therefore, follow that a person who is a British subject cannot be naturalised in South Africa. Then, again, I would invite attention to section 3 of this Act which runs as follows :

'Any alien of the age of 21 years and upwards who intends when naturalised to reside in the Union or to serve under the Crown in the Union may, subject to the provisions contained in the succeeding section, apply for a certificate of naturalisation in the Union if at any time within 5 years immediately preceding the date of the application he has resided for

a period of not less than 2 years in the Union or in any Colony or territory included in the Union, or if he has been in the service of the Crown.'

It will thus appear that the process of naturalisation is hemmed in by so many conditions even assuming that it was necessary for an Indian to be naturalised, he would have to comply with so many conditions. Besides, it seems to me that it has been assumed by the Mover of these amendments, and I may also say by the framer of these amendments, that naturalisation and franchise go together.

Now, there is nothing more incorrect in point of law than that proposition. I shall only invite the attention of the House to the statement of the subject in a well-known book on Foreign and Colonial Laws by Burgess, where he sums up the law very briefly in two or three sentences. Dealing with this question he says:

'In most systems the grant of naturalisation will assimilate the recipient to the native in all respects as regards civil rights, and in many countries also as regards political rights; but in certain States full political rights are not thereby conferred on him at once. In France, Belgium and Hungary, two modes of naturalisation are recognised for this reason, the greater and the lesser naturalisation, the former meaning that which incorporates a foreigner without any restriction and this in France can only be obtained by a special law.'

I do not propose to read the rest of this paragraph as it goes into minute details. Now, it may be that you may have a vote in your own country; but it does not follow that because you have a vote in your country, if you migrate to any other part of the British Empire, you will necessarily have a vote there. You must qualify yourself for the exercise of the right of vote according to the law of the country where you are. Therefore, I am afraid, my Honourable friend, Mr. Subrahmanayam, in moving this amendment has overlooked the fact that, even though all facilities may be granted in respect of naturalisation—which I think I have already said are entirely impossible having regard to the fact that an Indian who goes to South Africa or Canada goes from one part of the British Empire to another,—even though all that may be done, the mere fact that he will be naturalised will give him no right to vote. If he wishes to exercise the franchise, he must conform to the requirements of the law of that particular country. For all these reasons I think that these amendments are based on a total misconception of the legal position, and I venture to hope that the House will not accept them.

Dr. H. S. Gour: Sir, when I heard the Honourable the Law Member I was wondering whether his reply was intended to be directed against the Mover of this amendment or against his colleague, the Honourable Mr. Sarma, who replied to him. I do not wish, Sir, to be pedantic on this subject. The Honourable Mover of the amendment intended to mean and imply that, whenever an Indian is not treated as an equal citizen of the Empire by being given the right to municipal franchise, the right to acquire land in a Colony, or is restricted as regards his residence to a limited location known as the 'Asiatic Location' and other galling and discriminating rights, this emigration should be restricted; and it is in that sense, I understand, that the Honourable Mover of this amendment termed his clauses. But, Sir, the question of naturalisation is entirely wide of the mark. My friend, the Honourable the Law Member, is perfectly right in saying that there can be no such thing as naturalisation in the British Empire. By an Act of the British Parliament every person born within

[Dr. H. S. Gour.]

the British Empire is as of right entitled to British citizenship. He has, under the Act of Parliament, equal rights and all the citizen rights wherever he goes; but these Colonial Statutes, to one of which the Honourable the Law Member referred, have made certain local laws restricting the full enjoyment of that right in the manner I have indicated; and the Honourable the Mover of the amendment intended to mean that, if emigration to any of these countries is to be made, it should be made on condition that the Indians in those Colonies are treated as equal citizens with the other European settlers there. It is in that sense that the amendment was moved and

3 P.M.

I think the Honourable the Law Member was perhaps a little too technical in reading the amendment in its too literal sense. But, Sir, having said so much, it must not be understood that I am going to support the amendment. On the other hand, I feel strongly that this amendment must be thrown out if the Honourable Mover of the amendment does not withdraw it; and I shall give my reasons for it. Sir, the first and primary object of this Emigration Bill is to provide salutary safeguards for the emigration of our labour population when it goes beyond the Empire. It is for the benefit of the labourers that this enactment is proposed to be placed on the Statute Book. My friend is diverting the sole and primary purpose of this enactment for what I cannot help thinking an ulterior political aim. He desires to exploit the coolie for the purpose of equalising or enhancing the right of the Indian settlers in Overseas Colonies of His Majesty. That, I submit, is not a fair way of treating this question. If we have a grievance against the Colonies, we shall ventilate them on another occasion; but this is not the time, nor is this the Bill in connection with which we can fairly move this amendment. Our sole object should be to see that the labourers who go beyond the seas to the Colonies of Africa, Australia, Fiji or other parts of the Empire are fairly well treated, adequately paid, and are not deserted on the completion of their terms. If these conditions are fulfilled, I do think that the Government of India shall have discharged their duties to the labourers. Now, Sir, if this amendment is accepted, the labouring classes of this country might be most unjustly hit. Conceive the case of a vast devastating famine in this country. Conceive the case that the labourers in this country are not able to find adequate employment. This amendment, if placed on the Statute Book, will bar the right of the Government of India to export these labourers to countries where they may find congenial and remunerative employment. I, therefore, submit that the amendment, if carried, would be disastrous to the very interests it seeks to protect. I further think that it ill becomes my friend, the Honourable Mover, to champion the case of the coolie and say that he can go if the Colonies treat us, the people of India, the gentlemen of India, better in the Colonies. While the remarks of the Honourable Mr. Sarma were directed to the citizenship of the coolies themselves, the Honourable Mover interjected a remark and said: 'I do not want equal rights for the coolies; my amendment implies that I am prepared to export the coolies to the Colonies if they give us, the citizens of India, including himself and me, better rights in the Colonies'. Now, I beg to submit, that is not a fair bargain. You are sacrificing the best interests of the labourer for your own advantage. Is that fair? Is that right? Is it just? That, I submit, is the crux of the question. The clause, as it is drafted, amply meets the requirements of the case.

It is sufficiently elastic and you must trust the Government of India and this Legislature to see that, as time and occasion demand, it shall be put in force in conformity with, and with due advertence to, the circumstances which may arise from time to time. I, therefore, submit that you shall gain nothing and are likely to lose a good deal if this clause is inserted in the Statute Book of this country. Sir, I know what is passing through my friend's mind. He is anxious to proclaim to the Colonies at large the deliberate will of this Assembly that they are maltreating the people of this country, and that, by way of retaliation, the Indian Legislature have registered a will that they shall not export their labouring population to any part of the Colonies of the British Empire unless the Indians in this country and the settlers in those Colonies are better treated. That, I submit, is what is passing through my friend's mind. That being the case, I say now, what I have said before, that we shall be twisting the Statute for a purpose for which it was never intended. Sir, on these grounds I oppose this amendment, and I hope, my friend will feel convinced and withdraw it, because I think that, if this amendment is carried, of which I see very little chance, it will be disastrous to the vast labouring population of this country, who shall suffer most by it.

Mr. R. A. Spence (Bombay : European) : I move, Sir, that the question be now put.

The motion was adopted.

Mr. President : Amendment moved :

'That in clause 10, the following be inserted as sub-clause (2) and existing sub-clause (2) be re-numbered (3) :

'(2) Emigration for the purpose of unskilled work shall ordinarily be permitted to countries only in which :

- (a) Indians when not naturalised are subjected to no disabilities to which nationals of European countries are not subjected ;
- (b) Indians can be naturalised on the same essential conditions on which nationals of European countries can be naturalised ;
- (c) Indians if naturalised enjoy full rights of citizenship ; and
- (d) in the opinion of the Governor General in Council Indians enjoy substantially the same political rights as other classes of His Majesty's subjects'.

The question is that that amendment be made.

The motion was negatived.

Clause 10 was added to the Bill.

Rai G. C. Nag Bahadur : Sir, the amendment that I wish to move runs thus :

'In clause 11 (2) of the Bill, as amended by the Select Committee, for the words 'shall cease to be lawful pending a reference to the Governor General in Council' substitute the words 'shall, subject to confirmation by the Governor General in Council, cease to be lawful.'

Sir, it is merely a verbal alteration that I propose to make, and I have no remarks whatever to offer to commend my amendment to the House. If the House thinks that my amendment will improve the form of the clause, they may adopt it.

The motion was negatived.

Clauses 11 and 12 were added to the Bill.

Bhai Man Singh : Sir, the amendment which I propose to move is :

‘ At the end of clause 13 (2), add the following :

‘ And such notification shall be amended or cancelled if a vote to that effect is passed by both the Chambers of the Indian Legislature ’.

With respect to my amendment, Sir, I submit that in clause 10, the principle of my amendment has been accepted. In clause 10, we have that :

‘ (1) Emigration for the purpose of unskilled work shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council by notification in the Gazette of India may specify in this behalf.

(2) No notification shall be made, under sub-section (1) unless it has been laid in draft before both Chambers of the Indian Legislature and has been approved by a Resolution of each Chamber, either without modification or addition, or with modifications and additions to which both Chambers agree, but, upon such approval being given, the notification may be issued in the form in which it has been so approved’.

Section 10 deals with the case where the Governor General in Council is to decide as to what countries emigration should be allowed to and both the Chambers have power to make any additions or modifications to that draft notification. Section 13 deals with the powers of the Governor General in Council to prohibit emigration to certain countries. Now sub-section (2) of section 13 says that :

‘ Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.’

What I submit is that such notification when laid on the table of the two Chambers should be subject to their vote as well. If the two Chambers by a Resolution decide that certain modifications should be made in the draft notification, their wish should be carried out. If, under section 10, the Indian Legislature has got the right to add to the list of the countries to which the Governor General in Council think proper emigration should be allowed, and if we can add another country to this list, there is no reason why we should not have the same control in the case when the Governor General in Council decides that emigration should not be allowed to such country. If we can provide that such and such people should be allowed to such and such countries, we should have the same power as the Governor General in Council. If he prohibits, we should be able to raise our voice against it. There is no meaning in giving us the power to make any additions to this notification if we can have no voice to reject a notification which prohibits people from going to such countries. I need not say anything more in respect of this amendment, because I see the principle has been accepted, and my amendment does not go as far as what is laid down in section 10. Section 10 says that the draft notification should be laid before both Chambers and they are to modify or make additions to it. My amendment simply requires that the draft notification shall be laid on the table, and, if we choose to pass any Resolution about it, we may pass it, otherwise it remains as passed by the Governor General in Council. I submit, Sir, that in section 10, the principle was admitted even by Sir George Barnes in introducing this Bill, and, I think, there will be no opposition to my asking the Honourable Members to apply the same principle to clause 13 as it is.

The Honourable Mr. B. N. Sarma : Sir, I have listened carefully to the Honourable Mover of this amendment, and I see clearly that the

amendment has been moved under a misconception as to the object of this section. The principles underlying section 10 are in no way in conflict with the procedure that is prescribed in section 13. Section 10 says that in respect of emigration generally from India to foreign countries the conditions and terms shall be laid down by the Government of India in conjunction with the two Houses and the countries also shall be specified. But it has been felt that there may be certain specified local areas under the administration of Provincial Governments which may have to be protected, having regard to the peculiar circumstances in those areas and localities, and power has been given as long back as 1883, and even earlier, to Local Governments with the sanction of the Governor General in Council to notify that emigration is prohibited from those areas, in respect of particular classes, to particular countries specified therein, the reason being that it is only the Local Governments that are in a position to judge as to the merits of individual cases far more than the Government of India or anybody else. It is not a question of general policy governing the whole of India. The Local Government may know that, in district A, artisans of a particular class or labourers of a particular denomination are wanted badly and are being depleted unduly or are going to certain particular adjoining localities where there is a congestion. Therefore, power was given to them to move in the matter, the necessary safeguard being that it should be subject to the sanction of the Governor General in Council. That was the previous legislation. Section 8 of the Act of 1908 provided for that. It runs as follows:

'The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, prohibit, from a day specified in the notification, all natives of India or any specified class of such natives from emigrating from the whole or any specified part of the territories under its administration to any specified country.'

When the Select Committee came to consider this enactment, it was suggested that inasmuch as Emigration is a central subject, the power may be directly conferred upon the Governor General in Council to issue the notification, and in deference to the wishes of the Members, it has been decided that section 8, as it originally stood, should be modified in the form in which it stands here. It was also suggested that the reasons for such exclusion should not be kept a secret but should be mentioned to the Legislature which is responsible originally for the emigration policy of the Government. Therefore, the Government have agreed to this clause 2 being added which states that :

'Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.'

The rest is treated as a question of detail of administration. There are two things which you will have to distinguish, namely, the detailed manner in which the emigration policy is carried out by Government or by a delegated body, the Local Government, and the main principles on which that administration shall be carried on. Where there is a question of main principle, the Government has already stated that it would not proceed in prohibiting emigration or prescribing conditions except with the consent of the Legislature. But where there is a question of detail which can be gone into only by a Local Government in respect of a specified locality, I think the Legislature ought not to move in the matter or ask for more powers. It is perfectly open to any Member here to move a Resolution that the notification shall be modified or cancelled, and the Governor General in Council will show every

[Mr. B. N. Sarma.]

respect that is due to a Resolution of this House or of the Council of State. But I do not think that a Resolution in respect of any emigration subject should be given greater legal power or a higher sanction than a Resolution on any other subject, and especially for this reason. There is Ceylon, for instance, adjoining the Madras Presidency. It is only labour from some adjoining districts there that goes to Ceylon. The same is the case with regard to the Straits. Complaints are sometimes heard that there is a depopulation of certain districts and agricultural labour is scarce. I am not saying that this is correct. But, supposing that, on a proper inquiry, the Local Government should find that either the labourers require protection or that at any rate a certain specified class of persons should not be allowed to go, then it is they that can take the initiative. I mean they can make recommendations having regard to the specified local conditions of that locality. The Local Government has to come to the Government of India and the Government of India issues the notification. It may be that the local Legislature would have its say. If a Local Government were to recommend such a notification, if it really is not in consonance with the wishes of the people there, the local Legislature would immediately call to account the action of the Local Government and it is they that are in a position really to say as to whether any particular locality justifies this special treatment which is provided for in section 13, and it won't do for us to come into conflict with the views of a Local Government as supported by the local Legislature by giving legislative force to the wishes of the Legislative Assembly or the Council of State in matters of everyday administration. I, therefore, suggest that the matter need not be pursued further. All that has to be done for publicity's sake is being provided for here. The Local Government cannot and will not in the interests of any particular section, commercial or agricultural, overlook the interests of the labourers and the position is further safe-guarded because the Government of India is here to protect the interests of the labourers and to see that proper consideration governs the decision, and then the Legislature here has got full power to pass Resolutions on the subject, and I would suggest that the appetite should not grow by what it feeds on and that the Legislature should not ask for power to interfere in matters of administrative detail. This section has stood for about 40 years without any complaint whatsoever against its administration and the Select Committee have done all they could to anticipate and meet the legitimate wishes of this Assembly in modifying the provisions of section 8 as it originally stood in the Act of 1908 and clause 13 as it stood in the original Bill. In view of this explanation, I hope the Mover will not press his amendment.

Mr. N. M. Joshi : I am glad that the Honourable Mr. Sarma has made an admission just now in his speech that there is just a possibility that the Local Governments may try to make use of this Act to stop labour going out when there is a scarcity of labour. It is on account of that that I consider this Bill to be dangerous.

Mr. President : Amendment moved :

'That at the end of clause 13 (2) the following words be added :

'and such notification shall be amended or cancelled if a vote to that effect is passed by both the Chambers of the Indian Legislature '.

The question is that that amendment be made.

The motion was negatived.

Clauses 13 and 14 were added to the Bill.

Bhai Man Singh : The amendment which I propose to move is :

‘ After clause 15, add the following sub-clauses :

‘ The Governor General in Council shall make rules as to the terms and the conditions about which a person making an application under section 16 should satisfy the Local Government about the following matters :—

- (1) The payment of wages to the emigrant ;
- (2) The safety of his person, property and his dependants at the hands of the employer ;
- (3) The limit of time of work ;
- (4) The kind of works which the emigrant will be required to do ;
- (5) Accommodation and sanitary arrangements of the emigrant and his dependants ;
- (6) The freedom and general treatment of the emigrant and his dependants ;
- (7) Any other matter that the Governor General in Council should think necessary to safeguard the interests of the emigrant ;

‘ Such rules shall be published in the Gazette of India and placed before both the Chambers of the Indian Legislature and shall be liable to be amended or cancelled according to a vote of the two Chambers of the Indian Legislature.’

My only object in proposing this amendment is this. I find that under section 16 :

‘ Whoever desires to engage or to assist any person to emigrate for the purpose of skilled work shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application the number of persons whom he proposes so to engage or assist . . .’

Section 17 says :

‘ On receiving an application under section 16, the Local Government may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.’

When an application is to be made to the Local Government, the Local Government has the right to refuse or grant that permission. It is admitted on all hands that the Act is meant to safeguard the interests of the emigrants. But I do not find anything in section 17 or section 16 to show that the Local Governments, in arriving at a decision under section 17, are to be guided by that principle. No doubt I do find certain particulars to be required to be put in in the application by the employer. But, I submit, Sir, they do not give a definite guidance as to what are the requisites that the employer should satisfy before he can be given permission. I wish that certain rules should be framed by the Governor General in Council for the guidance of the Local Governments in this respect. And, if the Local Governments find that the applicants cannot satisfy those conditions, they must reject the permission, they should not grant permission, and if they find that those conditions are satisfied, then they may grant permission, unless they find that it is against the interests of the emigrant otherwise. There being absolutely no dispute about the principle of the Bill, that it is to safeguard the interests of the emigrant,

[Bhai Man Singh.]

why should we not use definite words, and why should we not lay down that rules should be framed for the guidance of the Local Governments for safeguarding the interests of the emigrants and the Local Governments should see that those rules are satisfied ?

The Honourable Mr. B. N. Sarma : I feel sure, Sir, that the Honourable Bhai Man Singh has put in this amending clause without realizing clearly that it is a task which it is impossible for any Government of India to satisfactorily discharge, and that the Government have done all that can possibly be done to safeguard the interests of skilled labourers by providing the specific matters in respect of which the Local Government should be satisfied before emigration is permitted. Now, there are numerous countries, to which labour may emigrate ; and skilled labour is of various kinds, and the provinces differ widely from one another. The Government of India are asked to make rules regarding the payment of wages to the emigrant. That is, they have to make rules with regard to the payment of wages applicable to labour emigrating from all the provinces in India in respect of clerical labour, in respect of artizan labour of one kind or another,—in respect of all the kinds of skilled labour, not merely in respect of one country but of various countries differing widely from one another in respect of area, in respect of distance, and so on, and that is an undertaking, I think, which no Government can embark upon ; and the conditions vary from day to day, from month to month, consequently I think Honourable Members will realize that it is not possible to lay down any rule which would be of any practical use, in respect of the payment of wages to the emigrant. We must remember here that in respect of skilled labour we are not worried with the same difficulty as with unskilled labour. We are dealing here with a type of man who can protect himself. He knows what he is about. He knows what job he is accepting and what he is going to get there. They are a comparatively intelligent class of people stipulating for a fairly higher rate of wages, which wages depend upon the skill of the particular individual, or the skill necessary for a particular trade, whose value may vary from time to time. I, therefore, hope that the Honourable Mover will see that it is impossible for Government to comply with his request in regard to the payment of wages.

Now, as regards the safety of his person, property, etc. We have asked for that already in 16 (1) (c) and 16 (2) (a) :

‘ the accommodation to be provided for each such person and his dependents until their departure out of India and during the voyage ’ and

‘ the provision to be made for the health and well-being of such person and his dependents during the period of the proposed engagement and for his repatriation at the end of such period.’

We have therefore provided for that.

Then, again, he asks for rules to be made regarding the limit of the time of work. That again would depend on the nature of the work and the salary. One man might be willing to work longer than another. Then the League of Nations have laid down certain conditions about the hours of work of different kinds of labour. They have fixed certain maximum hours of labour and every civilized country will have to comply with the rule if they should accept them. Consequently, there would be no difficulty about that and I do not see

any reason why we should lay down any rules about the limit of hours of work, which may conflict with an existing rule in the Colony concerned.

Then, as regards the 'kind of work which the emigrant will be required to do'—that is altogether too wide in scope for any provision to be usefully made.

As regards 'accommodation and sanitary arrangements of the emigrant and his dependants'—that is a very elastic phraseology. We have provided here in 16 (2) (b) for

'the terms of the agreement under which such person is to be engaged.'

That is a very wide provision, embracing many of the points which cannot be brought within the strict limits of any rule. They would vary from province to province and from trade to trade; and the officer to whom the matter will be referred will be in a position to judge when a case comes before him as to whether the conditions are fair and emigration ought to be permitted. Consequently, Sir, I think that this amendment is absolutely unnecessary and its requirements cannot be carried out, although we may sympathise with the object which the Mover has in view. Later on, he suggests we are going too far and does not want the Local Government to have power to change the terms of an agreement except under strict supervision. I submit that the elasticity which section 16 provides is more to be commended than rigid adherence to rules which may be out of date and which must vary from place to place; and to ask Local Governments to adhere rigidly to rules would mean that skilled labour would suffer, and it is the rights of skilled labour which we are trying to protect.

Mr. Harchandrai Vishindas: Sir, I rise to a point of order. Am I right in saying that this amendment is not germane to the clause itself and is it not within the province of the Chair to reject any amendment which does not fit in with the subject of the substantive part of the clause? I am of opinion that this amendment should have been the subject of a separate clause altogether, or it should have been moved with reference to clause 16. I want a ruling from the Chair.

Mr. President: That may be, but I think we can dispose of the amendment without a ruling.

Amendment moved:

'After clause 15, add the following sub-clauses:

'The Governor General in Council shall make rules as to the terms and the conditions about which a person making an application under section 15 should satisfy the Local Government about the following matters:

- (1) The payment of wages to the emigrant;
- (2) The safety of his person, property and his dependants at the hands of the employer;
- (3) The limit of time of work;
- (4) The kind of work which the emigrant will be required to do;
- (5) Accommodation and sanitary arrangements of the emigrant and his dependants;
- (6) The freedom and general treatment of the emigrant and his dependants;
- (7) Any other matter that the Governor General in Council should think necessary to safeguard the interests of the emigrant;

'Such rules shall be published in the Gazette of India and placed before both the Chambers of the Indian Legislature and shall be liable to be amended or cancelled according to a vote of the two Chambers of the Indian Legislature.'

[Mr. President.]

The question is that that amendment be made.

The motion was negatived.

Clause 15 was added to the Bill.

Mr. J. Hullah (Revenue Secretary) : Sir, I have to move the following amendment :

'In sub-clause (2) (a) of clause 16, for the word 'his' where it occurs before the word 'repatriation', substitute the word 'their'.'

This amendment restores the wording of the present Act and corrects an error, which, I gather, is due to inadvertence.

The motion was adopted.

Mr. J. K. N. Kabraji (Bombay : Nominated Official) : There is just one little point about which I would like to have information from the Honourable Member in charge of the Bill. In sub-clause (2) the words are 'to engage any person' whereas in sub-clause (1) the words are 'to engage, or to assist any person to emigrate.' Have the words 'or to assist' been omitted from sub-clause (2) with any purpose? If so, I would like to understand the difference between the two clauses. I cannot find any information on the subject in the Select Committee's Report.

The Honourable Mr. B. N. Sarma : The clause deals with two classes, *viz.*, persons who merely assist labour to emigrate and persons who engage labour directly for employment. A here in India may assist B to emigrate to a foreign country and pay him his fare, and so on. That is assisted emigration. The law lays down certain restrictions and rules in regard to persons who assist people to emigrate. The other clause relates to men who engage the labour themselves and are directly responsible for the treatment of those skilled labourers they are employing. Now, the duties that are cast upon persons who engage or assist are common up to a certain point and those are provided for in clause 1. But, evidently, the persons who engage labourers directly have got a greater responsibility cast upon them than those who merely assist labourers to go out, and consequently in their case they are asked to specify certain other matters and those are dealt with in clause 2. Originally, the whole thing was clubbed together and, for the sake of clearness, in the Select Committee the clauses have been re-drafted making provision, distinct provision, for each class of cases. So, the duty that is cast upon persons who merely assist labour is laid down in sub-clauses (a), (b) and (c) of clause 1. That is not so very extensive as that cast upon a person who engages it. The man who engages labour has to state what provision he has made or is going to make for the health, etc., of the labourer, whereas such duty is not cast upon a man who merely assists labour. I think this explanation will satisfy the Honourable Member.

Clause 16, as amended, was added to the Bill.

Bhai Man Singh : I do not press my amendment* :

* 'To clause 17, add the following proviso :

'Provided that the Local Government will not order for any change in the terms of the contract or refuse permission under this section unless the terms of the contract or any other circumstances are against the rules framed under section 16, sub-section (2), or any

Clauses 17, 18, 19 and 20 were added to the Bill.

Bhai Man Singh : I beg to move the following amendment :

'At the end of clause 21 (2), add the following :

'and such notification shall be amended or cancelled if a vote to that effect is passed by the two Chambers of the Indian Legislature.'

My reasons for moving this amendment are just the same as I gave for my amendment to clause 13.

The motion was negatived.

Clauses 21, 22 and 23 were added to the Bill.

Bhai Man Singh : I do not press my amendment† :

Clause 24 was added to the Bill.

Mr. N. M. Joshi : I beg to move the following amendment :

'Omit sub-clause (1) of clause 25 and re-number sub-clauses (2) and (3) as (1) and (2).'

Sub-clause (1) of clause 25 prescribes a penalty of Rs. 50 on those people who 'except in conformity with the provisions of this Act or of the rules made under this Act, emigrate or attempt to emigrate.'

Sir, the reason for which I move this amendment is this. As I said in my first speech, it is the legitimate right of everyone to go out of the country, if he thinks by going out his prospects will be bettered. If such a man attempts to go out of the country, even against your rules, he certainly commits no offence. He cannot be considered to be a criminal; and I therefore object to any fine being imposed upon any individual who tries to do a legitimate thing. Sir, in holding this view I am not without support even from some Government officers. I find, in the opinions which have been circulated to the Members on this point, at least two Commissioners of Divisions supporting my view. The first is Mr. Slocock, Commissioner, Jubbulpore Division, who says :

'This brings me to the consideration of penalty clause 25 (1) (a) which provides for punishing the emigrant or intending emigrant himself. As the Deputy Commissioner, Jubbulpore, says, this seems rather drastic and is hardly in consonance with what Sir George Barnes said in Council. The object of the Legislature is, I take it, to protect Indian labour and to prevent agents and exploiters from taking advantage of the ignorance and gullibility of their less fortunate countrymen from whom the indentured emigrants chiefly come. The penalty clauses should therefore be aimed at the exploiter and not at his unfortunate victims. It is hard to see in what case the punishment of an emigrant himself is ever likely to be enforced, and the retention of this sub-clause may result in hard cases.'

The second quotation that I propose to make is from the letter of the Commissioner, Surma Valley. He says :

'The punishment provided in section 25 (1) (a) for a person who attempts to emigrate otherwise than in accordance with the rules is difficult to justify.'

other provision under this Act, or for any other reasons to safeguard the interests of the emigrant and his dependents and in such cases the Local Government will state such reasons in writing.'

† At the end of clause 24 add the following sub-clause :

'(3) All such notifications made under this section shall be placed before both the Chambers of the Indian Legislature and shall be cancelled or amended if a vote to that effect is passed by both the Chambers of the Indian Legislature.'

[Mr. N. M. Joshi.]

I fail to understand, Sir, why we should punish a man with a fine, and a heavy fine of this kind, for doing quite a legitimate thing. If you like, you may detain him in the country, but to give him punishment is, in my opinion, going beyond our rights and is a restriction of ordinary human liberty.

Then, Sir, the fine that is proposed to be imposed is not also a little fine but a very heavy fine, considering the condition of the people who emigrate. A man emigrates from his country simply because he is poor and hopes to get money when he goes there. Naturally, if you put a heavy fine of Rs. 50 on him, how is he going to pay? If you had placed a fine on a man who has to go and who will be allowed to go, the employer may pay the sum of Rs. 50; but, if the man is not allowed to go, the employer is not going to pay, the man himself must pay. Take the case of a man from the United Provinces who goes to Bombay with the intention of emigrating. He will be arrested and fined Rs. 50. In Bombay, how is he to get Rs. 50? He must go to a Kabuli moneylender. No other man will give him a loan. The Kabuli will charge him 4 annas on every rupee per mensem, which means 300 per cent.; so, that man will have to pay for these Rs. 50, Rs. 150. I want the Government to take this matter into their serious consideration. They have been professing themselves the friends of the labourer. Is this being a friend to the labourer?

The Honourable Mr. B. N. Sarma : Sir, this question was very carefully considered in the Select Committee, and the original provision, which fixed the fine at Rs. 500, was reduced to Rs. 50. That is the maximum limit, the discretion being entirely with the person administering justice as to whether it should be Rs. 50, Rs. 5, Rs. 2, or one rupee, in each particular case. The essential point here, which my Honourable friend overlooks, is that he does not provide any sanction whatsoever for what the law prohibits. Now, suppose the Government of India, backed up by the two Houses, considers it to be unwise, dangerous or foolish to allow emigration to country A on terms B and C, and says no citizen of India shall depart to that country on those terms or on any terms whatsoever. Now, a person wants to defy that prohibition. Is the law to be maintained? Can you say that it is a law which carries no sanction behind it? It may be that the sanction should be light, having regard to the offence. That is the reason why nobody suggests that the person in this case should be punished with imprisonment, even simple imprisonment. That is the reason why the Select Committee went the length of reducing the fine from Rs. 500 to Rs. 50 and distinguished between the labourer who wants to defy the law and the person who induces him to do so, because they have retained the maximum of Rs. 500 in the case of a person who induces him to emigrate. But I would respectfully suggest that it is a mockery to enact a law which does not provide for some sanction by which that law can be enforced. There is no meaning in saying that a man shall not go and, if he says 'I will go' meekly submitting to him and saying, 'Oh! yes, you are a poor fellow and, therefore, in your case the law is no law; it does not require a sanction'. To me the thing seems to be absolutely impossible. I quite appreciate, and readily understand and sympathise with the object which my Honourable friend has in view, namely, that we should not make it hard for these labourers, who are really poor and wish to better their conditions if they commit a technical offence, but I am sure the Magistrates who administer the law know perfectly well as to whether

the transgression is deliberate or not. Supposing that a man repeats it a second time or a third time; or supposing that the man wants to set an example to another man; or supposing that the man is really not so poor. Cases vary, and we must in these individual cases leave it to the discretion of the Magistrate. I cannot see how my Honourable friend can get out of the position that, if we prohibit a thing, how we can enforce it without some sort of sanction behind it. It is for this reason that I regret that Government cannot agree to this amendment.

Mr. President : Amendment moved :

‘Omit sub-clause (1) of clause 25 and re-number, sub-clauses (2) and (3) as (1) and (2).’

The question is that that amendment be made.

The motion was negatived.

Bhai Man Singh : Sir, my amendment :

‘In clause 25 (1), for the words ‘shall be punished with fine rupees’ substitute ‘shall not be allowed to emigrate unless he satisfies that he is a free emigrant.’

is covered by Mr. Joshi’s, so I do not propose to move it.

Mr. J. Chaudhuri : Sir, I beg to move :

‘In the last line of clause 25 (1), substitute the word ‘ten’ for ‘fifty’.

In the speech which was just made by the Honourable Mr. Sarma he said he saw the difficulty of accepting Mr. Joshi’s amendment, because if there is a law there must be a sanction. But the scope of the Bill is chiefly to protect unskilled labour. The Honourable Mr. Sarma has just now said that so far as skilled labour is concerned, such persons are quite capable of taking care of themselves. But if that be so, then under section 25, the offending persons are likely to be poor ignorant people who may be the dupes of other people and whom we want to protect under this Act. As such persons are likely to be brought up before the Courts for attempting to emigrate under the pinch of poverty, I suggest in my amendment that the penalty should not be fixed at Rs. 50 but that it should be reduced to Rs. 10. That is in short the object of my amendment. The Magistrates will have ample discretion in the matter : in suitable cases they can impose a suitable fine, which will never be too high and will meet the objections raised by my Honourable friend Mr. Joshi. With these few words I commend my amendment to the acceptance of the House.

The Honourable Mr. B. N. Sarma : Sir, this is a matter of detail which was gone into carefully, and it was after much consideration that the maximum fine was reduced from Rs. 500 to Rs. 50. But I submit here again that this Rs. 50 is only a maximum limit to which the Magistrate need not go, and it is only in extremely contumacious cases, or in the case of people who are in a position to pay and who defy the law deliberately, that this maximum penalty will be imposed. But you cannot make light of a law by making the sanction ridiculously light, or by omitting to provide a sanction altogether. That is why we decided on a medium limit and the medium limit was fixed by the Select Committee at Rs. 50. I do not think it is necessary to reduce the limit below that or to fix it at Rs. 10. I regret therefore that I cannot accept the amendment.

Mr. N. M. Joshi : I do not agree with the Honourable Mr. Sarma that a penalty of Rs. 10 is a light one to an ordinary labourer. The penalty may be light to some other persons, but it certainly is not light to labourers who seek to go out of their country to make a living. I am sure that if a man is once fined Rs. 10 he is not likely to commit that offence again. He will find it very difficult to get another sum of Rs. 10 even if, in the first instance, he gets the sum.

Mr. J. K. N. Kabraji : Sir, I should like to draw the attention of the Honourable Member for Government to Rai Saheb Lakshmi Narayan Lal's remark on this clause where he objects to it and adds :

'In no case the dependents [who are included in the definition of emigrant under clauses 2 (I) (b)] should be made to suffer.'

I should like to know whether, under this clause 25 (I), dependents are also to be punished. If so, I should think it would be rather a harsh measure, and probably in that case a fine of Rs. 10 would be more suitable.

Mr. President : The question of dependents is raised by an amendment.

Mr. Pyari Lal : Sir, I have not been able to understand Mr. Joshi when he spoke of human liberty and of the liberty of the subject. He seems to think that every man may commit any offence and yet should not be checked. Let him be a murderer and go about the country; let him be any offender and no restraint should be placed upon his liberty. We find in this particular case a man violating the rules made under this Bill; he transgresses them; he is detected and Mr. Joshi invokes the sympathy of this Assembly to let him off with a fine or to reduce the punishment. I do not see on what reason he makes the suggestion to this House.

Mr. President : Amendment moved :

'In the last line of clause 25 (I) substitute the word 'ten' for 'fifty'.'

The question is that that amendment be made.

The motion was negatived.

Bhai Man Singh : I move :

'That at the end of clause 25 (I), the following proviso be added :

'Provided that the dependents of such emigrant shall not be liable to any punishment'.

Sir, my reasons are very clear. A man may commit the offence by going against the provisions of the Act; it might be said that he was defying the law; but why should his family be punished? The Act as it stands, so far as I can understand it, makes the dependants of an emigrant, or rather a would-be emigrant, also liable to a fine, because it simply says :

'Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate.'

A man who is trying to emigrate is taking his wife with him; naturally in that case it may be said that the wife also was attempting to emigrate. I do not see the *rationalité* of laying down why those dependents also should be held liable under the law. I therefore propose this amendment.

The Honourable Mr. B. N. Sarma : Sir, I think this amendment has been brought forward under a misconception. Dependents are not intended to be included within this clause and are not included in clause 25. The clause reads thus :

'Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate, etc., etc.'

Now, what is the definition of 'emigrate'? 'Emigrate' and 'emigration' mean 'the departure of any person who departs under an agreement to work for hire in any country beyond the limits of India and any person who is assisted to depart if he departs with the intention of working for hire or engaging in agriculture in any country beyond the limits of India'. So it is only those persons who engage themselves to work for hire or to engage in certain occupation or on certain terms that are said to emigrate within the meaning of section 25. Dependents are for certain purposes included amongst the class of emigrants; but they cannot be said to emigrate because they do not engage themselves to work for hire, etc., and do not bring themselves within the scope of section 25. Honourable Members will see that 'emigrant' means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependent of an emigrant, but does not include any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person. Therefore, it is only for the purposes of definition of emigrant that these dependents are brought in in order to give them the necessary protection and so on; but in enacting the penal clause we have taken care to see that it is only persons who emigrate or attempt to emigrate as defined above that are brought within its scope. I, therefore, think that the class of persons to which my Honourable friend alludes does not come in for any penalty, and I think, therefore, the amendment is unnecessary.

Bhai Man Singh : I withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clauses 25, 26, 27, 28, 29, 30, 31, 32 and 33, the Preamble and the Title were added to the Bill.

Mr. J. Hullah : I move, Sir, that the Bill, as amended, be passed.

The motion was adopted.

The Honourable Sir William Vincent (Home Member): Sir, I have another motion down in the list for to-day, but it is already four o'clock. The business for to-morrow is only one Bill and, although it was a non-official day, Government have cancelled the allotment of the day to non-official business and allotted it to official business. If it suits Honourable Members equally well, we will take this matter up to-morrow or, if not, we can discuss it to-day, exactly as they like. (*Cries of 'To-morrow, to-morrow'.*) There will then be for to-morrow only this Resolution and Mr. Girdharilal Agarwala's Bill, if he turns up.

Mr. Harchandrai Vishindas : He is coming to-morrow.

The Honourable Sir William Vincent : We will allow him to introduce
4 P.M. his Bill on an official day.

Mr. R. A. Spence : Will there be any official business to-morrow, Sir ?

The Honourable Sir William Vincent : Only this Resolution.

Mr. R. A. Spence : Why not take up the Resolution now ?

The Honourable Sir William Vincent : It depends on the Honourable Member and his colleagues.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 7th February, 1922.