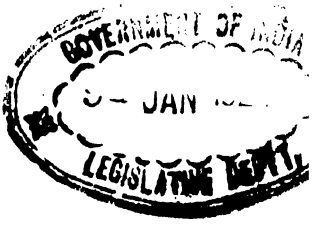
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)



VOL. III

PART VII

(16th to 28th July, 1923.)

THIRD SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1923.

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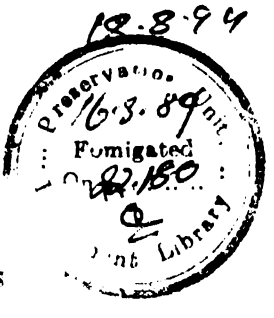
GOVERNMENT CENTRAL-PRESS
1923



LEGISLATIVE ASSEMBLY.

The President.

The Honourable Sir FREDERICK WHYTE, KT.

Deputy President.

Sir JAMSETJEE JEEJEEBHOY, BART., K.C.S.I., M.L.A.

Panel of Chairmen.

Maulvi ABUL KASEM, M.L.A.
Sardar Bahadur GAJJAN SINGH, M.L.A.
Mr. N. M. SAMARTH, M.L.A.
Colonel Sir HENRY STANYON, KT., C.I.E., V.D., M.L.A.

Secretary.

Mr. L. GRAHAM, M.L.A., I.C.S.

Assistants of the Secretary.

Mr. W. T. M. WRIGHT, I.C.S.
Mr. S. C. GUPTA, BAR.-AT-LAW.
Mr. G. H. SPENCE, I.C.S.

Marshal.

Captain SURAJ SINGH, Bahadur, I.O.M.

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LEGISLATIVE ASSEMBLY.

Tuesday, 24th July, 1923.

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

MEMBER SWORN :

Lieutenant-Colonel R. H. Palin, O.B.E., M.L.A. (Army Department : Nominated Official).

QUESTIONS AND ANSWERS.

Treatment of Deck Passengers.

366. ***Mr. Harchandrai Vishindas** : (*a*) Are Government aware of the treatment accorded by the B. I. S. N. Company to the deck passengers travelling between Bombay and Karachi ?

(*b*) Are they aware that when steamers anchor in the stream, deck passengers are not carried to the shore ?

(*c*) Is it part of the Company's contract to carry deck passengers on shore from ships anchored in the stream ?

(*d*) Are they aware that no officer is appointed on board the steamer to enquire into the deck passengers' complaints and that no medical aid is given to them ?

The Honourable Mr. C. A. Innes : As far as Government are aware no complaints were made to the Deck Passenger Committee that the B. I. S. N. Co. do not make arrangements to carry passengers to and from the steamers. The Committee recommended merely that better police arrangements should be made in respect of the boats conveying passengers. One of the Committee's other recommendations was that owners should be required to carry a Passenger Inspector on every steamer licensed to carry 100 passengers or more.

Mr. W. M. Hussanally : Are Government aware that in the correspondence with one Mr. Sidwa of Karachi the B. I. S. N. Co. admitted that it was obligatory of them to carry passengers ashore ?

The Honourable Mr. C. A. Innes : I am not aware of that.

Insufficiency of Wagons.

367. ***Rai Tara Prosanna Mukherjee Bahadur** : (*a*) Is the Government aware of the inconvenience of the public for the insufficient supply of wagons ?

(*b*) If so, has the Government taken any step to remove the said inconvenience ?

(*c*) If the answer is in the affirmative will the Government be pleased to state when this inconvenience is likely to come to an end ?

The Honourable Mr. C. A. Innes : (*a*) Government are aware that the supply of wagons is not always equal to the demand.

(*b*) and (*c*). The remedy lies in the provision of additional wagons and of better facilities for their movement. As the Honourable Member is aware, these matters are receiving the constant attention of Government and of the various Railway Administrations.

In this connection the Honourable Member's attention is invited to the reply given in this Assembly to a similar question No. 39 asked by Sir Deva Prasad Sarvadhikary on the 4th September 1922.

Lala Girdharilal Agarwala : Are the Government aware that merchants generally cannot get wagons unless they pay something to the station authorities ?

The Honourable Mr. C. A. Innes : I have heard complaints to that effect, Sir.

INCONVENIENCE OF INTERMEDIATE AND THIRD CLASS PASSENGERS

368. ***Rai Tara Prosanna Mukherjee Bahadur** : (*a*) Is the Government aware of the hardships of inter and poor third class passengers, for the great rush, especially for long journey trains ?

(*b*) If so, has the Government taken any step to remove it, by attaching more compartments ?

The Honourable Mr. C. A. Innes : The Honourable Member is referred to the answer given in this Assembly on the 27th March 1923, to a similar question (No. 663) asked by Babu Baidynath Prasad Sinha.

URINALS IN THIRD CLASS CARRIAGES.

369. ***Rai Tara Prosanna Mukherjee Bahadur** : Will the Government be pleased to state whether the Government intends to make any urinal arrangements in third class compartments ?

The Honourable Mr. C. A. Innes : It is the general practice of Railway Administrations to provide lavatory arrangements in all new passenger stock with the exception of stock designed for short distance and suburban traffic.

The percentage of third class Broad and Metre Gauge carriages fitted with lavatory arrangements is 78.5 per cent.

INSUFFICIENCY OF SECOND CLASS ACCOMMODATION.

370. ***Rai Tara Prosanna Mukherjee Bahadur** : Is Government aware that in all passenger trains only two second class compartments are attached, one for females and another for males, the latter being generally occupied by Railway Officers ? Has the Government taken any step to remove the inconvenience of the passengers by attaching at least another compartment for Railway Officers ?

The Honourable Mr. C. A. Innes : The Honourable Member is referred to the answers given in this Assembly on the 15th September 1921 and 7th September 1922, to questions Nos. 192 and 111 respectively, asked by him on the same subject.

Rai Tara Prosanna Mukherjee Bahadur : Has Government taken any steps to remove the inconvenience ?

The Honourable Mr. C. A. Innes : I must ask for notice of that question.

RAILWAY PLATFORMS.

371. ***Rai Tara Prosanna Mukherjee Bahadur** : (*a*) Is the Government aware of the great inconvenience of the people and of frequent accidents for want of high platforms ?

(*b*) Will the Government be pleased to state, whether the Government have settled any plan to remove the said inconvenience in the near future ?

The Honourable Mr. C. A. Innes : (*a*) and (*b*). Government fully recognise the convenience of high level platforms, but in view of the great expenditure involved they do not consider it advisable to embark on a general scheme for their provision at present. They propose for the present to leave it to the discretion of Railway Administrations to provide high level platforms at stations where the requirements of the passenger traffic justify them.

Rai Tara Prosanna Mukherjee Bahadur : Is there any provision, Sir, in this year's Budget for the purpose ?

The Honourable Mr. C. A. Innes : I cannot answer that question without notice.

Sir Deva Prasad Sarvadhikary : Would the Government consider the desirability of providing steps and ladders like those provided on the E. B. R. at Kustea and Goalundo for the accommodation of passengers ?

The Honourable Mr. C. A. Innes : I will certainly have the matter inquired into.

CATTLE ACCIDENTS ON EASTERN BENGAL RAILWAY.

372. ***Sir Deva Prasad Sarvadhikary** : (*a*) Would the Government please state the number of cattle killed on the southern section of the Eastern Bengal Railway (since my last question on the subject) owing to the unfenced condition of the line ?

(*b*) Would the Government be pleased to state what steps have been taken for fencing the line ?

(*c*) Would the Government be pleased to state when the fencing may be expected to be taken in hand and when it is likely to be finished ?

The Honourable Mr. C. A. Innes : (*a*) The cattle killed number 13.

(*c*) Government are informed that the 5 miles of line near Canning where most accidents occur will be fenced this year.

Mr. N. M. Joshi : Is Government aware that the leaving of a railway line unfenced is against the Railway Act ?

The Honourable Mr. C. A. Innes : I will have that matter inquired into, but I may point out to the Honourable Member that the fencing of all the railway lines in India would be an extremely expensive business. The policy of the railway administrations at present is to fence those portions of the line where accidents are most likely to occur.

STRENGTH OF ARMOURED CAR SERVICE.

373. *Sir P. S. Sivaswamy Aiyer : With reference to the announcement in the Assembly a few days ago by His Excellency the Commander-in-Chief of his intention to raise the actual strength of armoured car companies to 8 units, will the Government be pleased to state whether the proposed addition is inclusive or exclusive of the half unit stated (in the Military Budget for this year) to have been assigned to the Auxiliary Force and whether if it is to be exclusive, a similar assignment will be made to the Territorial Force ?

Mr. E. Burdon : No Armoured Car unit of the Auxiliary Force has been constituted as such. The actual position is that certain Cavalry or Infantry units of the Auxiliary Force have had allotted to them a number of vehicles of obsolescent type. It is now proposed to bring the Armoured Car Companies up to the authorised establishment by the addition of 2 regular units. When this has been done, it is not proposed to have an Auxiliary Force Armoured Car unit as well and it is not proposed to issue modern equipment in the shape of armoured cars either to the Auxiliary or to the Territorial Force.

AMENDMENT OF REGULATION III OF 1818.

374. *Mr. K. C. Neogy : (*a*) With reference to the recommendation made by the Repressive Laws Committee, regarding the amendment of Regulation III of 1818, and the corresponding Madras and Bombay Regulations, will Government be pleased to state what steps they propose to take in the matter ?

(*b*) In how many cases, have these Regulations been put into operation since the submission of the report of the Repressive Laws Committee ?

(*c*) Do the circumstances in which the Regulations were put into operation in these cases, fall within the reservations made by the Repressive Laws Committee in recommending the amendment thereof ?

The Honourable Sir Malcolm Hailey : (*a*) Government are not yet in a position to make a statement on the subject.

(*b*) and (*c*). The Bengal Regulation III of 1818 has been put into operation in three cases all of which may reasonably be held to fall within the reservations made by the Repressive Laws Committee. The Madras Regulation II of 1819 has been put into force in 214 cases connected with the Moplah Rebellion and the Rampa Fituri agency. I think it clear that the Committee recognised the necessity for special measures in these tracts. The question of local legislation on the lines indicated by the Committee is still under consideration.

UNSTARRED QUESTIONS AND ANSWERS.

REPRESENTATION ON AGRA CANTONMENT COMMITTEE.

122. Lieut.-Colonel H. A. J. Gidney : Is Government aware that in the Agra Cantonment not one of the additional non-official members of the Cantonment Committee is an owner of bungalows, so that landlords are without representation on the Committee, and is it a fact that the

latter contribute the largest revenue to the Cantonment Fund in various taxes which are calculated on rental values ?

Mr. E. Burdon : Government have no information in regard to the facts alleged and I invite the attention of the Honourable Member to the reply given on the 3rd February last to unstarred question No. 134.

OVERSEER IN AGRA CANTONMENT.

123. **Lieut.-Colonel H. A. J. Gidney** : Is Government aware of the fact that the engineering subordinate of Agra Cantonment Magistrate's office, called the Overseer, is not a Roorkee College man ? Does he hold an engineering certificate from any recognised institution ? If not, why should he not be replaced by a man selected from the list of qualified candidates maintained by the Principal of Roorkee College ?

Mr. E. Burdon : Government have no information on the first two points raised by the question. The selection and appointment of cantonment servants are matters which at present rest with the Cantonment Magistrate.

WORKING OF INCOME-TAX DEPARTMENT.

124. **Colonel Sir Henry Stanyon** : (1) Will Government be pleased to state whether any Collectors of Income-tax or other taxes in British India are paid commission on their collections ?

(2) Are Government aware that income-tax for 1922-23 collected in advance in 1921-22 upon an estimate of income yet to be ascertained was collected and paid upon the understanding that any excess of the estimate over the actual would be adjusted in 1922-23 ?

(3) Are Government aware that Income-tax Collectors have refused to make such adjustment and to refund amounts collected in excess of the tax legally payable for 1922-23 on the ground that the Income-tax Act, 1922, compels them to retain such excess, albeit the retention of them constitutes " a hard case " ?

(4) Does Government sanction this breach of a condition under which the tax was paid in advance in 1921-22, and by a retrospective application of the Act of 1922 now in force, approve of withholding money to which Government is not entitled ?

(5) If not, are Government prepared to issue orders for the refund of all money taken in 1921-22 as income-tax for 1922-23 in excess of the tax actually payable for 1922-23 ?

The Honourable Sir Basil Blackett : The answer to the first part of the question is in the negative. As regards the second part, section 18 of the Indian Income-tax Act, 1918, provided that the sum of income-tax payable by an assessee for the year in which a return was made should be assessed on the basis of the return, while section 19 enacted that when in any year the total income actually received by or accrued to an assessee in the previous year had been ascertained, the Collector should compute the income-tax which would have been payable in respect thereof if it had been levied in such previous year with reference to the amount of the income so ascertained and the law then in force, and the difference between the two sums should be demanded or refunded as the case might

be. Section 19 was kept alive by section 68 of the Indian Income-tax Act, 1922, so far as assessments relating to the year 1921-22 were concerned.

The Government of India have no knowledge of any refusal to make adjustments and will be glad if the Honourable Member will communicate the necessary details to the Board of Inland Revenue in order that inquiries may be made.

AIR FORCE AT DRIGH ROAD.

125. **Colonel Sir Henry Stanyon**: With reference to the Air Force at Drigh Road, Western Command, will Government be pleased to state :

(*i*) The number of officers and men there stationed ?

(*ii*) The number of (*a*) flyers, and (*b*) groundmen ?

(*iii*) The number of flights made monthly ?

(*iv*) Under what limitations, if any, officers and men have the use of military motor-transport to and from Karachi, and whether transport by rail would not be considerably cheaper ?

Mr. E. Burdon: (*i*) There are 30 officers and 592 British other ranks stationed at Karachi.

(*ii*) All the British other ranks and 22 of the officers are employed on technical and administrative ground duties. The remaining officers form a small reserve of flying officers for squadrons in India and they as well as some of the other officers fly for purposes of practice.

(*iii*) The average number of flights made in a month in the last three months was 107.

(*iv*) Married officers and British other ranks, for whom accommodation at Drigh Road is not provided, are permitted to use the light tender and the lorry which run daily morning and evening for the conveyance of stores between Drigh Road and Karachi. The Officer Commanding, Aircraft Depot, is also permitted to use an official car while on duty, and the Officer Commanding in charge Port Depot at Kiamari is allowed the use of the tender which is in constant use carrying parcels, etc., from the Kiamari Docks.

The use of motor transport is therefore strictly limited. The transport by rail of those entitled to conveyance would involve extra expense which is at present avoided. But in any case the timings of the trains are quite unsuitable in relation to the hours of work.

BENGAL COAL SUPPLIED TO ADMIRALTY AND WAR OFFICE.

126. **Colonel Sir Henry Stanyon**: With reference to the monopoly contract for the supply of Bengal Coals at Karachi for the British Admiralty and War Office during the Great War, will Government be pleased to state :

(*i*) To what firm or combination the monopoly contract was given ?

(*ii*) On what terms and for what period ?

(*iii*) The number of tons (*a*) paid for, and (*b*) delivered, and the explanation of the shortage if any ?

(*iv*) Whether there are any reasons, in view of the subsequent revelations, to suspect corrupt practices as regards this

contract either in Calcutta or at Karachi, and, if so, what steps Government are taking to bring the offenders to justice and to obtain restitution ?

Mr. E. Burdon : The Government of India have no information on the subject, but are inquiring. I will let the Honourable Member know the result.

POSTAL LIFE INSURANCE FUND.

Mr. J. Ramayya Pantulu (Godavari *cum* Kistna : Non-Muhammadan Rural) : Will the Government be pleased to state how the profits arising out of the administration of the Postal Life Insurance Fund are utilized and whether any portion of those profits is credited to the general revenues of the country ?

The Honourable Mr. A. C. Chatterjee (Industries Member) : I do not think, Sir, that we have accepted that question. I believe the Honourable Member gave notice to the Director General of Posts and Telegraphs and I understood from him that the Honourable gentleman had withdrawn the question.

Mr. J. Ramayya Pantulu : No, Sir. I met Mr. Clarke last evening. I told him I was going to put this question.

The Honourable Mr. A. C. Chatterjee : I did not accept private notice of the question.

Mr. President : I am afraid if the Member in charge of the Department has not accepted notice, the Honourable Member cannot get an answer.

Mr. J. Ramayya Pantulu : I want to clear my position, Sir. Mr. Clarke came to see me here in the morning and then I met him again in the evening. I said to him that I had better ask the questions formally and he said he had no objection. In these circumstances, I thought that the notice was accepted.

The Honourable Mr. A. C. Chatterjee : The Honourable gentleman addressed a letter to me, and I asked the Director General of Posts and Telegraphs, Mr. Clarke, to speak to Mr. Pantulu. I never gave any assurance to Mr. Pantulu that I had accepted the question.

Mr. J. Ramayya Pantulu : I give notice now, Sir, so that it may be answered the next day.

The Honourable Mr. A. C. Chatterjee : I cannot give an off-hand answer at present whether I can accept this notice.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to present the Report of the Select Committee to which my Bill further to amend the Code of Civil Procedure was referred.

THE CANTONMENTS BILL.

Mr. R. Burdon (Army Secretary) : Sir, I move :

"That the report of the Select Committee on the Bill to consolidate and amend the law relating to the administration of cantonments, be taken into consideration."

The scope and purpose and the important features of the Cantonments Bill must I think already be familiar to the great majority of Honourable Members of this Assembly, and, the report of the Select Committee which has examined the Bill being unanimous, I should not ordinarily have thought it necessary to trouble the House with more than a very few words in support of my motion. But in view of the large number of amendments which appear upon the paper, it is desirable that I should recapitulate the history of the measure, and emphasize once more the fundamental propositions which Government laid down for their own guidance in embarking upon a revision of the existing Cantonments Act and Code. The same propositions I may say have in effect been accepted by the Select Committee in arriving at their unanimous conclusions on the Bill. I will make my recapitulation as brief as possible. Well, Sir, as I pointed out when introducing the Bill, cantonments exist primarily for the accommodation and for the service generally of troops and when cantonments were first established the needs of the troops constituted the sole consideration by which the system of governing cantonments had to be determined. In the course of time, however, conditions have changed and there are many large cantonment areas in India containing a considerable civilian population whose presence in the cantonments has no specific connection with the troops or with the military administration. It is true that this civilian population has settled in cantonments and brought itself under cantonment law of its own free will, but time has, naturally, led to a demand for some change in the methods by which cantonments are administered. In the past few years the question has formed the subject of public discussion between, on the one hand, those sections of the public that are directly interested in the Municipal aspect of cantonment affairs, and the Government of India, on the other hand. In the result, an undertaking was given that Government would endeavour to introduce a liberal measure of reform into cantonment administration, provided that they were able to do so without sacrificing the fundamental principle that cantonments exist primarily for the troops and accordingly without Government foregoing such powers as are absolutely necessary in order to protect the health, the welfare and the discipline of the troops. I am going to assume that there is no Honourable Member of this House who would desire seriously to challenge the correctness of this principle, and that no elaborate demonstration of its correctness is required on my part. I will assume also that Honourable Members appreciate the fact that in India more stringent precautions are required in regard to the health of our soldiers than may be necessary in other countries. In India there is a much greater risk of serious epidemic disease which can only be avoided by preventive measures carefully devised and carried out with unremitting attention. We know also, unfortunately, that in the past few years the discipline and the morale of troops in India have been exposed to definite attempts at contamination, and the

danger of further attempts of the same kind has not wholly ceased to exist. We know on the other hand, to our satisfaction, that the attempts made in the past have been frustrated, primarily because the traditional loyalty of the Indian Army is a thing difficult to shake ; but it must also be recognised at the same time that the powers of prevention which Government have had available to them have contributed to the result. Turning to the other side of the picture, the desirability of introducing a more progressive form of cantonment government which, subject to the conditions laid down, shall accord with the present day demand for representative institutions, equally requires no justification from me on this occasion.

Essentially, therefore, the conception of the Bill is that it shall serve two well defined purposes, and that the provisions of law which it seeks to introduce shall deal justly and fairly with two important interests—the interests of the civil community and the interests of bodies of troops, the two living together in close association. But the interests of the troops have to come first. It is impossible to emphasize too strongly the importance of this aspect of the matter, and I ask Honourable Members to bear this fundamental principle continuously in mind when they are dealing with the Bill as a whole and with the amendments which we have yet to discuss. It has been postulated by Government from the start that cantonments cannot be turned entirely into municipalities. As a matter of fact I don't think that any one has ever suggested that such a thing should be done, but I lay stress on the point because it is essential to a proper understanding of every feature of the Bill which the House has now to deal with. There is no amendment of substance on which a proper conclusion can be reached without applying this vital consideration. Once the principle is accepted, it is a relatively easy matter to determine what the points of difference between cantonment and municipal administration should be. But if the principle should not be accepted, then the Bill as a cantonments Bill would fall to the ground. I do not propose at this stage to touch on any of the detailed provisions of the Bill ; an opportunity of doing so, where necessary, will be given to me later. I may mention, however, that what I may call the municipal portions of the Bill have been borrowed almost entirely from the most recent Municipal Acts where these deal with subjects of the same or cognate character. This I think will serve to explain why the amendments proposed by the Select Committee are so few, relatively to the size of the Bill. I desire also to draw attention now to the recommendations made on two administrative points by the non-official Members of Select Committee. These will be found in paragraph 3 of the report. In the first place, the Select Committee have expressed the view that the ultimate control of cantonment administration under the reformed system should be exercised by the Government of India in the Army Department and not by any executive military authority. In this view the Select Committee, I may explain, do not challenge the powers which, under the Bill, it is proposed to vest in specified military authorities. They are referring to the general control which will be exercised at Headquarters ; and I may say at once that the point which the Select Committee desire to make can readily be achieved in every matter of substance. Cantonment administration

[Mr. E. Burdon.]

is a central subject, and the powers of superintendence, direction and control in regard to cantonment matters will be exercised by the Governor General in Council, that is to say, ordinarily by the Government of India in the Army Department. The Bill, it will be observed, confers no power of control upon any executive military authority at headquarters. The Select Committee have also expressed the opinion that the Executive Officer, though he may be a military officer subordinate to the Army Department, should, like the Cantonment Magistrate of the present, be an officer in civil employ. Well, Sir, as the Select Committee have recognised, this is an administrative matter. The question whether the Executive Officer of the cantonment should be in civil or military employ constitutes one of the terms of service which will be framed for the Cantonment Magistrates Department, as reconstituted, when judicial functions are no longer to be exercised by the Executive Officer or Secretary of the Cantonment Committee. It is a matter on which a definite undertaking cannot be given at this stage, since the terms of service to be introduced will ultimately have to be referred, under financial rules, to the Secretary of State for India ; but I can assure the House that Government fully appreciate the importance of the matter and will treat very favourably this particular proposal of the Select Committee. They are fully alive to the importance of the point of principle which it involves. This assurance, however, is subject to the post of Executive Officer being constituted on the basis laid down in the Bill as amended by the Select Committee. If any change were to be made in regard to this, the whole matter would obviously acquire a different complexion. There is nothing further, Sir, which I need bring to the attention of the House at this stage, but before concluding, I may explain quite frankly that so far as the requirements of the troops alone are concerned, the existing Cantonment Act and Code are entirely satisfactory to the military authorities and judging by the number of amendments on the paper and the shortness of the time available, to this Assembly, for their consideration it seems to me to be not impossible that the military authorities may have to put up with the existing law for some time to come. The Government however are themselves anxious that the interests of the civilian population of cantonments should receive an ampler recognition than the existing law provides ; and with this object in view they have been at some pains to bring the Bill before this Session of the Legislature. Government ask the House to leave in their hands certain essential powers in matters affecting the health, welfare and discipline of troops and also the means of exercising these powers effectively. Government do not ask that they should be given more in these respects than the Select Committee in their unanimous report have recommended ; and the last point of all to which I desire to draw attention is that the Select Committee included in its numbers two Members, one of them the President of the all-India Cantonments Association, which has been prominent in urging the reform of cantonment administration to which the Cantonments Bill seeks to give effect.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, while we welcome the new Cantonments Bill, I think there is a feeling on the part of the Members of this House that the Bill might have been improved

much more than it has been, as I shall presently show. The spirit of new reforms is grudgingly acknowledged in several sections of the new Cantonments Bill. The Cantonment Reforms Committee, for instance, recommended that the Cantonment Boards should consist of 21 Members. I find from the Bill that provision is made for only 16 Members, of whom 8 will be *ex-officio* and nominated Members. The other 8 will be elected. Now, if these elections had been confined to election by civil population, excluding not only the soldiers but all military element, I would have expected that there would be some counterpoise between the elected and the nominated Members. But as it is, excluding soldiers, I find that the military people would be entitled to take part in the elections alongside of the civil population. The result would be that there would be a preponderance of military nominees on the Cantonment Board. So much for the constitution.

It seems to me that extraordinary power has been conferred upon the Magistrate, the President of the Board and upon certain officers of the Cantonment, to suspend the action of the Cantonment Board, though it may have been recommended by a large majority of the Board. I shall deal with this point when the question comes up under the proper clause. It seems to me, Sir, that the true solution of the question we have in hand might be found in separating what is known as the Cantonment bazaars from the proper cantonment area. Very large cities have grown up round the cantonment areas and it seems to me that these cantonment bazaars and cities which cluster round the cantonment areas should be brought directly under Municipal control. There is no reason why by the mere fact of their juxtaposition to the cantonment areas they should be classed as cantonments and subjected to the cantonment regulations and Cantonment Code. Power is given to the Government to separate the areas from Cantonments proper, and I hope the Government will freely exercise their power and separate the civil population as far as possible from Cantonments proper. This is especially necessary in view of the very drastic procedure contained in section 239 of the Cantonment Code to which I beg to take strong exception. Now, if Honourable Members will turn to that section, they will find that the most drastic power has been conferred upon the Cantonment Commanding Officer to exclude a person from the Cantonment area, not only a person who "does not act which he knows is likely to cause disloyalty, disaffection or breaches of discipline" but also "a person who, the Commanding Officer of the cantonment has reason to believe.....

Mr. President: Order, order. That will be in order on the discussion of the clause, but not on this motion.

Dr. H. S. Gour: No, Sir. I beg respectfully to submit.....

Mr. President: Order, order. The Honourable Member will accept my decision.

Dr. H. S. Gour: I wish to point out that these are drastic provisions of the Cantonment Code and therefore it is all the more necessary that the civil population should as far as possible be separated from the cantonments proper.

[Dr. H. S. Gour.]

Now, Sir, there is another point upon which I should like to make an observation. It is this. In the Municipalities when a person wishes to build or re-build, he gives notice to the Municipality. He waits for a certain time and if after that time, the Municipality neither sanctions nor refuses sanction to his application, he is at liberty to proceed with the construction of the building.

Here, after waiting for a certain time, he has again to apply and remind the cantonment authorities of the dereliction of their duty, and then, if the cantonment authorities still do not pass any orders upon his application.....

Mr. President: Order, order. That again is a matter of detail. I must point out to the Honourable Member that there are over 200 clauses in the Bill. If I allow him and the other Members to discuss details of that kind, we shall be considering this Bill till midnight and then will not have reached clause 1.

Dr. H. S. Gour: I was merely illustrating a few leading cases presented to me in the Bill itself to show its outstanding defects, and it is only by way of illustration that I am pointing out one or two instances, not necessarily instances which will come up for discussion, to show how the Cantonments Bill is defective and contains defects which might have been remedied. These are the observations which I have to make generally upon the Bill. It has been said by the Honourable the Mover of this motion, that he is anxious to proceed with this piece of legislation during the present session of the Assembly. We reciprocate his sentiments and we shall try and do all that lies in our power to facilitate the passage of the Bill. My Honourable friend here reminds me that there is another serious, and almost a glaring defect in this Bill, namely, no provision for the making of budgets. We all know that the Cantonment Code is intended to bring about a sort of municipal administration within the cantonment area, and while we recognise that certain exceptional provisions must exist in this Bill because of the necessity of preserving discipline and order within the cantonment areas, I fail to see why no provision is made for the preparation of a budget, which I submit is the very foundation of all administration and ought to be the foundation for cantonment administration. On these grounds, Sir, I submit that the Bill ought to have been further improved, and I can only venture to hope that, after this Bill is passed with such improvements as we may be able to effect therein, the Government will not delay in revising it so that it may be brought into line with the proper view of what cantonment administration ought to be.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): With reference to certain observations which have fallen from Dr. Gour, I am sorry to observe that he has not read through the provisions of the Bill with as much care as we generally find him displaying in ordinary measures. Sir, he has stated that the Bill contains no provisions for the drawing up of annual budgets. If he had only read section 280, he would have seen that we have made a provision for that purpose, and though that provision may not be in the form in which he desires, still

that provision exists. Sir, as has been observel by the Honourable the Army Member, this measure is a measure of an exceptional character. Those who have lived in cantonments and who have hitherto had some experience of the autocratic military administration which prevailed there, will fully realise the vast improvement which is sought to be made in this measure. The one god of the cantonment, the Cantonment Magistrate, was hitherto supreme. He could do anything and everything ; he was his own complainant and his own magistrate, and there was no help against his orders. Now, that state of thing has been done away with. The Cantonment Magistrate as a Cantonment Magistrate has been eliminated. Now does this not represent a vast improvement on things as people at present find them ? There are certain other matters in which, when we come to discuss the provisions, you will notice that this Bill is a vast improvement on the existing law of the cantonment, and that I think ought to be a source of very great satisfaction to the Honourable Members of this House. Instead of picking holes here and there, they ought to be satisfied that something is better than nothing. The half loaf is better than no loaf at all. We in this world need not proceed on abstract principles, but must be practical. We must take as much as we can possibly get, and out of the military we have secured a great deal and that ought to be a very great source of satisfaction. Two opposing principles had to be reconciled, and I must congratulate our Army Member that he has been able to reconcile them. He had to maintain the first principle that while these cantonments are maintained, they are for the military in the first instance. The military interests are supposed to be all supreme. The second principle was that the requirements of the civil population had to be considered and their aspirations in the way of representative government had to be satisfied, and we have been agitating for very long in this matter, and I am very thankful to say that the Government have come to our help and yielded in respect to that matter. Therefore the framing of this law was not an easy matter. It was a very ticklish and intricate matter, and two opposing claims had to be reconciled, and I must again congratulate the Army Member on his having been able to do so to an appreciable extent. I know he has been labouring very hard at this, and for the happy result which he has been able to bring about, we ought to be very thankful to him. And as he has observed, I want the Honourable House to remember that, if through our fault-finding, or our criticisms, we are not able to see this Bill through in this session in this Assembly, that is either to-day or on Thursday, the whole thing lapses and all the efforts we have made for years will fall to the ground. I must assure the Honourable Members that in this Bill the Government has made the utmost concession it was possible for them to make while keeping the principle that cantonments exist primarily for troops in view.

Pandit Devi Prasad Shukla (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, as I go through this Bill I am afraid I find that I must differ from the Honourable Member who has just delivered his speech. He says half a loaf is better than none. I am afraid I find that the Bill does not give us even a few crumbs, not to say half a loaf. Sir, the Bill gives us a new constitution in which the Government propose to have an official majority. And then again we find that the employees

[Pandit Devi Prasad Shukla.]

of the Board generally are not to be appointed by the Board, a Board wherein there is an official majority, so that it is only a shadow and not a substance which is being given to us. Sir, I cordially associate myself with the sentiments which have been expressed by my learned friend, Dr. Gour.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, so far as the congratulation to the Army Member goes, I am willing to join my friend, Mr. Pyari Lal in saying that the Honourable Mr. Burdon has been very anxious, solicitous and sympathetic to the interests of the people living in the cantonments, but so far as the Bill before us is concerned, I beg to differ from my Honourable friend Mr. Pyari Lal, who happens to be the Chairman of the all-India Cantonments Association but who at present has taken upon himself to champion the cause of the Government. There is a saying, Sir, that a person who has been starved for a long time will even content himself with the berries of the forest or the roots and leaves of trees. Similar is the condition of Mr. Pyari Lal. If my friend Mr. Pyari Lal is working on that principle, then I have no grievance against or quarrel with him ; but the moment he accepts the extension to cantonment areas of the principle of representation and the principle of reforms in the cantonments in other areas, then I beg to differ from him in saying that we should accept even a half-hearted measure, which does not provide any of the good things which should have been provided there and which are generally to be met with in the Municipal Acts. Many of the defects in this Bill were pointed out by Dr. Gour, but there are also other defects relating to rights of appeals, to the powers given to the executive officers and other person on the Cantonment Boards. I may concede to the Army Secretary that, so far as the health, welfare and discipline of the troops is concerned, the military authorities must have some real power in their hands, but, so far as the civil population and their welfare and convenience are concerned, I beg to say that such power should be curtailed and there should be a compromise in the matter of such powers. Now, so far as appeals or revisions in this Bill are concerned, Honourable Members will find that there are practically no rights of appeal or revision worth the name. Some power has been given but that is a very limited and restricted one which may not meet with the justice of the demand of the people in the cantonment areas. Ordinarily, I would have opposed this measure, but, looking to the solicitude and eargerness of friends like Mr. Pyari Lal and others, who are very anxious to see this Bill passed even in its present form, I do not desire to go against their wishes ; but I, for one, would certainly like to correct and amend the existing defects in the Bill, so far as possible, on the floor of this House.

With these words, I support the motion that the Bill may be taken into consideration.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, to my mind this Bill is decidedly an improvement and I think the Government and the Honourable Member in charge of this measure must be thanked. But, when I say this measure is decidedly an improvement, I ought not to be misunderstood. What I mean to say is this. Improvement there is, but,

all the same, there are a number of defects. Some of the defects are of a very complicated nature and, if we were to advert to some of them, I am afraid it would take a number of days. But since we desire that this work may be expedited, we have therefore contented ourselves with tabling a few amendments, which, to our minds, seem to be very useful.

I shall make one reference only with reference to the opinion expressed by the Mover of this motion. He tells us that it should not be forgotten that it is not a question of a Municipal Act. Decidedly not, but he must bear in mind that, so far as the civil population is concerned, the principle of the Municipal Act ought, to a certain extent, to be considered applicable.

With these few remarks I whole-heartedly support the motion.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : Sir, I beg to associate myself with my friend, Mr. Pyari Lal in congratulating Mr. Burdon and the Military Department on having launched this measure of importance for the purpose of liberalising cantonment administration in India. Along with Mr. Pyari Lal I have also taken some little interest in this measure and, so far as possible, I have given my best attention to the Bill, as it has been presented to the House to-day. The liberalisation of the government of cantonments, as exhibited by this Bill, is one which deserves the whole-hearted support by this House. No doubt, as pointed out by my friends, Dr. Gour and Dr. Nand Lal, there are some defects in the Bill as presented to them, but these defects are of a minor character. The main principle of the Bill is in the grant of the franchise to the inhabitants of cantonments, and that principle having been conceded by Government, we cannot be too thankful to them ; and from that point of view I think it will behove the House to present no difficulties in the passage of this Bill to-day. It must be conceded that cantonments are intended for the welfare and discipline of the troops located therein in the first instance, and the proximity of the bazars to the quarters inhabited by the troops is a matter which Dr. Gour must take into consideration before he can import an absolute municipal government into the cantonment areas. It must also be remembered that these military bazars are in the first instance meant for the benefit of the troops and the troops frequent these bazars every day, and the proximity of these bazars to the military barracks must necessarily make the Government a little more careful about sanitation and the prevention of diseases therein, so that the troops should not be affected. From that point of view I think the control of the military department over these bazars must be stricter than in ordinary municipalities. Dr. Gour referred to the separation of these bazars from the cantonments. That is a matter which, I think, is before the Government, and within a short time we expect that in large cantonments the civil part of the population of the cantonments will be separated from the actual cantonments ; but, with all that, it must be conceded that there must be a stricter control over these bazars than in ordinary municipalities for the reason I have stated above.

Reference has been made by Dr. Gour to section 239. I can assure Dr. Gour that every one of us on the Select Committee bestowed very careful attention on that section and, if he will compare the section as it has been presented to him to-day with the section as it existed in the old Code,

[Mr. W. M. Hussanally.]

namely, section 216, he will find that there is a vast change even in that section, and the powers of the military authorities with regard to the expulsion of people from cantonments have been very considerably restricted. I daresay even the present section will be amended as time goes on and the political atmosphere is a little calmer. But that section should not frighten Dr. Gour. If people choose to go into cantonments and try to tamper with the discipline or loyalty of the troops, surely there must be some drastic measure in the hands of the military authorities to remedy that defect and to stop people from interfering with the troops.

That principle must be conceded, and you will find that so far as this section is concerned, he has got the right of appeal and the whole matter, after expulsion, will be very carefully gone into and decided. With these words, Sir, I beg the House not to waste much time upon many of the amendments that have been put forward to-day. Many of them, I think, are of minor importance and, therefore, might be left over to some amending Bill hereafter after we have seen the working of the present Bill when passed into law.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, there is an important question of principle connected with representation which Dr. Gour has overlooked and to which I desire to draw attention very briefly. It is natural that in a House like ours we should be anxiously careful to guard against encroachment when questions of people's representations are under consideration and it appears that we are not having all that we ought to have under the circumstances. The feeling of the House will necessarily be against any enactment that curtails permissible rights of representation. As has been pointed out, this is frankly a measure of compromise, and the Non-official Members of the Select Committee accepted it as such and proceeded on the basis of its having been accepted by those of our own people who are primarily interested in cantonments. It is not usual to refer to what happens in Select Committee meetings, but I am free to refer to what happened outside the Select Committee in this case and must do so. The President of the Cantonment Association and one of its most important Members with whom we conferred at length outside the Committee gave us the clearest assurance that the matters upon which they were trying to concentrate attention were the things that really mattered and they had the authority of their Association for the compromise. The Non-official Members proceeded on that basis and we tried to get out of the Government as much as was possible. That is one of the questions to which I am wanting to draw Dr. Gour's attention particularly. Like the budget section he has apparently overlooked sections 27 and 28 of the Bill. He has suggested that military men ought to be kept out of taking part in the elections. They are not permitted to take part as such. But how is section 27 (1) (*a*) worded ? It refers to those who are assessed directly and have paid taxes on their own behalf. How could you keep military men out if they were paying taxes and were being assessed just as the civil population were and they must be allowed the ordinary tax-payers rights ? I think it is to the credit of the Select Committee that they succeeded in getting two very important concessions which are embodied in the Bill. One is that

although the military may be permitted to take part in the elections because they pay taxes, they are not to be permitted to stand as candidates for any of the vacancies. The pertinent section provides :

"Save as hereinafter provided, every person, not being a military officer or a soldier, whose name is entered on the electoral roll, etc."

Therefore none of these elected 8 seats could go to any military officer or soldier. That is an important step in advance. The next thing that the Committee succeeded in getting is about the Vice-President. So far as the President is concerned, he has to be a Government nominee under the scheme. That, we were told, was one of the fundamental propositions without accepting which this Bill could not go forward. But when we come to the question of the Vice-President, it is enacted that he must be elected by and from among his elected Members and the official Members do not take part in this. I need not give the reference, for I shall not go into details at this time of the day. It is specifically enacted that the Vice-President is to be elected from the elected Members. That, Sir, is a proposition which I do not think has found place in many schemes of representation that we have had to deal with. I do not propose to take up the time of the House on this motion. We shall have plenty of opportunities of doing so when the amendments come up. I think Dr. Gour and Mr. Agnihotri have already profitted by the concluding sentences of Mr. Burdon's speech, namely, that if we are not going to have this Bill on the terms on which the Government is prepared to accept it, the Bill will have a very indefinite future. I do not want to give free advertisement to anybody but I want to draw attention to an advertisement which may be of interest in this concern. I am sometimes a careful reader of advertisements and I find a newspaper advertisement to the effect : "New Cantonment Bill will put up cantonment property 25 to 50 per cent. Many railway retired men wishing to buy property to stay on as it is cheaper, healthier, and more select than civil lines. All worries removed by this Bill. Safer investment than banking. A few houses can be had if applied for." I do not want to go further and say where one has to apply. The question before the House to-day is not only the future of cantonment investments but the interest of the civil portion of the cantonments without detriment to what are considered as military interest. I think that if we accept what we can get to-day out of the Government, the revising and supplementary measure will not be long in coming for the tendency is to liberalise cantonment administration.

Mr. J. P. Cotelingam (Nominated : Indian Christians) : Sir, as a member of the Cantonment Reforms Committee which met early in 1921, I would like to say a few words on the Bill before the House. The desire on the part of residents in cantonment areas for a revision of the existing Cantonment Code and the Cantonment Act was expressed for many years past. The Local Boards Acts and the Municipalities Acts had been revised several times before this, but there was no revision worth mentioning of the Cantonment Act and the Cantonment Code. The present Bill is the revision of the Cantonment Act that came into existence in 1910 and the Cantonment Code of 1912. The military authorities and those responsible for the administration of cantonment areas responded to the request that was frequently made by residents in cantonment areas

[Mr. J. P. Cotelingam.]

and especially by the all-India Cantonment Association that the time had come for a revision of cantonment law. A Departmental Committee therefore was appointed to consider what revision could be made and Mr. Craig, a Member of the Indian Civil Service was appointed President. That Committee presented its report. It was felt that non-official representation was lacking upon that Committee and a representative committee was therefore appointed in the beginning of the year 1921, and I remember the time that was given to the work of that Committee.....

Mr. President : The history of the measure was in order on the motion to refer the Bill to a Select Committee. The Bill has come back from the Select Committee, the House has endorsed the principle of it, and the matter now in issue is whether the report of the Select Committee be considered, and matters arising out of that. All this past history may be very interesting, but it is entirely irrelevant.

Mr. J. P. Cotelingam : I have come to the point. I therefore welcome this Bill and my only regret is that the Bill could not come up at an earlier stage of the Session. I read through the report of the Select Committee, and while I regret very much my absence on the Select Committee to which I was invited, I found that the Select Committee went very carefully through the draft Bill and made very valuable suggestions and alterations. Last night I was staggered to see the formidable array of amendments that were presented to the Bill and this morning it almost took my breath away when I saw a further addition to the amendments that were presented, numbering over a hundred. I wish, as I have said already, that this Bill could have been taken out at an earlier stage of the Session. At any rate, after having waited for more than four long years for a revision of the cantonment law, I should be very glad if those who have proposed amendments will not take up much time if they are of minor importance, and as has been mentioned by my Honourable friend, Mr. Hussanally, if necessary an amending Bill may be brought later on. With these remarks, Sir, I welcome once more the Bill which is now before the House.

The motion was adopted.

Mr. President : We will postpone clause 1. Clause 2.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : I beg to move :

"That in clause 2 (*i*) for the words 'Officer Commanding the District', substitute the words 'Cantonment Board'."

I must take this opportunity of thanking the Honourable Mr. Burdon and other Members of the Select Committee for improving the Bill so far, but then it does not come up to the mark and there are some minor defects and it is for this reason that I am proposing this and other amendments. The Cantonment Reforms Committee recommended that the appointment of Assistant Health Officer and Health Officer should be in the hands of the Cantonment Board. This is similar to the appointment of Health Officers in Municipal Boards. It is very necessary that the

health and sanitation of the military and civilian population should be safeguarded. There is no reason to doubt that the appointment made by the Cantonment Board would not be a suitable one. Of course, with the constitution of the Cantonment Board as it is likely to be, it is not to be feared that they would appoint some inefficient man to fill the post or that they would appoint a non-co-operator who would tamper with the army. I would be the last person to allow any such thing to be done. It is a most serious thing, no doubt, that there should be any element in the cantonments which might create a danger of that kind. At the same time, I submit that there is no reason why the Cantonment Board should not be entrusted with this job. So, I move this amendment.

Mr. E. Burdon : Sir, the general observations which I concluded only a short time ago are directly applicable to this amendment. The amendment seeks to attack a provision of the Bill which embodies a principle regarded by Government as fundamental. Government cannot divest themselves of their responsibility for the health of troops, nor can they lose the means by which alone they can discharge that responsibility in a satisfactory manner. It is essential that the Assistant Health Officer, and I may say the Health Officer also, of the cantonment should, as at present, continue to be officers of the Military Medical Services, selected and appointed by Government. Government, I may say, will also continue to pay their salaries, and I must here remind my Honourable friend of a fact—of which I think Dr. Gour too is not aware—the fact that apart from anything else, very few cantonments could afford to pay the salary which a competent Health Officer or an Assistant Health Officer would require. There are many cantonments in India that are not self-supporting. They receive grants-in-aid from the Army estimates. But, even if a Cantonment Board could afford to pay the salary required, it could not be in a position to obtain from a source outside the Military Medical Services an Assistant Health Officer or a Health Officer who is trained in the special requirements of the troops. Further, even if my Honourable friend were to gain his point, Government would still have to employ with troops some, if not all, of the officers of the Medical Services who at present also act as Assistant Health Officer or Health Officer. I do not know if the House is aware that the Health Officer is generally the Senior Medical Officer in charge of the Station Hospital, either the British Station Hospital or the Indian Station Hospital. They would continue to be employed, and though they would have a certain amount of scope for curing sickness, they would be deprived of their powers of preventing sickness among troops. Apart from the question of general principle, the Assistant Health Officer as I have explained is generally an officer of the Indian Medical Service or the R. A. M. C. : and supposing a Cantonment Board were willing that this arrangement should be continued but that the selection should rest in their hands, you would then have the anomaly, and the entirely impossible situation, in which the posting and transfer of officers of the Indian Medical Service and the R. A. M. C. would be dependent on the will of individual Cantonment authorities. I ask the House to reject this amendment. It is really based, as I think my Honourable friend's speech has clearly shown to you, upon a desire to turn the Cantonment into a Municipality. He definitely quoted the Municipal analogy, and in this particular

[Mr. E. Burdon.]

matter the change would be wholly foreign to the scope and purpose of the Bill.

The amendment was negatived.

Mr. President: The same applies to that standing in the name of Dr. Nand Lal, and I think also to part (*ii*) of his amendment which raises precisely the same issue but in another form.

Dr. Nand Lal: The second part of my amendment refers to a different point. Of course, so far as (*i*) goes, it should be considered to have been decided along with the amendment of Mr. Agarwala, but the second part of my amendment relates to a different point. Am I allowed to proceed ?

Mr. President: If the Honourable Member heard the speech of the Army Secretary, he will find that it covered both the Assistant Health Officer and the Health Officer. If the Honourable Member can show me the real distinction I will allow him to make a speech.

Dr. Nand Lal: My object is not only to make a speech. My object is to point out the defect and if the Honourable Member in charge of the Bill accepts my suggestion it will be of great benefit. The definition of Health Officer, as it is given in the present Bill, is, you will be pleased to find on page 3 :

"'Health Officer' means the senior executive medical officer in military employ on duty in a cantonment."

You will agree with me, Sir, that this definition on the very face of it seems to be defective. Mark the words "on duty". If he is not on duty, then he is not to be considered as Health Officer though he is an incumbent whose designation is Health Officer. The other objection which I have got to this definition is this, that here it is not clearly laid down who will appoint this medical officer. In consequence of these two defects I have been prompted to move this amendment which runs as follows :

"For clause 2 (*xiv*) substitute the following :

'Health Officer' means the medical officer appointed by the Cantonment Board with the concurrence of the Officer Commanding the District to perform the functions of a Health Officer for a Cantonment'."

Sir Deva Prasad Sarvadhikary: And where are those functions defined ?

Dr. Nand Lal: You need not trouble about that. I am referring to the definition but I am not referring to the side issues of that definition. You will be pleased to see the recommendation made by the Cantonment Reforms Committee. You will find that recommendation on page 29 of that report. It says :

"Since the medical officer or health officer as he is now named receives an allowance from the cantonment fund the committee are of opinion that the cantonment authority should be the authority for appointing its own health officers to be in charge of the hospital or dispensary. It appears to us that it is quite unnecessary for the Local Government to interfere at all in this matter. It is not done in municipalities as the Board alone has the power of appointing, dismissing or discharging."

Here I submit there is some sort of analogy between the cantonment authority and the municipal board. We find in municipalities the health officers are appointed by the municipal boards and therefore it seems proper that this medical officer also may be appointed by the cantonment board, no doubt, with the concurrence of the officer commanding the district. With these few remarks I commend my amendment to the consideration of the House.

Mr. President: Amendment moved :

"For clause 2 (*xiv*) substitute the following :

' ' Health Officer ' means the medical officer appointed by the Cantonment Board with the concurrence of the Officer Commanding the District to perform the functions of a Health Officer for a Cantonment '."

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri : I beg to move :

"That in clause 2, sub-clause (*xxii*), the words ' or offence to the sense of sight, smell or hearing ' be omitted."

Sub-clause (*xxii*) provides the definition of nuisance. Nuisance is such a simple word that its meaning is very well known to everybody knowing the English language. Nuisance generally means anything that causes inconvenience, hurt or damage and from that meaning, it has developed as Dr. Gour points out to mean anything that we do not like. Now, I do not find the necessity of providing in this Bill any definition of the word ' nuisance.' Nuisance is of two kinds, public—which affects the people in general—and private. Public bodies are generally concerned with the nuisance that affects the public at large. It would have been much better if instead of nuisance the public nuisance as defined in the Penal Code had been defined here. Public bodies should have no concern with a private nuisance, the same thing may be quite pleasant to a particular person at a particular time and in particular circumstances and localities and the same thing may be repugnant or offensive to other persons in the same localities and circumstances. Now for instance take the chewing of betel. It may be pleasant to me but it may be offensive to my European friends. Now smoking may be pleasant to them but offensive and repugnant to me. So in the case of Indian music. Indian music may be repugnant to my European friends and may be very pleasant to my Indian friends. So the insertion of these words here in the definition is improper and is also superfluous and redundant because that is covered by the word ' annoyance.' Further, we deal with nuisances in Chapters IX and X of this Bill. In Chapter IX we have provided all the possible acts, omissions and things that may be considered to be a nuisance. When they have once been specified where is the necessity to provide a definition at the beginning of the Bill. It may be said that clauses 133 and 134 deal with nuisances in general and not with any specific thing or act of nuisance, but even in that case it does not seem necessary to insert a definition of nuisance in the Act. As I said, the same thing may be pleasant to one and repugnant to another, these words are not only redundant and unnecessary but shall prove to be dangerous according to the peculiar whims of officers. Therefore I propose that these words be deleted from this definition of nuisance.

Mr. E. Burdon : I will confine myself strictly to the limits of Mr. Agnihotri's amendment. I think the House will agree that anything which causes offence to the sense of sight or smell or hearing is a nuisance, whatever Mr. Agnihotri may say to the contrary and I think that most dictionaries would support the view which I have stated. The only other thing I have to say on this amendment is that the definition is borrowed from the Madras Municipal Act of 1920, which is one of the most recent of the Municipal Acts.

Mr. President : Amendment moved :

"In clause 2, sub-clause (*xxii*), omit the words 'or offence to the sense of sight, smell or hearing'."

The question is that that amendment be made.

The motion was negatived.

Mr. President : No. 5* is not an amendment.

Clauses 2 and 3 were added to the Bill.

Dr. Nand Lal : I beg to move :

"That in clause 4 (2) and (3), for the words 'six weeks' the words 'three months' be substituted."

If you will be pleased to see the provisions of clause 4, you will come to this conclusion that it relates to the alteration of limits of cantonments. If the limit of any cantonment is altered, namely, if some land is included in it or some area is excluded then that alteration will be notified in the Gazette. The time that is allowed to the public for raising its voice against it is only six weeks. To my mind this time is insufficient. Sometimes ignorant men and illiterate men cannot get information within time and afterwards they raise a hue and cry and it gives rise to a good deal of grievance and discontent. Therefore to obviate this complaint, I have given notice of this amendment, so that if any person wants to bring an objection against that alteration he may make his petition within time. With these few remarks, I commend my amendment to the consideration of the House.

Mr. President : Amendment moved :

"In clause 4 (2) and (3), for the words 'six weeks' the words 'three months' be substituted."

The question is that that amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, I do not propose to move the first two parts of my amendment as they are practically covered by the amendment which has just been lost. I move :

"That at the end of clause 4, add the following sub-clause :

'(4) Any person aggrieved by any action taken under this section may claim compensation in a civil court for actual loss resulting directly from the said order in respect of any property possessed or owned by him'."

I desire that the persons whose property might be affected should have the right to get some compensation either by amicable arrangement or by suit. The idea is that when the limits of a cantonment are

* On the Agenda Paper.

changed sometimes that has a material effect on the property or business of those living there in or carrying on their profession in Cantonments. It is for this reason I beg to move this amendment.

Mr. President : The amendment does not seem to me to be in order under this clause. The scope of this clause is the notification in the Gazette of the intention to include a certain area within a cantonment and the period within which that may be done. This amendment must be brought in somewhere else.

Clause 4 was added to the Bill.

Clauses 5, 6, 7 and 8 were added to the Bill.

Clauses 9 and 10, as amended by the Select Committee, were added to the Bill.

Dr. Nand Lal : Sir, you will be pleased to see the provisions of clause 11 in the Bill which says :

"The Governor General in Council may, by notification in the Gazette of India, order in respect of any cantonment that a Cantonment Board shall be constituted therein, and may, by a like notification, order that any Board so constituted shall cease to exist."

Now, this provision.....

Mr. President : I really must ask the Honourable Member not to repeat verbatim the words we all have printed before us, otherwise I shall have to rule him out for deliberating wasting the time of the Assembly.

Dr. Nand Lal : Sir, I am not prepared to give a reply to what has dropped from your lips. I might simply say I shall obey but it is extremely difficult to explain the position without repeating the source from which the difficulty arises. However, in compliance with your order I shall not read out, but it will be extremely difficult to explain my case.

Mr. President : I told the Honourable Member that it was unnecessary to read the words of a clause verbatim. It is a habit that he has fallen into and I ask him to break it.

Dr. Nand Lal : Well, the amendment which I wish to move is :

"That for clause 11, substitute the following :

'1. There shall ordinarily be a Cantonment Board in every cantonment which has a population of at least 2,000 persons '."

I am moving this amendment in two parts. Now, in the provision embodied in clause 11 no definite number of inhabitants is given. Therefore a great deal of doubt may arise in some cases. A place with a population of 5,000 may not be allowed a Cantonment Board, whereas another place with only 500 inhabitants may be given one. To obviate this ambiguity and defect I move this amendment. The first part deals with a place whose population is 2,000. That may be considered to be a fit place in which a Cantonment Board may be constituted. The other part of the same amendment is this :

"2. The Local Government may by notification in the local Official Gazette order, in respect of any cantonment, where a Board does not already exist, that a Cantonment Board shall be constituted therein."

[Dr. Nand Lal.]

As I have already explained, there are two conditions. First, if there is a cantonment whose population is 2,000 then that cantonment may be given a Cantonment Board necessarily. But if there is another cantonment whose population is less than that, then it rests with the Government to allow a Cantonment Board there. With these few remarks, I commend my amendment to the House.

Mr. President : Amendment moved :

" For clause 11, substitute the following :

' 1. There shall ordinarily be a Cantonment Board in every cantonment which has a population of at least 2,000 persons.

2. The Local Government may, by notification in the local Official Gazette, order, in respect of any cantonment, where a Board does not already exist, that a Cantonment Board shall be constituted therein '."

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I think Dr. Nand Lal is trying to give to cantonments a Cantonment Board in localities where neither municipalities nor notified areas would be started, say, for instance, in the United Provinces. In the opinion given by the Government of the United Provinces, there was a significant passage in which they said that Cantonment Boards will not be strictly comparable with Municipal Boards. " None the less it is thought," they observed, " that the size of the towns to which it has been found desirable to grant a municipal constitution affords some indication of the size of the civil population in a cantonment which should be regarded as entitled to the privilege of electing representatives on the Cantonment Board. Now, there is in the United Provinces no municipality with a population of less than 7,000. Even the limited constitution of a Notified Area has not been granted to any town with a population of less than 3,500, with the exception of five localities which are all exceptional, being either hill resorts or important railway junctions." Now, this question was considered by the Select Committee and they thought it was no use laying down any such hard and fast limit, either 7,000 or 3,000 or 5,000. It may be, having regard to the locality and the nature of a particular cantonment, that, although the population may be even less than 2,000, it may still deserve special treatment, and, therefore, we left the section as it is, namely, leaving it to the Governor General in Council, by notification in the Gazette of India, to order in respect of any cantonment that a Cantonment Board shall be constituted therein. I trust the House will accept the provision as it is in the Bill.

Mr. Pyari Lal : If this provision in section 11 is read with the provisions of section 14 the point would be cleared up. In section 14 it is provided that every place which has a population of at least 2,500 and over, shall have a Cantonment Board and half the members thereof shall be elected members.

Sir Deva Prasad Sarvadhikary : No. That is not the provision there.

Mr. Pyari Lal : Yes, in section 14 it says :

" Provided that in the case of any cantonment in which the total civil population is, according to the latest census, less than 2,500."

The elective principle will not be introduced. But if it is over that, the elective principle must be introduced. So, therefore, the Government may not give a Cantonment Board to every town, no matter what its population is, but if its population exceeds 2,500, then the elective principle shall be introduced therein, and in towns where the population is less than 2,500, there the elective principle shall not be introduced ; so practically it comes to this that every place having a population of more than 2,500 will have a Cantonment Board on an elective basis ; and therefore this amendment to my mind is uncalled for.

Mr. President : The question is that the amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, my amendment is to the effect that in every case it is optional whether to have a Board or not, but in cases where the civil population is over 2,500 there shall be a Cantonment Board. I move my amendment.

Mr. President : Amendment moved :

" To add the following proviso to clause 11 :

' Provided that there shall be a Cantonment Board in every cantonment which has a civil population of not less than 2,500 persons according to the latest census '."

Mr. E. Burdon : Sir, the matter is really covered by the remarks which my Honourable friend, Mr. Samarth, made on the last amendment. In order to decide the question whether there should be a Board or not, the numerical test is not always the most satisfactory. There may be cantonments with a population of over 2,500, where it would be quite unsuitable to have a Cantonment Board. On the other hand, there are cantonments with a population of considerably under 2,500 where it is desirable to have a Cantonment Board. The form in which we have drafted the Bill was therefore considered to be the most convenient and most satisfactory, and I think the House will agree.

Lala Girdharilal Agarwala : Sir, I withdraw my amendment.

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

Clause 11, as amended by the Select Committee, was added to the Bill.

Clause 12 was added to the Bill.

Mr. President : Clause 13 :

Mr. K. Rama Ayyangar (Madras and Ramnad *cum* Tinnevelly : Non-Muhammadan) : Sir, my amendment is a drafting amendment. You will see from clause 10, sub-clause (2), that for the Presidency towns the authorities to be appointed are left to the Local Government and from clause 13 that the executive officer of every cantonment shall be appointed by the Governor General in Council. So I only suggest that these words should be inserted. I move :

" In clause 13, insert the words ' other than those in the Presidency towns ' before the words ' shall be appointed '."

I hope my amendment will be accepted.

Mr. President : In clause 13 amendment moved :

" To insert the words ' other than those in the Presidency towns ' before the words ' shall be appointed '."

Mr. E. Burdon : Sir, I do not think the addition of these words is really necessary. If there is no executive officer, he cannot be appointed by the Governor General in Council.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, the object of my amendment is to give to the Cantonment Board power to punish or dismiss executive officers. It is with this object that I move my amendment.

Mr. President : Further amendment in clause 13 moved :

" To add the following at the end :

' The Executive Officer in a Cantonment where there is a Board shall be liable to punishment or dismissal by such Board and in other cases by the person making the appointment '."

Mr. E. Burdon : Sir, I find it a little difficult to deal with this particular amendment of Mr. Agarwala's. I do not know whether he intends to attack the principle that the Executive Officer is to be appointed by the Governor General in Council and is to be a servant of the Government and not a servant in that sense of the Cantonment Board. What he is actually proposing, so far as I can see, is that the Executive Officer, even if appointed by the Government, shall be liable to be punished and dismissed by the Board. That, I am afraid, is quite impossible.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clause 13, as amended by the Select Committee, was added to the Bill.

Lala Girdharilal Agarwala : Sir, the object of my amendment is that as there are to be a certain number of members of the Government, nominated members, the number of elected members should be double of that so that one-third shall be nominated members and two-thirds elected members. The Honourable House will remember that the military population also have got the right of vote, so it is likely that some of the persons who would be elected would belong to the military population and some to the civil population ; so on the whole I think there should be an elected majority. But that would not do much harm, on the contrary it would safeguard the interests of the civil population as well as of the military population. I move my amendment.

Mr. President : Amendment moved :

" In sub-clause (1) (*f*) in clause 14, for the words ' equal to ' substitute the word ' double '."

Mr. E. Burdon : Sir, I oppose this amendment without any reservation. It is against the basic conception of the Bill, it conflicts with the hypothesis from which the whole of our present proceedings started, namely, that a special form of administration is still required for military cantonments. I have already said a great deal on this subject, and I am sure that it is unnecessary for me to say very much more. I will, however, to start with, put the matter in this way. If the object in view were to

turn cantonments into municipalities, what would be the first and most obvious step to take ? It would be to provide, as my Honourable friend has proposed, that on the governing body there shall be a non-official majority. This is what my Honourable friend means, and I need not expound to the House the consequences which would follow its adoption. The troops would have none of the safeguards, or at any rate they could have no guarantee that they would have, the safeguards which the public interest demands that they should have, save perhaps at the cost of much additional expenditure from central revenues. I am quite sure that the House in general will share the view which I have indicated and will realize that Government would not be justified in proceeding, and could not proceed, with a measure of cantonment administration which included the change advocated by the Mover of the amendment. Sir, this Bill already contains many important features of reform. The Cantonment Magistrate is to disappear, with his combined judicial and executive powers ; the whole of the substantive law relating to cantonment administration is to be embodied in a modern Statute which only the Legislature can alter, instead of, as at present, being largely contained in a Code which is subject to alteration by the executive Government ; the supervision of cantonment affairs of a strictly municipal character will pass very largely into the hands of the civil Government of the province in which the cantonment is situated, and the Cantonment Board in all important cantonments will contain a large proportion of elected representatives to safeguard the interests of the civil population. The official majority would be a majority of one. If cantonments are to remain cantonments, it is unjustifiable to concede more than this ; and as will be seen from the opinions received, there are responsible authorities who hold very strongly that the Bill before the House has already gone too far. The Government of India do not share this latter view ; but they have no hesitation in opposing the further step which the amendment contemplates.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clause 14, as amended by the Select Committee, was added to the Bill.

Clause 15, as amended by the Select Committee, was added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I move :

" That in clause 16, sub-clause (2), omit the proviso."

Clause 16 provides for the filling up of casual vacancies. It says that casual vacancies should be filled up by casual elections. But if the vacancy arises within three months preceding the next general election, the casual vacancy may not be filled up by election but be filled up at the general election. My amendment provides that if a casual vacancy arises within three months of the general election, even in that case the vacancy should be filled up by election and the seat be not left vacant.

It may in a way be reasonable to some extent to provide such a clause. We find from our experience of the vacancies arising now at the close of the

[Mr. K. B. L. Agnihotri.]

Assembly session that it is unnecessary to allow people to incur expenditure for a short period when the general election is approaching but the same thing is not applicable to local bodies which have their meetings every month. There may be cases on occasions when it may be necessary to have an election for casual vacancies also. Take for instance a case in which the non-official elected members of the Cantonment Board resign, say, by way of protest or to show their dissatisfaction or resentment or for some other reasons. If the vacancies are kept vacant for three months the work of the Board shall have to be discharged either by the nominated members who may be nominated by the Cantonment authorities or by the remaining official Members of the Board. In such cases, I consider it necessary to provide for election. There may be very important subjects coming up before the Board for decision within these three months which will be decided without ascertaining the wishes of the people through their representatives. Apart from the question of resigning as a protest, it may happen that vacancies may ordinarily arise, it may be that almost all the places may be vacant by some accident, by some coincidence or chance. In that case, to allow the Board to remain without elected non-official members will be improper and the Board will be handicapped in carrying out its public duties. Therefore, I propose that even in such cases, there should be an election, and with that object, Sir, I move the amendment that this proviso should be dropped.

Mr. E. Burdon : Sir, I cannot accept this amendment. I do not think it improves the Bill in any way. The existing draft has been borrowed from the Madras Municipal Act.

Mr. Abdul Hamid Khan Khudadad Khan (Sind : Muhammadan Rural) : I wish to say, Sir, a word or two about this amendment. I am a Member of a Local Board and a Municipality. Government have inserted this proviso just to save intending candidates from expense and botheration for only three months. It is not worth while to try for such a short period. I think it is a useful proviso and therefore I support the original clause.

Mr. President : The original question was :

"That clause 16 do stand part of the Bill."

Since which an amendment has been moved :

"In clause 16, sub-clause (2), omit the proviso."

The question is that that amendment be made.

The amendment was negatived.

Clause 16 was added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move :

"In clause 17, in sub-clause (1), for the words the outgoing member shall if qualified and willing to serve be deemed to have been re-elected ', substitute the words ' the vacancy shall be filled by fresh election '."

Clause 17 provides for filling up special vacancies. It lays down that when the elected member is unwilling to serve the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected, and he shall continue to be a member of the Board, and in case the

outgoing member is not qualified or is not willing to severe or if at a casual election no member is elected, that vacancy shall be filled up by nomination by the Local Government with the concurrence of the Officer Commanding-in-Chief the Command. This provides that in case the outgoing member also is not willing to serve on the Board or is disqualified in some other way to work on the Board, then that vacancy may be filled up by nomination. I beg to propose that there should be no question of nomination ; such of the vacancies of the membership which are elected should always be filled up by election, and not by nomination or by substituting the outgoing member. If at the subsequent election a particular person is not coming forward for election or the outgoing member is not willing to work, even in that case there should be election. Why should there be nomination and why not a fresh election ? In such cases fresh election is the only proper course to adopt. I propose, Sir, that in clause 17, in sub-clause (1) for the words " the outgoing member shall if qualified and willing to serve be deemed to have been re-elected " substitute the words " the vacancy shall be filled by fresh election."

Mr. E. Burdon : Sir, here again, I do not think Mr. Agnihotri's amendment is any improvement on the draft of the Bill before the House ; and here again, the draft clause is borrowed from the Madras Municipal Act.

Mr. President : Amendment moved :

" In clause 17, in sub-clause (1), for the words ' the outgoing member shall if qualified and willing to serve be deemed to have been re-elected ', substitute the words ' the vacancy shall be filled by fresh election '."

The question is that that amendment be made.

The motion was negatived.

Clause 17, and clauses 18, 19, 20 and 21, as amended by the Select Committee, were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

" In clause 22, sub-clause (1) (*a*), omit the words ' unless prevented by reasonable cause '."

Clause 22 provides :

" It shall be the duty of the President of every Board :
(*a*) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat, etc., etc."

It seems to be a precautionary qualification, namely, " unless prevented by reasonable cause." I think this precautionary clause is superfluous and redundant, as it is not expected that even when there is reasonable cause preventing the President from presiding at a meeting he shall be compelled to preside. Ordinarily from the commonsense point of view, any reasonable person will think that the President will usually preside unless he is prevented by some reasonable cause, and therefore this appellation " unless prevented by reasonable cause " is superfluous and redundant and should be dropped.

Mr. E. Burdon : Sir, if the amendment proposed were made, the President would have to convene and preside at all meetings even if he were suffering from cholera.

Mr. President : Clause 22 : Amendment moved :

"In sub-clause (1) (*a*), omit the words 'unless prevented by reasonable cause.''

The question is that that amendment be made.

The amendment was negatived.

Clause 22 was added to the Bill.

Clauses 23 and 24 were added to the Bill.

Clause 25 was added to the Bill.

Mr. K. B. L. Agnihotri : In clause 26, it is provided that if a new electoral roll is not published in any year on the date prescribed, the Local Government may direct that the old electoral roll shall continue in operation until the new roll is published. Now, this roll is to be prepared, I presume, every 3 years ordinarily. If there are any amendments or changes to be made in the electoral roll, they cannot be made within these three years. (*Mr. N. M. Samarth* : "They can be.") I do not find any provision. It may be an omission on my part by oversight. If my Honourable friend Mr. Samarth thinks that there is such a provision, for making necessary changes in the electoral roll even in the interval, then I will withdraw my amendment. But if it is the case as I have put, then there is no chance of amending the electoral roll within that interval of time. By that many persons who would ordinarily be entitled to be in the roll would be deprived of their opportunity at the general election. Therefore if this clause is omitted it will be compulsory on the part of the Cantonment authorities to prepare a fresh electoral roll every three years before election and that would be very proper and desirable. Sir, I move :

"In clause 26, omit sub-clause (4).''

The amendment was negatived.

Clause 26 was added to the Bill.

Mr. K. B. L. Agnihotri : I move :

"In clause 27 (1), sub-clause (*b*), substitute the word 'six' for the word 'twelve'.''

Now clause 27 provides for the qualifications of the electors. It lays down that in order to entitle a man to be an elector and to come on the electoral roll, that person must have resided within the cantonment area for a period of 12 months. This period is pretty long, and even in the case of elections for the Legislative Assembly and the Council of State the period of residence necessary is only six months. I do not see what special reason there could be to require 12 months' residence as necessary to entitle a man to be enrolled as an elector in the cantonment. In a municipality I mean in the Central Provinces only a three months' period is compulsory, so I do not think it proper and desirable to fix 12 months in this Bill and make a departure from all the other electoral rules. Therefore, Sir, I propose that as six months' residence is quite long enough, six months should be substituted for 12 months.

Mr. E. Burdon : "Twelve" is taken from the United Provinces Municipal Act and seems to be perfectly suitable.

The motion was negatived.

Lala Girdharilal Agarwala : I beg to move the amendment that stands in my name. The object of the amendment is that persons who are not graduates may also be given the right to vote. Now Honourable Members are aware that there are examinations and persons who pass them are not called graduates. For example, the Senior Cambridge, the Intermediate and Acharya Alim Fazil, etc. These are qualifications which are recognised by educational authorities. In my Province, the Intermediate Board examination is sufficient for appointments of Deputy Collectors and other high posts.

The Honourable Sir Malcolm Hailey (Home Member) : Is it sufficient for electoral purposes ?

Lala Girdharilal Agarwala : For Deputy Collectors. Fortunately His Excellency the Commander-in-Chief is in the House just now and I appeal to him to extend the right of voting to persons who have got certificates from educational authorities, which certificates qualify the holder for Government appointments.

Mr. President : Clause 27, amendment moved :

" In clause 27 (1) (*b*) (*iii*) for the words ' a graduate ' substitute the words the holder of a certificate or diploma '."

The motion was negatived.

Lala Girdharilal Agarwala :

" After the words ' British India ' insert the following :
' or any other authority recognised by any Local Government as educational test qualifying for any appointment under the Government '."

The Honourable Sir Malcolm Hailey : That falls through.

Mr. K. B. L. Agnihotri : I move :

" In clause 27, sub-clause (2) (*v*), between ' imprisonment ' and ' for ' insert ' for an offence involving moral turpitude '."

This sub-clause provides for the disqualifications of persons for coming on the electoral roll. It provides that if a man has been imprisoned for a term exceeding six months or to transportation, such a man should not be put on the electoral roll. Sir, persons may be imprisoned for very minor offences, for instance, for an assault or causing hurt to another. I do not think it could be the object of depriving such persons from coming on the electoral roll. A person may be convicted for defamation, etc. Punishments for such light offences should not be regarded as disqualification for persons being brought on the electoral roll. Therefore I suggest that only such persons who have been in prison for offences involving moral turpitude should be debarred, and propose to insert " for an offence involving moral turpitude " after the word " imprisonment."

Mr. L. Graham (Secretary, Legislative Department) : Sir, the amendment moved by my Honourable friend raises an extremely difficult ethical question. It is impossible to predicate of any offence that it does or does not involve moral turpitude : everything depends on the circumstances in which the offence is committed. Now, if my friend, the Mover of this amendment, were to walk along the streets of Nagpur waving national flag, I, for one should be convinced of the honesty of his

[Mr. L. Graham.]

purpose ; but if an unfortunate volunteer were to be dragged there from the other end of India and bribed with eight annas or a rupee, I should not be convinced of the honesty of his purpose. Then there is the question of who is to be the judge whether any particular offence involves moral turpitude or not. Apparently that unfortunate gentleman called the Revising Officer. I do not know what his qualifications are to be ; whether he is to be a professor of ethics or not, but I do suggest to this House that this proposal is utterly and entirely unpractical. The other reason I have for opposing this amendment is this. My Honourable friend said, in moving the amendment, that all sorts of petty offences, such as assaults, would disqualify a man from being an elector. I think he has omitted to read the provision in the section that to be disqualified from being an elector a man must have been sentenced for a term exceeding six months. Now for petty offences six months' imprisonment or over is never given. Therefore I oppose this amendment.

The motion was negatived.

Mr. K. B. L. Agnihotri : I move :

"In clause 27, sub-clause (2) (*v*), omit the words 'or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898'."

Sir, this also specifies another disqualification for enrolling a man as an elector or to disfranchise a man from becoming a Member of the Cantonment Board. Now it may happen, as is happening these days in the Central Provinces, that a man having good means of livelihood, may be bound over under section 109 of the Criminal Procedure Code for vagrancy and such a man, if he were to be a resident of a cantonment area outside the place where he was bound over in the Central Provinces, would be deprived of the franchise. There may be other reasons, Sir. A man may be inimical to a particular person, and being so, he may have been bound over under section 107 of the Criminal Procedure Code to keep the peace.....

The Honourable Sir Malcolm Hailey : Is that good behaviour ?

Mr. K. B. L. Agnihotri : Let it go, take sections 108, 109 or 110 of the Criminal Procedure Code—we know in what way section 108 has been abused in the past, and 109 is being abused and misused at present in the Central Provinces. We should take advantage of this knowledge and should safeguard rights that exist and try and delete this provision, and should provide that a person who has been bound over to give security for good behaviour under the Code of Criminal Procedure should not be deprived of his right to be a voter or be removed from the electoral roll. Therefore, Sir, I propose that this clause be dropped.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, all these whitewashing amendments seem to me to overlook the proviso which is attached to this clause, namely :

"Provided that the Local Government may, by order in writing, remove any disqualification incurred by a person under clause (*v*)."

Surely, there has been experience enough to satisfy the inhabitants of every district in India that the Local Government is always ready to give a convicted man a *locus poenitentiae*.

Mr. Abdul Hamid Khan Khudadad Khan : Sir, these disqualifications are provided in the Municipalities and Local Boards and I cannot understand why these new municipalities, which are going to be provided in the cantonments, should not have them. It would be disgraceful and unsafe to have people of such character, who have been sentenced to six months' imprisonment or have been bound over to be of good behaviour, as members of the Cantonment Boards.

I therefore oppose the motion.

The motion was negatived.

Clause 27, as amended by the Select Committee, was added to the Bill.

Mr. K. Rama Ayyangar : I only put forward my amendment as a suggestion :

"In clause 28, delete clauses (*a*), (*b*) and (*d*) of proviso (*ii*) to sub-clause (2)."

My experience both in Municipalities and Local Boards is that interests of the kind referred to in clauses (*a*), (*b*) and (*d*) of proviso (*ii*) to clause 28 have frequently led to trouble. Of course clause (*d*) itself provides :

"Except as a shareholder (other than a director) in an incorporated company."

That provision is made and such an interest of course has been excluded. I only suggest that interests of the kind referred to in clauses (*a*), (*b*) and (*d*) may be sufficient to exclude persons from being candidates for election, because once one of that interest gets into the Board his influence is great, and it has been found it works against the interests of the Board. It is better to be above suspicion and it is in that sense I suggest that these three clauses be deleted.

Mr. E. Burdon : Sir, the provisions which my Honourable friend seeks to exclude are taken from the Madras Municipal Act of 1920, one of the most recent Municipal Acts, and the Act, as I am reminded, is for the province from which my Honourable friend comes. We prefer the draft as it stands.

The motion was negatived.

Clause 28, as amended by the Select Committee, was added to the Bill.

Dr. Nand Lal : As you know, the provisions of clause 29 practically define who is the taxpayer. I am going to give you the gist of sub-clause (*b*). It is that "a person shall be deemed to pay a tax directly if he pays the tax either himself or through a legally appointed agent." The amendment which I move contemplates that in clause 29 at the end of sub-clause (*b*) the following insertion may be made :

"or is a member of a firm which is paying a tax."

Mr. President : Is not the Honourable Member's point covered by clause 30 ?

Mr. E. Burdon : The matter is provided for in clause 30.

Clauses 29 and 30 were added to the Bill.

Clause 31, as amended by the Select Committee, was added to the Bill.

Clauses 32 and 33 were added to the Bill.

Mr. K. Rama Ayyangar : My amendment reads as follows :

" In clause 34 (1) (*a*), after ' months ' insert the words ' or three consecutive meetings if there are no 3 meetings within that period '."

I only submit that this three months' period provided may in some cases amount to only one sitting or two sittings. That certainly cannot be taken as sufficient and, therefore, I only move after the word " months " the insertion of the words " or three consecutive meetings if there are no 3 meetings within that period." It is only a suggestion.

Mr. E. Burdon : I think the clause as drafted is quite sufficient.

The motion was negatived.

Clause 34, as amended by the Select Committee, was added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move the following amendment :

" In clause 35, sub-clause (3), substitute the words ' for the remaining period of the term of his membership ' for the words ' until the expiry of three years from the date of his removal '."

Clause 34 provides that if the Local Government is of opinion that any member has flagrantly abused in any manner his position as a member of the Board so as to render his continuance as a member detrimental to the public interests, he may be removed from the Board. Now clause 35 provides that in the case of the removal of any such person, such person shall not be entitled to come in as a member again for a period of three years ; that is, he is to be kept out for three years. My amendment provides that that period should be reduced and he should be kept out only for the remaining period of the term of his office. A member of the Cantonment Board will ordinarily be elected for a period of three years. Now, supposing that in the first or the second year of his period of membership he has been removed by the Local Government as an undesirable person or as one who has flagrantly abused certain of his powers. Such a man should not be deprived of his right of election at the general election but should be deprived of his right only for the unexpired portion of the current term. His removal and being kept out for some period will be more than sufficient punishment to him.

Therefore, Sir, I propose that the period of three years should be done away with and that the bar should remain only for the remaining period of the term.

Mr. E. Burdon : Sir, if my Honourable friend's amendment were adopted, it would be possible for an individual who had incurred the very grave penalty of removal to become eligible for re-election within a fortnight. No doubt the United Provinces Government and the United

Provinces Legislature foresaw this when they put in their Municipal Act the clause which we seek to put in this Bill.

The motion was negatived.

Clause 35 was added to the Bill.

Clauses 36 and 37 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, clause 38 provides for the business that is to be transacted at the meetings of the Board. It provides that :

"No business relating to the imposition, abolition, or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date."

That is, it is provided by this clause that only certain classes of business shall not be transacted at the meetings of the Board unless seven days' notice has been given. In other words we provide that other classes of business may be transacted without notice, even though they be put up just at the meeting of the Board. My amendment will go to improve this clause to some extent. I wish to add :

"Provided, further, that without the consent of the three-fourths of the members of the Board, no business shall be transacted at a meeting unless notice of the same and of the date fixed therefor, has been sent to each member not less than three days before that date."

There may be other important matters besides those provided for in the first proviso of clause 38 that may come up for discussion before the Board, and if the members of the Board have had no notice of the business, they may not come prepared for it, and the matter may not be properly discussed and a proper decision arrived at. Therefore, I provide that ordinarily, in every case, three days' notice should be given for any subject that is brought up before a meeting of the Board. If the Government want it, they may make some amendment in the amendment proposed by me such as is to be found in the rules and standing orders for the business of our Assembly, namely, that if the Chairman thinks that such notice should not be insisted upon, that business might be taken up. But ordinarily some notice should be given to the members so that they may come prepared with the subjects that may come up for discussion. I therefore propose that a subject can only be brought before a meeting of the Board in respect to which three days' notice had been given. With this view, I move the amendment which stands in my name, namely :

"To clause 38, add the following further proviso :

'Provided further that without the consent of the three-fourths of the members of the Board, no business shall be transacted at a meeting unless notice of the same and of the date fixed therefor, has been sent to each member not less than three days before that date'."

Lieut.-Colonel R. H. Palin (Army Department: Nominated Official): Sir, I think the Honourable Member has overlooked section 44 (1) (*b*). These matters are left to the Cantonment Board and 44 (1) (*b*) provides that the Board may make regulations consistent with this Act and the rules made thereunder to provide for the manner in which notice of the meetings shall be given, the time and place of its meetings, etc.

The motion was negatived.

Clause 38 was added to the Bill.

Clauses 39, 40 and 41, as amended by the Select Committee, were added to the Bill.

Clauses 42, 43 and 44 were added to the Bill.

Clause 45, as amended by the Select Committee, was added to the Bill.

Clause 46 was added to the Bill.

Clauses 47, 48, 49 and 50, as amended by the Select Committee, were added to the Bill.

Clauses 51 and 52, as amended by the Select Committee, were added to the Bill.

Clause 53 was added to the Bill.

Mr. K. B. L. Agnihotri : Sir, clause 54 provides for the supersession of the Board, and I wish to move an amendment to that clause, namely :

" To clause 54, sub-clause (1), add a proviso :

' Provided that no Board shall be superseded before a reasonable opportunity has been given to it to show cause against the supersession '."

Sir, I do believe that ordinarily such Boards will be given an opportunity to show cause why the Board be not superseded, but I wish to provide in the body of this Bill a compulsory provision to this effect that the Government must call upon the Board to show cause before the supersession actually takes place. Therefore, Sir, I move the amendment which stands in my name.

Mr. E. Burdon: Sir, I oppose this amendment. I think Honourable Members of the House will recognise that it is quite inconceivable that any Local Government would proceed to the extreme step of superseding either a Municipal Board or a Cantonment Board without going very carefully into the necessity therefor. They will almost certainly—in fact I may say quite certainly—not take that step without having previously warned the Board and without the Board knowing thoroughly what the reasons for the action which it is proposed to take are. It will be seen, Sir, that clause 54 (1) lays down that :

" The Local Government may, with the previous sanction of the Governor General in Council, by an order published, together with the statement of the reasons therefor, in the local official Gazette."

I therefore do not think that a provision such as is contained in this amendment is required.

Dr. Nand Lal : Sir, I am sorry to say that when a Board is to be superseded, no provision is made that it may be given an opportunity to show cause why this order should not be passed. No system of law will allow any prejudicial order or decision to be given against any person, body or community, unless that person, body or community has been given sufficient opportunities to explain that person, body or community's conduct. But here I find that a Board will be superseded and no such

opportunity is provided for. If our voice is raised in this House, then the answer is given that the Local Government will not allow itself to pass this prejudicial order without hearing the Board. We want that it may be clearly provided in the Act itself. What answer shall we give to the lawyers in court if this point is raised ? We are going to pass this law and we shall be laughed at if this provision is not incorporated in this Bill. This is a most useful amendment and I submit that this House should consider its responsibilities and accept the amendment. There is the other part of the amendment which I shall move on the proper occasion.

Bhai Man Singh (East Punjab : Sikh) : Sir, I really wonder at the attitude of the Government Member when I find him opposing even this most reasonable amendment of my Honourable friend, Mr. Agnihotri. The Honourable Mr. Burdon admits that when the Local Government is going to take such a drastic step as superseding a certain Board, they are naturally expected to consult the Board and that they will ask the Board for an explanation. But I really wonder why, when the Honourable Mr. Burdon thinks that the Local Government would generally ask for an explanation from the Board, he should shrink from incorporating that provision in the law itself. Why should not a statutory right be given to the Board of being given a chance of submitting an explanation before its authority is superseded ? There must be chances, even if there is one chance in a hundred. I believe every lawyer, every gentleman who has got a sense of justice, who knows that whenever a charge is brought against an individual or a body of individuals he or they must be given a chance of defending their position, would insist on having this provision in the Act.

And I would request my Honourable friends to see why the Board should be deprived of this very, very important right. The Honourable Mr. Burdon has not been able to raise any objection to this amendment. He simply says, he will expect the Local Government to do it. All right. If you expect the Local Government to do it, why not then give a statutory right to the Board to claim it ? There may be certain times when certain forces might act and deprive the Board of this right. Why should not the Board have that right statutorily ?

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Although I was a Member of the Select Committee, I must say that my Honourable friends were well advised in bringing an amendment of this nature. The Army Secretary has told us that ordinarily the Local Government would give notice to the Board concerned before supersession. If that is the convention which has to be taken into account, why not make it clear by making a provision in the Act itself that such a thing is compulsory on the part of Government and that there should be no supersession without the Board being asked to explain why they have misbehaved and why it is necessary that they should be superseded ? It may happen in certain cases when there is a great deal of feeling in the country that the Board without being consulted might be superseded, and looking to such a possibility it seems desirable that the law should provide that unless the Board is given an opportunity of showing cause it should not be superseded.

Dr. H. S. Gour : There seems to be very little difference between the Honourable Mr. Burdon and Members on this side of the House. We are both agreed that the Local Government would not be justified in superseding a Board without giving it a chance of being heard. If that is so, all that Members on this side of the House desire is that, if this assurance, this *conditio sine qua non* which Mr. Burdon admits is to be respected in practice, it should be embodied as a part of the statute law. Well, Sir, I speak with a certain amount of experience in these matters. When there is no statutory provision, though ordinarily the Local Government would consult the Board concerned and receive its explanation, it is conceivable that when there is no provision compelling them to hear the Board before its suspension, they might not exercise that power of asking the Board to submit an explanation. There is really no question of principle. We are both agreed and I therefore appeal to my Honourable friend Mr. Burdon to accept this amendment.

Mr. L. Graham : Sir, my Honourable friend, Dr. Gour, has suggested that the Local Government might, on a rare occasion, be led away by some feeling of bias. I would not agree to accept that position for a moment, but, if we did accept that position, there is a further safeguard that any order of Local Government requires the previous sanction of the Governor General in Council. The Governor General in Council could not possibly be affected by any bias in such matters. The first question which would be asked of the Local Government, if it did not appear from the proceedings of the Local Government that the offending Board had been given an opportunity of stating the reasons why it should not be suspended—as I say, the first question which the Governor General in Council would ask would be, what is the case of the offending Board, and he will certainly not sanction the order until he has seen the case. This matter is not one of great importance, but all that Government feels is this, that it is a wholly unnecessary provision from their point of view, and that it will involve fresh printing of the Act. But it is not a matter of principle at all. Government have given that assurance and therefore they do not consider this amendment necessary, and on principle Government do not accept unnecessary amendments.

Colonel Sir Henry Stanyon : Sir, in my humble opinion Government will be well advised to accept this amendment. As has been pointed out, it is really only a question of the form in which something that should be done and that certainly will be done is to be put. There are many acts and powers reserved for the Local Government and for the Governor General in Council in this Act (as in all other Acts) which we know, we will always presume—those of us, at all events, who reason upon ordinary constitutional lines,—will be regularly and properly performed. But there are the outside public who wish to be informed as to what we, as legislators, are doing in measures intended to govern and control their interests. The Governor General in Council will, no doubt, be consulted and his sanction will have to be obtained by the Local Government, but all that will be done by correspondence which will not be open to the public. And however much a number of us may presume that everything is correctly done, it will certainly be very much better if a formal procedure is provided by the enactment

by which the public, who perhaps are more prone to believe what they see than what they do not see, will be satisfied that the case has been reasonably and fairly carried to the conclusion which ends in the supersession of an important authority like a Cantonment Board. This proviso, if put in the Act, will merely require that to be done which we, who are better informed, know will be done ; and it seems to me that such a proviso will not cumber the Act. It does not cast any aspersion or suspicion upon the actions of Government. It is merely a very ordinary proviso such as constantly occurs in legislative enactments. I would submit to Government very strongly that if this proviso is accepted, while Government will lose nothing by it, a little satisfaction will be given to the non-official Members of this House and to the public whom they represent.

Mr. E. Burdon : I recognise the difficulties of the Legislative Department, but in view of the feeling of many Honourable Members of the House I am afraid the Army Department will have to throw the Legislative Department overboard. We are prepared to accept the amendment which is certainly quite harmless. But I would make one verbal change and suggest the word " unless " for the word " before " as this would be better drafting.

Mr. President : Amendment moved :

" To clause 54, sub-clause (1), add a proviso :

' Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession '."

The question is that that amendment be made.

The motion was adopted.

Mr. President : The question is that clause 54, as amended, stand part of the Bill.

Dr. Nand Lal : There is the second part of my amendment. Of course, the first part has been decided. There is the second part which is of importance. You will, I hope, allow me to move it, Sir.

You will be pleased to see in this very clause, 54 (2) (*c*), the following : " before the expiry of the period of supersession elections shall be held ". Now, from this provision we can easily deduce that there should be some fixity of time and neither in sub-clause (1) or sub-clause (2), is there any period provided and when this question is before some court, I think the members of the legal profession as well as the court will laugh at us that this sort of Bill has been passed by the Assembly. In order to obviate that sort of criticism and that kind of aspersion I beg to move the following amendment, namely :

" That to clause 54 (1), the following be added, namely :

' An order of supersession should not ordinarily extend to a period of more than six months '."

I trust that this amendment will be accepted by the House.

Mr. E. Burdon : Sir, there is nothing new in the provisions of the clause which we are discussing. The mistake, if it is a mistake, exists also in the United Provinces Municipal Act, which contains no such provision as my friend Dr. Nand Lal wishes to add here. That Act contains

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no such clause, either including or excluding the word 'ordinarily' which word I may say destroys absolutely the effect which is intended to be secured by the clause and would be anathema from the point of view of legislative drafting.

Mr. President: The question is :

"That to clause 54 (1), the following be added :

'An order of supersession should not ordinarily extend to a period of more than six months'."

The motion was negatived.

Clause 54, as amended, and clauses 55, 56, 57, 58, 59, 60, 61, 62 and 63 were added to the Bill.

Mr. K. Rama Ayyangar: I beg to move :

"That in clause 64 (*a*), the words 'colleges, schools, hospitals' be omitted."

This is a somewhat important matter which I wish to place before the House. Part (*a*) of that clause proposes one principle of taxation, and part (*b*) another. In the case of railway stations, hotels, colleges, schools, hospitals, factories and any other buildings which a cantonment authority decides to assess under this clause, "one twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto" and in the case of other buildings, "the gross annual rent, etc.". So that we are not going to leave anything unassessed. I remember the time when it was considered that these colleges and hospitals should not be assessed at all as charitable institutions, but later on there has been a change of view and it has been the usual practice now to assess them. But the assessment has always been carried on at the lowest rate which is available in the municipality which taxes. I do not know if it is going to be pleaded on behalf of Government that this has been copied from some provincial Municipal Act or Local Boards Act. Whatever that may be, the matter should be judged independently. I should request that if these schools, colleges and hospitals are charged at all, they should be charged under clause (*b*). That is ordinarily the way in which house buildings are taxed. It is very proper not to bring them under the category of railway stations, hotels, factories and other buildings. I therefore submit that this matter should not be treated lightly and I hope that the whole House will vote for my amendment. It is a matter of some importance. If there is a statement to the effect that clause (*a*) is more advantageous, I should have no objection, but my experience has been otherwise. I have sat in the Madura Municipality and we have been charging the railway, the mills and other institutions of that kind at a rate which came to 5 or 6 times the rate at which ordinary houses have been charged. I trust that the Government will enlighten us on that point. I am afraid my friends here seem to treat the matter lightly but I have no objection to these buildings being charged at whichever is the lower rate. It is a matter of some importance and I hope the House will accept my amendment.

Mr. President: The question is :

"That in clause 64 (*a*), the words 'colleges, schools, hospitals' be omitted."

The motion was negatived.

Clauses 64 to 70 were added to the Bill.

Mr. E. Burdon : We are prepared to accept Mr. Agnihotri's amendment to clause 71.

Mr. K. B. L. Agnihotri : I want to move the amendment in a form different to that notified by me. I formally move the amendment :

" That to clause 71, sub-clause (1), the following proviso be added, namely :

' Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of taxes in respect of any period prior to the commencement of the financial year in which the amendment is made '."

Mr. President : The question is that that amendment be made.

The motion was adopted.

Clause 71, as amended, was added to the Bill.

Clauses 72 and 73 were added to the Bill.

Clauses 74 and 75, as amended by the Select Committee, were added to the Bill.

The Assembly then adjourned for Lunch till Fifteen Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Fifteen Minutes to Three of the Clock, Mr. President in the Chair.

Clause 76, as amended by the Select Committee, was added to the Bill.

Clauses 77 to 81 were added to the Bill.

Clauses 82 and 83, as amended by the Select Committee, were added to the Bill.

Clauses 84 to 86 were added to the Bill.

Mr. President : Clause 87 :

Mr. K. Rama Ayyangar : Sir, I think the amendment is not properly printed ; the word ' trustees ' must be ' owners ', not trustees. I move :

" That in clause 87 (*a*), after the words ' under section 71 ' insert the words ' in cases in which owners have been previously served with notice and in other cases ',"

and it will read as " and in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof, etc ". The idea I hope will be clear to the House ; it is this, that where there has not been previous notice, an appeal ought not to be made as provided—it must be from the date next after the date of the presentation of the first bill in respect thereof ; and I hope that my amendment will be accepted.

Mr. E. Burdon : The amendment, Sir, is quite unintelligible.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 87 to 90 were added to the Bill.

Mr. K. Rama Ayyangar: Sir, ordinarily the charge in this case should amount only to two annas, and I say that it should be four annas for the demand, not Re. 1 as suggested; and I place it for the consideration of the House.

Mr. President: In clause 91, amendment moved:

"In sub-section (2), substitute the words 'four annas' for the words 'one rupee'."

Mr. E. Burdon: May I point out, Sir, that one rupee is the maximum—'not exceeding one rupee' is the provision proposed, that is to say the intention is that the charge should cover the cost of this particular service, and discretion is given to the Executive Officer to fix such amount not exceeding Re. 1 as will cover the cost. I do not think that there is any improvement to be made by adopting the suggestion of the Honourable Member.

Mr. President: The question is that that amendment be made.

The motion was negatived.

Clause 91, as amended by the Select Committee, was added to the Bill.

Mr. President: Clause 92.

Mr. K. Rama Ayyangar: The amendment I propose is more or less, I think, a drafting amendment—the insertion of the words I propose 'less any amount deposited under section 87 (*b*)'. The amount, if any, has been deposited with Cantonment Authority under section 87 (*b*). Now he has to appeal; he has to deposit the amount,—the difference, otherwise the demand will be for the full amount, and so the deposit made under section 87 is not included.

Mr. President: In clause 92, amendment moved:

"In sub-clause (1), after the words 'amount due' insert the words 'less any amount deposited under section 87 (*b*)'."

Mr. E. Burdon: Sir, 'The amount due' means the amount that has not yet been paid. The amendment is not I think in the least necessary.

Mr. President: The question is that that amendment be made.

The motion was negatived.

Clause 92, as amended by the Select Committee, was added to the Bill.

Clause 93 was added to the Bill.

Clause 94, as amended by the Select Committee, was added to the Bill.

Clauses 95, 96, 97, 98 and 99 were added to the Bill.

Clause 100 was added to the Bill.

Clauses 101, 102, 103, 104 and 105 were added to the Bill.

Clauses 106, 107, 108, 109, 110, 111 and 112, as amended by the Select Committee, were added to the Bill.

Clause 113 was added to the Bill.

Clauses 114, 115, 116 and 117 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

"In clause 118 (1), in sub-clause (*a*) (*xi*), between 'any' and 'building' insert 'public'."

Clause 118 provides for general nuisances ; sub-clause (*a*) (*xi*) says :

"Whoever in any street or other public place within a cantonment without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing ; or ".

Here it is stated that even if a man were to put a poster or make any defacement or write anything on any building, which is even a private building, such person shall be deemed to have committed a nuisance and he shall be liable to be punished with a fine to the extent of Rs. 50. My submission is that this provision should only apply in the case of public buildings ; because in the case of private buildings, the owners thereof can take care of their buildings for themselves and of their rights also. If they find that any person is defacing a wall, they can go to Civil Courts and have their rights established. If they find that anybody is meddling with their fencing or any tree in their compound, they can go to the Civil Courts and have their rights established and have him punished. It should not be within the jurisdiction of the cantonment authorities to interfere in the case of private buildings. If this clause was to apply to the public buildings, I would not have the least objection to it, but I object to the cantonment authority taking sides with a private owner and proceeding against the man who has offended the private owner. I therefore propose that the word "public" may be inserted between the words "any" and "building", so as to make only that person liable to punishment under this Act who defaces or writes upon or otherwise marks in the case of public building, public monument, public post, public wall, public fence, a tree in a public place or other public thing.

Mr. E. Burdon : Sir, the provision made is of the most common place description and the amendment which my Honourable friend seeks to make would, I think, be positively objectionable. I do not think it is necessary to say anything more on the subject.

Mr. President : Amendment moved :

"Clause 118, sub-clause (1). In sub-clause (*xi*) between 'any' and 'building' insert 'public'."

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

"In clause 118 (1), in sub-clause (*a*) (*xiii*), between 'authority' and 'displaces' insert 'intentionally'."

This clause provides that any person who without proper authority displaces, damages or makes any alteration in or otherwise interferes with the pavement, gutter, storm-water drains, flag-stone, etc., shall be liable for punishment under this clause. What I wish to suggest is that, if he were unintentionally to cause such a damage, he be not made liable to the punishment under this section, but he should be made liable only if he deliberately or intentionally or knowingly does

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any such thing. Now, cases may arise in which a man may be going in a trap or on a pony and have a fall and accidentally knock against these things and cause damage. If there is no intention on his part to damage these things, then he should not be guilty of an offence under this section. I therefore seek to provide that if he does these things intentionally, only then he should be liable to be punished, but not otherwise.

Mr. E. Burdon: Sir, if a gentleman throws a stone at another gentleman and breaks a street lamp or if he negligently damages a tree or any other piece of public property referred to in this section, and thus causes loss to the public, I do not see any reason why he should not be punished, why he should not pay.

Mr. President: Amendment moved:

"In clause 118 (1), in sub-clause (*a*) (*xiii*), between 'authority' and 'displaces' insert 'intentionally'."

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri: I beg to move, Sir:

"In clause 118 (1), in sub-clause (*c*), before 'deposits' insert 'without proper authority'."

Sub-clause (*c*) lays down that any person who deposits or causes or permits to be deposited earth or materials of any description or any offensive matter or rubbish in any place not intended for the purpose in any street or other public place or waste, etc., he shall be liable to punishment under this clause. It may happen that a person building a house in any street may be compelled to deposit materials for the construction of that house. We find that in the other sub-clauses that we have finished there are words "without proper authority" put in at the beginning of each sub-clause. While here that has not been put in. That means that even if a person or the owner of a house were to take permission from the cantonment authorities, to deposit things and materials in the street, even then, he will be liable under this clause. I therefore submit that in cases in which a person obtains permission from the proper authorities, he should not be liable to punishment under this clause and the insertion of words as proposed by me are essential for the convenience of people.

Mr. E. Burdon: Sir, the amendment of my Honourable friend assumes that a Cantonment Authority, a Cantonment Board, will be prepared to give permission to a person to deposit offensive matter or rubbish.....

Mr. K. B. L. Agnihotri: Not offensive matter or rubbish; I only mean building materials.

Mr. E. Burdon: Offensive matter or rubbish (I am quoting from the clause) in a public place which they have said shall not be used for the purpose.

Mr. President : Amendment moved :

" In clause 118 (1) in sub-clause (*c*), before ' deposits ' insert ' without proper authority '."

The question is that that amendment be made.

The motion was negatived.

Mr. K. Rama Ayyangar : Sir, I beg to move :

" In clause 118 (*d*), after the word ' fails ' insert ' without just cause or without the permission of the Cantonment Authority '."

Corpses have to be removed within twenty-four hours. No exception is provided. There may be exceptional circumstances in which a corpse may have to be kept longer than 24 hours. There is no provision, as far as I can see, for that purpose ; and I therefore suggest that the words mentioned may be inserted.

Mr. E. Burdon : Sir, I cannot believe that the House wishes to consider an amendment of this kind seriously. I suggest that it be negatived.

The motion was negatived.

Mr. K. Rama Ayyangar : I beg to move :

" In clause 118 (*g*), add at the end ' except to celebrate religious festivals or rights '."

Sir, I hope at least this amendment of mine will have a better fate. Beating a drum or tom-tom can be prohibited ordinarily, but if it is a question of celebrating a festival which has to go with the usual rites tom-toming and other festivities it cannot be stopped, and therefore I want an exception to be made in the case of religious festivals. I hope the House will adopt this amendment.

Mr. E. Burdon : The addition of these words would stultify the clause in 95 per cent. of the cases in which it is intended to apply. The object in view is of course, that when it is desired to play music, etc. in connection with religious festivals or rites the permission of the cantonment authorities should be obtained. This is a perfectly ordinary provision.

The motion was negatived.

Mr. K. B. L. Agnihotri : I move :

" In clause 118 (1), omit sub-clause (*h*)."

Sub-clause (*h*) defines a class of nuisance in the form : Whoever " disturbs the public peace or order by singing, screaming or shouting," in any street or other public place within a cantonment shall be punished. Now if any one were to have a singing party in his own house, it might be regarded by the executive officer of the cantonment or by some other person to be a disturbance of the public peace. Similarly if a boy were screaming or crying in a house it may be taken by the executive officer or other officers to be a nuisance. Similarly in regard to shouting. If I am passing along a street and a friend of mine has gone 50 yards ahead of me and I shout at him, " Mr. such and such just wait for me," probably I may also be taken to be committing a public nuisance. Therefore this clause is a

[Mr. K. B. L. Agnihotri.]

very wide one and will give a very wide power to officers and to ill-tempered ones particularly. I therefore propose that this clause should be qualified and that such innocent acts should not be included, or it should be omitted altogether. It will otherwise cause very great inconvenience and irritation to the public.

Mr. E. Burdon : Sir, my Honourable friend seems to have overlooked the fact that the person who is to decide whether the singing, shouting or screaming disturbs the public peace is not the executive officer, but the Court. (*Mr. K. B. L. Agnihotri* : "Whoever the officer may be, I gave an illustration.") I think the House will agree that singing, screaming or shouting in certain cases can be a disturbance to the public peace, and I see no reason why the provision should be omitted.

The motion was negatived.

Mr K. B. L. Agnihotri : I move :

"In clause 118 (1), sub-clause (*j*), substitute 'six' for 'three' wherever it occurs and between 'night' and 'within' insert 'or within an hour before sunset'."

Now, this clause (*j*) provides that any person who happens to be an occupier of any building or land upon which an animal dies "neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise," etc., will be punishable under this clause. I do submit that three hours time in certain cases may be found to be very insufficient. It may often happen that in three hours time a man may not be able to procure persons to remove the carcase from the place where the animal died. It may also happen that an animal may have died half an hour or an hour before sunset and it would be impossible for the man to have it removed during the night. Therefore this clause should be so amended as to provide for such class of cases also.

Mr. E. Burdon : I think the clause, as passed by the Select Committee, is as good as, if not better than, my Honourable friend's amendment.

Mr. N. M. Samarth : May I add to that that the wording is not "*fails* within three hours of the death to 'remove,' but '*neglects*'." Neglects is a different thing.

The Honourable Sir Malcolm Hailey : He only has to report.

The motion was negatived.

Clauses 118 to 121 were added to the Bill.

Mr. K. B. L. Agnihotri : I move :

"In clause 122, after 'straw' add 'in quantity in excess of the reasonable needs of occupant for a period of three months'."

Now, this clause provides against the storing of certain things such as a collection of wood, dry grass or straw. Now the collection of such things may be necessary for household purposes. If a man has got cattle he will have to provide for straw or grass against rains, and have to collect fuel, for the use of the household. If this clause were allowed to stand as it is, the result would be that a man shall not be able to provide for such necessaries even during the rains and it would be a real hardship

to the people living within the cantonment area. Therefore I suggest that in such cases the cantonment authorities may permit the storage of such things which may be reasonably necessary for a certain period and I put the period at three months. With this object I move my amendment, that there should be no interference with the people's right to collect fuel, straw, dry grass, etc., for the use of the animals or the household and that be necessary for use for three months.

Mr. E. Burdon : The clause reads :

"A Cantonment Authority may, by public notice, prohibit, in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials."

Is it desirable to limit this discretion of the Cantonment Authority in the manner suggested by the Honourable Member ? I do not think the House will agree that it is.

The motion was negatived.

Clause 122 was added to the Bill.

Mr. K. Rama Ayyangar : If you will permit me, looking at the mood of the House, I will take permission to withdraw all the amendments I have suggested.

Clauses 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136 and 137 were added to the Bill.

Mr. K. B. L. Agnihotri : Clause 138 ; I have an amendment under clause 138 which has been accepted by the Government.

Mr. President : The Government has not had an opportunity of accepting it.

Mr. K. B. L. Agnihotri : I thought you had only read out to 137 and therefore I did not intervene.

Mr President : I will allow the Honourable Member to move his amendment.

Mr. K. B. L. Agnihotri : I would like to move my amendment to clause 138 which has been accepted in the form in which I will read it out.

"In clause 138, sub-clause (1), omit the word 'and' at the end of clause (*b*) and after clause (*c*), at the end add 'and' and add the following new sub-clause :
"(*d*) where there is a board, two non-official members'."

I need not say anything on this matter as the Government have already accepted it.

The motion was adopted.

Clause 138, as amended, was added to the Bill.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to present the Report of the Select Committee on the Bill to amend the Legal Practitioners' Act of 1879.

Mr. President : The House will resume consideration of the Cantonments Bill.

Clauses 139 and 140 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

"That in clause 141, sub-clause (2), substitute 'fifty' for 'Two hundred'."

Sub-clause (2) of clause 141 deals with the power of executive officer to require the lands or buildings to be cleansed and adds that the disobedience of that order shall be punishable with a fine of Rupees 200. (*Mr. N. M. Samarth* : "With a fine which may extend to Rs. 200.") Yes, which extends to Rs. 200, but experience in the Cantonment shows that when a fine is inflicted, it is generally very severe and heavy. Therefore, we should not go on the technicalities. I would rather propose that this limit of Rs. 200 be reduced to one of Rs. 50, because if a man fails to cleanse his house or compound a fine of Rs. 50 will be more than sufficiently high punishment for that man.

Mr. P. B. Haigh (Bombay : Nominated Official) : Sir, I trust the House will throw out this amendment. This is a serious matter. One of the greatest curses of modern times in towns is the owner of property who will not keep it in a sanitary state. It must be remembered that in large towns large numbers of poor people are obliged to live together in buildings which are owned by well-to-do capitalists, and one of the greatest difficulties of municipal administration in the United Kingdom has been dealing with people of this description. These are the people who grow rich on the sufferings of the poor and on the ill-health of small children. Mr. Agnihotri wants us to confine the penalty for people of this kind to Rs. 50. What is Rs. 50 to people of this character ?

Sir, I hope that my Honourable friends, the Labour Party, will support me in this matter, and that the House will throw out this amendment.

The motion was negatived.

Clauses 141, 142, 143, 144, 145, 146, 147, 148 and 149 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

"That in clause 150 :

(*a*) omit 'whether' and 'or otherwise', and

(*b*) omit 'or being the owner, lessee or occupier of any building in a cantonment in which he knows that any such person is suffering'."

Sir, clause 150 provides that a person who attends on a sick person suspected of suffering from any contagious or infectious disease shall be under an obligation to report about that illness to the cantonment authorities. So far as that provision for giving information is concerned, it seems to be quite wholesome and there can be no objection to it, but, looking to the difficulties that might arise in such cases, I thought it desirable to put this amendment before the House for its consideration. The House will realise that there are certain diseases in which it will be very difficult for a layman to find out whether or not they are contagious

or infectious. Take the case of severe diarrhœa. Sometimes a doctor may come forward and declare that it was not simple diarrhœa but that it was cholera while the people in attendance may have taken it to be only diarrhœa. Take the case of a man, who is suffering from a wasting disease. A doctor may come forward and say it is tuberculosis, while, a layman may not be able to find out whether it was tuberculosis or not. In many cases even the doctors differ just as in the case of Lala Lajpat Rai at present and to put this obligation on a layman to report about such matters will be a very great hardship indeed. Therefore, so far as the obligation to report in such cases extends to the layman or the attendants on such sick persons, I propose that that may be done away with and the obligation for such intimation be only put on the medical practitioners who are the best judges in such matters, and they should be required to report. In the case of municipalities it is provided that the medical practitioners who attend on sick persons should be bound to report the matter to the proper authorities. I think that a similar provision may also be applicable to cantonments. I do realise that it is necessary that contagious or infectious diseases be reported to the cantonment authorities who may have to take proper care of such cases and to segregate such persons to prevent the infection from spreading further. Therefore, the clause, though necessary, in respect to medical practitioners, becomes troublesome and a source of oppression so far as the attendants on the sick person are concerned, and I propose that this obligation on the layman be omitted.

Mr. P. B. Haigh : Sir, I am afraid the Honourable Member is going still further back into the paths of reaction. The object of this amendment seems to be to facilitate the concealment and spread of infectious diseases. The House will observe that as the clause is worded in the Bill no penalty attaches to any person, unless he knows or has reason to believe that somebody in this House is suffering from a contagious or an infectious disease. There is no question of his properly diagnosing the case as some form of disease or another. It would have to be proved that he knew or had reason to believe that there was a case of infectious disease in the House. If the amendment is accepted, it means that, unless a medical practitioner is actually employed by the people concerned, the disease can be concealed with impunity. Now, the kind of people who want to conceal diseases are just the people who never employ a medical practitioner. There is every need for a penalty to be imposed on people who deliberately harbour persons in their houses who are suffering from infectious diseases.

The motion was negatived.

Clause 150 was added to the Bill.

Clause 151, as amended by the Select Committee, was added to the Bill.

Clauses 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164 and 165 were added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move :

"That in clause 166, sub-clause (3) :

(*a*) substitute 'shall' for 'may' before 'give', and

(*b*) substitute 'reasonable' for 'such' and omit 'as he thinks fit'."

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[Mr. K. B. L. Agnihotri.]

In this clause 166 the President of the Board or the Commanding Officer of the Cantonment is authorised to destroy any clothing of a person who suffered from any infectious or contagious diseases. Subsection (3) also provides that in the case of such destruction, if the President thought it proper, he may give such compensation as he thought fit. My amendment suggests that in the case of such destruction some reasonable compensation must be given to the person whose property has under this section been destroyed. The clause as it at present stands gives an option to the President of the Board and the Commanding Officer to give or not any compensation. By my amendment I make it obligatory on these authorities to give compensation to the person whose property has been destroyed, and to give "reasonable compensation" and not "such compensation as he thinks fit."

Mr. L. Graham: Sir, the whole point of this clause is to authorise the President of the Board without consulting anybody else to do what he considers to be just. The articles which may be ordered to be destroyed may be absolutely worthless, and yet, as far as I can understand, he has got to arrive at some valuation of this worthless property in order to satisfy Mr. Agnihotri's sense of justice. I oppose the amendment.

The motion was negatived.

Clauses 166, 167, 168, 169, 170, 171, 172, 173 and 174 wer added to the Bill.

Mr. K. B. L. Agnihotri: Sir, I move:

"That in clause 175, sub-clause (1), substitute the following for the proviso:

'Provided that such person shall not be called upon to attend for examination at any such hospital or dispensary, if having regard to the nature of the disease or the condition of the person suffering therefrom or the general environment and circumstances of such person, the attendance of such person at a hospital or dispensary is likely to prove unnecessary, inexpedient or objectionable; in such case the Health Officer or medical officer, as the case may be, shall examine such person at such person's own residence'."

Clause 175 provides that in cases in which a person is suspected of suffering from any contagious or infectious disease, that person may be obliged to present himself at any dispensary or hospital for examination. So far as this clause goes, it is quite all right that a man who suffers from any contagious or infectious disease be made to go for examination to a hospital or dispensary. But there may be certain cases in which the disease may have much advanced or in which the man may not be in a position to move out of bed or to expose himself or to proceed to the dispensary. In such cases, the man should not merely for the purpose of examination be forced to go to the dispensary but should be examined at his own place. A proviso has been provided in this clause that only in such cases in which "the Health Officer or medical officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's residence," provided that, having regard to the nature of the disease or the condition of the person suffering therefrom or the general environment and circumstances of such person, he may not send him. That is the proviso. But look

to what it means. (*Voices* : " Withdraw, withdraw.") As my friends press me to withdraw the amendment, I withdraw it.

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

Clause 175, 176 and 177, as amended by the Select Committee, were added to the Bill.

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

" That clause 178 of the Bill be omitted and the necessary consequential changes be made in the re-numbering of the clauses that follow."

Sir, I do not know whether I should be in the pessimistic mood of my friend, Mr. K. A. R. Ayyangar, or in the optimistic mood of my friend, Mr. Agnihotri. But, Sir, I propose to be in that mood in which I shall be sure of getting the help of this House in passing my amendment. Sir, clause 178 provides for the punishment of imprisonment to sweepers who neglect or refuse to do their duty. The second sub-clause of that clause provides that the Local Government may notify to include some other classes in the class of sweepers as regards the punishment. Sir, in the first place, I do not know why in the Statute-book of this country punishment of imprisonment for refusal to work should have been put....

Mr. W. M. Hussanally : Without giving sufficient notice.

Mr. N. M. Joshi : .... only in the case of the working classes. My friend Mr. Hussanally says : " without giving notice ". The punishment is given when a man refuses to work without notice. But, Sir, my Honourable friend Mr. Hussanally was a Government servant. I want to know whether a man in his position if he had to resign without notice and if he were sent to jail for that action, he would have liked it. There are hundreds of other people who give up their job. For instance, pleaders give up their briefs at the last moment. Barristers give up their briefs at the last moment. But they are not sent to jail.

Colonel Sir Henry Stanyon : In the interests of public health or safety.

Mr. N. M. Joshi : There are hundreds of other people who refuse to work without notice and they are not sent to jail. It is only in the case of the working classes that Government thinks of sending them to jail when they refuse to work without notice. (*A Voice* : " In the interests of public health.") I will come to that point. I know, Sir, that my Honourable friend Mr. Burdon may again quote some sections of the Municipal Acts—the United Provinces or Madras or some other Municipal Act. I know that there are several Acts in the legislative armoury of the Government of India where the working classes are punished with imprisonment for very slight offences for which other classes are not punished in that manner. So, quoting either the United Provinces Municipal Act or some other Municipal Act will not be considered a justification by me at least, and I am quite sure I will not be considered to be a justification by this House.

Sir, an Honourable friend just now told me that these sweepers are [illegible] to jail for refusing to work in the interests of public health

[Mr. N. M. Joshi.]

and safety. Well, I am not quite sure about that. If it had been only in the interests of public health and safety, this section would not have had two sub-clauses. There is one clause for sweepers. There is no mentioning about public safety or public health there. There is another clause for other servants whose refusal to work would be dangerous to public health or safety. So, the clause has made a difference between sweepers and those other classes whose refusal to work would be dangerous to public health or safety. Sweepers will be sent to jail whether their refusal to work is dangerous to public health or not. (*Voices* : "No.") That is the section.

But, Sir, I should like to say this that sweepers perform a very useful service to the community. They are the protectors of the public health. They are the protectors of public safety. If that is so, they deserve to be treated much better than other classes. Is it right that a class of people who are more useful to the community should be punished more severely than the other classes ? It is the fault of the sweepers that they do not engage themselves in doing less useful service, such as that of lawyers, civil servants, and several other people ? Is it their fault that they engage themselves in such a noble work as that of protecting public health and public safety ? Surely, they ought not to be punished more severely than others because they engage themselves in such useful work. I therefore feel, Sir, that it is not right that this useful class of public servants should be punished in this way. I know, Sir, I am not one of those people who would be lightly ready to endanger public safety and public health, but I submit that this is not the way of protecting public health and public safety. If sweepers go on strike and public health is in danger, you can resort to some other methods, but not penalise the sweepers unjustly. (*Dr. H. S. Gour* : "What is the other method ?") If Government does not know any other methods I am prepared to suggest one. Sir, sweeping is absolutely necessary, and if it is not done, it will, I know, be a danger to public safety. Therefore, in the interests of the community, let every citizen be compelled to do the work of a sweeper in case of an emergency. In an emergency every man is compelled to serve as a soldier. Similarly, in an emergency of this kind, let every man be compelled to serve as a sweeper. That is the right method, that is the fair method and just method, but certainly it is wrong, it is unjust that simply because some other classes of people are not willing to do the work of sweeping the sweeper should be sent to jail. I know why Government does not resort to the method suggested by me. During the war, conscription was used, and Government knows that conscription is one of the methods by which you can get in an emergency certain necessary work done. But Government will not resort to this method in this case, particularly because the work of sweeping in this country will not be done by all classes of people. The work of sweeping must be done in the Hindu community by only certain classes of people. This class of people, simply because they do this useful kind of work, are considered untouchables and the touchable classes will not do the work of sweeping. Government knows this. If Government tries to introduce a clause asking every citizen to do the work of sweeping in case of emergency, I am quite sure there are very few people who will support

the Bill. Even Mr. Pyari Lal who is so anxious to get this Bill passed in this session will ask Government to postpone the consideration of the Bill. It is for that reason that Government does not resort to the proper method of getting communal interests served in case of an emergency. The real cause of this is these poor classes have to suffer on account of the strange notions of the Hindu community, and if that is so, why should the sweepers suffer on account of these orthodox notions of the Hindus ? I therefore hope that Government will not punish the sweepers who are a very useful class of people. I am quite sure there may be some people who may tell me that in certain contingencies even in outside countries, when some classes of work-people go on strike they are prohibited from going on strike without notice. But if the services rendered by the sweepers are so useful and if you want them not to leave without notice,—instead of putting some special disadvantages upon them, why not at least give them some special privileges ? I know of legislation where the working classes are not allowed to go on strike without notice, but in that case they receive certain privileges. In such cases the masters or employers are compelled to put the grievances of the work-people before a committee immediately. Why should not Government provide that here ? Why should not Government provide that in the case of sweepers a minimum wage much more than the ordinary wage should be given. If the ordinary wage of the ordinary worker is Rs. 25 a month, let the sweeper be paid Rs. 50 a month by law. Then I can understand the Legislature putting certain restrictions upon the liberty of the sweeper. If you are not prepared to do that, I think it is wrong to put this penalty upon the sweepers who are a very useful class of people. I hope the House will accept the amendment.

Mr. Pyari Lal : I am afraid my Honourable friend Mr. Joshi is allowing his zeal to serve the cause of the sweepers, to override his sense of public duty. (*A Voice* : " Louder please.") He must know, and I suppose he knows it full well, that sweepers do a kind of work which is very essential to preserve the health and safety of the people, and especially in a cantonment where troops reside, the sanitation of the place is a matter of great importance. It is simply a matter of contract, when sweepers join the service they accept the wage which is offered and agree to do the work that is assigned to them. Therefore, without any previous notice if the sweepers take into their heads to run away or to strike work they deserve punishment, surely, in the interests of the public health and safety. Then as to why the sweepers should be treated like that, it is the fault of the society in which Mr. Joshi is born, —the Hindu society,—because the sweeping work is particularly assigned to a certain section of the people and no other people are allowed to do it. Therefore, it is that when the work is assigned to a particular class of people that class and that class only have to do it (*A Voice* : " No, no.") ; and that class has accepted to do it in spite of all that Mr. Joshi may say to serve their cause. Even in an ordinary private house sweepers are a necessity. In the case of other servants you can get other people to do their work, but in the case of sweepers nobody else can do it and therefore stricter safeguards are required and in the interests of the public, this section is absolutely essential and I oppose this amendment.

Mr. K. Rama Ayyangar : I have in fact given notice of a similar amendment but I took the course I did under the circumstances that I have already stated, but Mr. Joshi has been courageous and I wish him good luck. At the same time I must say that this House sitting in the heights of Simla has forgotten its duty to the cause which they are supposed to represent. We have been fighting for the labour laws in other places where Indian labour is concerned. That being so, imprisonment is not really efficacious as a punishment for making people work according to the terms of the contract. We have been fighting for a long time. Here is a law enacted for the first time. I do not know if it exists in any other province but it does not in the Madras Presidency, as far as I know. But if there is such a law in other places, then I certainly should like to protest against such legislation being further extended. Here are a set of people who know nothing about the law, who every day do the meanest of work that menials can do, who ordinarily are beaten by Sanitary Inspectors, who do their work without any protest for little or nothing. Such people if they happen to go on strike it must be on very proper grounds. I do not think this ordinarily happens. They do not do it for fun. They do not do it simply because they get irritated all on a sudden. The fact must be that their stomach is not fed properly. They live on the refuse thrown in the streets and the money that they make is often times not sufficient for their expenses. Under those circumstances I suggest that the whole clause be omitted or at least leave it at a fine of Rs. 10 according to the nature of the case to be decided by the magistrate in charge of the matter. These are a poor class of people who work most slavishly all the time and what we are doing here is to punish them when they fail and send them to jail. Let us see how that will save the situation. Suppose you send a few people to jail. They will be much better off in jail. They will get better meals there. Ordinarily they live on the refuse thrown in the street, mixed with mud and other things. What is the loss they incur ? They may get Rs. 20 or 25 at the highest, which they spend on their families. I have not known that these people are very much improved in their condition and in spite of their earnings they live on the refuse. Suppose all of them agree to go to prison. How are you going to save the situation ? Are you going to turn other men into sweepers all at once ?

Mr. N. M. Joshi : That is the only remedy.

Mr. K. Rama Ayyangar : I considerably differ from you there. One word more I want to say. They spend all their earnings on drinking and probably that is necessary for them. I do not know. That being the position they may not care if they are sent to jail. On the other hand if you only give two annas extra by a general arrangement, the whole thing could be brought to order, and this ten rupees fine for one or two people may bring them to order. That will certainly be much more useful than sending them to jail and trying to introduce into the law a punishment which must reflect very much on the responsibility of Members who sit in this Council. These people cannot defend themselves and they have not got a voice here. I do not think that this particular section should be enacted in the Statute-book, especially when

you are passing a law like this under the Reforms. I should certainly oppose with all the force and argument at my command the passing of this section in its present form.

Lieut.-Colonel R. H. Palin : The provisions of this clause appear in practically every Municipal Act as well as in the recent Calcutta Municipal Act. Speaking as one of the " about to be deposed " Cantonment Magistrates after some 18 or 20 years' executive experience I can say that without this deterrent clause in the Act, the work of the executive officer will be rendered almost nugatory. Government has never up to date received any complaints that this particular clause which appears in the present Cantonment Code has been abused in any form whatever.

Mr. N. M. Joshi : The sweepers are not educated. How can you hear ?

Lieut.-Colonel R. H. Palin : The effect of the omission of this clause will be that in order to obtain a higher rate of wages the sweepers in charge of the conservancy arrangements of a cantonment would be in a position to strike and the results in a cantonment so far as the troops are concerned would be at any rate disastrous. I beg therefore to oppose this amendment.

Chaudhri Shahab-ud-Din (East Central Punjab : Muhammadan) : Mr. Joshi's amendment bespeaks inexperience.

Mr. N. M. Joshi : No, Sir.

Chaudhri **Shahab-ud-Din** (East Central Punjab : Muhammadan) : He comes from Bombay where I believe self-flushing arrangements are in existing to a great extent. I am not sure whether he has any actual experience as a member or executive officer of a Municipal Corporation.....

Mr. N. M. Joshi : I have.

Chaudhri Shahab-ud-Din : .... or of the actual working of the sweepers. [I would request the Honourable the President to give Mr. Joshi another turn to speak so that he may answer some of the charges levelled against him.] No one means to convert non-sweepers to sweepers by this deterrent clause of the Bill. The object simply is to make sweepers do their work as sweepers and not to resign their posts without giving due notice. It is not intended that they should be coerced to work against their will for an indefinite or inordinately long period. All that is meant is that like ordinary domestic servants they should give one month's notice when they want to relinquish service. And if sweepers, being a class of persons upon whose service depends the health not only of one or two but perhaps of millions of inhabitants, were given the liberty of giving up their work at their own sweet will and pleasure, without any coercive powers being given to the executive to compel them to work at least for such time as may be necessary for making arrangements for their work, I am afraid the health, not only of one or two cantonments but perhaps of every town in India, might suffer. In the clause under discussion the punishment provided for is only one month's imprisonment. In the Punjab Municipal Act it is two months, and I believe

[Chaudhri Shahab-ud-Din.]

similar provisions exist in the Municipal Acts of the other provinces. This provision during the last 11 or 12 years that I have been connected with the Lahore Municipal Corporation has never been actually put in force. No such occasion has arisen. Yet here is a weapon which in case of need may be, and in fact should be, in the interests of public health, used by the executives of a corporation. The object is simply, as I have already said, to get work out of them and not to convert non-sweepers into sweepers. If Mr. Joshi means that like a clerk a sweeper also may give up his service at any time without a moment's notice, I am afraid he is misjudging human nature and is misapplying the principle of philanthropy to the sweeper class. No one says that sweepers should be treated more severely than other servants. But it is only reasonable to expect that they should give due notice when they want to leave, so that the executives concerned may be able to make arrangements to carry on their work. Without this I am afraid the sanitation and health of the whole of the Continent of India might suffer. It is no doubt very plausible to argue such cases on humánitarian grounds, but practical politics are entirely different. If a sweeper were to give up sweeping and removing the night-soil from his house without giving him any notice, I am sure within a week Mr. Joshi would realize the true significance of this wholesome provision. Therefore I request the Honourable Members of the House not to pay any attention to all the specious but hollow arguments which have been advanced by Mr. Joshi and the speakers who have followed him, and to pass this provision, which is indeed a very wholesome and necessary provision in the Bill.

Mr. President : The question is :

"That clause 178 do stand part of the Bill."

The motion was adopted.

Clauses 179, 180, 181, 182 and 183 were added to the Bill.

Mr. K. B. L. Agnihotri : I move, Sir :

"That in clause 184, the word 'fifty' be substituted for the words 'five hundred'."

Now clause 184 provides a penalty for the erection of buildings without the sanction of the cantonment authority or without complying with any of the conditions of any sanction given or after the expiry of sanction and the punishment for that is a fine extending to Rs. 500. In section 107 of the old Cantonment Code, Sir, the fine for the same offence was only Rs. 50. In addition to this punishment, such a person is also liable under clause 185 to have that building demolished. I beg to submit that as the cantonment authorities are also empowered to demolish a house so erected, there does not seem to be any valid reason for enhancing the limit of fine from Rs. 50 to Rs. 500. The punishment as was previously provided is quite sufficient. And a fine of Rs. 500 for the mere breach of the rule requiring sanction, etc., I submit, is very severe, specially in addition to the demolition of the structure. I therefore propose that the old limit of the fine to Rs. 50 be retained in this Bill also.

Mr. L. Graham : Sir, anyone who has ever had anything to do with a Municipality knows how extremely difficult a task it is to prevent people from erecting unauthorized buildings. They have a pernicious habit of running out little galleries or verandas above the street from which they may drop things on the heads of persons passing below. They have a most pernicious habit of attaching little steps to the ground floor which would trip up unwary passers-by at night. Altogether, Sir, the lot of the municipal officer who has to try and check these building enormities is not at all a happy one. The limit of the fine in the Act before, as pointed out by Mr. Agnihotri, was Rs. 50 ; a penalty which was obviously insufficient, and I take it that the reason why this maximum penalty has been raised is that the old penalty by experience has been shown to be insufficient. And in support of that, Sir, we have also the more recent Municipal Acts in which we find exactly the same maximum punishment of a fine of Rs. 500. And considering the enormities which are perpetrated by householders in re-building their houses, I think this maximum fine of Rs. 500 is extremely moderate. Sir, I oppose the amendment.

Mr. President : The question is :

"That in clause 184, the word 'fifty' be substituted for the words 'five hundred'."

The motion was negatived.

Clauses 184 to 201, were added to the Bill.

Clause 202, as amended by the Select Committee, was added to the Bill.

Clause 203 was added to the Bill

Clause 209, as amended by the Select Committee, was added to the Bill.

Clauses 205 to 209 were added to the Bill.

Mr. K. B. L. Agnihotri : I move, Sir :

"That in clause 210, sub-clause (2), omit the words 'offensive or'."

This clause 210 provides that certain classes of traders and business men in cantonments should obtain a licence to trade therein and that license shall be liable to renewal every year. This sub-clause provides that a licence granted under sub-clause (1) shall be valid only for one year and makes it obligatory that every year such licences be renewed. Though the clause also lays down that the grant of such a licence would not be withheld by the cantonment authority unless it had reason to believe that the business was offensive or dangerous to the public it can be safely asserted that the safeguard provided is of no practical benefit at all.

My objection is mainly confined to the word 'offensive.' I concede, that so far as a business was dangerous to the people in general, it may be stopped, and the licence be not renewed, but the adjective 'offensive' is such a vague,—it may be offensive to sight, it may be offensive to smell, it may be offensive to hearing. The word 'offensive' can be extended to all trades or occupations. I therefore provide that the word 'offensive' should be deleted.

Mr. President : In clause 210, amendment moved :

"In sub-clause (1), omit the words 'offensive or'."

Mr. E. Burdon : Sir, I cannot believe that the House will agree with Mr. Agnihotri. The inclusion of the word 'offensive' is in my opinion essential. (*The Honourable Sir Malcolm Hailey* : "More essential" in practice than the word 'dangerous.') When I was Secretary to the Municipal Committee at Delhi I remember—I find the Honourable the Home Member's recollection of Delhi coincides with mine—that one of the troublesome occupations we had to deal with was the preparation of catgut. I do not know if any Honourable Member of this House has ever been within half a mile of a place in which catgut is prepared ; if they had, I am sure they would never have forgotten it. That particular occupation is not one which is dangerous to the public, but it is one which is extremely offensive to the public ; and it is just the sort of case in which the Cantonment Authority or any municipal authority would be perfectly justified in refusing a license unless the trade was carried out in a place situated where there was no public to whom it could be offensive. Another example, of course, of the same thing is any process connected with the tanning of hides—anything of that kind. But I feel sure it is quite unnecessary for me to elaborate the argument any further. I am quite sure that the House will agree that to exclude the word 'offensive' would be an obvious mistake.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Mr. K B. L. Agnihotri : Sir, I move :

"That in clause 210, in sub-clause (3) : (*a*) omit 'if' and substitute 'shall not refuse' for 'refuses'; (*b*) omit 'it shall pay compensation for any loss incurred by such refusal'."

Sir, this sub-clause (3) provides that in the case of trades or business in existence in the cantonment area, at the commencement of this Act persons carrying on such trade or business may not be required to apply for a license under certain conditions, that is, until they have received a notice from the Cantonment Authority requiring them to apply for a license. This sub-clause is probably meant to appear as an Act of generosity on the part of Government for the men already carrying on trade in the cantonment area in that they be not compelled to apply for a license just on the passing of this Act, but may wait for the Cantonment Authority's notice asking them to apply for that. But at the same time this sub-clause also authorises the Cantonment Authority to refuse them the license. It is a very hard provision indeed. My Honourable friend, Mr. Burdon, had said in connection with the previous amendment that in Delhi there were certain persons who carried on the business of manufacturing and preparing catgut which was very offensive; I am afraid that in cases of similar trades alleged to be offensive, a license would be refused by the Cantonment Authority. The result would be that such persons will be deprived of their trade and livelihood. Deprivation of the trade would be a very serious thing for that poor man. It may be offensive to some of us and to the people of highly developed aesthetics but what about that poor man and his family ? How will they get their living ? We may regard as an offence the smell of the preparation of catgut, but looking at it from the standpoint of the people

manufacturing it and who make their living by it such a provision would be very drastic indeed, and I submit that in the case of businesses and trades that are already in existence in the cantonment area, no license should be necessary; or if a license be necessary, then such license should not be refused by the Cantonment Authority simply on the flimsy grounds of their being offensive. I suggest that in the case of existing trades the Cantonment Authority shall not refuse to grant a license to persons carrying on the trade in cantonment areas.

Mr. President: In clause 210, amendment moved :

"In sub-clause (3) (*a*) : (*i*) omit the word 'if' and substitute the words 'shall not refuse' for the word 'refuses'; and (*ii*) omit the words 'it shall pay compensation for any loss incurred by such refusal'."

Mr. P. B. Haigh : Sir, there is a well-known scripture which I think must have been in the mind of the Honourable Member who moved this amendment, and it is this:

'He that is filthy, let him be filthy still.'

That is the meaning of the amendment.

If there is any offensive trade.... .

Mr. K. S. L. Agnihotri : I could not hear it.

Mr. P. B. Haigh : I shall repeat it. The scripture is this :

'He that is filthy, let him be filthy still.'

If the amendment were carried, it would mean that no matter what disgusting trades were being carried on, what dangerous occupations were being carried on, at the time when the Act came into force, the Cantonment Authority would have no power to prevent them, it must grant a license, it is absolutely precluded from making any improvement in this respect. And who is it that is to be prevented from making the improvement ? Not some autocratic military authority but the Cantonment Authority itself. This has nothing to do with the discipline of troops, but is definitely in the interests of the inhabitants of the cantonment, military and non-military alike. Let the public suffer as they will, the mover wants that no private person shall be interfered with or regulated in any manner, however offensive, however disreputable, however dangerous his trade. Sir, I call this absolute Bolshevism.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 210, 211 and 212 were added to the Bill.

Mr. E. Burdon : Sir, I have to move a formal amendment :

"That in clause 213, for the words 'profession or calling', substitute the words 'calling or occupation'."

The object of this amendment is merely to bring the language of the clause into harmony with the language used in other portions of the Bill.

Mr. President : In clause 213 amendment moved :

"Omit the words 'profession or calling' in order to insert the words 'calling or occupation'."

[Mr. President.]

The question I have to put is that that amendment be made.

The motion was adopted.

Clause 213, as amended, was added to the Bill.

Clauses 214 to 216 were added to the Bill.

Clauses 217 and 218, as amended by the Select Committee, were added to the Bill.

Clauses 219, 220, 221, 222 and 223 were added to the Bill.

Mr. President : Clause 224.

Mr. K. B. L. Agnihotri : Sir, I move that :

" In clause 224, sub-clause (c), after the word ' writing ' add the words ' and considering his reply '."

Sir, under this clause 224 the Cantonment Authority is authorised to cut off the water connection of any person's house or building if they considered that water was wasted by reason of the pipes, drains or other works being out of repair. This provision was much objected to by the All-India Cantonments Association. They found that similar provisions have been abused by the cantonment authorities in the past and they wanted the insertion of a notice of fifteen days before any connection was cut off and of a provision for calling upon that man to show cause why the connection should not be cut off. After considering all that, the Select Committee has amended this clause by inserting a provision to give notice, but they have made no provision for calling for any explanation from the man concerned before cutting off the water connection. It may happen that the report of the subordinate officers of the cantonment be not correct, and on that report probably the cantonment authorities may proceed to cut off the water connection, in which case it would be a great hardship to the person and his family.

By this amendment of mine, I wish it to be provided not only that notice be given but also that in case the person concerned offers any reply or shows cause, that explanation be considered before water connection is cut off. With this object, Sir, I move my amendment.

Mr. E. Burdon : The clause, if amended as proposed, will read :

" The Cantonment Authority may after giving notice in writing and considering his reply ".

I want to know whose reply it is.

Mr. K. B. L. Agnihotri : I have said " reply, if any."

Mr. E. Burdon : And I should also like to know what Mr. Agnihotri would advise the Cantonment Authority to do supposing a person to whom a letter was addressed did not reply.

Mr. President : Amendment moved :

" In clause 224, sub-clause (c), after the word ' writing ' add ' and considering his reply '."

The question is that that amendment be made.

The motion was negatived.

Clauses 224 to 236 were added to the Bill.

Mr. N. M. Joshi : Sir, I move the following amendment :

" That the words ' such person ' be substituted for the word ' her ' wherever it occurs in clause 237 of the Bill."

I ask for the substitution of the words " such person " and not " that person " for the word " her " occurring in this clause. This amendment.....

Mr. E. Burdon : To save time, may I say that I accept the amendment.

The motion was adopted.

Clause 237, as amended, was added to the Bill.

Clause 238 was added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

" In clause 239, sub-clause (1), omit ' disaffection ', omit ' or breaches of discipline ', and after ' cantonment ' at the end of the clause, add ' within a year from the date of such order '."

This clause 239 provides for the removal from cantonment area of certain classes of people, that is those persons who are known to be likely to cause disloyalty, disaffection, or breaches of discipline amongst any portion of His Majesty's forces ; or such persons whom the Commanding Officer of the Cantonment has reason to believe to be likely to do any such act. The Commanding Officer of the Cantonment may make an order in writing asking them to leave that area and not to return without the permission of the Commanding Officer. Now, this provision has been a source of constant irritation in the Cantonment areas causing great inconvenience to the civil population ; and has also been the cause of much wrangling between the Government authorities and the people living in cantonments. It has also on occasions been admitted by the Government authorities that this power had not always been used properly and that there were occasions when this power had been improperly used or abused. I propose that, though it may under certain circumstances be proper to retain such a power in the Commanding Officer, it should be strictly limited. The removal or deportation should be limited to a particular period ; and should be used only against such person who may be guilty of tampering with loyalty of troops but not against persons against whom there is a mere suspicion of their causing disaffection or breaches of discipline and they should not be the persons that should be excluded from the cantonment areas. I do not mean to say that persons who deliberately and directly attempt or cause breaches of discipline or disaffection should not be punished. That is not my object at all. My object is for removing the word " disaffection " and " breaches of discipline ", because these words are very vague. In spite of the many legal decisions in the Courts of Law, these words have not been given any definite or exact definitions or meaning. Anything may amount to or cause a breach of discipline. If any person in the cantonment area were to preach to the civil population in the cantonment area that they should use caps in a particular fashion, and though this preaching in itself may be a harmless and an innocent one, still it may be considered by the Cantonment Authority or the Commanding Officer as likely to create breaches of discipline among the Indian sepoys in that regiment. Any such preacher may under the provisions of this clause be deported. Breaches of discipline cannot be properly defined. This clause will make it possible for even innocent persons to be removed from

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such areas. Therefore, Sir, I suggest that the words "disaffection" and "breaches of discipline" be deleted from this clause as well as that such persons who are to be kept out of the cantonment should only be kept out of the area for a period of one year only and not indefinitely. If after a year such persons again show a tendency to commit such offences, they may then again be removed under this Act or be punished under the Indian Penal Code or any other law. With this object in view, Sir, I move my amendment.

Mr. President: Amendment moved:

"In clause 239, sub-clause (1), omit 'disaffection', and omit 'or breaches of discipline', and after 'cantonment' at the end of the clause, add 'within a year from the date of such order'."

Mr. N. M. Samarth: Sir, I am afraid that Mr. Agnihotri when he referred to this provision having given rise to discontent in the cantonment population and read this provision as it is now in this Bill has unintentionally misled the House. The section of the Cantonment Code, which was 216 before, no doubt gave rise to a great deal of discontent. Now that section was in these words:

"The Commanding Officer of the cantonment if he thinks it expedient to exclude any person from the cantonment, whether with or without assigning any reason therefor and whether such person resides in or frequents a cantonment, shall send to the Cantonment Magistrate an order in writing to that effect and the Cantonment Magistrate shall cause a copy of the order to be served on the person together with a notice in writing requiring him to remove from the cantonment within a time to be specified in the notice and prohibiting him from re-entering it without the permission in writing of the Commanding Officer of the Cantonment."

Now, these were the words in that section. There is no doubt that that wording was likely to lead to cases in which there was abuse of power and authority on the part of the person who used it. That section in the old code has been re-modelled in the present Bill. Mr. Agnihotri does not object to the power of removal being given to the Commanding Officer of the Cantonment. He does not object to that. He thinks, I take it, that it is reasonable to give such power to the authorities in the cantonment with a view to prevent the commission of any of the offences which are mentioned in the section. He postulates that it is desirable to give the power to the authorities. But he objects to the words "disaffection" and "breaches of discipline" and limits the wording to this:

"If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty amongst any portion of His Majesty's forces,"

then he should be liable to be expelled from the cantonment area. There are other offences, short of causing disloyalty. The conduct may not amount to causing disloyalty, but at the same time it may cause or tend to cause breach of discipline in the Army, for instance, some one may go and preach or send leaflets saying it is against their religion, or it is *haram*, to serve a foreign Government. (*Mr. K. B. L. Agnihotri*: "It is disloyalty.") It may not necessarily result in making them break the discipline of the Army. Still, it would be an attempt to do so. It is spreading disaffection. You need not object to the word. It is in the Penal Code. Mr. Agnihotri has not asked for that word in the Penal Code to be deleted. So these words are absolutely necessary in order to cover all

the various shades of offences which are likely to be committed by persons seditiously disposed. Then he says, at the end of the word "cantonment" words shall be inserted to the effect that the order shall last only for one year. He forgets that in this connection various safeguards have been provided, so that, whatever the order passed, the person against whom the order is passed has about eight different safeguards by which he can protect his interests. Why should the order be for one year? It would depend upon the nature of the offence. For instance, persons who have been guilty of sedition are sentenced sometimes to six years and sometimes to six months, so that it all depends on the nature of the man's offence or of the attempt the man has made to tamper with the loyalty and the discipline of the Army. But the section provides various safeguards by way of appeal, by way of the Local Government on its own motion calling for an inquiry, or being compelled on the application of the person concerned to call for an inquiry, but before this procedure comes into operation, there are various safeguards, namely, giving him a hearing before the order is passed and making the order state the reasons why it is passed. Then, later on, making an inquiry at which the person will be given a hearing. All these safeguards, which, I think, are eight in number are given in the section. I, for myself, cannot think of any further safeguards that may be introduced without practically nullifying the section. The Select Committee added two more to those which were originally in the Bill, and have made this provision such that it would be a silly Magistrate who would pass a perverse order, because as soon as he had done it, there are so many ways in which his order would be exposed. (*Mr. K. B. L. Agnihotri*: "The Magistrate may not be sitting"). The person concerned is given an opportunity of being informed of the grounds on which the order is made and of showing cause why it should not be made, and the order is set out in writing. It is sent to the Superintendent of Police, who causes it to be served on the person against whom it is passed. Then, it is sent to the Local Government. The Local Government may, of its own motion, and shall on application made to it by th person concerned, make an inquiry and the person has the right to appear at that inquiry and be heard in his own defence. The Local Government makes a report, and all this within one month from the date of his application. Then there is another provision made as to what will happen after one month. Clause (6) says:

"Any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the Officer Commanding-in-Chief, the Command, for the rescission of the same and, on such application being made, the said officer may, after making such inquiry, if any, as he thinks necessary, either reject the application or rescind the order."

Having regard to all these safeguards I do not think it is right on the part of Mr. Agnihotri to ask this House to make the amendments that he proposes.

Dr. H. S. Gour: Sir, after hearing my friend Mr. Samarth, I feel constrained to support the principle underlying Mr. Agnihotri's amendment, and I think if Mr. Samarth would advert to section 239, he would be immediately converted to a view opposite to that which he has expressed just now, because I should interrogate him on a few points and await his

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reply or that of those who support the original clause. In order to see the glaring defect which underlies this clause, will the Honourable Members pause and read the clause as it stands ? I recognise with Mr. Samarth that clause 239 is a great improvement upon the old section 216, but that is not enough. That section was enacted when this House was in a minority and the Executive Government could pass any legislation despite the protest of the representatives of the people. Are you going to stereotype a similar clause when you have a majority in this House, of which you cannot conscientiously approve. (*Mr. N. M. Samarth* : "It is not a similar clause.") We have been told, and that statement has been repeated times out of number, that this is an improvement and if you do not accept this clause, then the whole Bill is likely to be wrecked, and its beneficent provisions would not be given effect to because this is an integral portion of the new Cantonment Bill. Well, Sir, that is the alternative. Let this House stand by its rights and see that the freedom of man, that the liberty of man is not jeopardised by some false notion of accelerating the pace of a lame piece of legislation. Now, Sir, what does this clause lay down ? The Honourable the Home Member has been counting on his strength. I appeal to his conscience, not to his packed majority in this House. (*The Honourable Sir Malcolm Hailey* : "I have only a majority.") Will the Honourable Member now see to what class of persons this clause applies ? "If any person in a Cantonment." That person may be a house-owner, he may be an occupier of the house, not necessarily a new comer in the cantonment. Any person in a cantonment may be expelled under the provisions of this Bill, and there is no provision made in this connection for the payment of compensation consequent upon expulsion.....

Mr. Pyari Lal : May I rise to a point of order. We are concerned only with the amendment before the House. It is out of order to discuss the whole clause as my learned friend Dr. Gour is doing.

Mr. President : Dr. Gour !

Dr. H. S. Gour : Now, Sir, that is the first point, and Honourable Members will remember it when they vote on this proposition. I now pass to the next point :

"If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty, disaffection or breaches of discipline amongst any portion of His Majesty's forces, etc."

Now, I can well understand the meaning of the word "disloyalty," but I cannot understand what the Cantonment Code means by the word "disaffection." Honourable Members know that, after repeated amendments, we have threshed out something in the nature of a definition of the meaning of the word "disaffection" appended to section 124-A of the Indian Penal Code where it is laid down : "The expression disaffection includes disloyalty and all feelings of enmity." Then there are two very salutary exceptions :

"Comments and expressions of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting, or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

Second exemption :

"Comments expressing disapprobation of the administration or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

These are the explanatory clauses which by a process of exhaustion except from the purview of section 124-A all comments which the Legislature regards as constituting disaffection of a criminal character. But is there any exception here ? I see, Sir, in the interpretation clause a very large number of terms defined, but, if you turn to it, you look in vain for any definition either of "disloyalty" or of "disaffection" or of "breaches of discipline" within the meaning of the Cantonment Code. Now, Sir, it may be said that these are matters which must be left to the judgment of the Commanding Officer. If that is the argument, it is my very objection. If a man goes to a cantonment, how is he to know what is in the mind of the Commanding Officer when he expels a person, an old resident it may be of a cantonment area, that he has been guilty of disaffection towards His Majesty. I would therefore suggest that this is a pitfall, a trap for the unwary and this Legislature should resist with all the force at its back the passing of this clause unless it is made perfectly clear as to what is the exact meaning of the Legislature in defining these obscure, abstruse and vague terms.

Now, as the section develops, we get into greater depths. Later on, we find "or is a person who the Commanding Officer of the Cantonment has reason to believe is likely to do any such act." A prospective and possible person committing the offence or who is likely to commit the offence is to be laid by his heels and expelled from the cantonment. Now, my friend, Mr. Samarth, waxed very eloquent about the safeguards that this section provides. He tells us "look at the safeguards that have been provided." Surely my friend, with his large forensic experience at his back, could not be unaware of the fact that all the safeguards boil down to this that the matter is subject to inquiry by or at the direction of the Local Government. Now, Sir, when we were passing the Code of Criminal Procedure, I understood that it was the sense, at any rate of at least the majority of the Members of this House that wherever any judicial power was conferred upon the executive officers of Government, this House naturally resented it, and it has always required that a judicial act must be performed by a judicial officer with judicial experience ; and with this feeling it transferred from the District Magistrate a very large number of cases to the Sessions Judge. Now, I ask Honourable Members to recultivate that spirit and see whether an improvement cannot be effected in this section and whether we cannot substitute a judicial officer in the place of a purely executive officer such as the Local Government is bound to be. My friend, Mr. Samarth, says "look at clause 4." Now, I ask my friend, Mr. Samarth, to look at it for himself. What does it say ? It says simply this that, if the accused desires, the Local Government shall order an inquiry to be made. By whom ? By the District Magistrate. Now, Sir, I have told you a few seconds ago that, so far as the considered opinion of this House is concerned, it would rather trust the Sessions Judge than the District Magistrate, and, if you turn to the Indian Penal Code, which punishes an exactly analogous offence, the offence under section 124-A, it is exclusively triable by a Court of Sessions. I therefore suggest that,

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if any inquiry is to be made, it should be made by a judicial officer. Has any provision been made to that effect ? It has not, and I therefore suggest that this clause 4 which has been inserted by the Select Committee does not contain a necessary safeguard, that we should have expected in this connection.

Mr. W. M. Hussanally : May I also rise to a point of order. Dr. Gour is speaking to an amendment which is following this.

Mr. President : I allowed Mr. Samarth to reply to Mr. Agnihotri on the understanding that these questions, if discussed together now, cannot be discussed *seriatim* on the amendments which follow. The Assembly may, if it so desires, divide on subsequent amendments, but not debate them. I think it more convenient to take the whole subject together under the first amendment.

Dr. H. S. Gour : I thought my friend Mr. Wali Muhammad Hussanally was not enamoured of this clause, and, if I betray no confidence, he sympathised with my point of view and said that he would be glad if this clause was altered. If he has made a *volte face* in the meantime, I do not know the reason for it.

Now, Sir, it has been said that the accused will be heard. That is perfectly true, but I ask the Honourable Member in charge of the Bill whether he intends that the accused's pleader should be heard in this connection, because nothing is said here about the accused's pleader and nothing has been said by the Select Committee on this subject. I emphasise this point for a very good reason. The question as to what is disloyalty, disaffection or breach of discipline is a very difficult question. Cases after cases occur in the Law Reports where the learned Judges have striven to define without much satisfaction what is disloyalty, what is disaffection, and what constituted cognate offences of the character punishable under section 124-A. I therefore submit that, unless the accused has the assistance of counsel, he is not likely to give his explanation satisfactorily to himself or in the interests of justice. Now, I would like, therefore, the Honourable Member in charge of the Bill to assure the House as to whether the accused is to be heard or whether his pleader is equally entitled to be heard on behalf of the accused.

Now, Sir, this is all the safeguard, but, having made this safeguard, I should have expected that the accused would be entitled, as of right, to send his case up for the orders of the High Court. Honourable Members will remember that after long years of struggle in this country we have succeeded in placing on the Statute Book provisions similar to the Habeas Corpus Act and we are now in a position to go to the High Court and say that no executive officer of Government shall arrest and keep us in detention unless there is a judicial order in support of such detention. Now, Sir, I say by parity of reasoning that the High Court should be the final judge in the case of persons who have been expelled from a cantonment and against whom an order it may be has been passed that they shall not enter within those limits. Now, I submit, what difference in principle is there between the provisions of the two Acts, and I therefore ask this

House to support the amendment to the extent that, unless the Government are prepared to make some changes safeguarding the rights of the accused and giving him the right of trial before a judicial officer, preferably the High Court, we should be constrained to vote against this clause. It is not denied, indeed it could not be denied, that except in the very exceptional cases of cantonments in this country such a provision would not be tolerated by this House for a single moment. And what is the object of Government in stereotyping in an altered form a provision which has been obnoxious to the people of this country and which has been abused in the past, as is admitted alike by the Government and by those who champion this clause in this House.

I say, Sir, it is the primary and primitive right of a man to move about as he pleases in the British Empire, or at any rate in this country, and if his liberty is to be curtailed, it can only be done under the salutary restrictions which the law has placed upon the Statute Book. Let us not pass the provisions of section 239 for which we should afterwards be sorry. I therefore warn this House that there are numerous pitfalls in this clause 239 and the mere fact that the language of the section has been altered should not make Members of this House feel that there has been such improvement in the construction of this section as is likely to reduce its abuse to a minimum. After all, who are the Commanding Officers ? I do not for a moment wish to suggest to this House that they are not men of common sense, but I do suggest that they are not lawyers. They put their own interpretation of what is disloyalty, disaffection and breach of discipline. If there were a provision that the Commanding Officer shall lay his case before the Sessions Judge and say that " Upon these facts I want the expulsion of this man " and this Sessions Judge were to pass an order to that effect, I shall be satisfied, because there will be a judicial officer who would examine the proceedings and pass an order for his expulsion. Even if you cannot get a Sessions Judge, I am prepared to allow the District Magistrate to pass the order. But I say, Sir, that I would strongly oppose the mere fiat of the Commanding Officer expelling persons on those grounds. There is a remedy, but that remedy, as I have pointed out to the House, is wholly inadequate. I therefore beg to ask the House to remember that assuming for argument's sake that the Commanding Officer and the Local Government ask the District Magistrate to make an inquiry, and the District Magistrate finds that the man has been rightly expelled and therefore no action is necessary, that is an order passed by the District Magistrate within the meaning of clause 4. Now, I wish to ask the Honourable Members occupying the Treasury Benches, " Is this an order subject to the revisional jurisdiction of the High Court within the meaning of section 435 ? "

Mr. N. M. Samarth : He makes no order. He makes a report.

The Honourable Sir Malcolm Hailey : He makes an inquiry.

Dr. H. S. Gour : If he makes no order at all, so much the worse for that clause. I therefore submit that the report is a very inadequate report, because the accused has no relief at all, and there is no order by any judicial officer at any stage justifying his expulsion from the cantonment.

Rai Bahadur Bakshi Sohan Lal (Jullundur Division : Non-Muhammadan) : What remedy has he got after expulsion is ordered ?

Dr. H. S. Gour : One Honourable Member asks me if he is once removed from the cantonment in the cavalier fashion contemplated by section 239, what redress has he got. I answer " So far as I can see, none."

Mr. N. M. Samarth : He has got a remedy at common law.

Dr. H. S. Gour : Now, Sir, these are in short my grounds for supporting the principle underlying my friend's amendment, and I appeal to the Honourable Members on the Treasury Benches to meet us half way at any rate by amending clause 239 the provisions of which as they exist at present are far too drastic to be acceptable to this House.

Colonel Sir Henry Stanyon : Sir, I would ask this Honourable House to make a very careful study of section 239 (1)—it is simple enough—before it is led away by the eloquent address of my friend Dr. Gour, an address which completely missed the most essential part of this clause. This is not a case where the political rights and liberties of a civil population are being interfered with generally. This is not a case where the law of sedition is being re-enacted in a stricter fashion. One expression which Dr. Gour made use of—if I quote him correctly—shows how he himself has misunderstood this clause. He said that a house-owner or a respectable inhabitant of a cantonment may suddenly find himself charged with disaffection towards the troops. Now, in all common sense, I do not understand what that means. The object of clause (1) is this, that a particular section for whom cantonments are primarily formed, namely, His Majesty's forces, shall be prevented from committing breaches of discipline and shall be prevented from learning to entertain feelings of disaffection or disloyalty. What may be a perfectly proper and innocent act in relation to any other section of the community might be a very serious offence from the military point of view if done to influence troops. For example, a religious teacher with the very best of intentions may say to his congregation " Give up your time from 6 to 10 every morning, *at any expense of your work and business,* in praying to God." That is a teaching that might be commended everywhere, but if that teaching was given to troops who were bound by discipline to attend parade from 6 to 9, and had the effect of making those troops keep away, upon religious grounds, from that parade, that would be an offence under this section. That would be teaching them to commit breaches of discipline. Whether troops have reached a state of mind where they are likely to be disloyal or disaffected or to commit breaches of discipline—whether that condition has come about—who, in the name of commonsense, can be a better judge than their Commanding Officer ? He is the only man who can say that his troops are being led out of the right path. If a person who is living in the cantonment as a civil resident,—be he owner of property or be he anybody else, however big or however small—chooses to go and meddle with the troops and to lead them along the line of disloyalty or disaffection or breach of discipline, then, if there is any sense in having a cantonment area for the habitation of troops, one of the most urgent needs of such a condition of things is

that that man should be turned out of that area. There would be no consistency or sense in a Cantonment Act which did not provide some rule of that kind. The Select Committee have taken the course of making a very proper amendment. Instead of being dealt with in the old fashioned, summary, military style and shot out of the cantonment as quickly as a commanding officer might wish, an offender accused of seducing troops will be informed of the grounds on which an order of eviction is to be made, and he will be entitled to show the commanding officer reasonable cause why the order should not be made. Then the Act provides still further protection against an unjust order. The District Magistrate may be required to inquire, and the Local Government may be required to decide whether the commanding officer's order is correct. That is a very substantial protection, and if the Local Government is of opinion that the commanding officer's order is not correct, then the matter is to go up before His Excellency the Governor General in Council. Surely, that is complete protection for any misuse of what ordinarily is a matter that hitherto has been absolutely at the disposal of the military authorities. It does not matter to a commanding officer who the person is, but it does matter to him what that person does with the troops under his command. Troops are under special rules of discipline, and are placed in an area where that discipline can be exercised over them ; and if anybody comes there and interferes with those troops, the commanding officer has every right in reason and common sense to have that person removed from the area where he can interfere and meddle with the troops. This Act gives a great deal of liberty to the civil population,—political liberty which it did not possess before—and it only provides, side by side with that concession, that the giving of this political liberty shall not be made an opportunity for interfering with the troops who are in the cantonment. I ask the House very earnestly not to be led away by the eloquent and long argument suggesting that political rights and liberties are being interfered with. That is not so. In giving political rights and liberties to the civil population, care has been taken to protect the troops from being in any way injured thereby, and I entirely associate myself with my Honourable friend Mr. Samarth in saying that this amendment ought not to be accepted.

Mr. E. Burdon : Sir, it will perhaps assist the House in coming to a conclusion with regard to this amendment if I supplement the arguments of my Honourable Friends, Mr. Samarth and Sir Henry Stanyon by the cold light of a little fact. In 1922, the Government of India undertook to review the cases of all persons who during the preceding seven years had been expelled from cantonments under section 216 of the Cantonment Code on account of their political views and activities. The House will observe that I am referring here to section 216 of the Cantonment Code as it formerly stood, that is to say, the old section which my Honourable friend Mr. Samarth read out to the House. Well, Sir, Government found that there had been 27 such cases in that period of seven years, and I wish to emphasise that the Cantonment Act and Code including the old section 216 applied to 102 cantonments with an aggregate civil population of 706,000 individuals, and yet in those seven years only 27 cases had taken place—27 cases under the much more drastic provision which then existed. I think that this makes it very clear that even the

[Mr. E. Burdon.]

old section had not been grievously abused. I can say with certainty myself that it had not been abused because I undertook the review personally of all these 27 cases. Now the implication of what I have said might be held to be that this particular provision is unnecessary, but the further fact which I am about to state will show that this is not the case. During the seven years there were four years in which no case at all took place. All the 27 cases took place in the years 1919 to 1922, the period which witnessed the rise of the non-co-operation movement and the development of a propaganda which aimed at the subversion of Government. In other words, the section was not used except during that period, and I think every Member of the House will admit that during that period the necessity for such a section clearly existed.

My next point is this : it is an equally definite point. The clause which we have here, clause 239 of the Bill, merely reproduces, subject, of course, to the amendment made by the Select Committee, section 216 of the Cantonment Code as it was amended in 1922. My Honourable friend Mr. Samarth and my Honourable friend Sir Henry Stanyon have shown what ample safeguards exist in this clause, and the proof of this contention is to be found in the fact that since 1922 no case of expulsion has taken place in regard to which any complaint has reached Government. The sum and substance of the position of Government in this matter is this. Even the Mover of the amendment, Mr. Agnihotri, himself agrees that there must be a power of this character, and my Honourable friend Mr. Samarth and my Honourable friend Sir Henry Stanyon have shown quite clearly that if any power of this character is to exist it would be impracticable to whittle it down more than it has been whittled down by the revision of 1922 and by the further safeguards which have been imported into the clause by the Select Committee.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Mr. President : The question is :

"That in clause 239, sub-clause (1), after the word 'cantonment' at the end of the clause the words 'within a year from the date of such order' be added."

The motion was negatived.

Mr. President : Further amendment moved :

"In sub-clause (4), substitute 'Sessions Judge' for 'District Magistrate'."

The question is that that amendment be made.

The motion was negatived.

Clause 239 was added to the Bill.

Mr. President : The question is that clauses 240 and 241 do stand part of the Bill.

The motion was adopted.

Mr. K. B. L. Agnihotri : I beg to move :

"That in clause 242, the words 'with the previous sanction of the President' be omitted."

This clause 242 provides for the power of inspection by a Member of a Board of papers of the Board and certain institutions. It says that such papers could only be inspected with the permission of the President. I submit that Members of the Board should have every right to inspect every paper of the Board or institutions supported by or connected with the Board. A member is as much interested and responsible as the President himself and therefore I want him to be put on the same basis as the President, so far as the inspection of papers of the Board and the institutions are concerned.

Mr. E. Burdon : Any Honourable Member of this House who has any practical knowledge of the administration of municipal business, and it is essentially a municipal matter that we are dealing with, will realise that it would be most undesirable to omit the words to which my Honourable friend has taken exception. It must be recognised that the servants of a cantonment committee are the servants of the committee and not of the individual members, and it would place servants of the cantonment committee in a perfectly impossible position, if any individual member without giving notice, without going through any of the usual formalities of courtesy were to be at liberty to go into the office, to go into particular departments and insist on work being suspended, possibly the work of a tax collector, could insist on registers being produced and were to conduct a summary inspection of the work of the department. I am speaking from my own experience as Secretary of one of the largest municipalities in the North of India. I was Secretary of the Municipality of Delhi for something over two years and I know very well what I am talking about. After all, what is the difficulty ? What objection is there to going to the President and saying "I wish to inspect such and such a hospital to-morrow. I am told that there is a great deal of extravagance going on in regard to diets. May I have your permission to go. Will you kindly inform the medical officer in charge of the hospital that I am coming. Will you ask him to give me such facilities as I may require." What is the difficulty ? What possible objection can there be ? It is the customary procedure and it is the procedure which courtesy demands. The amendment may seem a very simple matter but carried into the administration of cantonment business it would be a very serious matter indeed and lead to great trouble, great inconvenience and much friction. I ask the House to reject the amendment.

Mr. President : The question is :

"That in clause 242, the words 'with the previous sanction of the President' be omitted."

The motion was negatived.

Clauses 242 to 253 were added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move :

"That in clause 254, sub-clause (1) (*a*), the word 'registered' be inserted between 'by' and 'post'."

Clause 254 provides for the mode of service of notices in the cantonment area. It provides that the notice may either be served by tendering it to the persons concerned or sending it by post. Now, Honourable

[Mr. K. B. L. Agnihotri.]

Members realise that it rather often happens that the letters sent by post do not reach the addressee. I have personal experience of such occurrences. I have sent papers to the Legislative Department and I found them missing. It may be that my servant did not post them or the postman did not deliver it. Letters sometime even get stuck in the letter boxes and remain there for sometime even for years. I have read such instances in English papers and such cases have also occurred in this country too. Thus there is a possibility that the letter by post may not reach the addressee. Under this clause even such an addressee will be deemed to have received the notice and be held liable for its non-compliance. It will be really very hard and therefore I suggest that the word 'registered' should be introduced before the word 'post,' so that there may be a guarantee that the letter would reach him.

Mr. L. Graham: Sir, the pathetic picture drawn by my friend, Mr. Agnihotri, not only leaves me cold but makes me tired.

If my learned friend Mr. Agnihotri had only taken the trouble before he framed this amendment to read section 27 of the General Clauses Act it would not have been necessary for me to read that section to this House. That section, Sir, runs as follows :

"Where any Act of the Governor General in Council or any Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression 'serve' or either of the expressions 'give' or 'send', or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post....."

Does the Honourable Member now wish to withdraw his amendment ?

Mr. K. B. L. Agnihotri: I beg leave to withdraw my amendment.

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

Mr. K. B. L. Agnihotri: I move, Sir :

"That in clause 254, sub-clause (1) (*b*), omit the words 'or servant'."

Now, the other mode of serving a notice has been provided by giving or delivering the notice to a servant. This provision has been objected to by the All-India Cantonment Association, and their objections to it are very reasonable. They say that it often happens in Indian households that the servant is an illiterate person and the paper left with him may not reach the master. But the service of the notice on a servant will be deemed to have been a proper service. I suggest that the words "or servant" be omitted. I would have accepted the delivery to be proper if instead of a servant, the notice was to be delivered to an agent of the owner of the house. The servant may be illiterate and negligent enough not to give that notice to the master. I propose that such a service should be deemed to be improper and the words "or servant" be omitted from the clause.

Mr. E. Burdon: Sir, the service of a notice, or whatever it may be, on a servant is a recognized custom in India, recognized as necessary in practice and also as a matter of convenience. The provision which we have here is also to be found in the United Provinces Municipal Act of 1916 and in the Central Provinces Municipal Act of 1922.

Dr. Nand Lal: Sir, I desire to say a few words on this amendment. It is simply extraordinary that a very peculiar provision is made here to the effect that if any notice is handed over to a servant that act should be considered a proper service. I submit that the word "servant" is very vague. The word "agent" is well-defined, and if that word had been used there would have been no objection. Now it may be that a servant may be a boy who is retained for bringing certain articles from the bazaar. He may be on his way to the house of his employer and the notice is handed to him. Sir, will that be deemed sufficient service? He may forget to deliver it or lose it. He is not really a true servant; he is employed for the purpose of carrying certain articles from the bazaar to the house. So therefore the word 'servant' is so vague that it is a great surprise to me that it has been incorporated in this clause. The Honourable Member in charge of the Bill has referred to certain previous Acts in which a like provision occurs. But if there is a mistake in those Acts, should we adopt it here? That is no argument. Two evils cannot make a right. Evil is evil. I respectfully submit that the insertion of this word is very ambiguous and it ought to be deleted. It won't harm the Government if they accept this innocent amendment which really is in favour of the clearness of the provision.

Bhai Man Singh: Sir, I know full well that in pressing for this amendment we depend solely on the mercy of the Treasury Benches. If the Honourable Mr. Burdon will be kind enough to understand our position he can secure the amendment, otherwise I know what its fate is to be. I would appeal direct to the Honourable Mr. Burdon and his friends to see how far this amendment is reasonable. Whenever we make a very reasonable demand, and a demand which costs the Government absolutely nothing, it does not take away the least little bit from the Government if they accept the suggestion. Now, so far as the provision itself is concerned, with all due deference I should say that there could be nothing more absurd than taking a service of notice to be properly made by giving the notice to the servant of the man concerned. Those who know anything about Indian Homes will understand the kind of servants we have. If I were to repeat stories of what my servants have done, you would really be astonished and every Member of this House would laugh over them and they would see what kind of servants we have. We are very often at a loss how to deal with them in the way of asking them to serve our dishes and in securing good vegetables from the bazaar. I really wonder how any responsible authority can say that a notice handed over to a man who hardly knows how to clean utensils should bind his master down, who, if he disobeys a notice which never reached him, may be hauled up criminally. And surely the Honourable Mr. Burdon can see the pitiable position of a gentleman whose servant lets him down in this way. And even a syce, a motor-cleaner or a chaukidar is a servant. Everybody is a servant. And if service on such people is to tie down a gentleman, then it affects everybody and not only Indians but Europeans. I know as a matter of fact that most European gentlemen somehow or other have a knack of getting good servants who are well trained. But it may be perhaps that their new chauffeur, their new chaukidar or even their new sweeper may be handed over a notice, and the master may be placed in a difficult position. I therefore request

[Bhai Man Singh.]

the Honourable Mr. Burdon to at least give very careful consideration to this point and delete a provision which is very drastic and absurd on the face of it.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 254 to 261 were added to the Bill.

Mr. President : Clause 262

Mr. K. B. L. Agnihotri : Sir, I move :

" That in clause 262, sub-clause (1) (*a*), substitute the words ' District Magistrate ' for the words ' the Commanding Officer of the Cantonment '."

Now in clause 26, Honourable Members will find that a provision has been made for the appointment of a committee of arbitration in certain cases, and those cases are that in the event of any disagreement as to the liability of the Cantonment Authority to pay any compensation under this Act or as to the amount of any compensation so payable, the person claiming such compensation may apply for the appointment of an Arbitration Board. This clause 262 provides that the Chairman of that Arbitration Board may be nominated, by the Commanding Officer of the Cantonment. Under the provisions of this Bill, the Commanding Officer of the Cantonment will generally be the President of the Cantonment Board, and he is the person who will directly be responsible and interested, as being one of the parties to the matter in dispute. Therefore, I think, Sir, that it is a very undesirable and improper provision that the person who is directly interested and directly liable should have the right of nominating the chairman, and therefore I provide that the chairman should be nominated by the District Magistrate of the place instead of the Commanding Officer of the Cantonment.

Mr. President : In clause 262, amendment moved :

" In sub-clause (1) (*a*), substitute the words ' District Magistrate ' for the words ' the Commanding Officer of the Cantonment '."

Mr. Burdon.

Dr. Nand Lal : With due deference, I rise to a point of order. With the greatest respect, may I ask the Honourable Chair whether he is in possession of the consolidated list of these amendments, or not ?

Mr. President : I am in possession of the consolidated list of amendments, and also in possession of information from the Honourable Member himself that he did not intend to be here this afternoon.

Dr. Nand Lal : I made a mistake, I came back.

Mr. President : I cannot help it, if the Honourable Member changes his mind, after informing me that he did not intend to move his amendments.

Dr. Nand Lal : If my absence.....

Mr. President : Order, order. Mr. Burdon.

Mr. E. Burdon : Sir, the constitution of the Committee of Arbitration which is proposed in this clause follows exactly the constitution of arbitration committees laid down in the Cantonment House Accommodation Act recently passed by this Assembly, and the point of the present amendment was on that occasion very carefully examined by the Select Committee on that Bill and by this House. It was considered then that this clause (*a*) contains a very liberal provision, in that it provides that the chairman of the arbitration committee shall in every case be a non-official ; that is what the House will find the clause provides for. I repeat, Sir, that committees of arbitration under this Act will, if this clause stands, be constituted in precisely the same way as this Assembly determined that committees of arbitration under the Cantonments House Accommodation Act should be constituted.

Dr. Nand Lal : Sir, at the very outset of the debate in connection with the Cantonment Board, I had the pleasure of expressing my view that I really think there is an improvement so far as this measure goes. But the wording of this section 262, especially sub-clause (*a*), leads me to believe that the reform which is alleged to have been given in this Bill is not such as could be expected. Now take the case, Sir, where the nomination will be made by the Commanding Officer of the Cantonment. Now he is, so to speak, at the helm of the whole executive administration, and if he is given this power to nominate, will you accept this assurance on behalf of the Government that there is any kind of reform in connection with representation ? Therefore, in brief, I submit that it would be meet and proper if, instead of the Commanding Officer, the words " District Magistrate " may be incorporated. It will not cause any damage to the provisions of this clause at all, it will satisfy the public that really there have been great improvements. With these few remarks, I support the amendment.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 262 to 273 were added to the Bill.

Mr. President : Clause 274.

Mr. K. B. L. Agnihotri : Sir, I move that :

" In clause 274, sub-clause (1), at the beginning of the sub-clause and before the words ' any person ', add the words ' any person aggrieved by any order of the Cantonment authority other than those described in the second column of Schedule V and in respect to which no other appellate authority has been specified, may appeal to the Officer Commanding the District and '."

Sir, this clause 274 makes provision for appeals against certain orders. Now the orders against which appeals have been provided for under this clause 274 are very limited indeed. In Schedule V there is mention of about half a dozen or dozen sections only the orders under which would be appealable and not in other cases. Now take the case of clause 133 of this Bill where a man may be ordered or may be obliged to close his cesspool, to stop his drain, to remove his receptacle of unclean water—in any such case he has no right of appeal as no such order has been made appealable under this Bill. There may be other orders which are unappealable and which I have not been able to notice at a casual glance, but I do think that there are provisions the orders under which also may necessitate an appeal, and I wish that the

[Mr. K. B. L. Agnihotri.]

framers of the Bill had the generosity to give the right of appeal in other cases also in which at present they have not provided any such right. Therefore, I suggest that even in those cases which have not been provided for in Schedule V there should be a right of appeal, and that the appeal may be made to the Commanding Officer of the District, who is the appellable authority specified in Schedule II. With this object, Sir, I move my amendment.

Mr. President: Amendment moved:

"In clause 274, sub-clause (1), at the beginning of the sub-clause and before the words 'any person' add the words 'any person aggrieved by any order of the Cantonment authority other than those described in the second column of Schedule V and in respect to which no other appellate authority has been specified, may appeal to the Officer Commanding the District and'."

Mr. L. Graham: Sir, I must confess that this wholesale provision of appeals is a perfectly terrifying proposition. Had the Honourable Member attempted to convince the House that there was a single case in which an appeal had not been provided and in which an appeal should be provided (*Mr. K. B. L. Agnihotri*: "Under section 133"), then he should have put forward an amendment asking for an appeal against an order under section 133 to the constituted appellate authority,—but to set up this pleaders' paradise of an appeal against everything is, I suggest, absolutely impossible as a proposition to be considered at this time of the day. We cannot do justice to this proposition without looking through the whole of this Bill, studying every order and seeing whether we agree that an appeal shall be allowed against it. This suggestion is positively preposterous.

Mr. President: The question is that that amendment be made.

The motion was negatived.

Clauses 274 to 292 were added to the Bill.

Schedules I and II were added to the Bill.

Dr. Nand Lal: Sir, I move a very modest amendment which is this:

"At the end of Schedule III, add the words 'by public auction'."

Mr. E. Burdon: Sir, I accept it.

The amendment was adopted.

Schedule III, as amended, was added to the Bill.

Schedules IV, V and VI were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

Mr. E. Burdon: Sir, I move that the Bill be passed. I have already talked a great deal to-day, the hour is very late and I do not propose to say more than a very few words indeed. All that I have to say is to express my acknowledgments to the Members of the Select Committee who took an infinity of trouble to dispose of this very heavy and very voluminous Bill in a remarkably short time with the object that the

Bill might be passed before the close of the last session of the first Legislative Assembly. The work which they did is, in my humble opinion, beyond all praise, and I merely wish once more to say how grateful I am to them all and more particularly to my Honourable friend Mr. Samarth who accepted the duties of Chairman and carried them out with marked success.

Mr. President : The question is :

"That the Bill to consolidate and amend the law relating to the administration of cantonments, as amended by the Select Committee and as further amended by the Assembly, be passed."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 27th July, 1923.