22nd February, 1922

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

SECOND SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1922

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LEGISLATIVE ASSEMBLY.

Wednesday, 22nd February, 1922.

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

QUESTIONS AND ANSWERS.

Aviation in India.

194. * **Mr. Ahmed Baksh Khan:** (*a*) Will the Government be pleased to state the number of civil aviation schools in British India which have been granted licenses to give instructions in aviation ?

(*b*) Will the Government be pleased to state the number of aeroplanes presented to the

(*a*) Ruling Princes of India,

(*b*) Europeans, and

(*c*) Indians ?

Colonel Sir S. D'A. Crookshank: (*a*) No licenses are required by Civil Aviation Schools to enable them to give instruction in aviation.

(*b*)	(*a*)	Indian States	20
	(*b*)	(1) European firms	10
		(2) European private persons . . .	28
	(*c*)	Indians	3

Indians in East Africa.

195. * **Mr. Ahmed Baksh Khan:** (*a*) Has the attention of the Government been drawn to the speeches delivered by Mr. Churchill and Lord Delemere at the East Africa Dinner held in London ?

(*b*) Is the Government aware that these speeches have created deep feelings of indignation and resentment among the Indians at large ?

(*c*) What steps, if any, do the Government propose to take in order to safeguard the interests of the Indians ?

Mr. J. Hullah: (*a*) and (*b*). Yes.

(*c*) Kenya is a Crown Colony and a Protectorate, and the final decision on the questions at issue rests with the British Government. The Government of India and the Secretary of State have taken steps to ensure that the British Government are fully apprised of the Indian case and of the necessity of reaching a settlement which will be in accordance with the principle embodied in the Resolution adopted at the last Imperial Conference regarding the status of Indians. This Assembly has already expressed its views on the question in the form of a Resolution which has been communicated by telegram to the Secretary of State for the information of the British Government and the

telegram has been published. What further steps the Government of India may take will depend on the further developments in the situation.

PREFERENTIAL TREATMENT ACCORDED TO WELLINGTON AND SANDHURST CADETS.

196. *Mr. Ahmed Baksh Khan: (*a*) Is it a fact that the following Cadets were given commissions on or about the dates mentioned against their names :

1. Indian Cadets from Indore College (about 40 Cadets) .	1-12-19
2. Cadets from Wellington Military College (about 20 Cadets)	17-12-19
„ „ „ „ „ (about 110 Cadets) .	29-1-20
3. Cadets from Sandhurst (about 60 Cadets) . . .	16-7-20

(*b*) Is it a fact that the Indian Cadets above referred to were superseded by the Wellington and the Sandhurst Cadets although they were senior to the two batches of the Wellington Cadets by 16 days and one month and a half respectively, and the Sandhurst Cadets by over seven months ?

(*c*) Is it a fact that in consequence of this wholesale supersession the Indian officers (*viz.*, Indore Cadets) sent in their resignations as a protest and that a good many of them were persuaded by His Excellency the Commander-in-Chief personally to withdraw their resignations ?

(*d*) Will the Government be pleased to state the actual number of resignations sent in, and the number of resignations accepted ?

(*e*) Will the Government be pleased to state the reasons for this preferential treatment having been accorded to the Wellington and the Sandhurst Cadets ?

Sir Godfrey Fell : (*a*) 1. 39 Indore College Cadets were given *temporary* commissions in the Indian Army (on probation) with effect from the 1st December, 1919.

2. 27 Cadets from Sandhurst were commissioned on the 17th December, 1919, and 104 Cadets from Wellington were commissioned on the 29th January, 1920.

3. 57 Cadets from Sandhurst were commissioned on the 16th July, 1920.

(*b*) Under the orders of the War Office, the Indore College Cadets were granted commissions with effect from the 17th July, 1920 so as to ensure that they were not senior to the Sandhurst and Wellington Cadets referred to in part (*a*) of the question, who had commenced their training at a date earlier than the Indore College Cadets commenced theirs.

(*c*) No. His Excellency the Commander-in-Chief interviewed two of the officers referred to on this subject, but it is not possible to say how far the officers were influenced by the interview.

(*d*) One resignation was sent in and accepted.

(*e*) In view of the reply given to part (*b*) of the question, this part of the question does not arise.

CANTONMENTS REFORM.

197. *Mr. Pyari Lal: (1) Have the Government of India considered the recommendations of the Cantonments Reforms Committee ?

(2) If so, is any legislation going to be undertaken on the basis of the said recommendations, and when?

Sir Godfrey Fell: (*a*) Yes.

(*b*) The Committee's recommendations relate to a variety of matters, some of which require legislation to put into effect, some involve administrative action not necessitating legislation, and some again can be effected by amendment of the Cantoment Code after prior publication in the Gazette of India.

As regards the first class, the Government of India are at present engaged in drafting a Bill to amend the Cantonment House Accommodation Act. They hope to introduce the Bill during the present Session. They are also considering the lines on which the Cantonments Act should be amended, but this is a heavy task and they see little prospect of initiating legislation in this Session.

The amendments, moreover, will, in some cases, depend upon the decision which may ultimately be arrived at regarding the second class, namely, those requiring administrative action.

As to these matters, the Government of India are consulting Local Governments regarding certain recommendations of the Committee, such as the exclusion from Cantonments of large sadar bazaars, the introduction of the elective principle into Cantonment Committees, and separation of the judicial and executive functions now combined in the person of the Cantonment Magistrate. It will obviously take some time to obtain and consider the views of Local Governments on these important proposals.

As regards the third class, a notification has already appeared in the Gazette of India on the subject of the amendment of section 216 of the Cantonment Code, and action is being taken to amend other sections.

I should like to add that, if my Honourable friend, or any other Members of this Assembly, who are interested in the reform of Cantonment Administration, would care to have further details as to the progress we are making, I shall be very happy to furnish them with information.

EXPENSE INCURRED BY THE CENTRAL GOVERNMENT IN ANSWERING QUESTIONS.

198. ***Mr. R. A. Spence:** (1) Can Government give this House an estimate of the expense incurred by the Government of India (apart from Provincial Governments) in answering questions put (*a*) in this Assembly, (*b*) in the Council of State during (*i*) the first Sessions, (*ii*) the second Sessions, and (*iii*) the present Sessions up to the 1st February?

(2) Does the Government estimate of cost include the cost to Government of the salary drawn by officers of Government during the time spent by them on answering these questions? If not, can Government give an estimate of such further cost?

The Honourable Dr. T. B. Sapru: In order to estimate the cost to Government of the questions put in the Central Legislature since its inauguration, Government would have to take into consideration a large number of

factors. The notices are printed, the questions in their admitted form are printed for the purposes of the List of Business, and finally, questions and answers appear in printed form in the Debates. As the Honourable Member's question rightly indicates, any estimate of the cost should take into account part-salaries of the officers of the Government who, in the Legislative Department, are engaged in examining and revising questions from the point of view of admissibility, and in all Departments are entrusted with the preparation of answers. The Honourable Member's attention is drawn to the facts stated in that portion of the Report of the Select Committee on the Standing Orders which refers to Standing Order 18. The Committee reported to the Assembly on the 2nd of this month that the cost of printing the answers to five questions only cost nearly Rs. 2,500. This sum by no means represents the total cost to Government of the five questions referred to. The Honourable Member will no doubt realise that considerable expense is involved in dealing with notices of questions which are not admitted and therefore are not put. For these reasons, the Government regret that they are unable to make the calculations asked for by the Honourable Member though they feel that the figures, if obtained, might prove both useful and illuminating.

Mr. K. Ahmed: Has the Honourable the Law Member got any idea of the expense that is incurred in the House of Commons, House of Lords and other Houses in Colonies such as Australia, Canada, etc. ?

The Honourable Dr. T. B. Sapru: I can ascertain that by a reference to the proper books.

EXPENDITURE ON THE REPRESSIVE LAWS COMMITTEE.

199. ***Rai Bahadur Pandit J. L. Bhargava:** Will the Government be pleased to lay on the table a statement showing the expenditure incurred on the Repressive Laws Committee?

The Honourable Sir William Vincent: A statement showing the expenditure incurred is placed on the table.

REPRESSIVE LAWS COMMITTEE.

EXPENDITURE.

Travelling and local allowances of Members of the Committee.

Members names.	Amount.		
	Rs.	A.	P.
Sir Sivaswamy Aiyer	400	0	0
Mr. N. M. Samarth	921	8	0
The Honourable Mr. Bhurgri	814	2	0
Dr. H. S. Gour	872	4	0
The Honourable Mr. E. L. L. Hammond	1,191	6	0
Mr. J. Chaudhuri	787	2	0
Total	4,986	6	0

Travelling and local allowances of non-official witnesses.

Witnesses names.	Amount. Rs.	A.	P.
Pandit H. N. Kunzru	304	8	0
Mr. Anand Narain Sewal	192	4	0
Babu K. K. Mitter	527	2	0
Mr. N. A. Dravid	476	12	0
Mr. B. B. Desai	541	8	0
Mr. G. A. Natesan	974	8	0
Dr. Alamum Suhrawardy	588	8	0
Mr. Dwarka Nath	421	6	0
Mr. Manohar Lal	192	4	0
Mr. Mohamed Yunus	410	0	0
Mr. Tahl Ram	332	12	0
Mr. Sanjiva Rao	314	8	0
Total	5,276	0	0

Travelling and local allowances of official witnesses.

Witnesses names.	Amount. Rs.	A.	P.	
Major Ferrer	202	0	0	(Approximately.)
Mr. W. W. Smart	485	4	0	
Mr. J. Donald	517	0	0	
Total	1,204	4	0	

Stenographers Fees.

One Home Department Stenographer	260	0	0
Total	260	0	0

TOTAL EXPENDITURE.

Particulars.	Amount. Rs.	A.	P.
1. Travelling and local allowance of Members of the Committee	4,986	6	0
2. Travelling and local allowances of non-official witnesses	5,276	0	0
3. Travelling and local allowances of official witnesses	1,204	4	0
4. Stenographers fees	260	0	0
GRAND TOTAL	11,726	10	0

Mr. K. Ahmed : Will the Government be pleased to state what was the amount of money spent during the last visit of His Excellency the Viceroy to Calcutta when the Honourable Members of the Executive Council went there to meet at 'Belvedere' in Alipur to discuss the Round Table Conference with regard to the present repressive measures ?

The Honourable Sir William Vincent : I am afraid I cannot hear the Honourable Member.

Mr. K. Ahmed : What was the amount of money spent by Government for repairing 'Belvedere' this year ?

Mr. President : The Honourable Member had better give notice of that question.

INSTALLATION AND WORKING OF WIRELESS STATIONS IN INDIA.

200. ***The Mr. P. L. Misra :** (1) Will Government be pleased to lay on the table a statement showing :

(*a*) The total number of wireless telegraph stations in British India, now being worked by the Indian Telegraph Department,

(*b*) Their location, and

(*c*) Capital expenditure incurred up to date, on each of the above stations ?

(2) Were the stations referred to above erected by a Wireless Telegraph Company ? If so, will Government be pleased to state the name of the Company and the terms on which it carried out the installation ?

(3) Will Government be pleased to state as to what has been, in actual working, the maximum distance range for sustained direct communication of each of the above stations, also specify the corresponding wattage capacity of the generating plant of each station ?

Colonel Sir S. D'A. Crookshank : 1. (*a*) 22.

(*b*)

(1) Bombay (2) Calcutta (3) Karachi (4) Madras (5) Allahabad (6) Delhi (7) Lahore (8) Maymyo (9) Nagpur (10) Peshawar (11) Quetta (12) Secunderabad	Power 30 KW Spark also 5 KW Spark.	
(13) Mhow	10 KW Spark 6 KW C. W.	
(14) Port Blair (15) Rangoon (16) Victoria Point	10 KW Spark.	
(17) Diamond Island	5 KW Spark.	
(18) Jutogh	5 KW Spark.	
(19) and (20) Sandheads	P. S. V. Fraser ,, Lady Fraser ½KW Spark.	2 stations.
(21) Patna (22) Poona	500 watts tonic train.	

(*c*) The information is being collected.

2. No.

3. Guaranteed normal working—but stations 1 to 13 inclusive enumerated at (*b*) above regularly communicate with each other and with Jutogh.

Recently Mhow communicated at 3,100 miles with H. M. S. 'Renown' and maintained communication until that vessel arrived at Bombay. As regards wattage capacity, attention is invited to the answer to part (*b*) of the question.

EXPENDITURE ON RESEARCH AND EXPERIMENTAL WORK IN WIRELESS TELEGRAPHY AND TELEPHONY IN INDIA.

201. * **Mr. P. L. Misra**: (*i*) Will Government be pleased to lay on the table the total expenditure incurred on research and experimental work by the Indian Telegraph Department during the year 1921, as regards:

(*a*) Wireless telegraphy, and

(*b*) Wireless telephony,

including apparatus, plant, salaries, wages, etc., in each case that is, (*a*) and (*b*)

(*ii*) Will Government be pleased to lay on the table a similar statement for the year 1922?

Colonel Sir S. D'A. Crookshank: The attention of the Honourable Member is invited to pages 47 and 48 of the Posts and Telegraphs Budget for 1922-23 (second edition). As the expenditure involved on research work alone is included with the total expenditure incurred on the Wireless School, Training Centre and Repairs shops, the detailed statistics asked for are not readily available.

Attention is invited in this connection to the reply given to part (*c*) of Question No. 202.

RESEARCH WORK IN THE INDIAN TELEGRAPH DEPARTMENT.

202. * **Mr. P. L. Misra**: (*a*) Will Government be pleased to state the definite pieces of research work carried out by the Indian Telegraph Department during the year 1921, with their results?

(*b*) The character of the research undertaken, and

(*c*) The expenditure incurred thereon?

Colonel Sir S. D'A. Crookshank: Sir, as the answer to this question, even after it has been cut down as much as possible, covers no less than three pages, with your permission, I propose to lay it on the table.

(*a*) The following items of research work were carried out by the Wireless Branch:

(1) A new 6 kilowatt valve set with high speed transmission was installed and tested at Mhow. Dictaphone reception was tried in the case of Spark and Continuous Wave stations other than Mhow. It was found to be unsuited to Continuous Wave work.

(2) Valve receiving apparatus from England was fitted at 11 stations. Instructional pamphlets were issued and staff trained in use of same apparatus.

(3) Elimination of local noises with special reference to power mains in the Fort at Calcutta. Various devices were tried, but it was decided that in the event of Calcutta Radio being required to deal with heavy traffic, it would be essential to erect a separate Receiver elsewhere.

(4) Some preliminary work was carried out with Duplex telephony which was subsequently stopped on learning that suitable apparatus was being sent from England.

(5) In connection with the temporary provision of wireless communication between Ajmer and Bikaner on the occasion of His Royal Highness the Prince of Wales' visit, it was necessary to place two valve transmitting stations in close proximity. Investigation was carried out as to whether any difficulty would arise owing to influence of one set on the other.

(6) The design for apparatus for testing valves was drawn up and is now awaiting manufacture.

(7) Considerable work was done on reception in India of European Stations, particularly Carnarvon and Leafield. A special receiver was constructed and observation carried out for several months when personnel was available. Press messages were received from Carnarvon and Leafield regularly and a quantity of valuable information obtained. These observations are being continued.

(8) An independent oscillation generator for long wave lengths was required in connection with (7) above. Instruments were designed and made, and proved satisfactory.

(9) Special grid control for high speed transmission was applied satisfactorily to a half kilowatt valve set. This work was discontinued as it was found that this work had already been carried out in England.

(10) A temporary direction finding station was erected at Karachi and a few observations made from time to time as personnel was available.

(*b*) The above instances of the research work undertaken sufficiently illustrate its general character.

(*c*) Steps are being taken to obtain particulars as to cost but, owing to shortage of personnel and apparatus, it has not been possible to employ separate establishment solely on experimental work so that expenditure in many cases can not be separated from other expenditure.

REPORTS ON WIRELESS TELEGRAPHY AND TELEPHONY.

203. * **Mr. P. L. Misra :** (*a*) Does the Indian Telegraph Department publish reports on Wireless Telegraphy and Telephony ?

(*b*) If the answer be in the negative, will Government be pleased to do so in future in order to stimulate interest among Indians in this scientific work ?

Colonel Sir S. D'A. Crookshank: (*a*) At present only such reports as do not pertain to technical matters are published.

(*b*) With effect from April 1922, reports dealing with technical matters of use to India will also be published.

Mr. P. L. Misra: May I put a Supplementary Question, Sir? Is there any report published regarding any original discovery or invention in wireless telegraphy?

Colonel Sir S. D'A. Crookshank: I think the reply to that question will be found in the reply which I have just placed on the table in connection with Question No. 202.

PARTICULARS OF OFFICERS ENGAGED IN WIRELESS TELEGRAPHY AND TELEPHONY.

204. * **Mr. P. L. Misra:** Will Government be pleased to lay on the table the following information:

(*a*) Names, (*b*) scientific qualifications, (*c*) salaries of officers engaged on research work in connection with Wireless Telegraphy and Telephony, (*d*) the period for which they have been engaged, and (*e*) the places they have been carrying on the experiments?

Colonel Sir S. D'A. Crookshank: (*a*) Mr. P. J. Edmunds, Wireless Research Officer.

(*b*) Open Mathematical Scholar, Queen's College, Oxford. Obtained 1st Class Honours Mathematics, B. A. Oxon. Thesis on Electrical Research work accepted for Degree of B. Sc Oxon.

Employed on special scientific wireless work in the Army during the war (1915-19).

Demobilised with rank of Captain R. E.

Research Engineer to Marconi Company, March—November 1919.

(*c*) Rs. 775—1,625 (inclusive of overseas and technical pay).

(*d*) Permanently employed in the Post and Telegraph Department.

(*e*) Chiefly at Karachi but also at other stations where found necessary.

STAFF ENGAGED ON WIRELESS COMMERCIAL AND RESEARCH WORK IN INDIA.

205. * **Mr. P. L. Misra:** Will Government be pleased to give the following information:

(*a*) Total number of superior staff, assistants and telegraphists at present engaged by the Ind an Telegraph Department on wireless work, commercial and research work, and

(*b*) Percentage of Europeans, domiciled Europeans, and Indians, respectively, mentioned in (*a*)?

Colonel Sir S. D'A. Crookshank:

(*a*)	Superior Staff	5
	Assistants (Upper Subordinates)	10
	Subordinate Operating staff	about 140
(*b*)	Europeans	46 per cent.
	Domiciled Europeans	54 per cent.
	Indians	*Nil*

TRAINING OF INDIANS FOR WIRELESS TELEGRAPH SECTION.

206. * **Mr. P. L. Misra:** (*a*) Will Government be pleased to state if the Indian Telegraph Department has formulated any scheme for the training and enlistment of Indians in the Wireless Telegraph Section?

(*b*) If so, will Government be pleased to state the date on which such a scheme will be put into operation?

Colonel Sir S. D'A. Crookshank: (*a*) Yes.

(*b*) The scheme is already in operation and the first class will commence training next month.

Mr. P. L. Misra: May I ask a Supplementary Question in this connection, Sir? What was the annual approximate output as a result of the working of the scheme?

Colonel Sir S. D'A. Crookshank: I will make inquiries and inform the Honourable Member in due course.

PARTICULARS ABOUT MAJOR LEE AND HIS RESEARCH WORK IN WIRELESS TELEGRAPHY.

207. * **Mr. P. L. Misra:** Will Government be pleased to state:

(*a*) The scientific qualifications of Major A. G. Lee who is reported to have arrived in India to conduct certain experiments in wireless telegraphy,

(*b*) The period for which he has been engaged,

(*c*) The salary he will draw, and

(*d*) The character of research work he will undertake?

Colonel Sir S. D'A. Crookshank: (*a*), (*b*) and (*c*). The Government of India have no information on these points.

(*d*) Major Lee is in the permanent employ of, and was sent out by, the British Post Office, with the permission of the Government of India, to carry out receiving tests in India from the Imperial Station at Leafield (Oxon.), and to investigate other aspects of wireless reception in India for the information of the Technical Commission which is planning the Imperial Wireless Scheme. Major Lee has now proceeded to Cairo for a similar purpose.

He draws no salary from the Government of India.

Mr. P. L. Misra: May I ask a Supplementary Question, Sir?

Will Government be pleased to state what was the substantive appointment of Commander Nicholson before he joined the Government of India?

Mr. President: It does not arise out of the question. The Honourable Member must give notice.

TRAINING OF AFGHAN STUDENTS IN WIRELESS TELEGRAPHY.

208 *Mr. P. L. Misra: Will Government be pleased to lay on the table the following information:

(a) Number of Afghan students trained in India in wireless telegraphy?
(b) Names of places where they were trained?
(c) Average period of their training as wireless operators?
(d) Expenditure incurred on their training?
(e) Who bore the expenditure, the Afghan Government or the Government of India? If the latter, to what head it was charged?

Mr. Denys Bray: (a) 6 students were sent out for training but only 5 completed the course.

(b) Karachi

(c) 10½ months.

(d) and (e). The Afghan Government bore all expenses with the exception of about Rs. 1,350 on account of an interpreter's salary, which was borne by the Government of India. The head to which this is charged is not yet known, but I will make inquiries and let the Honourable Member know in due course.

PARTICULARS OF TELEGRAPH EQUIPMENT PRESENTED TO THE AFGHAN GOVERNMENT.

209. *Mr. P. L. Misra: Will Government be pleased to state:

(a) The total cost of telegraph equipment presented by the Government of India to the Afghan Government?
(b) Mileage the equipment will cover?
(c) Do the Government of India propose to carry out the erection?
(d) The total expenditure of this erection, and
(e) The head the expenditure will be debited to?

Mr. Denys Bray: (a) About Rs. 4,40,000 exclusive of transport charges from railhead into Afghanistan.

(b) 460 miles.

(c) No.

(d) Therefore does not arise.

(e) 29—Political.

APPLICATION FOR LICENSE FOR WIRELESS COMMUNICATION BETWEEN INDIA AND ENGLAND.

210 *Mr. P. L. Misra: Will Government be pleased to state:

(a) If an application has been received from an Indian financier for license to work wireless telegraph direct between India and England?
(b) If so, will Government be pleased to state the name of the applicant and the terms of the license?
(c) Has the applicant specified the name of the wireless telegraph company that will erect and work the wireless station for him?
(d) If so, will Government be pleased to give the name of the company?

Colonel Sir S. D'A. Crookshank: (*a*) Yes.

(*b*) Government do not propose at this preliminary stage in the proceedings to disclose the name of the applicant. No license has yet been arranged.

(*c*) Yes.

(*d*) Messrs. Marconis Wireless Telegraph Company, Limited.

COST OF ASSESSMENT AND COLLECTION OF CUSTOMS DUTY ON POSTAL ARTICLES RECEIVED IN INDIA.

211. * **Mr. Darcy Lindsay†:** (*a*) Will Government be pleased to state the approximate annual cost of assessing and collecting customs duty upon postal articles coming to India?

(*b*) What proportion of this amount has to be borne by the Department of Posts and Telegraphs?

(*c*) Is there any special Department established and maintained in district post offices for the collection of customs duty levied on postal articles?

(*d*) If the answer is in the affirmative, what is the approximate annual expenditure upon this establishment and is the whole cost borne by the Department of Posts and Telegraphs?

The Honourable Mr. C. A. Innes: The information will be collected and will be laid on the table when available.

POSTAL ARTICLES AND CUSTOMS DUTY IN INDIA.

212. * **Mr. Darcy Lindsay†:** (*a*) Will Government be pleased to state the total number of postal articles received in India during the financial year 1919-20 and 1920-21 upon which customs duty was assessed, stating also the amount of customs duty in each year?

(*b*) What is the approximate number of postal articles of the value of £5 and under annually assessed with customs duty and what is the total amount of customs duty upon such articles during the above periods?

(*c*) Would it be feasible to exclude from customs duty all postal articles of the declared value of £5 and under?

The Honourable Mr. C. A. Innes: The information will be collected and will be laid on the table when available.

COST OF DR. NORMAN WALKER'S DEPUTATION.

213. * **Mr. K. G. Bagde:** Will the Government be pleased to state:

(*a*) What will be the expenditure, at least approximate, incurred in connection with the inquiry to be held by Dr. Norman Walker and others into the condition of Medical Training in India?

(*b*) What share of this expenditure would be borne by the Central Government, and what share, if any, will be respectively borne by different Provincial Governments?

(*c*) What will be the total amount of costs incurred in connection with the deputation of Dr. Norman Walker?

Mr. H. Sharp: The estimated expenditure from central revenues in connection with the deputation of Dr. Norman Walker and the Medical Officer appointed by the Government of [illegible] to accompany him is Rs. 14,700.

†The Honourable Member being absent, the question was put by Sir Frank Carter.

The Government of India have no information as to the expenditure which will be incurred by the Local Governments concerned. It is proposed that three medical men, one official and two non-officials, in each of the provinces concerned, should assist Dr. Walker and his colleague. Any expenditure on this account will be met from provincial revenues.

UNSTARRED QUESTIONS AND ANSWERS.

RECORD OF STATEMENTS SUPPLIED TO INDIVIDUAL MEMBERS IN REPLY TO QUESTIONS.

267. **Mr. B. H. Jatkar:** With reference to the statements of information supplied to individual Members of the Assembly, in reply to their questions, and not printed in the official reports of the Debates, will Government kindly have a file of such statements kept in the Library for each Session separately?

The Honourable Dr. T. B. Sapru: A file of the statements referred to by the Honourable Member will in future be kept in the Library, for each Session separately.

WEDNESDAYS AS HALF HOLIDAYS.

268. **Mr. B. H. Jatkar:** With reference to the answer to Question No. 147, printed at page 1585, Legislative Assembly Debates, Volume II, No. 16, will the Government kindly state the reasons for treating Wednesdays as half-holidays in the Department concerned?

The Honourable Sir William Vincent: Thursday is a universal holiday throughout the Army in India. Instead of granting a full holiday on Thursdays, a half holiday was, before the war, allowed on all Wednesdays to the Establishments of the Army Headquarters Offices owing to these being largely composed of soldier clerks. During the war, all holidays ceased, but in November 1920, the Wednesday half holiday was re-instituted for Army Headquarters and an order was issued that the same practice should be followed in the Army Department Secretariat. This order has not, in practice, been followed, since every one in that Department works on Wednesday afternoon, just as on any other afternoon. However, the order has been formally cancelled.

DEFICIENT PLATFORM LIGHTING AT MORIANI STATION.

269. **Rai D. C. Barua Bahadur:** (*a*) Is it a fact that at such a big and important junction station as Moriani on the Assam-Bengal Railway no lamps are kept burning at night between arrival and departure of trains on the platform?

(*b*) Is it a fact that owing to darkness of night intending passengers find it very difficult to find out their compartments, especially to avoid entering those compartments that are meant for ladies?

(*c*) Is it a fact that in the Assam-Bengal Railway the words 'For Ladies only' on those compartments meant to be reserved for ladies are not writte

on conspicuous parts, and in darkness as stated in part (*a*) of this question they cannot be seen by lighting of match in the pocket?

(*d*) If the answers to the above questions or any of them be in the affirmative, will the Government be pleased to issue necessary instructions for removal of those defects?

Colonel W. D. Waghorn: (*a*) and (*b*). No. The lamps which are lighted at dusk are extinguished after the departure of the last train at 2-50 A.M.

(*c*) I don't quite understand the question. But compartments reserved for ladies are clearly distinguished from others.

(*d*) The further improvement of the platform lighting arrangements at stations on the Assam-Bengal Railway as a whole is receiving the attention of the railway authorities.

HARDSHIPS OF PASSENGERS DURING MORADABAD EXHIBITION OWING TO OVER-CROWDING ON THE OUDH AND ROHILKHAND RAILWAY.

270. **Mr. Syed Nabi Hadi:** With reference to the Resolution passed by the Legislative Assembly on 12th January, 1922, submitting recommendations to His Excellency the Governor General in Council to adopt measures to avoid over-crowding in the railway compartments, will the Government be pleased to state whether they are aware that:

(*a*) There was a very insufficient number of passenger carriages in the train which runs between Chandpur Siao and Moradabad of the Oudh and Rohilkhand Railway during the Moradabad Exhibition week last week?

(*b*) Passengers had to travel in goods trucks and coal carriages owing to heavy traffic on those days?

(*c*) Those passengers who for want of accommodation used higher class compartments in this train had to pay penalty charges in addition to the excess fares?

Colonel W. D. Waghorn: (*a*) It is reported that the accommodation provided in the train referred to was ample for the number of passengers travelling during the Exhibition week.

(*b*) Goods wagons were not attached for the accommodation of passengers.

(*c*) Excess fares amounting to Rs. 22-2-0 were recovered during the Exhibition week from 11 passengers who were found to be travelling in accommodation of a class higher than that by which they had booked.

STATEMENT LAID ON THE TABLE.

The Honourable Sir William Vincent (Home Member): Sir, may I now lay on the table the information promised in reply to a question* by Mr. N. M. Joshi on the 10th March, 1921, regarding cases dealt with during the years 1918, 1919, and 1920 under certain enactments relating to breach of contract of service.

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* *Vide* Legislative Assembly Debates, Vol. I, page 849.

Statement containing information re : *cases dealt with during the years 1918, 1919 and 1920 under certain enactments relating to breach of contract of service promised on the 10th March, 1921 in reply to a question by Mr. N. M. Joshi.*

1918.

Name of Province.	Workman's Breach of Contract Act, 1859.			Indian Penal Code, 1860, Chapter XIX.			The Assam Labour and Emigration Act, 1901, or the Madras Planters' Labour Act, 1903.		
	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.
Madras*	3,071	1,216	1,784	55	53	2	902	195	665
Bombay	1,638†	1,403*	102*	1	1*	...	...	...	...
United Provinces*	730	333	387	61	56	4	...	...	...
Punjab*	1,505	1,356	104	43	39	11	...	...	...
Burma	1,386	1,382*	91*	10	...	14	...	...	...
Bihar and Orissa	...	...	...	12	12*	...	22	3*	18*
Central Provinces	1,239	683*	187*	3	4*	...	3	...	...
North-West Frontier Province.	267	172	92	19	13	6	...	...	...
Coorg	3,034	2,356	11	...	...	...	...	...	...
Delhi	53	53	...	...	...	...	...	...	...
Bengal*	237	97	137	26	18	8	...	...	...
Assam*	325	115	203	22	20	2	10	7	3

1919.

Name of Province.	Workman's Breach of Contract Act, 1859.			Indian Penal Code, 1860, Chapter XIX.			The Assam Labour and Emigration Act, 1901, or the Madras Planters' Labour Act, 1903.		
	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.
Madras*	3,505	1,409	2,030	28	14	14	1,213	400	725
Bombay	3,083	2,831*	385*	2	3*	1*	...	...	...
United Provinces*	1,321	711	587	61	57	4	...	...	...
Punjab*	1,891	1,647	181	51	33	18	...	...	...
Burma	1,835	1,870*	158*	14	...	...	...	...	...
Bihar and Orissa	...	...	...	23	25*	1*	33	11*	20*
Central Provinces	832	400*	123*	8	2*	...	9	...	7†
North-West Frontier Province.	227	148	79	1	...	1	...	...	...
Coorg	4,083	2,589	10	...	...	...	...	...	...
Delhi	71	71	...	...	...	...	...	...	...
Bengal*	267	119	144	15	12	3	...	...	...
Assam*	317	109	208	...	...	...	7	4	2

1920.

Name of Province.	Workman's Breach of Contract Act, 1859.			Indian Penal Code, 1860, Chapter XIX.			The Assam Labour and Emigration Act, 1901, or the Madras Planters' Labour Act, 1903.		
	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other province, or otherwise disposed of	Convicted.	Under trial during the year.	Acquitted, discharged, died, escaped, transferred to other Province or otherwise disposed of	Convicted.
Madras*	3,325	1,337	1,001	40	39	1	1,195	207	973
Bombay	3,568	2,213*	278*	5	5*	...	...	...	...
United Provinces*	823	389	399	75	71	4	...	...	...
Punjab*	1,764	1,538	167	122	84	25	...	...	...
Burma	1,947	1,772*	134*	5	...	...	...	...	...
Bihar and Orissa	...	...	...	27	27*	9*	13	2*	10*
Central Provinces	1,351	603*	210*	3	1*	2*	2	1*	1*
North-West Frontier Province.	227	193	34	7	4	3	...	...	...
Coorg	4,746	2,827	33	...	...	...	...	...	...
Delhi	170	168	2	...	...	...	...	...	...
Bengal*	485	332	125	31	19	12	...	...	...
Assam*	445	179	262	8	8	...	33	5	28

*No. of persons. †No. of cases filed during 1918. The Assam Labour and Emigration Act, 1901, is apparently in force in Bihar and Orissa and the Central Provinces also.

MESSAGE FROM THE SECRETARY OF STATE.

The Honourable Sir William Vincent (Home Member) : Sir, may I also read out a Message which I have received from the Right Honourable the Secretary of State in reply to a telegram sent by the Government of India on the 13th of February last at the request of the non-official Members of this Assembly? Secretary of State wires as follows :

'Please convey to non-official Members of Legislative Assembly my grateful thanks for their inspiring Message. I can only show my thanks for their confidence by continuing to do my best in service of India.'

THE INDIAN LIMITATION (AMENDMENT) BILL.

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

'That the Report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908, be taken into consideration.'

This Bill has had a somewhat varied career. It went to a Select Committee last year and was amended in various particulars. In fact, it was amended in so many important respects that the Assembly thought it better later to direct that it should be further circulated for the opinion of Local Governments. Later we received the opinions of Local Governments and a new Select Committee has sat on that Bill and has amended it still further. The Committee consisted of eminent lawyers of this Assembly, and I can assure the House that it has been submitted to very careful scrutiny. When I say that it has been under the eagle eye of Mr. Mukherjee, I believe that the Assembly will be satisfied that no detail was left unexamined. There were also lawyers from the Central Provinces, from Bombay and Madras on the Committee and I really believe that as the Bill stands now, it is not open to any objection.

The motion was adopted.

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

The motion was adopted.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

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

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

I do not propose to detain the Assembly for any length of time over this Bill either. The changes that have been made in the Select Committee, which is really the second Committee that has sat on this Bill, are fully explained in the Report of that body.

The modifications that were suggested by Honourable Members in the measure, when it was last before the Assembly, were placed before that Committee in order that the criticisms might be fully examined, and I believe

that the Bill as now modified is open to no serious objection. I will deal with particular amendments (including one of my Honourable friend, Sir Deva Prasad Sarvadhikary, which is mainly of a drafting character), later on.

The motion was adopted.

Mr. President : Clause 1.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg leave to move the amendment which stands in my name. In the title of the Bill . . . . .

Mr. President : The Honourable Member must move his amendment to clause 1. The title of the Bill comes last.

Mr. K. B. L. Agnihotri : My amendment is :

'In clause 1 insert the following as sub-clause (*2*) :

'(*2*) Nothing in this Act shall apply to any suit or proceeding under the Provincial Small Cause Courts Act, 1887.'

Sir, my reasons for moving this amendment are that the proceedings in the Small Cause Courts are very summary and very brief. Practically no record of the evidence is kept in those Courts. There will be no material for an Appellate Court on which they could be able to decide in the event of an appeal. Moreover, Sir, the judges of the Small Cause Courts are always in a hurry to decide cases and, having regard to human weaknesses, we find that generally people do not get proper justice.

The object of this amendment is to restrict the provisions of this Bill only to those cases which are tried on the regular side under the Civil Procedure Code, 1908, and not to those cases which are tried under the Small Cause Courts Act, 1887. The reasons are, as I have shown a few minutes ago, that the proceedings of the Small Cause Courts are very summary and no proper record is kept of the evidence but only a short memorandum, which often leads to miscarriage of justice. The Small Cause Courts are more or less always in a hurry to decide cases and the cases never occupy more than ten or fifteen minutes for decision. In these circumstances, when there is no record of evidence kept, when the judges are in a hurry, there will be no proper material for the Appellate Court on which they could be able to decide in a case in which compensation were to be allowed under this Act. Moreover, Sir, it has already been discussed in the previous debates of this House that some corruption is to be found in many such Courts also and this Act will be a further handle in the hands of such as well as those judges who do not pay proper attention to cases and deal out decisions in hurry and impatience. They will use it as a weapon of tyranny and even of oppression against the litigant public. Again, the suits in the Small Cause Courts are generally from the mofussil for paltry sums, and, as we go further with the Bill, we will find that the compensation that it is proposed to allow a party is of a materially high amount. This will encourage unscrupulous parties to speculate and bring false witnesses to prove their claims. The result will be that this will frustrate the very object for which this Act is being enacted. Many judges, being in a hurry to dispose of cases, do not pay proper attention to the procedure, often lose their temper and get biassed and prejudiced against parties on the slightest provocation from a litigant, due may be to over-work. And in case of their deciding under such a condition of mind that the case was false and vexatious, this Act would work a veritable hardship to people at large. More-

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

over, in the suits in Small Cause Courts the issues are very simple. If we apply this Act to the Small Cause Courts also, then further issues will have to be raised such as whether the case was a false and vexatious one, and that might lead to certain complications. The Small Cause Courts are meant to give hurried justice in the case of paltry suits. The application of this Act to such Courts will lead to delay in the trial of suits in which complicated issues may be raised, which will not be desirable, looking to the amount of work of the Courts at present. Therefore I move that this Bill may have nothing to do with the Small Cause Courts.

The Honourable Sir William Vincent: Sir, I think this Bill has been before the House on not less than four occasions, at least three, and the Honourable Member would have been a little more considerate to us if he had put this amendment on one of the previous occasions. This Bill has been before Committee after Committee, and every opportunity has been given to Members to express their opinions on it. But Sir, if I regret this delay on the part of the Honourable Member, I regret very much more the attack that he has thought fit to bring against judges of the Small Cause Courts, which I believe to be entirely unjustified by the facts. I believe that they do their work honestly and well. It is true that *ex parte* cases are necessarily decided quickly, because there is no opposition. Contested cases are however fully inquired into. Moreover the objection which the Honourable Member takes to this procedure in regard to the Provincial Small Cause Courts applies equally to the Presidency Small Cause Courts, where compensation of a similar character is already allowed. Further, the Act already provides for the High Courts exercising more complete revisionary powers over the proceedings of Provincial Small Cause Courts than it does over the ordinary work under the Civil Procedure Code, and that is another safeguard. But I want to go to the root of this matter. What was this Bill intended for? It was intended to prevent fraudulent and vexatious suits being brought against persons in their absence. Cases in which a man in Calcutta sues a man in Delhi, does not serve the process on him, gets a decree *ex parte* and ruins an enemy by an unjust claim. Now our experience has been that the very Courts where these suits are brought were Small Cause Courts. (*An Honourable Member*: 'Hear, hear'),—that Court may be in Sealdah, in Alipore or in any suburb of Calcutta or even in such places as Hooghly or Burdwan or,—and if the Assembly propose to take out Small Cause Court suits from the purview of this Bill they will emasculate the whole Bill and render it useless. That is the real effect of this amendment, and, indeed, if it is carried, I think the Government will be well-advised to consider further as to whether they will proceed with this Bill any further at all.

We have had these scandalous cases going on for years, cases in which men in one part of India institute proceedings against absentee defendants on entirely false allegations, get decrees against them and ruin them in a way that brings disgrace upon Government and our Courts as instruments of injustice.

Mr. K. B. L. Agnihotri: I was only referring to the Provincial Small Cause Courts and not the Presidency Small Cause Courts.

The Honourable Sir William Vincent: I am well aware what Courts the Bill deals with. When I talk of Provincial Small Cause Courts

I mean the suburbs of Calcutta. I said Sealdah, Alipore, Hooghly, Burdwan, and various other parts of the country. As I said before, if the Assembly seek to make this amendment, which I hope most earnestly they will not, they will be really destroying the very object of the Bill. It has been very carefully examined by two Committees, which after full consideration left these portions of the Bill relating to Small Cause Courts untouched.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): I also oppose this amendment. The Honourable the Mover of this amendment seems to be under some misapprehension. As the law at present stands, under the Code of Criminal Procedure, section 250, a magistrate is empowered in the case of a prosecution found to be frivolous or vexatious to award compensation and this he may do whether the trial is regular or in a summary form. Consequently, if the trial in a criminal case made in a summary manner entails on the part of the unsuccessful prosecutor the penalty of having to pay compensation, the same objection, I submit, which would apply to a summary trial on the civil side should equally apply to summary trails in criminal cases. But can my friend give a single instance where a magistrate has abused the power this section of the Code of Criminal Procedure arms him with. My friend could not be unaware of the existence of section 95 of the Code of Civil Procedure which, in the case of wrongful arrest and attachment, arms the Court, including Small Cause Courts. (*A Voice*: 'No'). The procedure is exactly similar even in Small Cause Court cases. The gist of my friend's argument is that a Small Cause Court case is tried in a summary manner. There is no record of evidence and the facts are not fully recorded and therefore there is likely to be a failure of justice. That is the crux of his argument. I submit that that argument has no force in view of the existing law which empowers magistrates trying cases in a summary fashion to award compensation in case of vexatious or frivolous prosecutions. Then, Sir, I have heard objections from various parts of this House to the whole Bill, and I Submit that the whole Bill will have a very salutary effect if it is enacted into law. As the Honourable Members are aware, under the Vexatious Actions Act of 1896, passed as 59 and 60 Vict, c. 61, any person in England who has habitually and persistently instituted vexatious legal proceedings without reasonable grounds may be debarred from instituting further suits except by leave of the Court. That is a very drastic provision, far more drastic, I submit, than the Bill which we are considering here. I therefore think that so far as this measure is concerned, there is nothing objectionable in its underlying principle and I see no reason why it should not be extended to provincial Small Cause Courts.

Khan Bahadur Maulvi Amjad Ali (Assam: Muhammadan): It is not desirable that men should put in vexatious claims or put in false defence. These things should be checked. There is no doubt about it but the course suggested, so far as this Bill is concerned, is to be followed in summary procedure also. Here the litigant public who are guilty of these deeds are to be dealt with by the Courts exercising small cause power. My friend, Dr. Gour, in opposing the amendment suggests that, in criminal law, similar provisions have been made and that a magistrate can award compensation in vexatious and frivolous cases. I think, when the first class magistrate awards compensation, his orders are not appealable, but, when such orders are passed by the second class magistrates, I think those orders are appealable. Now, in this case, if the Courts of Small Causes are empowered to award

[Khan Bahadur Maulvi Amjad Ali.]

compensations in frivolous or vexatious cases, I think, Sir, that, instead of doing justice to the litigant public, injustice will be done to them a good deal, because nobody can guarantee that a Court of Small Causes can properly investigate the questions because the time is short and the matter before it is also small. Generally, the Courts of Small Causes deal with the Small Court cases summarily and sometimes very summarily for want of time and patience. Now if these Courts are armed with a power like this, namely, to award compensation, I leave it to the Honourable House to judge whether injustice will not be done when awarding compensation by munsiffs and subordinate judges exercising small cause power, from whose orders no appeal lies. I apprehend therefore miscarriages of justice in such cases. I therefore submit that, instead of arming the Small Court judges with any power, such as is contemplated now, to award compensations in these cases, it ought to provide that this Bill when passed does not apply to the Small Cause Courts . . . . The danger is that one will be able to get any number of false witnesses to prove a false case in a summary way and obtain a decree and the tribunal sitting will say: 'Well, we are satisfied with the evidence and we therefore award compensation.' As a matter of fact, that decree may be a wrong decree and the claim a false one. So, I submit, that, if the criminal law provides such a summary procedure, there is no reason why the civil law also should enact a similar procedure. A time may come when we shall ask this Assembly to consider the summary power exercised by the magistracy and we will then shew that miscarriage of justice often results from summary trials.

It is in the Appellate Court only that the judgment is tested by severe investigation; but if there is no appeal, the real aggrieved party will not be able to show that he has been wronged, that the decree has been passed against him wrongly, or that the judgment was passed against him without any evidence, because in those cases, as my friend, the Mover of the amendment says, these Courts do not record evidence at length. He is quite right there. A few points are jotted down on a memorandum only, and on that memorandum the Court of revision cannot do anything. The Court of Revision may be asked, Sir, only to look at the thing from the legal point of view,—to see if there has been any illegality committed, but as to the merits of the case, the Court of Revision cannot do anything. Therefore, it is a very dangerous proposition of law that a Civil Court exercising powers of a Small Cause Court should be empowered to award compensation. I support the amendment, and I hope that the Honourable gentlemen of the House will also agree with me in supporting the amendment.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, the point raised by my Honourable friend, Mr. Agnihotri, is that this Bill should not be made applicable to the Provincial Small Cause Courts. That is the simple point. To that the answer was given by the Honourable the Home Member that the Small Cause Courts are controlled by, and are under the supervision of, the High Court, and that it is not fair to say that the Judges exercising Small Cause Court powers are so wanting in the sense of duty that they would award compensation recklessly; and I think that offers a sufficient answer. Further, there was one remark of the Honourable the Home Member which I think it is well for us, in dealing with Bills, to remember. That is, that the time for putting

forward and formulating criticism has generally passed without Members taking advantage, and so, the stages at which criticism could have been conveniently put forward have unfortunately passed. Well, that is one lesson we might learn in regard to Bills of this character, but my Honourable friend, Dr. Gour, who opposed the amendment, I am sorry to say, has not carried the case further, and probably his speech will cloud the fact that the analogy of Criminal Courts have been repeatedly set up by all those competent to speak on this matter. The analogy of Criminal Courts cannot be carried to support this measure. It is one thing to say, in regard to a criminal case, that the case is false and vexatious and a totally different thing to say so in regard to a civil suit. Well, he also introduced the point of 'vexatious' under the English Law. That again does not apply. On the contrary, that argument would go against this Bill. There it was a particular litigant who has been found guilty of habitually and vexatiously worrying the Court and worrying his opponent that comes under the jurisdiction of the Court. It is one individual that is tackled by that Act. That has nothing to do with this Bill. This Bill casts its net over all litigants who can be considered to have put forward false and vexatious pleas. Therefore, the two arguments of my learned friend, Dr. Gour, do not help the House in considering the amendment of my friend, Mr. Agnihotri. Now, the only question for this House to consider is whether it has got sufficient confidence in the Provincial Small Cause Courts to arm those Courts with the power to award compensation in such cases. As to that, the opinions may be different. That is the only point, and I think it would be better if the House would concentrate its attention on that particular point. If we say that they are not competent, that the Small Cause Courts ought not to be authorised, empowered, to award compensation, it is a rather serious matter; it then comes practically to this that, to this extent, these Courts cannot be trusted with powers. Well, that is the point which the House has to consider, and I put it forward for the consideration of the House.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, as I was a member of the Select Committee, I should like to add a word or two of explanation as to why we thought that the Bill might include Provincial Small Cause Courts in its operation. The Bill, as it has been propounded, provides for sufficient safeguards against any possible miscarriage of justice which might occur under the summary powers with which the Small Cause Courts in the mofussil are vested. It is no doubt a point to be considered why, when the Presidency Small Cause Courts have been vested with powers similar to those provided by the Bill, the mofussil Small Cause Courts were not given such powers. But my submission to the House is that the Bill itself provides for ample safeguards against any miscarriage of justice. The first safeguard is that the Court will have to give reasons for visiting the guilty person with punishment by way of compensatory costs. It is not a mere question of oral evidence against oral evidence, as, for example, where a Court says : 'I believe this set of witnesses and disbelieve another', that will justify an order under the proposed section 35-A. It is not that. The Court will have to give reasons, and to go out of its way, to take the trouble of finding out reasons—good, tangible reasons—for which it thinks that it is just and proper that the man in fault should be punished in the way suggested. In the first place, therefore, that is an ample safeguard, —ample because there must be something substantial to show that the reasons for which the Court thinks that the case for one party or another has not only

[Mr. J. N. Mukherjee.]

not been proved, or that the objection raised is insufficient or invalid or not true, but that there are facts upon which a reasonable mind must come to the conclusion that the suit or defence is deliberately false or vexatious. Therefore, my submission is that the provision on that point in the Bill is ample at any rate, sufficient for practical purposes. The second safeguard in the Bill is that there is a right of appeal. Now, the argument that the record kept in a Small Cause Court case is of a very meagre description, is not sufficient for our present purpose. The Court will have to give reasons for the award of compensatory costs, it will have to point to something definite, and the sufficiency or reasonableness of that will be considered by the Appellate Court. There, it is not merely a matter of revision. The Honourable the Home Member has referred to the powers of revision of the High Court over a Court of Small Causes. That is no doubt a very good argument in favour of the Bill. The High Courts can always keep in check these Courts through their revisional powers. But, so far as the Bill is concerned, a right of appeal has been given, that is to say, in the contemplated class of cases, facts generally will have to be considered by the Appellate Court and not merely the legal aspect of the question. That is to say, in the contemplated class of cases, facts generally will have to be considered by the Appellate Court and not merely the legal aspect of the question. Therefore if these two conditions be kept in view . . . . .

Khan Bahadur Maulvi Amjad Ali: Sir, I rise to a point of order. In cases tried by a Court of Small Causes there is no appeal . . . .

Mr. President: That is not a point of order.

Mr. J. N. Mukherjee: The Bill provides for an appeal. My Honourable friend has overlooked that fact; and if he will refer to clause 3 of the Bill, he will find that an order under the new section 35-A has been included in the list of appealable cases, under section 104 of the Code of Civil Procedure.

Khan Bahadur Maulvi Amjad Ali: A most knotty question may arise . . . . .

Mr. President: Order, order.

Mr. J. N. Mukherjee: Of course, whether the proviso which has been added to the above clause should be there or not is another question. But the right of appeal has been given in all cases where compensatory costs have been awarded on the ground of the falsity or vexatious character of the suit or defence, and where the person mulcted wants to avoid the order altogether, or to reduce the amount in which he has been mulcted. What the proviso says is that no appeal shall lie against an order for costs where the party getting the costs thinks that he is entitled to more. But, in all other cases, where compensatory costs have been given, an appeal can be preferred for the reduction of the amount of costs awarded, or for setting aside of the order for costs altogether. Therefore, Sir, my submission is that, although ordinarily there is no appeal against a decree passed in a Small Cause Court suit, where an order for compensatary costs has been made under the proposed section 35-A, that order is subject to appeal. Therein lies the safeguard; and I think it is a very satisfactory safeguard. When we are not only aware that cases, as for instance, where people residing in Lucknow or Bareilly are falsely sued in Calcutta and *ex parte* decrees are obtained

against them upon false evidence—cases about which they know nothing until their goods are attached in execution—are in existence, but the report is, that this number is growing, I think under proper safeguards means should be devised for checking the evil. I think the Provincial Small Cause Courts ought to have the power proposed by the Bill. Otherwise the usefulness of the Bill will be destroyed to a very large extent. With these words, Sir, I beg to support the arguments of the Honourable the Home Member, so far as the point now under discussion is concerned.

Rai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, following the Honourable the Home Member, Dr. Gour and Mr. Mukherjee, I oppose this amendment. In the mofussil, to whom are the powers of Small Cause Courts given ? I beg to point out that the Small Cause Court judges are appointed from amongst the Munsiffs, who for years try cases under the ordinary Civil Procedure Code; and, after they have had a certain amount of experience which has been tested by the results of their cases in the Appellate Courts, they are vested with Small Cause Court powers. When such is the case, I think we are amply safeguarded against a miscarriage of justice. As has been pointed out by my learned friend, Mr. Mukherjee, although an ordinary order of a Small Cause Court may not be appealable, when that order is combined with an order for costs by way of compensation, then it is appealable. That makes it all the more certain that there will be no miscarriage of justice. On these grounds, Sir, in addition to those enumerated by my learned colleagues, I oppose the amendment.

Mr. P. L. Misra (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I have not the slightest intention of casting any aspersions upon the Munsiffs and Subordinate Judges. They are very competent and efficient officers, no doubt. But as the Honourable Mover has pointed out, the Small Cause Court judges are generally burdened with heavy work ; they have not sufficient time to record the depositions of witnesses, nor indeed are they bound to record those depositions at length or even the depositions of the parties concerned. And, although Munsiffs and Subordinate Judges are very honest men, I am bound to confess that in some cases they are biassed against the plaintiffs and the result is that the latter are apt to get into hot water in that the Courts dismiss their suits. Now, if these Munsiffs and Subordinate Judges are given this weapon, namely, power to award compensation for vexatious or false suits, I am sure that, in the hands of some of the weaker members at least, it will be a very dangerous instrument. I therefore submit that this Bill should not apply to Provincial Small Cause Courts. Mr. Mukherjee has pointed out that there is the safeguard of an appeal against such an order ; but where is the material for the Appellate Court to judge whether the order is right or wrong ? As I have submitted, the depositions taken down are very brief and the Appellate Court cannot come to a satisfactory decision upon them alone. All that it will have before it will be the order appealed against. But the order of the Lower Court is not sufficient for that purpose. Therefore, my submission is that, even with the safeguard provided, this weapon should not be placed in the hands of Munsiffs and Subordinate Judges. Now, an analogy has been referred to by my friend, Mr. Subrahmanayam, from the speech given by Dr. Gour. I am really very surprised that a lawyer of such eminence should have so confused the issue here. He has challenged the Honourable Mover to give a single instance in which section 250 of the Criminal Procedure

[Mr. P. L. Misra.]

Code has been unnecessarily resorted to. I make bold to say that there have been frequent cases in which magistrates have awarded compensation without just ground, and, if he wants chapter and verse for my assertion I will give them to him, and show him cases which were upset on appeal. It is, therefore, not right to challenge the Honourable Mover of the amendment and say that there are no cases of that kind.

On these grounds, Sir, I support the amendment.

Mr. T. A. H. Way (United Provinces: Nominated Official): Sir, I am surprised to see that the Mover and the supporters of this amendment do not consider that India is yet fit for a further instalment of Self-government. If carefully selected and trained, judicial officers, representatives of the cream of the educated classes of this country, are not fit for the small amount of independence and initiative which this Bill proposes to give them, it seems to me that we cannot say that India is fit for Self-government. Sir, the essence of Self-government is trusting the man on the spot. This Bill proposes to trust the man on the spot. The amender and his friends do not trust the man on the spot. Therefore, Sir, I oppose this amendment.

Munshi Iswar Saran: (Cities of the United Provinces: Non-Muhammadan Urban): Sir, little had I expected that the question of Self-government would be imported into the consideration of a section of the Code of Civil Procedure, but, Sir, we live and learn. Perhaps the Honourable gentleman, who has just resumed his seat, forgets that one consequence of Self-government is not to trust the man on the spot in the sense of the expression as it is understood by the Members of the Indian Civil Service but to so make rules and regulations that the man on the spot, be that officer Indian or European, should not be able to act arbitrarily. Sir, coming to the provision itself, there are only two points to be considered. The first is this. Are these provisions required in the interest of justice in those cases which are tried by the Court of Small Causes? Now, not even the gentleman who has put forward this amendment has contended that these provisions are not wanted in the case of those suits which are triable by the Court of Small Causes. Indeed, as the Honourable the Home Member has said, a large percentage of cases are really filed in Courts of Small Causes in order to destroy an enemy or to take advantage of a man against whom you have got grudge. As he has said, and it is a matter which has come in my own experience, a man in Calcutta brings a suit against a man in Delhi or in Balia for Rs. 500, leads one or two witnesses and obtains a decree. The summons is never served on the defendant. Now, if you do not apply these measures to cases which are triable by the Court of Small Causes, I submit that you really rob this Bill of one of the main reasons why it is being brought into existence. (Hear, hear.) I shall beg the House to consider this point. Not one Member who has supported the amendment has said one word as to the reason why this Bill should not be applied to such cases. Their sole reason, if I do not do them an injustice, is that these persons who decide Small Cause Court cases may in certain cases not be able to do justice to the claimant or to the defendant. Sir, I must make this confession and show that my country, according to Mr. Way, is not yet prepared for Home Rule. It must be admitted, Sir, and I will make that admission for my own countrymen—that, as long as human nature remains what it is, there will be some cases.

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of miscarriage of justice. Judges will make mistakes and it will be necessary to set them right. But it is not fair to condemn a class of officers who have done and who are doing most excellent and most admirable work. If these reasons apply, then I submit, Sir, that the Courts of Small Causes should be deprived of their right of deciding any cases at all. Why trust these men with cases, the valuation of which comes up in some cases to Rs. 1,000 and in some cases to less? Why do you give them the right to decide any cases at all? My Honourable friend, Mr. Misra, has said that some judges take prejudice against some of the plaintiffs. Sir, I should take a prejudice against some of the plaintiffs myself in view of my experience of them. If I find that, in case after case, a man brings forward false or vexatious or malicious suits, I should be less than human or more than human if I do not entertain a prejudice against that man and it is only right that the presiding officer should have some prejudice against these people who abuse the process of the Court in coming forward with cases which are neither just nor honest nor straightforward. So, I submit, that if you take away this provision, then, as the Honourable the Home Member has put it very forcibly, it becomes practically useless to have this measure at all, because, in the great majority of cases, it is to meet the evil in respect of cases tried by Courts of Small Causes that this Bill is being brought into existence. Take the case of a civil nature where there is the question of adoption or where there is a question of inheritance or of reversionary right. You cannot file a suit against me in Calcutta or in Bombay. Ordinarily speaking, you cannot have the case finished speedily without the summons being served on me. In such cases, too, I admit there is room for one to bring false and vexatious suits, but I submit, in cases which are triable by Courts of Small Causes, there is greater scope for the institution of false and vexatious suits and it is therefore necessary, I submit, that these provisions should be made applicable to that class of cases. I oppose the amendment.

Prince A. M. M. Akram Hussain Bahadur (Calcutta and Suburbs: Muhammadan Urban): I move that the question be now put.

The motion was adopted.

Mr. President: Amendment moved:

'In clause 1, insert the following as sub-clause (*2*):

'(*2*) Nothing in this Act shall apply to any suit or proceeding under the Provincial Small Cause Courts Act, 1887'.'

The question is that that amendment be made.

The motion was negatived.

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

'In clause 1, sub-clause (*2*), insert the words 'with the approval of the local Legislature and' after the word 'may' and before the words 'with the previous sanction'.'

Munshi Iswar Saran: May I request the Home Member, as we have not got the amendment, to read the sub-clause as it would read after the amendment?

Mr. President: The clause after this amendment would read as follows:

'The Local Government may, *with the approval of the local Legislature and* with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that this Act, etc.'

The Honourable Sir William Vincent: Sir, it is, I submit, quite unnecessary to bring in the local Legislature in an administrative matter of this kind. We have in the local Governments now a very strong body of Indian Members and Ministers and the action of the Executive is open to challenge at any moment in the Legislative Council, nor do I know how the sanction of the Legislative Council could be taken at all under the present rules. I suggest also that ample safeguards are provided by the necessity of obtaining the sanction of the Governor General in Council. It is not given as lightly as many Members seem to think. Further, I believe that the Legislature has no particular means of obtaining information as to the specific questions that will be brought before them under this clause.

Mr. President: Amendment moved :

'In clause 1, sub-clause (2), insert the words 'with the approval of the local Legislature and' after the word 'may' and before the words 'with the previous sanction'.

The question is that that amendment be made.

The motion was negatived.

Clause 1 was added to the Bill.

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

'In clause 2, in proposed new section 35 A (1) :

(*a*) Omit the words 'or any part of it' after the word 'defence.'

(*b*) Omit the words 'or in part' after the word 'whole'.'

Sir, my object in moving this amendment is that the section as it stands in the Bill shows that, if a man were to bring a suit for, say, Rs. 5,000 and even if a pie of it was disallowed by the Court, he would be required to pay compensation to the defendant. If the defendant sets up a defence and even a pie is disallowed, then the other party shall be liable to pay compensation under this Act. It will be a harsh provision no doubt, but I do agree to the principle as it is put forward that, in such cases, people should be punished, but for such paltry sums they should not be punished so harshly. At least there will be a chance of such. I therefore move my amendment.

The Honourable Sir William Vincent: Sir, I do not think there is really any merit in this amendment. Persons often do not put forward an entirely false defence, but a man who puts forward a defence one anna of which is true and 15 annas of which is false, is not, I think, entitled to the consideration which the Honourable Member seeks to give him. I do not think there is really any other answer I need put forward than that. If the defence was not substantially false or vexatious, then there is no question that the Courts will refuse to award compensation.

The motion was negatived.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhammadan) : Sir, the first amendment which stands in my name is :

'In clause 2, substitute the word 'or' for 'and' between the words 'false' and 'vexatious' wherever they occur in the proposed new section 35-A (1).'

It will be seen from the papers, which are before Honourable Members, that the words 'false' and 'vexatious' appear in two places in section 35-A, which is proposed to be inserted after section 35 of the Civil Procedure Code. The Honourable Members will also remember that when the Bill was first

introduced, it provided for false cases only, and when a motion to refer the Bill to a Select Committee was brought before this House, several Honourable Members pointed out that defences should also be included because false defences were as rife or numerous as false claims. Then the Bill was discussed in a Committee consisting of Members of both Houses. There it was decided that the scope of the Bill should be extended to make provision for false defences also and it was then that the word 'vexatious' was introduced. When the Bill was brought before this House on the last occasion, it contained the words 'false or vexatious'. It is now for the first time that we have the words 'false and vexatious'. The reason which the Honourable Members of the Select Committee have given for making this alteration is contained in paragraph 3 of their Report. There they say that they :

'incline to the opinion that a provision of the nature which this Bill is intended to make should be applicable only in such classes of cases as can be readily and precisely defined'.

With due deference to the opinion of the Honourable Members, I must confess that this reason does not justify the change proposed. To my mind it is not quite clear. Of course, the provisions of the Bill are to be applied only to those cases which can be readily and precisely defined, but this argument will equally apply if the word used is 'or' or 'and'. This reason does not appear to my mind to be sufficient to justify the change proposed. The change which has been introduced would show that, if a claim is false but not vexatious, or vexatious but not false, compensatory costs will not be allowed. In March last, when the Bill was before this House, the Honourable the Law Member referred to a class of cases in which sons brought suits, one after the other, after a creditor had obtained a decree against their father. I apprehend that all such cases will not be covered if the word 'and' is retained, because it is not necessary that all such cases must be false, though there is no doubt that most of them are vexatious. Such cases are very numerous indeed. Only the other day a typical case which occurred in my district passed through my hands. In this case a firm in Delhi obtained a decree against another firm of Delhi. One of the partners was a resident of Bhiwani and had two minor sons. Unfortunately for the plaintiff, these sons had not been impleaded as defendants. When the decree-holder took the decree to my district for execution, a suit was brought by one of the minor sons in the Delhi Court in which he impugned the correctness of the decree and prayed that the decree might be set aside. The property of the father was attached before judgment by the Delhi Court, and the father did not object to its attachment. But as soon as the execution was taken out in the Hissar Court, and the same property was attached, the other son applied for the release of his share of the property from attachment on those very grounds on which his brother had brought a suit at Delhi. Now this objection has been disallowed by the executing Court and he has brought a civil suit which will go on for some time. So such cases will not be covered if the word 'and' is used.

Similar is the case with regard to reversionary suits. Most of them are brought at the instance of the alienor himself, and they are no doubt in some cases vexatious but cannot be called false in all cases. This class of cases also will not be covered by this Act if the word 'and' is retained. Of course, the objection to my amendment will be that I am going to make the Act still more stringent than is proposed by the Select Committee. As a matter of fact, I intend doing that, because, if the growing evil of

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litigation is to be checked, the weapon should be made effective. As was pointed out by the Honourable the Law Member himself, this is also not a very stringent method to check this evil, and the time may come when still more stringent measures will have to be adopted. For the purpose of stopping or checking the growth of false or vexatious litigation, you must have some effective measure. It might also be pointed out by Members who may be opposed to this amendment that the judges might abuse those powers, just as was remarked by some Members on the amendment which was moved by my friend, Mr. Agnihotri. No doubt, human weaknesses and prejudices and idiosyncracies may influence a Court in some cases, and costs may be allowed in those cases also in which they ought not to be allowed. But the danger will remain the same if the word used is 'or' or 'and'. If the Courts can be trusted to decide cases on their merits, they can be safely trusted to decide the question of costs also. This danger is also safeguarded by the provision for appeals where it is provided that, if no order ought to have been made or a less amount ought to have been allowed, an appeal shall lie. There is another safeguard, which is made in the proviso, by which the High Court has been given power to limit the amount which any Court or class of Courts is empowered to award as costs. So this danger may not be apprehended very much. Besides, this Bill is framed on the analogy of section 250 of the Criminal Procedure Code. Though it has been pointed out by some Members that that Code should not be taken as a guide, yet as the question of costs is of the same nature as the question of compensation, and these costs also are to be allowed by way of compensation, we can take a hint from the provisions of that section. You will find that there, too, the words used are 'frivolous *or* vexatious', and not 'frivolous *and* vexatious'. For these reasons, I hope that Members will agree with me that defences which are only vexatious should also be penalised because in many cases, when a defendant finds that he has got no case on merits, he tries to prolong the litigation and to defer the day of payment as much as he can by putting in harassing and vexatious pleas. It might be said that everybody has got a right to vex or harass his opponent, but if one indulges in that pastime he must be prepared to bear the consequences also, and those consequences are provided for in this Act. For these reasons, I submit that, in order to allow compensatory costs, both the requirements (*i.e.*, falsity as well as vexatiousness) should not be considered necessary, but that either of them should be considered quite sufficient. There is another amendment .....

Mr. President: Order, order. We will take this amendment afterwards. Amendment moved:

'In clause 2, substitute the word 'or' for 'and' between the words 'false' and 'vexatious' wherever they occur in the proposed new section 35 A (*1*)'.

The Honourable Sir William Vincent: Sir, it is only a sense of loyalty to my colleagues on the Committee that compels me to oppose this amendment. Indeed when the Bill was first introduced, the words inserted in the draft with the approval of Government were 'false or vexatious.' I need not enter into the reasons which led the Members of the Government on that Select Committee to give up this point. The proceedings at one time threatened to go on almost interminably. I do not think, however, really that there is as much harm in the change as the Honourable Member thinks. I believe that in few, if any, cases of this

character would compensation be really given unless the defence or the claim was false and vexatious. The Bill, as originally drafted, was intended to meet the case of deliberately false suits, and those are the things to which I attach very much more importance than to this question of false defences. Because, once a man who has got a good case is put into Court by another, he will often put up any kind of plea he can to gain his ends including pleas which may seem very unjustifiable and most vexatious to the person who wants to get money out of him. But the real cases we wanted to get at were false suits deliberately brought to harass men living in distant parts. I myself therefore did not feel very strongly about the words under discussion. I believe that the words 'false *and* vexatious' would probably meet reasonable requirements, but if the Assembly thinks 'false *or* vexatious' is a better term, then I should have no objection. I only feel that it is desirable to restrict the award of compensation to cases where such a remedy is really necessary and I think that that was the feeling of the other members of the Committee too, and to avoid any possibility of these compensatory costs being awarded in cases where that was strictly not necessary in the interests of justice.

Chaudhri Shahab-ud-Din (East Central Punjab: Muhammadan): Sir, I rise to support the amendment moved by my Honourable friend, Pandit Jawahar Lal Bhargava. The phrase 'false and vexatious' is followed by the words 'to the knowledge of the party by whom it has been put forward'. I can understand a man being held liable for having deliberately put forward a false claim or for having made a false statement or defence, but my knowledge of human psychology is so deficient that I am unable to conceive that a claim or defence may be vexatious to the knowledge of the person who puts it forward. An injury is measured by the feelings of one who receives it and not by the feelings of one who gives it. If a defence or claim is false and deliberately false, it may be penalised. But if a man puts forward a true and right claim or defence,—it may be vexatious for the other party,—why should he be punished for that? How, in practice, will the Courts of Justice be able to decide, that the two elements—falsity and vexation—concur in the case of a defence or claim, *i.e.*, that it is vexatious as well as false at the same time? A claim or defence may be palpably false, but the party putting it forward might yet contend that it was not vexatious. And how can a person be fixed with the knowledge that what he is putting forward as a claim or defence is vexatious to the other party? Every person who objects to a claim as false should not be expected to plead at the same time that it was vexatious as well. In section 250 of the Criminal Procedure Code, the phrase used is 'false or vexatious'. It is indeed conceivable that a thing may not be false, yet it may be vexatious, and that view is supported, I believe, by the provisions of section 95 of the Indian Penal Code, which do not make everything an offence which, strictly speaking, may be an offence within the meaning of the law. It is for this reason that the phrase used in the Criminal Procedure Code is 'false or vexatious.' A thing may not be false, yet it may be vexatious, that is, it may be technically an offence but still a reasonable man may not care to go to Court and take any action about it where the thing is so trivial that a reasonable man would not take notice of it, if a man comes to Court and moves the machinery of the law, the Court might say: 'You have abused the process of the Court and given unnecessary trouble to the accused, therefore, I award so much compensation against you.' But the same thing cannot be predicated of a civil

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make an order for the payment of an amount exceeding the claim. Are there not many suits valued at a nominal figure for the purposes of the suit? Take, for instance, suits for injunction, for declaration of title for accounts or for the restitution of conjugal rights. In such cases the court-fee value of the suit may be only a few rupees. Is the compensation to be limited to the value of the claim? Surely, it would be more reasonable to allow the Court to make an order which would meet the circumstances of the case. Indeed, I may say generally that the amendment will not bear investigation and it is not worth while wasting the time of the Assembly on it.

The motion was negatived.

Mr. K. B. L. Agnihotri: I would ask for permission not to press the other amendment:

'That in clause 2, in the proposed new section 35-A (*2*), the first proviso be omitted.'

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): The amendment I beg to move is as follows:

'In clause 2 of the Bill, as amended by the Select Committee, for sub-section (*1*) of the proposed new section 35-A, substitute the following:

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of compensation awarded under this section shall be taken into account in any subsequent suit for damages or compensation (where such suit may lie) in respect of the matter declared by the Court to be false or malicious under this section.'

I believe, Sir, that I occupy a somewhat different and, in some matters, less difficult position with regard to this amendment. For example, my friend, the Honourable the Home Member, whose smiling countenance always encourages me to be cautious, will not be able to complain that on not one of the four historic occasions, when this question came up and when he was so disgusted with endless delay, was this question brought up. The matter was recommitted to the Select Committee, a powerful Committee of selected lawyers, whose fresh amendments are shown in italics. Sir William Vincent, in asking for permission to have the Bill taken into consideration, characterised my amendment as one more or less of drafting. I did not really follow him there. I rubbed my eyes and thought there might be a misprint in my copy and that for the first word 'an' the word 'no' ought really to be there or is there. If that was so, it would certainly be a matter of drafting, for the new sub-clause would stand as follows:

'No order for the payment of costs under this section shall bar any suit for compensation in respect of the same claim or defence.'

And that is what I ask for in effect. It is quite the other way, and the effect of the clause as it stands is, that an order made under this sub-clause shall be a bar. Well, Sir, if it is a matter of drafting, why, the Assembly can deal with it, and the Honourable the Home Member can at once rise in his place and say that, subject to any questions of drafting, he accepts my amendment. Sir, I quite agree with my friend when he said that the object of this Bill was to defeat fraudulent, vexatious and false suits as far as possible—a very laudable aim in which the Assembly, I gather, whole-heartedly joins. Penal clauses have been introduced, and penal clauses and the penal remedies, provided for in the Code of Criminal Procedure have been expressly saved in the new Law in addition to the provision for compensation or damages by way of costs. But the matter does not stop there.

While the Bill proposes to put down false, fraudulent and vexatious cases by penal remedies, the atmosphere seems to be full of penal provisions, and the Select Committee, strong and new, proceeds to penalise the poor donee of the remedies. It says: 'Well, if we are going to take the trouble of awarding costs for you, any legal remedies that may be open to you in a separate suit shall be denied to you'. The first question I raise with regard to that, Sir, is a constitutional question. What right, I ask, had the Select Committee to go beyond the scope of the Bill, and, in legislating against fraudulent claims, proceed to say that the victim of that claim shall also be denied his other existing legal rights? That, Sir, is a strong enough objection. In the next place, we meet with serious practical difficulties. What is 35-A? The House will notice that the wording is entirely distinct from what the Civil Procedure Code, section 95, lays down. I will come to that in a minute. But, before I do that, I draw the attention of the House to 35-A, as it will stand when enacted:

'If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence.'

'objects'—that must be at the earliest opportunity. Now, ordinarily, the earliest opportunity of which he can avail himself in objecting is a written statement—we have many lawyers here— what lawyer ever forgets to take any objection, that is open to his client?—'omnibus objection,' about 'jurisdiction,' 'misjoinder,' 'no cause of action'— multifarious, just and everything that the law books and the law cases teach are put in. That is 'objection', and is at the earliest possible opportunity. The provision of section 95 of the Civil Procedure Code is, however, entirely different. Where a person applies himself actually for remedy in damages, the remedies enacted in that section shall be vouchsafed unto it. The one process is deliberate and calculated for the purpose of getting any remedies that the law provides, whereas the objector, in objecting against the false claim, unwarily walks in and gives jurisdiction to the Court for awarding damages where he did not or may not intend to do so. Of course, nobody can plead ignorance of the law, and, when this is enacted, it will be difficult for him to say 'I never realized that by taking advantage of the particular objection, in my written Statement, I was going to forfeit any other rights for damages that might have been in store for me. I do not say that you have such rights in every case, because we have not a statute dealing with causes of action at all. I see my friend smiling again, he thinks he catches me—it is quite the other way. We have much larger remedies in the hands of capable people than there would probably be if the remedies were confined within the four corners of the Statute and we had not still to go to the English law of Tort. Anyway, there may be good causes of action, and where such causes of action do exist, you cannot and ought not to take away, as section 95 of the Civil Procedure Code has done, any remedies that may be open. To the aggrieved litigant Mr. Mukherjee effectively quoted the appeals sections, in connection with a previous amendment enacted here. I hope he will not get up in his place and tell me also: 'Why, you, the victim who do not want to forfeit your legal rights, have the right of appeal'. No such thing. What is the 'appeal', allowed Sir?

'Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made.'

[Sir William Vincent.]

make an order for the payment of an amount exceeding the claim. Are there not many suits valued at a nominal figure for the purposes of the suit? Take, for instance, suits for injunction, for declaration of title for accounts or for the restitution of conjugal rights. In such cases the court-fee value of the suit may be only a few rupees. Is the compensation to be limited to the value of the claim? Surely, it would be more reasonable to allow the Court to make an order which would meet the circumstances of the case. Indeed, I may say generally that the amendment will not bear investigation and it is not worth while wasting the time of the Assembly on it.

The motion was negatived.

Mr. K. B. L. Agnihotri: I would ask for permission not to press the other amendment:

'That in clause 2, in the proposed new section 35-A (*2*), the first proviso be omitted.'

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): The amendment I beg to move is as follows:

'In clause 2 of the Bill, as amended by the Select Committee, for sub-section (*1*) of the proposed new section 35-A, substitute the following:

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of compensation awarded under this section shall be taken into account in any subsequent suit for damages or compensation (where such suit may lie) in respect of the matter declared by the Court to be false or malicious under this section.'

I believe, Sir, that I occupy a somewhat different and, in some matters, less difficult position with regard to this amendment. For example, my friend, the Honourable the Home Member, whose smiling countenance always encourages me to be cautious, will not be able to complain that on not one of the four historic occasions, when this question came up and when he was so disgusted with endless delay, was this question brought up. The matter was recommitted to the Select Committee, a powerful Committee of selected lawyers, whose fresh amendments are shown in italics. Sir William Vincent, in asking for permission to have the Bill taken into consideration, characterised my amendment as one more or less of drafting. I did not really follow him there. I rubbed my eyes and thought there might be a misprint in my copy and that for the first word 'an' the word 'no' ought really to be there or is there. If that was so, it would certainly be a matter of drafting, for the new sub-clause would stand as follows:

'No order for the payment of costs under this section shall bar any suit for compensation in respect of the same claim or defence.'

And that is what I ask for in effect. It is quite the other way, and the effect of the clause as it stands is, that an order made under this sub-clause shall be a bar. Well, Sir, if it is a matter of drafting, why, the Assembly can deal with it, and the Honourable the Home Member can at once rise in his place and say that, subject to any questions of drafting, he accepts my amendment. Sir, I quite agree with my friend when he said that the object of this Bill was to defeat fraudulent, vexatious and false suits as far as possible—a very laudable aim in which the Assembly, I gather, whole-heartedly joins. Penal clauses have been introduced, and penal clauses and the penal remedies, provided for in the Code of Criminal Procedure have been expressly saved in the new Law in addition to the provision for compensation or damages by way of costs. But the matter does not stop there.

While the Bill proposes to put down false, fraudulent and vexatious cases by penal remedies, the atmosphere seems to be full of penal provisions, and the Select Committee, strong and new, proceeds to penalise the poor donee of the remedies. It says: 'Well, if we are going to take the trouble of awarding costs for you, any legal remedies that may be open to you in a separate suit shall be denied to you'. The first question I raise with regard to that, Sir, is a constitutional question. What right, I ask, had the Select Committee to go beyond the scope of the Bill, and, in legislating against fraudulent claims, proceed to say that the victim of that claim shall also be denied his other existing legal rights? That, Sir, is a strong enough objection. In the next place, we meet with serious practical difficulties. What is 35-A? The House will notice that the wording is entirely distinct from what the Civil Procedure Code, section 95, lays down. I will come to that in a minute. But, before I do that, I draw the attention of the House to 35-A, as it will stand when enacted:

'If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence.'

'objects'—that must be at the earliest opportunity. Now, ordinarily, the earliest opportunity of which he can avail himself in objecting is a written statement—we have many lawyers here—what lawyer ever forgets to take any objection, that is open to his client?—'omnibus objection,' about 'jurisdiction,' 'misjoinder,' 'no cause of action'—multifarious, just and everything that the law books and the law cases teach are put in. That is 'objection', and is at the earliest possible opportunity. The provision of section 95 of the Civil Procedure Code is, however, entirely different. Where a person applies himself actually for remedy in damages, the remedies enacted in that section shall be vouchsafed unto it. The one process is deliberate and calculated for the purpose of getting any remedies that the law provides, whereas the objector, in objecting against the false claim, unwarily walks in and gives jurisdiction to the Court for awarding damages where he did not or may not intend to do so. Of course, nobody can plead ignorance of the law, and, when this is enacted, it will be difficult for him to say 'I never realized that by taking advantage of the particular objection, in my written Statement, I was going to forfeit any other rights for damages that might have been in store for me. I do not say that you have such rights in every case, because we have not a statute dealing with causes of action at all. I see my friend smiling again, he thinks he catches me—it is quite the other way. We have much larger remedies in the hands of capable people than there would probably be if the remedies were confined within the four corners of the Statute and we had not still to go to the English law of Tort. Anyway, there may be good causes of action, and where such causes of action do exist, you cannot and ought not to take away, as section 95 of the Civil Procedure Code has done, any remedies that may be open. To the aggrieved litigant Mr. Mukherjee effectively quoted the appeals sections, in connection with a previous amendment enacted here. I hope he will not get up in his place and tell me also: 'Why, you, the victim who do not want to forfeit your legal rights, have the right of appeal'. No such thing. What is the 'appeal', allowed Sir?

'Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made.'

[Sir Deva Prasad Sarvadhikary.]

The appeal is limited distinctly to two classes of cases, either that there should have been no award of costs, or that the costs awarded ought to have been less. That is conceded in favour of the guilty party ; but the person who gets the benefit of the costs cannot make an appeal : 'I do not think that the costs that have been awarded to me are sufficient,—I should like to have a little more'. If there was such a provision, it is conceivable that that might meet the objection to this new insertion which I am now urging before the House. However, that is not so. I do not, Sir, wish to labour the matter very much, but there is another serious practical difficulty which I am sure the Honourable the Home Member and the Honourable the Law Member will be good enough to take into consideration. Now, what is the same 'claim' or 'defence'? Let me take, for example, a case in which there is a multitude of reliefs asked for : injunction, about receiver, accounts, dissolution of partnership or family accounts. If it was a matter under section 95, dealing with the particular matters mentioned there, namely, say temporary injunction, section 95 of the Civil Procedure Code would be the last word on the subject of damages. But, in the same suit, there may be a series of false claims with regard to accounts and other matters. There may be also a series of libellous claims regarding which, if it has been dealt with once under section 35-A, the man loses all right for damages, although he may not have intended and does not want to invoke the relief that is provided there. I am giving one of many illustrations that would occur to a practitioner who has to deal with classes of cases in which a multiplicity of claims may be put forward and which cannot be adequately dealt with by a section like this. Therefore, because there is no authority in the House now to take away any right that a litigant may have, having regard to the terms of the reference to the Select Committee and to the terms of the preamble having regard also to the practical difficulties to some of which I have drawn attention, I submit that this clause ought to stand out.

In a manner I am thankful that the clause has been brought in, because, if matters had been left where they were when the Bill was originally drafted and committed to the Select Committee, you would have had the provision for the criminal remedy but not this particular provision. And, then, some capable lawyer, interpreting that omission according to the knotty rules of interpretation, might have effectively held that, as criminal remedies only had been provided, by implication, civil remedies, not having been provided for, had been taken away. That gives me an opportunity of pointedly bringing this question to the notice of the House and asking that it shall be enacted somewhat in the way that I suggest, namely, that nothing that is done under this very salutary clause summarily dealing with more or less small matters shall bar bigger remedies, if any. You are not going to allow more than Rs. 1,000 in particular cases, and that summary relief ought to do in the smaller cases. Should, however, a good cause of action lie, why should a man not be able to make out a case for higher damages ? It ought not to be denied to him. But, at the same time, it ought to be enacted, as my suggestion is, that, in a future suit, what is awarded under section 35A shall be taken into consideration, and anything over and above that which the Court thinks fit should be allowed. Well, Sir, it has been said that this will be a deterrent to the evil-doer ; let it not also be a deterrent to a man's just claim, who brings his case into the Court in the full belief that, if he succeeds, he will be able to get in another proceeding substantial damages

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out of the man who has brought the false case into Court. That will not be covered by the remedies now provided for.

I need hardly draw the attention of the House to many provisions like the provision in section 68 of the Bengal Tenancy Act, where certain remedies of this nature are provided. Legal remedies of this kind, on a small scale, are not a new feature and I think we ought to express our gratitude to the framers of this Bill for the provision of a more comprehensive class of remedies for getting rid of false and vexatious cases. In doing so, let me however appeal to the House not to get rid, with one stone, of two birds, one of whom may be perfectly unoffending. In allowing this Bill to be introduced and committing it to the Select Committee you did not intend that a person who has been given an award for costs should be deprived of the larger benefits, if any, that the law leaves open to him. In all cases, such benefits may not be open, but, where they are, do not take them away.

The Honourable Sir William Vincent : Sir, I must admit that I went much too far in suggesting in my opening speech that the Honourable Member's amendment was a draft amendment. It goes much further than that. When we proposed that compensation should be awarded under the present Bill we thought that we could safely follow section 95 of the Code of Civil Procedure and make such compensation a bar to any further suits for compensation. We wanted finality in the matter. There are, however, arguments on the other side and what the Honourable Member proposes is really this : 'Let the award of compensation not be a bar to any further suit, but let the amount paid, or ordered to be paid, be taken into consideration in assessing the damages in any future suit.' I think that is about his position. I described his amendment wrongly as a drafting amendment in my opening speech and I apologise for the mistake.

Now, on the merits of the proposal, I do not see any very great objection to it, though I rather incline to the view of Dr. Gour that there are very few, if any, cases of this kind in which a subsequent suit for compensation could be brought.

Sir Deva Prasad Sarvadhikary : Why legislate for that which does not exist ?

Dr. H. S. Gour : But you are legislating for it.

The Honourable Sir William Vincent : I do not object, because it is said, there may be a few rare cases such as were explained to me, in which such suits would lie. The Committee did not think it necessary to provide for such cases and therefore put in the specific provision which is to be found in the Bill. At the same time, I see no objection to this particular amendment of my Honourable friend, subject to certain verbal changes, which, on this occasion, are really drafting changes. In that view, I do not think it is necessary for me to enter into the various questions that he has raised as to the right of the Select Committee to make the changes which they did in the Bill. I must not, however, be understood to accept for one moment as correct his interpretation of the powers of a Select Committee in matters of this kind. Indeed to accept that view would be to impose intolerable limitations on the powers of such a body. I think, however, that the amended amendment, a copy of which I have given to the Honourable

[Sir William Vincent.]

Member, which I am prepared to accept, will meet his views. From his speech it would seem that he thought I would not accept any amendment.

Sir Deva Prasad Sarvadhikary : It is always safe to assume that.

The Honourable Sir William Vincent : But I sent information to him that I was going to accept it. The amendment which I am prepared to accept runs as follows :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.'

So far as the Government Members are concerned, they have no objection to this amendment, which I think may meet the wishes of the Honourable Member and the House.

Sir Deva Prasad Sarvadhikary : Sir, I fully accept the modification proposed.

Mr. President : The original amendment was :

'For sub-section (*4*) of the proposed new section 35-A, substitute the following :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of compensation awarded under this section shall be taken into account in any subsequent suit for damages or compensation (where such suit may lie) in respect of the matter declared by the Court to be false or malicious under this section.'

Since which an amendment to the amendment has been moved.

'That after the word 'force' all the words be omitted and the following be substituted :

'the amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.'

The question is that that amendment to the amendment be made.

The motion was adopted.

Mr. President : The question is that the following be sub-section (*4*) of clause 35-A of the Bill :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.'

The motion was adopted.

Clause 2, as amended, and clauses 3 and 4 were added to the Bill.

The Honourable Sir William Vincent : I ask permission to move a verbal amendment of clause 5 which has been necessitated, I believe, owing to a printer's error. At the same time, it is of some importance. If Honourable Members will look about the fifth line of this clause, they will see

'The words and figures' section 104 of the Code of Civil Procedure, 1908'.'

I find that unaccountably the words and figure :

'Clause (*ff*) and clause (*h*) of sub-section (*1*) of '

have dropped out by error. It is quite obvious that we do not seek to increase the general rights of appeal under section 104 in Small Cause Court cases, but only to provide for cases in which compensation is awarded. I, therefore, move that the words I have read be inserted. I do not think I need say anything more except to point out that the whole of the clause makes perfectly clear what the right of appeal in these cases is.

Mr. President : Amendment moved :

'That in clause 5 of the Bill, as amended in the Select Committee, before the word and figures 'section 104' the words and figure 'clause (*ff*) and clause (*h*) of sub-section (*1*) of' be inserted.'

The question is that that amendment be made.

The motion was adopted.

Clause 5 and the preamble were added to the Bill.

The Honourable Sir William Vincent : Sir, I beg to move a consequential amendment on an amendment passed, *viz.*

'That in line 5 of the title of the Bill, the word 'or' be substituted for the word 'and', between the words 'false' and 'vexatious'.'

The motion was adopted.

The title, as amended, was added to the Bill.

The Honourable Sir William Vincent : I move :

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

The motion was adopted.

The Assembly then adjourned for Lunch till Fifteen Minutes past Two of the Clock.

The Assembly re-assembled after Lunch at Fifteen Minutes Past Two of the Clock. Mr. President was in the Chair.

THE DELHI UNIVERSITY BILL.

Mr. H. Sharp (Education Secretary) : Sir, I beg to move :

'That the Report of the Joint Committee on the Bill to establish and incorporate a unitary teaching and residential University at Delhi be taken into consideration.'

The Report, Sir, is full, and, I think, clearly sets forth the reasons for the amendments which have been made. I do not think it is necessary for me to say anything by way of introduction, but certain questions will be discussed with reference to the amendments of which I see notice has been given to-day.

The motion was adopted.

Mr. Mahmood Schamnad Sahib Bahadur (West Coast and Nilgiris : Muhammadan) : Sir, in the original Bill provision is made for some representation of Muhammadans in the Court and the Executive Council, but the Select Committee, predominated by non-Muhammadan majority, has done away even with that.

This University is intended for Delhi area. All the other provinces have got their own Universities, some of them have three or four. As more than half the population of Delhi are Muhammadans, I think it is quite necessary that Muhammadan interests should be sufficiently represented in all the governing bodies of the University.

The Select Committee says, they were prompted to recommend the elimination of the provisions for Muhammadan representation purely by their reluctance to recognise the principle of communal representation. Yes, they were reluctant, with the exception of the only Muhammadan member in the Select Committee. He was not reluctant. He records a minute of dissent and recommends that one third of the members elected by the different electorates should be Muhammadans.

The very Reforms which we are trying to work successfully were framed and inaugurated, fully recognising the principle of communal representation. Does the Select Committee mean to say that no provision is necessary for the safeguarding of any interest? Why, then, should there be any provision for the representation of Government? Then, it follows that every interest requires proper representation.

Sir, it is not yet time to do away with communal representation. That will be the last thing to be done before giving Swarajya. Unity between the different communities cannot be forced, it must proceed out of love and regard for each other's interests. If you think that communal representation is not necessary, then, it follows that we are so far advanced that we no longer require British guidance and advisership. Doing away with communal representation can only precede the removal of British advisership.

This learned Assembly, the other day, during the debate on Martial law in Malabar, demonstrated, if any demonstration was required, how much the non-Muhammadan majority loved their Muhammadan brethren and how far they could be entrusted with the interests of the Muhammadans. If the fitness of India for Swarajya is to be judged by the attitude the Members of this Assembly took the other day, then the case is hopeless. Look at the hostility, hatred and prejudice that is prevailing in Malabar at the present moment.

Therefore, the clauses which provide for the representation of Muhammadans in the Court and Executive Council of the Assembly must be retained.

I also submit that the Bill must be re-circulated for the purpose of eliciting further opinions thereon. It is very undesirable that the Bill should be rushed through like this. It is not even three months since the Bill was first published. Moreover, the Muhammadan element in the Select Committee was very very small, only one out of 12 members. I therefore propose that the provisions providing for the representation of Muhammadans should be retained in the Bill.

Clause 1 was added to the Bill.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban) : The amendment that stands in my name . . . . .

Mr. H. Sharp : May I rise to a point of order, Sir ?

Mr. President : Mr. Sharp has risen to a point of order.

Mr. H. Sharp : I rise to point out that I have received, since I took my place in the Assembly this morning, three sets of amendments which have been handed in either just at the commencement of to-day's sitting or after the commencement of the sitting. I observe that one of these, by Dr. Sarvadhikary, contains a number of consequential amendments on this very amendment which he is now about to move. Another, by Rai Bahadur Jawaharlal Bhargava, suggests that the Pro-Chancellor should be made a member of the Corporate Body, but, as a matter of fact, he is already a member. The third consists of 8 amendments put forward by Mr. Agnihotri. I looked through them and I find that 6 out of the 8 are covered—I might say one is almost covered and the rest wholly covered, I think,—by amendments which will come forward to-day. Two are not covered, but the principle underlying one will be discussed to-day in another connection. The other and the last, I admit, is quite new. Well, Sir, I beg under Standing Order 46 to make an objection to these amendments coming up at the last moment. This objection really affects one or, at the most, two of the amendments, and, therefore, I think that Honourable Members need not complain of the objection that I lay.

As regards the one important amendment, I must say that it is an amendment which would have to be very seriously considered by Government. There is also the objection that amendments of this kind, put up at the very last moment, do not permit of the consideration of drafting and consequential amendments. I, therefore, Sir, make that objection.

There is one other remark that I must make. It is probable that I may have to move myself to-day one amendment with some consequential amendments of which due notice has not been given. But, in order that none of the Honourable Members may get up and say that people who live in glass houses should not throw stones, I may say at once that this amendment with its consequential amendments falls under an entirely different category to those which have now been put forward, because it is simply an attempt to meet half way an amendment of which notice has been given by an Honourable Member here. That is how I intend to put it up - a not uncommon practice, I think, in this House.

Mr. J. P. Cotelingam (Nominated Indian Christian) : Will Mr. Sharp kindly read that amendment which he said will have to be considered—I refer to that amendment which he said was of a serious nature.

Mr. President: We will come to that. In principle the Education Secretary is justified in raising the objection which is hereby upheld.

Sir Deva Prasad Sarvadhikary : Sir, the first amendment* standing in my name is for the omission of sub-clause (*h*) of clause 2, namely, the distinction between teachers as defined in sub-clause (*g*) of clause 2 and sub-clause (*h*) which I seek to have omitted. I desire to say, at the outset, Sir, that misapprehensions that have been roused in certain quarters by this amendment are entirely unfounded. It is aimed at raising the status and ensuring the rights and privileges of teachers in the University whether they are 'recognised' or not. The Bill is proceeding on the basis of there being 3 existing colleges fit for University work, which will be the component parts of the

*'That clause 2 (*h*) be omitted'.

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University as a unitary University, and teachers who are engaged in those colleges who have been doing good work for a series of years are now, by this two-fold definition, sought to be differentiated in a manner that I deprecate. So long as sub-clause (*h*) was confined to appointments of teachers, as in the case of the Lucknow Act, the only Act which attempts a slight differentiation of this kind, there would and could be no objection, as I say in my note of dissent. The University, in having to make its appointments, would have to be guided by certain principles and procedure, which would have to be clearly laid down. But the definition goes further and says :

'Teachers of the University' means persons appointed or recognised by the University under the provisions of this Act for the purpose of imparting instruction in the University or any College.'

Both 'teachers' and 'teachers of the University' will be doing work exactly of the same kind, namely, imparting instruction in the University or in any College or hall. Now where does the practical difficulty of the situation come in ? For this purpose we have to go to the Schedule in sub-clause (*3*) of clause 2 of which, we have for the first time a practical indication of what the teachers will or will not be permitted to do. The sub-clause says :

'The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten'.

Later on, when you come to clause 5 of the Schedule, sub-clause what I suppose will be (*vi*) – there is a blank now – says :

'The Academic Council as constituted under sub-clause (*1*) shall co-opt as members teachers of the University not exceeding one-tenth of its numbers as so constituted.'

Therefore, to begin with, we have this differentiation, namely, teachers who are not teachers of the University or recognised by the University will not be entitled to be co-opted as members of the Academic Council. Then we have clause 6 under which teachers will be assigned to the Faculties, and in clause 7 we have :

'such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council.'

We have here a state of things under which it would be possible to exclude certain teachers from important rights and privileges that the Bill seeks to confer upon their colleagues who are known as teachers recognised by the University. There may be good reasons for this differentiation in Delhi. I am not aware of any myself. I take it for granted, Sir, that you are starting with three existing colleges that have for years been doing good work. Upon the teaching body of these colleges are engaged gentlemen the quality of whose work has not been questioned so far and I am unable to perceive why this differentiation should be introduced at this somewhat late stage. It may be that some for their own reasons have assented to this differentiation. Some people do assent to things in ignorance of their rights, or in ignorance of what may proceed from the position that they accept. The whole question is— is there any reason for this differentiation ? Is there any reason to believe that these gentlemen – by being permitted to be co-opted to the extent of one-tenth of the whole of the Academic Council—would prove themselves unworthy; supposing a great disaster were to follow, only one or two non-recognised teachers would find admission in the Academic Council, is the whole of the

future of the University likely to be jeopardised? I think not. If they were unworthy of that recognition, what are they not unworthy of? They will probably not be assigned to the Faculties. They will not be given important teaching posts. They will not probably be appointed Examiners. All this prohibition is not provided for in the Statutes that have been framed or in the Regulations. The first differentiation, however, gives them a bad start, a start for which I have not been able to find reasons. Then one may ask oneself as to why this differentiation has been brought in apart from the reason that where some of the Delhi teachers may be so untrustworthy as to arouse apprehension in the minds of the authorities. I have been looking into all the recent Educational Acts, Lucknow, Allahabad, Benares and Aligarh, and nowhere does this differentiation appear. The only place in which in the definition something like this occurs is in the Lucknow Act where you don't hear of teachers 'recognised' by the University but the definition speaks of them being appointed. All that you have there is 'teachers' and 'teachers of the University', 'teachers' being according to the definition Professors, Readers, Lecturers and other persons imparting instruction in the University or any of its colleges or halls, and 'teachers of the University' being persons appointed and paid wholly or partly by the University for imparting instruction in the University. As I began by saying, I can understand that, and that is exactly how the definition was first framed. It cannot be said that there was no necessity for this recognition procedure in Lucknow, because the University there is absolutely and downright unitary. That is not so, because the definition of teachers gives the go-by to that idea. A teacher would be a teacher imparting instruction in any University or in any of its colleges, or halls. We have exactly the same state of things here, three colleges, we have more than one college at Lucknow, more than one college in Patna and Dacca, and, in none of these Acts, the differentiation has not been many. Aligarh and Benares stand on an absolutely different footing. Therefore, on the second ground also, I find no justification for this differentiation.

Well, Sir, to go back a little further into the history of things, how did this recognition question come? It finds a place in the Calcutta scheme as propounded by the Sadler Commission and for very good reasons. Even if Calcutta was to be a teaching University by itself, it would be what was called a multi-collegiate University, unitary if you like to call it in the bigger sense, but multi-collegiate to deal with, there would be a tremendous body of people and unless you know something about them you could not allow them to go on doing their teaching work. Recognition was for no other purpose. That is very clearly brought out in Chapter 24, Volume IV, at page 223.

> 'It would mean that the college would know when appointing a teacher thus qualified that recognition would follow practically as a matter of course. Until a teacher was recognised instruction given by him would not count towards the minimum required in paragraph 66 above, nor would he be entitled to serve as a member of the academic bodies of the University :'

and I add as an examiner and in various other capacities. Having said that, they went on to say further that a college had more than a certain percentage of what would be called unrecognised teachers. The college could not continue to enjoy affiliation or recognition, call it what you please. By introduction of difference somewhat of this kind what do you do? You are really putting an end to the unitary character of the University of which you think so much and asking the Univesity partly teaching and partly affiliating, because those

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of the college teachers who will be recognised will be doing what is called University teaching and not the other work. You do not bar others, you do not forbid others doing teaching work which will be recognised by the University. No such thing. If you are saying that, your position would be intelligible. You are allowing them to go on doing teaching work and I have the right to conclude that no exception can be taken to them. In so far as that is concerned, you are really affiliating the classes which they will be teaching. That is a very undesirable state of things.

Then we come to clear exposition of the matter by Dr. Gregory who brought out the real reason why a long and elaborate process of providing for recognition of teachers had to be resorted to, how unsatisfactory it was and how in the peculiar circumstances of Calcutta it became necessary for the time being. He began by saying:

'The Commission are unanimous that the Calcutta University must be organised as a multi-collegiate University with the Calcutta colleges at least at present divided into two groups, one forming a teaching division of the University and the other forming an affiliating group. The success of a multi-collegiate University in Calcutta would depend on the establishment of such relations between the University and the colleges as will secure the whole-hearted co-operation of the colleges and continued support of agencies to which they owe their existence.'

Then the Report remarks, that is the parent Report, that the distinction, and here I ask the Assembly to mark the words,

'The invidious distinction between Indian and Provincial Educational Services makes friendly co-operation between the colleagues of the two services often very difficult, but in a college, of all places, friendly co-operation is indispensable.'

And what friendly relations would be possible on the teaching body of a college where a number of teachers are recognised by the University and the balances fail to be recognised. This differentiation on the teaching body of a private college would be still more awkward and embarassing.

The Report proposes four kinds of teachers,—I need not go into the details of that,—readers, lecturers, assistant lecturers, professors and all that. The recommendations are now beside the mark, but the four classes of teachers would include some of these unrecognised teachers and Dr. Gregory goes on to say:

'It may be still more invidious and harassing and detrimental to the harmony of college staff, and the risk of difference between the University and college in regard to their staff would be greatly reduced if the University were not required to recognise teachers individually.'

The elaborate procedure of recognition laid down in section 17 of the Schedule; what is that? Teachers requiring recognition will have, in the first place, to submit to the nomination of a committee. They have to go before the committee of selection enumerated there. Then if there is a difference of opinion between that Committee of selection and the executive council there is an appeal to the Chancellor. All this was originally provided for in the case of appointments and the word 'recognition' has been introduced into this clause, and appointments in the University as well as recognition of teachers in the colleges have been placed on the same basis. Now, supposing all this ordeal is gone through and the teacher is not fortunate enough to be recognised. I should like to ask what this position would be in the

college, what his position would be in the University, how would he face his colleagues, how would he face his students and how would he face the world at large? There would be a hallmark, as it were, of inferiority for which I say there has been no cause as far as I know. Then to resume the thread of narrative giving the origin of the whole of this idea, we find statements to the effect:

'We should anticipate that normally the whole body of teachers of a well conducted college would be recognised, but it may sometimes happen that the college may wish to appoint men on personal knowledge whose formal qualifications may well-nigh seem insufficient or who possess no regular academic qualifications, but whose enthusiasm may make up for deficiencies.'

Well, after the Committee went into the matter and suggested its compromise it did not find a place in the Dacca scheme anywhere nor in the Dacca Act. The Jagannath College was there, the Teaching College was there and the Dacca College was there, certainly three colleges. They did not think it necessary to introduce this distinction. I do not for a moment desire to urge that all teachers because they are teachers would be entitled to be professors or readers or lecturers. All that would depend upon the personal qualifications of the man. Personal equation always comes in and the Academic Council or whatever body would have the assignment of the duties of teachers, the assignment of teachers to the faculties, the appointment of various high teaching officers, could and would take the personal qualifications of every man into consideration. The mere fact that the man was appointed by the University would not necessarily make him a reader or a professor and there would be no stigma attaching, by a man being passed over if there was a better man either on the staff of the University or of the college.

On this part of the question the Sadler Commission says that there ought to be a sort of heirarchy of teachers. Quite right. There will be four classes of teachers and they would be graded in regard to pay and status and rights, each according to his personal qualifications. But I deny altogether that even the Sadler Commission with regard to the elaborate Calcutta scheme proposed that there should be an oligarchy of teachers. There is and will always be difference between a heirarchy and an oligarchy. Here will be an Academic Council on which the 'unrecognised' teachers will have no place and they will deal with questions affecting most vital interests of non-recognised teachers as well as the college and the classes which they will be permitted to teach. If the scheme was in any way necessary, having regard to existing state of circumstances, one would have thought that among the many transitory provisions some machinery would be devised by which in time it will be possible to superannuate those who were not desirable as members of the teaching body, but to allow them to continue as teachers and to allow them to do teaching work which would clearly have to be and be recognised by the University, and, at the same time, to subject them to the process detailed in section 17 of the Schedule and thus to place them on, what I conceive to be a clearly invidious position is a proposition which I submit has not been borne out by facts and reasoning. In view of all these considerations and having regard also to the fact that in other places where more than one college exist and have to be dealt with on the basis of unitary University, this last founded University ought not to have this scheme of practically degrading the capable and devoted body of teachers whose cause I am really pleading here, though there might be an apprehension to the contrary in uninformed circles. I have been trying to find out

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from the Lucknow Act as to whether by reason of the differentiation to which I have referred teachers are subjected to any of the disabilities of the kind I have referred to. There is none to be perceived and I submit that there is no reason or occasion for introducing this distinction here.

The Honourable Mian Sir Muhammad Shafi (Education Member) : Sir, it was hardly necessary for my Honourable and Learned friend to launch upon a dissertation on general principles in connection with the amendment which he has moved. Nor is the analogy of Dacca, Lucknow, Aligarh and Benares Acts applicable to the present case. In Benares, Aligarh, Dacca and Lucknow, the appointing authority and the recognising authority is one and the same. In fact, there is no distinction there in appointment and recognition at all. The distinction which has been introduced in the Select Committee is necessitated by the exigencies of the local situation in Delhi and, as a matter of fact, has been introduced at the request of the managers of the institutions which will form component parts of the University. It is a case, if I may venture to say so, of the Urdu proverb which says : '*Muddaie sust, gava chust*' on the part of my Honourable friend, Sir Deva Prasad Sarbadhikary, to come forward in this House and to pose as the champion of what he was pleased to call the class of unrecognised teachers. I shall presently show that the expression 'unrecognised teachers' is a misnomer so far as the teachers of the local colleges are concerned. Now, Sir, as there are three existing institutions here in Delhi, which will form, when the University comes into being, component parts of this new University, the result is that in the first place, the University itself will appoint a certain number of professors. These, of course, will *ipso facto* be teachers of the University. But, in addition to these teachers or professors appointed by the University, there will be the teaching staffs of the three existing colleges. In these circumstances it became necessary at the request of the managers of the existing institutions to recognise members of their staff as teachers of the University in order that they may possess the same rights and privileges as will be possessed by the professors directly appointed by the University itself. But then it must be obvious to every Member of this House that it would, in these conditions, be impossible for the new University to automatically recognise all members of the staff, whoever they may be and whatever their qualifications, academic and otherwise, as teachers of the University. Therefore, it is obvious that teachers other than those who will actually be recognised as teachers of the University will continue to perform the functions of teachers in the local colleges and as such will enjoy certain privileges and rights which the Act will confer upon them. Nevertheless the position of those Members of the existing staff, who are recognised under the Act as teachers of the University, will be somewhat higher, and very naturally so, than the privileges and rights enjoyed by teachers who will not be recognised as teachers of the University. Nevertheless they will be there. They will be recognised as teachers. You cannot say that they are unrecognised teachers, in the sense in which my Honourable friend has made use of that expression. Not only will they be teachers of the various colleges, but in the organisation of this University and of its various bodies these teachers will also possess a certain quantum of rights and privileges. The expression 'unrecognised teachers' is therefore an absolute misnomer. Only they will occupy a status a little lower than that of the teachers of the University. The recognition of these

teachers, therefore, is their recognition as teachers of the University apart from their position as teachers in a hostel or in a hall or in one of the existing colleges. The distinction which has been introduced in the Bill, therefore, is a distinction which is the necessary consequence of the existing position in Delhi and has been introduced at the request of the managers of these very institutions, and in consequence the criticism put forward by my Honourable friend does not apply in this case.

Mr. President: The question is:

'That clause 2(*h*) be omitted.'

The motion was negatived.

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

Mr. H. Sharp: Sir, could the consideration of this clause—clause 8—be reserved? Could it be taken out of turn? Otherwise, the small amendment I have to move will not easily be understood.

Mr. President: The question is:

'That the consideration of clause 8 be postponed.'

The motion was adopted.

Sir Deva Prasad Sarvadhikary: Sir, I beg to move:

'That in clause 9, sub-clauses (*2*), (*3*), (*4*), (*5*) and (*6*) be omitted.'

They deal with certain powers to be conferred upon the Chancellor as apart from the University as a whole. The first sub-clause is as follows:

The Chancellor.

'The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court, and shall, when present, preside at meetings of the Court and at any convocation of the University'.

In the clauses to which my amendments relate we have a provision that the Chancellor shall have individual right to cause an inspection to be made, to address the Vice-Chancellor with reference to the results of such inspection or inquiry, and then we have the provision about the Executive Council having to report to the Vice-Chancellor, for communication to the Chancellor, such action as may have been taken. Then the clause gives the Chancellor authority to pass orders through the Executive Council for having them carried out. As far as I can make out, Sir,—I must not presume to go into a dissertation as I may be again offending the Honourable the Education Member—as far as one can make out, these powers were taken and considered necessary where the Viceroy is a visitor and not an integral part of the University. Fortunately, for Delhi, the Viceroy is to be its Chancellor. I regret, and with me many regret, that he has ceased to be the Chancellor of the Calcutta University that had done more than its part of enormous educational work for Northern and Eastern India, Burma, Ceylon and Nagpur in the past. We, in Calcutta, have not yet gained by the change and it will be long indeed before we gain. In the meanwhile the Viceroy had ceased to be Chancellor of any University. The Viceroy is once more to be the head of an University and as an integral part, therefore, the powers that were necessary in the case where he was a visitor and therefore more or less detached from the University, need hardly find a place in the

[Sir Deva Prasad Sarvadhikary.]

Delhi Act, where he will be the Head of the University. University duties are defined and they can be carried out at the instance of the University by the various Faculties and Councils and other bodies. But the Chancellor, having done his work as a part of the University, should hardly stand out, as it were, of the machinery, take up a detached position and, in more or less an individual capacity, give orders that may or may not be reconcileable with what the University as a whole may have arrived at. That is not a sort of position that one would like to see tolerated as a part of the marching events of the time. You are going to have a carefully-organized Court, with all the safeguards that you can think of; you are going to have the Viceroy as the Head of that University; and all that is necessary to be done can be done at the instance of the Viceroy as Chancellor and through the machinery of the University itself; and it is undesirable to give him powers, extraneous powers of the kind that may have been found necessary in the case of a visitor. These are the reasons, Sir, which underlie the amendment which I have now the honour of proposing.

Mr. H. Sharp: Sir, this particular clause, on which Sir Deva Prasad Sarvadhikary has moved an amendment, is one that has at times given searchings of heart to some people; but it is necessary. These powers, which are ordinarily called emergency powers, were first introduced into an Act with reference to a new type of University, and they sprang also out of the later report of the Calcutta University Commission which laid great emphasis upon the fact that the Governor General ought to be the Visitor of Universities and ought to be able to bring some kind of pressure, financial or otherwise, upon Universities. Well, the financial arrangements which were suggested by the Commission are difficult, and so we have had to seek to do these things and to carry out the wishes of the Commission in a somewhat different way. Sir Deva Prasad Sarvadhikary's objection, as I understand it, is that here you have an officer of the University, a person who forms a member of the body of the University placing himself, so to speak, outside the University, and saying: 'Now you have got to do this'. Well, as a matter of fact, although the Acts that have already been passed differ in various ways as regards the authority in which these powers are vested, nevertheless there are two Universities, constituted not long ago, in which the Chancellor does possess the powers which are provided for in sub-clause (5) of this clause. At the same time Government do recognize that there is some weight in the objections put forward by Sir Deva Prasad Sarvadhikary. The Governor General, as Chancellor of this University, will be able to bring pressure upon the University in various ways; he has nominations to the different bodies and so on; and, therefore, it is suggested that Government accept this much of his amendment, namely to excise sub-clause (5). In fact, this amounts to the acceptance of Mr. K. C. Neogy's amendment which he would have moved next. I hope Sir Deva Prasad Sarvadhikary will recognize that this is a considerable concession to the views that he has put forward. I must however say that the excision of this clause in this particular Bill cannot be taken as a precedent for similar action in other cases. For here the position is peculiar, we have the Governor General himself as the Chancellor of the University, whereas in the case of other Universities he will stand in the position of a Visitor, and it may be necessary for him, standing outside and viewing the conditions of various Universities, to issue orders upon one or other of them.

3 P M.

As regards clauses 2, 3 and 4, it would seem to be a wise precaution to allow the Chancellor to exercise this power of inspection. There can really be no objection to it and it is a wholesome thing for a University occasionally to undergo inspection. Why therefore should not the Chancellor order an inspection at times by an outside body? It seems inadvisable to accept that part of the amendment.

Mr. President: The qustion is:

'That sub-clauses (*2*), (*3*) and (*4*) of clause 9 be omitted'

The motion was negatived.

Mr. President: The question is:

'That sub-clause (*5*) of clause 9 be omitted.'

The motion was adopted.

Mr. President: The question is:

'That sub-clause (*6*) of clause 9 be omitted.'

The motion was negatived.

Clause 9, as amended, and clause 10 were added to the Bill.

Rai G. C. Nag Bahadur (Surma Valley *cum* Shillong: Non-Muhammadan): Sir, the amendment, standing in my name, runs as follows:

'For clause 11 (*1*) substitute the following:

'The Vice-Chairman shall be an *Honorary* officer appointed by the Chancellor, and shall hold office for three years.'

My object in moving this amendment is simply this. When we are providing for the constitution of a new University in Delhi we should take into consideration the system that prevails in the other Universities of India. The older Universities of Calcutta, Bombay, Madras and the Punjab are all managed by Honorary Vice-Chancellors. The Hindu University of Benares also has an honorary and un-official Vice-Chancellor; but the Dacca University, which came into existence only seven months ago, has got a paid Vice-Chancellor. I know it is the fashion to quote Dacca as a model of what a University should be. I am connected with that University and I shall tell the House how the system is working there. The Nathan Committee proposed a recurring expenditure of 13 lakhs on the Dacca University and this provided for a paid Vice-Chancellor and the Government of India appointed the present Vice-Chancellor on a salary of Rs. 5,000 including allowances. But the Bengal Government is faced with serious pecuniary difficulties and has given the University only five lakhs, or less than half the proposed grant for recurring expenditure, and with this the University has to maintain the present Vice-Chancellor also. The result is that the University is unable even to entertain an adequate staff of teachers, equip its laboratory or furnish its library. It is unable to find money to attract an efficient staff of Professors in English literature, and students have to suffer on that account. Dacca should therefore be, not an example, but a warning to Delhi and we should avoid committing a similar mistake here. The Dacca University with its present enrolment of 800 students—which will surely go up to 1,000 this year—had an income of nearly Rs. 60,000 from fees. Delhi with its 200 students cannot expect more than one-fourth or one-fifth

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of that income, which will hardly cover the pay of the Vice-Chancellor, if one is appointed. Now, can Delhi with this income—supplemented although it may be by Government grants—entertain a paid Vice-Chancellor on Rs. 5,000 or even Rs. 3,000 a month? There is not a superfluity of funds even in the Central Government, and the best course would therefore be to provide for the appointment of an honorary Vice-Chancellor for the new University. The clause, as it stands, does not preclude the appointment of an unpaid Vice-Chancellor, but I think the intention of the framers of the Bill is quite clear from its wording. It says:

'The Vice-Chancellor shall be appointed after consideration of the recommendations of the Executive Council, and shall hold office subject to such conditions as may be prescribed by Statutes.'

Now this leaves no doubt in my mind that the Vice-Chancellor is intended to be a paid officer. We know too well that the tendency everywhere in India is to multiply highly paid posts. We should set our face against this tendency by providing beforehand in clear and unambiguous language in this Bill that we want not a paid, but an honorary Vice-Chancellor.

Now, it will be asked, can we be sure of getting suitable men in Delhi to serve as Honorary Vice-Chancellors? Sir, I think there will be no difficulties on this score. The new University will take at least three or four years to be a *fait accompli*, by which time the Government of India with all its offices is likely to be located permanently at Delhi. There will be plenty of high officials then. We have the Member for Education, the Educational Secretary to the Government of India and the Educational Commissioner with the Government of India, for instance, who will be available for the purpose. The Delhi University will add to its dignity by having any one of these officials presiding over its affairs. But it will do more. It will kill not two, but three birds with one stone, if it can succeed in securing an official like the Educational Commissioner with the Government of India to be its Vice-Chancellor—firstly, it will give him plenty of educational work which he must be badly needing since the transfer of the subject of education to the Provinces; secondly, it will reduce the official element in the composition of its Court, for the Educational Commissioner and the Vice-Chancellor are, according to the Statute, to be *ex-officio* Members of the Court and, if they are merged, the official element is reduced by one member; thirdly, it will ensure smooth sailing with the Government of India who are to finance it. The public will, in that event, be spared the spectacle of the friction, or rather unseemly quarrel, which they saw going on only a year ago between the Government of India and the University of Calcutta. Then, again, Delhi is bound to have a Supreme Court of Appeal at no distant date, which will draw to it not only eminent Judges, but also learned lawyers like my friend, Dr. Gour, and there will then be a still wider field to choose a Vice-Chancellor from.

For all these reasons, Sir, I move that the amendment be accepted.

Mr. H. Sharp: Sir, I should like to take first the last few words of Mr. Girish Chandra Nag's amendment, *viz.*, that the Vice-Chancellor should hold office for three years. The Bill, as it stands, leaves that period to be determined by the Statutes; and I would appeal to him that it is much better to leave the period to the Statutes and to leave a certain amount of fluidity and not bind the University or the Chancellor down to a fixed period in

every case and for ever, as this amendment would do unless indeed this measure came back to the Assembly for further amendment.

As regards the first and far more important part of his amendment, here also I would ask him to consider whether it is wise to bind down for ever the Chancellor to the appointment of an Honorary Vice-Chancellor. This is going to be an expanding, developing University, and it is very possible that there may be periods in its growth during which the presence in the University of a whole-time salaried man will be absolutely essential. Moreover, I would ask the Honourable Member to consider this sort of case. Suppose there was some gentleman of high academic attainments and very much interested in University affairs. Let us suppose that possibly he is a Member of this Assembly. Suppose that the Chancellor desires to appoint him as Vice-Chancellor. But unfortunately the man may not be a resident of Delhi and he may not be a man of sufficient wealth to allow him to desert his work and come here. Is the Chancellor to be thereby prevented from giving him the salary to come here? I am, of course, supposing that our finances are improved and that it is possible to pay him an adequate and substantial salary. But surely in such cases there should be nothing in this measure to prevent the Chancellor from so acting. Moreover, as regards the wishes of the Assembly in this matter—and I know that there is much sympathy with Mr. Nag's amendment—I put it to the Assembly that this House will always be able by one way or another to bring considerable influence to bear upon this University partly by resolutions and partly by financial arrangements.

At the same time I will meet Mr. Nag half way if he will accept my proposal. Sub-clause (*1*) of clause 11 does not, as I think he appeared to say, bind the Chancellor down in any way to the appointment of a whole-time salaried Vice-Chancellor. But there is this much in his objection, that it would be rather difficult in a University of this sort to avoid, unless we take certain steps, having a whole-time man. The Calcutta University Commission strongly recommended a whole-time salaried Vice-Chancellor for the University of Dacca and likewise for Calcutta, although Calcutta University is of a different type and would have been of quite a different type even under their proposals. The fact of the matter is that a University of this character cannot be run without somebody on the spot to look after matters, especially the academic matters. It is absolutely essential that there should be some one on the spot. Now, if you have an Honorary Vice-Chancellor, you cannot prevent him from going, say, to Calcutta to look after his business. You cannot prevent his going away possibly for a long time, and it might be possible that if he is not a resident of Delhi, as I suggested, he would only be able to come down occasionally. Therefore in order to meet the Honourable Member and in order to show that the omission of the words 'whole-time salaried' from sub-clause (*1*) of clause 11 of the Bill is not mere camouflage on the part of Government, but that our intentions are really to appoint one or the other as occasion may require, I suggest that I should presently move an amendment which would come in the form of a new clause after clause 12 and would provide for the appointment of an officer whom we might call the Rector, who will have handed over to him certain of the functions of the Vice-Chancellor. It would perhaps not be necessary for such an officer always to be appointed even if there were an Honorary Vice-Chancellor. But I made it clear that difficulties are likely to arise in the case of an Honorary Vice-Chancellor; and therefore in order to meet the idea underlying this amendment we suggest that

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there should be an officer called the Rector who will be able to be on the spot and do the work which possibly the Vice-Chancellor at that moment ought to be performing and which he is unable to perform. Circumstances do sometimes arise when urgent action has to be taken and when the absence of the Vice-Chancellor would be awkward. I am quite ready to give the wording of the amendment if the Honourable Member so desires, or I will move it immediately after clause 12. But I would appeal to him to withdraw this amendment which he suggests in view of the promise which I give to move this amendment presently.

Rai G. C. Nag Bahadur : Could we not be sure that the chief official of any of the colleges here will be able to act as a Pro-Vice-Chancellor or Rector as you may call him to do the ordinary routine work or to preside over the meetings when the Vice-Chancellor is absent from Delhi ? But as I have already said, I do not anticipate any such difficulty at all. If any one of the high officials located here permanently will be the Vice-Chancellor of the University, I do not think there will be any difficulty whatever for him to come and preside over the meetings. Busy Judges of the High Court of Calcutta have been found willing and even glad to come and preside over the affairs of the Calcutta University. Could there be any difficulty in Delhi where the headquarters of the Government of India are located ?

Mr. H. Sharp : There would be no objection to the suggestion put forward by Mr. Nag that possibly somebody connected with one of the colleges might be selected as this very officer. As regards the high official of Government, that also I suppose will be quite possible, although I must confess that the work which falls upon the high officials of Government at this time would, I am afraid, make it very difficult for them to take over any work such as this office would entail. But my whole point is this, that whoever may be selected as Rector, it will be necessary to give him some statutory powers ; that is absolutely essential ; otherwise he will be nowhere : he would not be able to do anything. All that I am seeking to do is to have an enabling clause put in after clause 12 which will enable such an officer to be appointed and give him certain statutory powers which should be of an elastic nature ; and if Mr. Nag will accept that and withdraw his amendment, I think it will be the best arrangement possible.

Rai G. C. Nag Bahadur : Sir, I should like to know the terms of the amendment which Mr. Sharp proposes to embody in the Bill.

Mr. H. Sharp : I understand that Mr. Nag would like to hear the amendment.

Rai G. C. Nag Bahadur : Yes.

Mr. H. Sharp : The amendment that I propose is that after clause 12, there should be inserted clause 13 as follows :

'The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions and shall exercise such powers and perform such duties of the Vice-Chancellor as the Chancellor after consultation with the Vice-Chancellor may direct.'

Now the points about that amendment are . . . . . .

Mr. President: I may point out that if the Honourable Member discusses the amendment now, he will not be allowed to discuss it when he moves it. (To Rai G. C. Nag Bahadur) Does the Honourable Member accept it?

Rai G. C. Nag Bahadur: Yes, Sir, in the circumstances, I am satisfied that the amendment will serve my purpose. I therefore beg to withdraw my amendment.

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

Clauses 11 and 12 were added to the Bill.

Mr. H. Sharp: Sir, I beg to move:

'That after clause 12 the following clause be inserted, namely 13: '13. The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions and shall exercise such powers and perform such duties of the Vice-Chancellor as the Chancellor after consultation with the Vice-Chancellor may direct', and that the subsequent clauses be re-numbered accordingly.'

Sir, when you called me to order just now and pointed out that I shall not then discuss my amendment, I was about to point out to Mr. Nag the virtues of this particular amendment, which I move in order to meet his contention. However, he has already agreed to withdraw his own amendment. The clause that I put forward in this amendment is purely an enabling one. It is capable of being used or not used as the Chancellor may find it necessary. Further it is a very elastic clause. It is the only way, I think, in which this arrangement could possibly be made. It does not even say that the Rector shall be a salaried whole-time officer, although of course it would be essential that he should be on the spot. Nor does it say what his duties shall be save that they will be fixed according to the orders of the Chancellor after consultation with the Vice-Chancellor. This amendment will enable an Honorary Vice-Chancellor to be appointed without the difficulties and dangers that arise of leaving the University in times possibly of difficulty or strain without any statutory powers on the spot to look after it and give the necessary orders and look after the work of the various governing bodies. I trust, Sir, that this amendment will commend itself to the Assembly at large.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I wish to support the amendment which has just now been moved by my Honourable friend, Mr. Sharp. I do so in the belief that this amendment has been moved in order that the appointment of Honorary Vice-Chancellors may be facilitated. I understand that the real reason why Mr. Sharp could not accept the amendment of Mr. Nag was that it was not advisable to lay down hard and fast rules about the appointment of Honorary Vice-Chancellors, but speaking on behalf of Government he gave us the assurance that as far as possible Honorary Vice-Chancellors would be appointed, and in order to remove any difficulties, should they arise in the future, he has suggested the appointment of a Rector. In this view of the amendment I give him my support.

New clause 13, old clause 13, and clause 14 were added to the Bill.

Mr. H. Sharp: I beg to move:

'That in clause 15, after the word 'Vice-Chancellor' the word 'Rector' be inserted.'

The motion was adopted.

Clause 15, as amended, and clause 16 were added to the Bill.

Mr. H. Sharp: Sir, the consequential amendment will be :

'That in clause 17, sub-clause (*i*) under class I, Ex-officio Members, after sub-clause (*iii*) the following clause be inserted, namely, 'The Rector', and the remaining sub-clauses be re-numbered'.

The motion was adopted.

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

Mr. H. Sharp: I beg to move :

'That in sub-clause (*e*) of clause 21, after the word 'Vice-Chancellor' the words 'the Rector' be inserted.'

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clauses 22, 23, 24, 25, 26 and 27 were added to the Bill.

Mr. H. Sharp: There is one little matter we have to go back to. I beg to move :

'That in clause 8 of the Bill, the following be inserted as sub-clause (*4*), namely, '(*4*) the Rector' and that sub-clauses (*4*), (*5*), (*6*) and (*7*) be re-numbered accordingly.'

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I beg to move :

'That for the words 'Governor General in Council', wherever they occur in clauses 28 30 and 31, the word 'Chancellor' be substituted.'

It will be seen that clause 28 relates to the making of Statutes, clause 30 relates to Ordinances and clause 31 relates to Regulations. My object in bringing forward this amendment is that no control in these matters should be vested in an outside body howsoever exalted it may be. I think the ideal which the Sadler Committee set before them in the matter of the Universities of the future, was that of an autonomous University free from outside control as much as possible, and I think Government should stick to that ideal in regard to this measure. I am aware that the Sadler Committee stated so far as the Statutes of the Dacca University were concerned, they should be amended, rather they should be liable to be amended subject to the approval of the Governor of Bengal in Council. That was with regard to the Statutes.

Then with regard to the Ordinances, I find that they proposed to give the power of veto to the Chancellor and not to the Governor of Bengal in Council. That was the distinction the Commission made. Here we do not find any such distinction. At the same time, I am entitled to know as to why in the face of the recommendation made by the Sadler Committee, the Government of India, while enacting the Dacca University Act, vested this power in regard to the Statutes, not in the Governor of Bengal in Council, but in the Chancellor. Was it because they were unwilling to give any control to the Minister in charge of Education, because the Governor of Bengal in Council, in regard to the University, would mean the Governor acting in consultation with or on the advice of the Minister ? Then, Sir, I find that subsequent to the Dacca University Act, two of the Provincial Legislatures have passed Acts in regard to their own Universities, and I do not find that in any of these Acts these powers are sought to be given to the Local Government. Everywhere it is

the Chancellor that is vested with this authority. In regard to the Allahabad University Act, which, I think, is the most recent one, it is noteworthy that that Bill was introduced by the popular Minister in charge of Education, and neither he nor the United Provinces Legislature thought of vesting this authority in the Local Government. If there was any merit in vesting this authority in the Government, certainly the Local Legislature and the Minister of Education, who was in charge of that Bill, would have taken care to provide for that power for the Local Government and not for the Chancellor. It may be said that in so far as you will leave this control with the Governor General in Council, this Legislature will also have some control in regard to the exercise of this power. Well, Sir, this may be a very tempting bait to us, but the bait was certainly there in the case of the Allahabad University Act as well; and there, Education being in charge of a Minister, the local Council should have been the first to take advantage of such a provision if they thought there was any merit in it. Then, Sir, I think that the Chancellor, in so far as he will be associated intimately with the Court, the Executive Council, and the Academic Council of the University, will be more amenable to their influence than the Governor General in Council. Furthermore, it will be observed, that the authorities grudge certain powers to the Court. In fact, the scheme of the present Act is to make the Executive Council practically superior to the Court. At least in certain matters it is so. Well, Sir, if we deny to the Court some of these powers which are enjoyed by the Senates of the older Universities, I for myself would not be party to any scheme which may have the merit of giving us some more powers in regard to the internal administration of the University. If anybody deserves more power, it is the Court first and foremost of all, and not this Legislature, nor certainly the Government of India. With these words, Sir, I beg to move my amendment.

The Honourable Mian Sir Muhammad Shafi: Sir, I think a little reflection will convince my Honourable friend, Mr. Neogy, that the amendment which he proposes is sure to land the University in difficulties. If Honourable Members will turn to clause 9, sub-clause (*1*), they will find that under that sub-clause :

'The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court'.

Now, if Honourable Members turn to clause 28, which is the first clause in which my Honourable friend would substitute the word 'Chancellor' for the words 'Governor General in Council', they will at once see the impossibility of the position which will arise if my Honourable friend, Mr. Neogy's amendment is accepted. It is sub-clause (*4*) with which we have mainly to deal. Sub-clause (*4*) runs as follows :

'Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the Governor General in Council, whose decision shall be final'.

Now, if we were to substitute the word 'Chancellor' in the place of the expression 'Governor General in Council', the result would be this. In the case of disagreement between the Court of which the Chancellor is the President and the Executive Council, the decision of the Chancellor, that is to say, the President of the Court, shall be final. That is the obvious result. According to the clause, the Governor General in Council comes in only in the

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case of disagreement between these two bodies of the University, namely, the Court of which the Chancellor is the President and the Executive Council. It is obvious that if there is disagreement between these two bodies, the deciding authority should be an outside authority, and as the Governor General in Council is in this case obviously the best outside authority which should settle the difference between these two bodies, it seems to me that the clause as it stands ought to be accepted. As Honourable Members are aware, the major portion of the expenditure connected with the University will be incurred by the Government of India, and in the case of disagreement therefore between the two principal bodies of the University, the final decision should rest with the Government of India, meaning the Governor General in Council. Let us turn to clause 30, which is the next clause mentioned by my Honourable friend. Here, the expression 'Governor General in Council' occurs in sub-clause (*3*):

'All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Governor General in Council and the Court and shall be considered by the Court at its next meeting'.

Now, as I have already pointed out, the Chancellor is the President of the Court and he will have cognizance of these Ordinances in his capacity as the head of the University. The Governor General in Council will have cognizance of Ordinances as soon as they are framed in the manner laid down in this sub-clause, and therefore it is necessary that these be referred to the Governor General in Council. In accordance with sub-clause (*4*), the Governor General in Council may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void. This is in accordance with the recommendations of the Calcutta University Commission and there is absolutely no objection in principle to it. It was noticeable that the Honourable Mr. Neogy in his opening address did not deal with the various provisions of the Bill in order to show what *a priori* are the grounds of the objection to the provisions as embodied in the Bill. His main argument was that the word 'Chancellor' should be substituted wherever the words 'Governor General in Council' occur in order that this University may be autonomous in its character and no outside authority should have any power of interference in this matter, and in consequence I, too, am called upon to deal only with that general argument. But even if we were to examine each one of these clauses separately, Honourable Members will find that the provisions as embodied in the Bill are based upon reason and upon sound considerations and also are in accordance with the Calcutta University Commission Report, and therefore I would ask the House to accept the provisions in the Bill as they stand.

Mr. K. C. Neogy: Will the Honourable Member kindly point out from the different University Acts, where all these powers are given to the Local Governments or the Governor General in Council? I have got some of the Acts before me, but I do not find anywhere that anything of the kind has been done. It is only the Chancellor who is vested with that authority in the Acts that I have seen.

Mr. President: Amendment moved:

'That in clause 28, for the words 'Governor General in Council' wherever they occur, the word 'Chancellor' be substituted.'

The question is that that amendment be made.

The Assembly then divided as follows:

AYES—9.

Abdul Rahim Khan, Mr.	Nag, Mr. G. C.
Agnihotri, Mr. K. B. L.	Nayar, Mr. K. M.
Bagde, Mr. K. G.	Neogy, Mr. K. C.
Mudaliar, Mr. S.	Reddi, Mr. M. K.
Mukherjee, Mr. J. N.	

NOES—48.

Abdul Majid, Shaikh.	Jejeebhoy, Sir Jamsetjee.
Abdul Quadir, Maulvi.	Kabraji, Mr. J. K. N.
Agarwala, Lala G. L.	Kamat, Mr. B. S.
Akram Hussain, Prince A. M. M.	Keith, Mr. W. J.
Amjad Ali, Maulvi.	McCarthy, Mr. F.
Asjad-ul-lah, Maulvi Miyan.	Mitter, Mr. K. N.
Barua, Mr. D. C.	Muhammad Hussain, Mr. T.
Bishambhar Nath, Mr.	Muhammad Ismail, Mr. S.
Bradley-Birt, Mr. F. B.	Nabi Hadi, Mr. S. M.
Bridge, Mr. G.	Percival, Mr. P. E.
Bryant, Mr. J. F.	Pyari Lal, Mr.
Carter, Sir Frank.	Ramayya Pantulu, Mr. J.
Chatterjee, Mr. A. C.	Rao, Mr. C. Krishnaswami
Cotelingam, Mr. J. P.	Samarth, Mr. N. M.
Dalal, Sardar B. A.	Sarvadhikary, Sir Deva Prasad.
Dentith, Mr. A. W.	Schamnad, Mr. Mahmood.
Faridoonji, Mr. R.	Shahab-ud-Din, Chaudhri.
Fell, Sir Godfrey.	Sharp, Mr. H.
Gajjan Singh, Sardar Bahadur.	Sim, Mr. G. G.
Ghose, Mr. S. C.	Sinha, Babu Ambika Prasad.
Gour, Dr. H. S.	Subrahmanayam, Mr. C. S.
Habibullah, Mr. Muhammad.	Subzposh, Mr. S. M. Z. A.
Hullah, Mr. J.	Way, Mr. T. A. H.
Ikramullah Khan, Raja M. M.	Zahir-ud-din Ahmed, Mr.

The motion was negatived.

Sir Deva Prasad Sarvadhikary: Sir, I beg to move:

'That the following words be added to clause 28, sub-clause (*3*):

'and on receipt of the Report of the Executive Council may pass the Statute in such manner as it may think fit'.'

Then the whole thing will read like this:

'or may return the Statute to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest, *and on receipt of the Report of the Executive Council may pass the Statute in such manner as it may think fit*'.

That is to say, after there has been a difference of opinion between the Executive Council and the Court and after the Executive Council has been further consulted in the matter and reported on it, the Court should be the final disposing authority. My next amendment, to which I may refer with your permission, would explain what the situation would be. The next sub-clause, sub-clause (*4*), gives this power to the Governor General in Council, the final disposing authority being set up here as the Governor General in Council. Now the question is—is the Court to be a real sovereign body in the University or even in matters like this is outside influence to be exercised to the extent

[Sir Deva Prasad Sarvadhikary.]

that sub-clause (4) contemplates. I am thankful to the Honourable the Education Member and the Education Secretary for partially conceding that. Where the Viceroy is the head of the University, where there is a carefully constituted Court safeguarding necessary interests, if you cannot trust your University and make it really autonomous, why then we have not gone very far on the road to progress. Well, I am aware how in the olden times, I deliberately call them olden times, extraordinary power was reserved for the Government by the Sadler Commission 'for the re-assurance of the timid' as the Commission deliberately puts it. That was, however, not their ideal. They consented to it more or less as a compromise. It was a very interesting evolution in the case of the Dacca University. At the one end we had the Report of the Nathan Commission or Committee. At the other we had the recommendations of the Sadler Commission. The first was for direct Government control frankly. That the Sadler Commission deprecated and said that:

'There are many drawbacks in the system of direct, detailed State control'.

Further on they say:

'There are grave disadvantages in the existing dissociation between detailed knowledge of academic matters and responsibility for their administration, though it must be conceded that with regard to the larger questions of policy of the Universities there should be a certain extent of State control, but the attempt of the State to manage a University in detail leads to confusion. It weakens the sense of responsibility of the University in advising Government. Responsibility of Government becomes unreal because the department is unacquainted with details, yet legally entitled to make the final decision.'

That is exactly the position that is taken up here on behalf of the Government. Let us see what happens. The matter is thoroughly sifted between expert bodies like the Court and the Executive Council and the Academic Council, with the assistance of other experts that they may call in and at the head of affairs of the University the Viceroy himself who no doubt is receiving from time to time all the advice and suggestions that may be necessary for him to guide the University. When all is said and done, and everything is finished, the Governor General in Council has to say what shall be the Statutes. They are, I submit, details in the sense that the Sadler Commission spoke and are in no sense a large question of policy which the Sadler Commission thinks ought to be reserved for the Government. I am not unaware that as a matter of compromise in Calcutta and elsewhere the Sadler Commission recommended that the Government should have the controlling voice, but there has been a considerable march in events since then. Autonomy is in the air and even with regard to amendments in the Small Cause Court Act and the Code of Civil Procedure we hear questions of Swaraj brought in. After the new chapter has been opened and after all the care and anxiety that we have bestowed on the formation of the new University, with all possible safeguards that official and unofficial care could bestow regarding the settling of disputed points, we have the Governor General in Council, by no means an expert body, saying what shall be the Statutes in their final shape. Well, Sir, I do admit and the way in which I voted in connection with the last amendment shows that if any outside body was to have this or any other powers that it ought not to have I should certainly prefer the Governor General in Council because it would be a body open to the light of the day. It would be more objectionable that in the privacy of his Chamber the Chancellor should have the power to upset what the University had done; it is better, therefore, that if any outside

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body is to come in, that the Governor General should bestow further consideration with the assistance of his Council for, if necessary, matters might also be discussed in the Assembly which could not be done if the Chancellor was doing it. Mr. Neogy's self-denying ordinance does him credit. He wants the Court to be supreme. So do I. But he does not want this Assembly to have more loaves and fishes, which would come in the wake of power.

I agree with him so far, and I say that the Court should be supreme, and if the Court cannot be supreme in Delhi, with the Viceroy at its head, it can be nowhere.

Mr. H. Sharp: Sir, I think it must be rather distressing to those of us here who were members of the Joint Committee that we should have this very large number of amendments upon a clause to which we gave long and painstaking care; for I may say that the amendments which we made in this clause took a long time to make and were most carefully considered. Sir Deva Prasad Sarvadhikary is now moving an amendment on sub-clause (*3*) and he has quite rightly mentioned his subsequent amendment on sub-clause (*4*), because the two hang together. Some of the remarks which I have to make—I am making them now to save time—similarly refer to Mr. Neogy's suggestion regarding sub-clause (*3*) and also his proposal for the omission of sub-clause (*4*) and Sir Deva Prasad's further amendment on sub-clause (*7*). The general remarks which I have to make about these are that, looking back to Sir Deva Prasad Sarvadhikary's minute of dissent, I see—and he has more or less repeated in different words the same here to-day—that he has fallen into some error regarding the constitution of this and kindred Universities. He says that the Court is the sovereign body in the University, with the Viceroy as Chancellor, and that it occupies the position of the Senate, and both the Executive Council and the Academic Council are subordinate and answerable to it. There is some confusion of ideas, if I may say so, between the constitution of the University in which Sir Deva Prasad has himself played so conspicuous and brilliant a part and the other Universities, that existed in 1904 when the Indian Universities Act was passed, and on the other hand this entirely new constitution, formed on a quite different basis, which has been suggested by the Calcutta University Commission. I say a new kind of constitution, but it did not begin with the Calcutta University Commission. Sir Deva Prasad Sarvadhikary is, I believe, a Doctor of two Universities,—I think Aberdeen and St. Andrews. Those two Universities have a constitution approximately the same as that recommended by the Calcutta University Commission—similar to that which has been adopted for the most modern English Universities and which we are now trying to express in this Bill here. It is quite true that the nomenclature of the bodies in Scotland is very different; what we are calling here the Court, they call the General Council, and what they call the 'Court' is our Executive Council; but, on the whole, the constitution is the same; and with reference to the powers of the Court, I have just brought in a book—it is the St. Andrew's University Calendar, and I think it might interest the Assembly to hear what are the powers given to the Council, that is, the General Council, which is our Court here. In addition to certain elections:

'The business of the Council is to take into consideration all questions affecting the welfare and prosperity of the University and to make representations from time to time on such questions to the University Court, who shall consider the same and return them to the Council with their opinions thereon.'

[Mr. H. Sharp.]

Well, all I can say is that we are giving to the Court very much greater and more substantial powers in this particular Bill than are enjoyed by those two Universities of which Sir Deva Prasad Sarvadhikary is an LL. D.

(At this stage Mr. Deputy President took the Chair.)

Sir Deva Prasad Sarvadhikary: What is the Governor General there?

Mr. H. Sharp: I must have notice of that question.

Well, now to turn for a moment to this particular, definite amendment of sub-clause (*3*). It is a little bit vague, and I suggest that it and also Mr. Neogy's proposed amendment, combined with the excision of sub-clause (*4*), would have really a very detrimental effect upon the whole of this clause 28 to which the Joint Committee gave such careful consideration. I really do not quite know what would happen if Statutes were passed or dealt with as the Court thought fit. I do not understand it. We have, as well as giving two solid concessions to the Court and investing it with fresh powers, we have in the Joint Committee inserted a sub-clause (*4*) which provides, so to speak, a way of mediation and an amicable settlement before the case goes to the final tribunal. In a matter of this kind where you have various bodies which may decline to agree and may come into a slight collision with one another in their ideas regarding the Statutes, you must have some body which is going to settle up the differences, and what we have tried to do here is to get the University to settle up its own difficulties and differences of opinion, the various bodies consulting together and passing amendments back from one to another and coming to a compromise; that is the intention of the manner in which we have amended this clause; and, therefore, Government cannot accept this amendment and hopes that it will not be accepted by the Assembly at large.

Mr. Deputy President: The question is:

'That in clause 28, sub-clause (*3*), add the words 'and on receipt of the Report of the Executive Council may pass the Statute in such manner as it may think fit'.'

The motion was negatived.

Mr. Deputy President: The next amendment that stands on the paper is Mr. Neogy's, and I do not know whether he wishes to move it.

Mr. K. C. Neogy: In view of the decision just come to by the House on this question, I do not think it will serve any useful purpose to move this amendment.

Mr. Deputy President: I think the same thing applies to the next amendment of Sir Deva Prasad Sarvadhikary.

Sir Deva Prasad Sarvadhikary: Yes, Sir, it falls to the ground because of the rejection of the other. Sir, I move:

'That the words 'which may either reject the proposal or' in clause 28 (*7*) be omitted.'

The short effect of the rejection would be that the Executive Council would have to take the draft into consideration and submit it to the Court. It should not be entitled or able to reject it altogether if it chose. Well, Sir, in accepting the great honour that St. Andrews and Aberdeen did me I was not a party to their regulations. If there be need and if given the chance, I can give Mr. Sharp the assurance that I shall attack the powers of any oligarchy as lustily as I am doing here now and my loyalty to what I am proud to call my University will not stand in the way. Mr. Sharp very generously tells us that he has given the Court some concessions. Well, you would want what the great classicist would call a 'hextra million horsepower microscope' to detect those larger powers that he so effectively parades as concessions. A member of the Court may propose a draft; the Court refers it to the Executive Council, and then the oligarchy may be amiable enough to submit the draft to the Court or to reject it. History has shown that such exercise of power has never been for the good of the body politic. It must be the larger body—the parent body—that ought to have final power in these matters; and if amendments or proposals put forward by members of the Court cannot meet with the courtesy of even being considered and submitted to the Court by the Council and thereafter to go through the procedure that is provided for the creation of Statutes, why then it speaks very little indeed for the real powers of the Court. It would almost be as well for the unfortunate member of the Court to go about canvassing members of the Council and get the proposal taken up by the Council if possible. I have pleaded and again plead that the Court ought to have some real powers. Even if the powers that I pleaded for in the previous amendment are to be denied, what harm would there be if these offending words in question were to be left out? A member of the Court may propose to the Court the draft of a Statute; the Court may refer the draft and the Executive Council shall submit the draft to the Court in such form as the Executive Council may approve. I have not attacked the power of the Council to modify the draft if need be. What I am objecting to is the summary rejection of the proposal made by a member of the Court. Supposing it goes to the Court, the procedure which you have just enacted will be a very effective guillotine. If the proposal be unworthy of support, if there is a real dispute between the Court and the Executive Council, the Governor General will decide the matter. Where is the harm in the proposal going forward at all events and receiving the full measure of consideration that the other drafts put forward by the Executive Council would receive? For these reasons, Sir, although the previous amendment has been lost, I put this forward with greater vigour than ever.

Mr. H. Sharp: Sir, after what Sir Deva Prasad Sarvadhikary has said, I confess that I shudder for the academical halls in Aberdeen and St. Andrews. I observe also that he has appeared, with reference to this Bill, to be very suspicious of the powers of the Executive Council and, at times also, of the Governor General in Council. Those bodies have in this particular section to appear very often, but as a matter of fact that, as I think the other members of the Joint Committee will bear me out, is, as I stated before, to get over difficulties and to avoid the necessity, if possible, of an appeal to an outside body. Now this sub-clause (7) is a new one. It was put in by the Joint Committee and it is a concession to the Court. It permits a member of the Court to initiate legislation in the University. Now, in the first place, I should like to say that I do not think that this Assembly could possibly accept Sir

[Mr. H. Sharp.]

Deva Prasad Sarvadhikary's amendment, because, as I understand it, the sub-clause as amended would run like this:

'Any member of the Court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive Council, submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply, etc. . . . .'

To begin with, I am not quite sure whether that makes very clear sense, and, secondly, it has the impossible result of permitting the Court to submit something to itself. That is perfectly clear from the wording of the amended sub-clause—that is to say, if this amendment were carried.

I think I have really already dealt with the general principle underlying Sir Deva Prasad Sarvadhikary's amendment in my reply to the previous amendment. This amendment falls under the same axe and I ask this Assembly not to accept it.

Mr. Deputy President: The question is:

'That the words 'which may either reject the proposal or' in clause 28 (7) be omitted.'

The motion was negatived.

Clauses 28 and 29 were added to the Bill.

Sir Deva Prasad Sarvadhikary: After the very deft exercise of the axe upon my previous amendments I do not think it is necessary to submit to further operations of the kind. I therefore withdraw all my amendments to clause 30.

Clause 30 was added to the Bill.

Sir Deva Prasad Sarvadhikary: There is an amendment, Sir, standing in my name and I move it formally and as a matter of principle, *viz.*,

'That the proviso to clause 31 be omitted.'

There is no reason why the Governor General should intervene either here.

The Honourable Mian Sir Muhammad Shafi: The reply to this amedment is the same as was given in regard to the previous amendment. The Governor General in Council is the outside authority in case of conflict between these two bodies.

Mr. Deputy President: Amendment moved:

'That the proviso to clause 31 be omitted.'

The question is that that amendment be made.

The motion was negatived.

Clauses 31, 32, 33 and 34 were added to the Bill.

Sir Deva Prasad Sarvadhikary: Sir, I move for the omission of clause 35 (4). That clause is as follows:

'The University shall not, save with the previous sanction of the Governor General in Council, recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, any examination conducted by any other authority.'

The words 'or Matriculation' have been introduced here by the Select Committee. Sir, this model, up-to-date, well organised University that we

are going to set up in the Imperial City of Delhi cannot be trusted to come to its own conclusions as to the degrees of the Indian Universities which it shall recognise. When it comes to the question of Indian Universities, you have got to go to the Governor General in Council and ask as to students from which Universities they are to admit. There may be good reasons for it. I am myself not very familiar with them, but I do know that the question gave us trouble in the troublesome days of the past in East Bengal. But even then the Government did not propose to take drastic powers like these. It was left to the University itself to decide as to what certificates it would accept for the purpose of admitting students—foreign students as some call them—from other Universities for admission to a course of study. Years have rolled by since then. We know what serious troubles came in the wake of attempts of interference like that by which we were not able to stem the tide, and I do not promise myself that such interference will in future be very effective. Well, there is no use pleading for larger powers for the University, or Executive Council for the matter of that, if for these petty things we have got to go up to the Government of India and ask 'what degrees shall we recognise, pray?' Any University in the British Isles, South Africa or Australia may be good enough. That we need not trouble about. But when it comes to the various Universities here, we have to ask the Government of India. I very strongly oppose this and plead for the purging of this offending section.

Mr. H. Sharp: May I, Sir, first of all remove two misunderstandings which appear in Sir Deva Prasad Sarvadhikary's mind? This is not a case of mistrust at all. It is a case of assistance. The intention here is to assist Universities by supplying them with the necessary information regarding the standards of examinations about which it would be very difficult for a University to obtain correct information. In the next place, I am not quite sure how Sir Deva Prasad got hold of the idea of distinction between the British and other Universities. I do not so read the sub-clause.

Now, as regards the merits of the sub-clause itself, the whole point is this, that India is an enormous country consisting of many different provinces with many different institutions and it is very difficult for a University to know intimately the different standards of various examinations and tests. No University can have all the information on these matters which it ought to have. But this sub-clause, which we have put in other Acts as well, is at the present time all the more necessary, because we are in a fluid state, so to speak. New Universities are springing into being. We have got the old affiliating Universities. We have got new unitary Universities running side by side with them. We have got another which is more or less half and half, like Patna. Again, owing to the recommendations of the Calcutta University Commission various examinations which may be taken as admission examinations to Universities are springing up. Some Universities are admitting students in the Matriculation stage; others are admitting them in the Intermediate stage. More especially we want to distinguish Universities which are incorporated by law from bogus Universities. There are some rather curious Universities springing up, which are certainly not incorporated by law. It would be rather interesting in some cases to find out how they conduct the instruction of their youths. Now, Sir Deva Prasad has good reasons himself to know how the Government of India goes about in using this power with reference to other Universities. He knows quite well that this power is not used in an arbitrary manner. It is used in order to give assistance to Universities to protect them from

[Mr. H. Sharp.]
degenerate standards which may be set up or from any bogus institutions. I am, therefore, very much surprised to see that Sir Deva Prasad Sarvadhikary should put forward this amendment, and I think it would be advisable for him to withdraw the amendment, and if he does not, I must ask the Assembly not to accept it.

Sir Deva Prasad Sarvadhikary: I do not withdraw the amendment, but I do withdraw that portion of the remarks about British Universities which were made under a misapprehension.

Munshi Iswar Saran: Sir, every lawyer has the experience of finding a distinguished and learned lawyer making a very poor show when he has got a bad case to argue. It does not reflect the least discredit on the lawyer, but it is due to the weakness of the case which he has got to put before the Court. Mr. Sharp will forgive me if I say that his arguments have been hopelessly unconvincing. What he said was this. We want to assist you, the Government of India are very anxious to assist this University. Yes, is this University to be made up of such little children that they cannot decide for themselves what degree to recognise and what degree not to recognise? Then he says that India is a vast country and you cannot get information. One would have imagined that there are as many Universities in India as there are villages in this country. But, Sir, every body knows everything about these well established and recognised Universities. He says there are bogus Universities coming into existence. Is that the reason why this clause has been inserted into this Act? I say, you must trust the Universities to recognise the degrees of only *bonâ fide* Universities which are recognised by Government. I submit, Sir, that this clause must be taken out because it betrays a lack of trust in the Delhi University which is coming into existence. I do not pretend to know much about the Universities of Oxford and Cambridge. Mr. Sharp is a University man. He belongs to one of these Universities. Will he kindly tell me whether the Universities of Oxford and Cambridge have to refer to the British Cabinet before they recognise the degrees of the Universities either in the United Kingdom or outside it? If this argument of assisting the University, of placing all the information before the University, were as valid and as sound as Mr. Sharp makes them out to be, I submit that the first thing that the Government of India ought to do is to suggest to the Universities of Oxford and Cambridge that before they recognise the degrees of these various Universities scattered not only over the United Kingdom and Ireland but over the entire civilised world that they should refer the matter to the executive Government in England, seek their assistance, in the sense of this clause, and only then recognise the degrees. Sir, I submit that this shows that the Government of India is not prepared to grant this University the right of recognising those degrees which are conferred by other Indian or British Universities. I say, trust it, give this University a chance. You have taken a great deal of power for the Governor General in Council. This particular power, I think, has not been given to the Governor General in Council or to the Governor in Council in other Universities. I say, why add one more power to those already taken and give one more proof that you are not prepared to allow this University to become an independent and autonomous body.

The Honourable Mian Sir Muhammad Shafi: Sir, it is easy enough for a lawyer, and particularly for a lawyer of experience like my Honourable friend, Mr. Iswar Saran, to say that the arguments put forward by his opponent are very weak, but a general statement of that kind, I am sure, will not carry conviction in a House like this unless my Honourable friend examines the arguments which have been put forward one by one and demolishes them. Well, let us see if my friend, Mr. Iswar Saran, has succeeded in accomplishing that end. In the first place, it must have been noticed by Honourable Members that he did not reply to all the arguments that the Honourable Mr. Sharp put forward. He dealt only with two of them, and I venture to point out that the reply given by Mr. Iswar Saran to those two arguments will not bear examination. In the first place, my learned friend pointed out that the number of Universities in India was very small and in consequence the fears entertained by Mr. Sharp have no foundation whatever. But I ask him to remember that the clause does not say Indian Universities. The clause refers to Universities all over the world. I would invite his attention to the clause as it runs. It says :

'The University shall not, save with the previous sanction of the Governor General in Council, recognise (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University . . . . .'

May be a University in America, may be a University in Australia, may be a University in Japan. A student having passed an examination at any of those Universities in any of those countries might come to Delhi and claim admission to the B. A. or M. A. degree here. The Delhi University would not be in a position to judge in a case like this whether to recognise the examination which the applicant for admission has passed in Japan or in America or in a remote corner of Europe without the assistance which Government are able to render in cases of this kind. Therefore, it is, I respectfully submit, not right to say that this provision is indicative of any mistrust on the part of Government. On the contrary, the real object is, as Mr. Sharp has pointed out, to assist the University authorities in coming to a right decision in cases of this kind. Even in India, if I may venture to remind my Honourable friend, until some 2½ years ago we had seven Universities. Four more have been added during this period, and there are two Universities, one in Hyderabad and one in Mysore, raising the number to 13 even in India, and, therefore, in a matter like this, the University authorities ought to welcome the assistance of Government in determining what examination ought to be considered as equivalent to its own examinations.

Then my friend in reply to the arguments put forward stated that the Oxford and Cambridge Universities recognise the examinations of the Indian Universities and other Universities as equivalent for certain purposes and they do not go to the executive Government in England ; the executive Government have no voice in the matter in England. But my Honourable friend forgets that at any rate up to this time the executive Government in England have not borne any portion of the expenditure in connection with the maintenance of Oxford and Cambridge Universities.

Munshi Iswar Saran: Now.?

The Honourable Mian Sir Muhammad Shafi: Up to this time they have not. I am concerned only up to the present time. What is to happen in the future, I am not concerned with. Whether if the executive

[Mian Sir Muhammad Shafi.]

Government in the future will make a contribution or decide upon making a contribution towards the expenditure incurred by those Universities and when they have done so whether they will not claim a right or voice in the management of the affairs of those Universities we are not concerned with. No one can anticipate events.

Up to this time the executive Government in England have not contributed towards the maintenance of those Universities, and therefore the executive Government has no *locus standi* whatever upon any hypothesis in the internal management of the Universities there. Here the case will be entirely different. The Delhi University will in the main be maintained by the Central Government funds, and, in consequence, in the matter of recognition of equivalent examinations at least, the Governor General in Council ought logically to have a voice. This provision, as Mr. Sharp has pointed out, is a provision to be found in the other Acts which have already been placed on the Statute Book, is based on sound principles, and ought to be accepted by the Assembly.

Bhai Man Singh (East Punjab : Sikh) : Sir, I rise to support the amendment of my esteemed and Honourable friend, Sir Deva Prasad Sarvadhikary, and I am astonished to hear the true reason—I am not sure whether that is the only reason, there might be other reasons as well, the one main reason given by my Honourable friend, the Education Member. I would take his last argument first of all. He says that the English Universities do not draw any pecuniary help from the Government, and, therefore, the British Cabinet has got no control over the Universities. Is this the reason for putting in this clause ?

The Honourable Mian Sir Muhammad Shafi: Did my Honourable friend say English Universities ? I only referred to Cambridge and Oxford.

Bhai Man Singh : I stand corrected to that extent, Sir. You said Cambridge and Oxford. I have not been to England. If I make that mistake of using the general terms English Universities instead of the Oxford and the Cambridge Universities, I think it is excusable. It makes no difference so far as my argument is concerned. Coming to my point, is this the reason why the Government of India wants to keep this University under its thumb even up to that extent ? Is not the Government of India prepared to give the University the freedom of making the choice of the other Universities whose degrees this University is or is not to recognise ? If that is the reason, surely I would say that this cannot appeal to me and would not appeal to most of the Honourable Members in this House. The other question is of help. But say it plainly whether you want to keep this provision by way of assistance to the University or by way of control for the money the Government of India pays to the University. If the question is of supplying funds, the Government of India has got very large control already under the Bill, and nobody can say that the Government of India has supplied the funds and has washed its hands altogether and has nothing to do with the University. That is not the case. There are already in the Bill checks and counter-checks, powers of appeals and counter-appeals, to the Governor General in Council, and, therefore, this part of the argument cannot stand. With regard to the other question of help, I

should like to make a little distinction. There is a difference between giving help or assistance and keeping under control and taking away power in our own hands. There is a very clear distinction and I need not say anything further than that. So far as the help about information, etc., is concerned, surely the University can, in many other ways, get information from the Government of India. But I am really astonished to hear that the Government of India should suppose itself to be in a much better position than the University itself in this matter. So far as the selection of the Universities, whose degrees and examinations are to be recognised, is concerned, who is in a better position ? Have the authorities of the University better chances to study their special subjects, to study the curriculums of different Universities, to know their standards of education, etc., or is it the Governor General in Council whose Members and Secretaries are daily complaining of their being over-busy ? The University has got its Chancellor, the Vice-Chancellor, the Pro-Chancellor, the Rector and a large staff of educational specialists at its disposal, while mostly it will have to be with the degrees of the Indian Universities. So far as the foreign Universities are concerned, it can much depend on rules employed by some of the English Universities. The Government of India could surely give information in many other ways than by saying that the University shall not admit the degree of any University without our sanction That is not assistance. The information could be given, but the deciding power could reside with the University. It has been alleged again and again that it shows no want of confidence in the University. I for one am really astonished to hear that you do not allow them to chalk out their own path. The University is not to decide even this matter, *viz*, whether such-and-such a University is fit enough to have its graduates admitted to this University, and still it is said that it is not want of confidence? They have got their staff, they have got their men to advise them, they can see whether such-and-such a graduate should be admitted. If a graduate comes from Japan, the University can make its own inquiries from Japan or from the Government of India. It is quite a different thing from saying that you shall not admit that man without our sanction. They can have their own choice. If they are satisfied that the students whom they are taking come from the Universities whose degrees they can recognise as fit for that purpose, they will do that. I might point out one little thing more. It has been said that there is nothing special about Indian Universities. No doubt, so far as the degrees are concerned, the clause refers to all these Universities or to all the Universities anywhere, but so far as equivalent to the Intermediate or Matriculation examination of an Indian University, any examination conducted by any other University are concerned, this definitely refers to certain Universities. If a foreign University has got Matriculation or Intermediate examination, that would go out of this clause. I do not think there is any reason for this.

The Honourable Mian Sir Muhammad Shafi: May I point out, Sir, that my Honourable friend is misreading the clause ?

The words are perfectly clear :

'or as equivalent to the Intermediate or Matriculation examination of an Indian University, any examination conducted by any other authority'.

The word 'Indian' does not refer to the examinations which are to be recognised. Those examinations may be of any University, whether in Japan, America, etc.

Bhai Man Singh: I withdraw that remark. All the same, so far as the principle of the clause is concerned, I stand where I was, and I would request the Honourable Members of the House to accept the amendment.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): I entirely oppose this amendment and I shall give my reason for it Honourable Members of this House will know that I am neither an upholder nor the champion of the Governor General in Council, but I am bound to support their power when I find that it would be in the interests of the proposed University of Delhi, and I shall convince the Honourable Members of this House how this reserved power in the Governor General in Council will be conducive to the best interests of the proposed University. We considered this question in very great detail and the fact that you do not find a single Member of the Select Committee endorsing the remarks of my Honourable friend, the Mover of this amendment, shows that there is a great deal more in the opposition to his amendment than meets the eye.

Now, if you examine the clause you will find that the curtailment of power of the Delhi University is confined to all examinations of other Universities, whether Indian or foreign. Now, I first take the Indian Universities, and then shall address my remarks to non-Indian Universities. So far as the incorporated Universities of India are concerned, the 11 Universities to which the Honourable Member for Education has referred, there cannot be any doubt that the Governor General in Council and the University of Delhi would be in entire agreement. But Honourable Members are aware that a very large number of national schools and colleges are growing up in the country with a mushroom rapidity and they are giving out diplomas and certificates and degrees, the standard and value of which is at least questionable. Now, Honourable Members must remember that if the Court or the Executive Council is at any time dominated by feelings more patriotic than educational, it is conceivable that these schools may come up and say, we are the national schools and you are bound to support them. We are the national Universities and you are bound to recognise our degrees. What would then be the position? A little adroit canvassing will secure their entry into the establishment of the University and the University of Delhi, much against its best interests, would be forced to recognise their diplomas and degrees as equivalent to its own. Do Honourable Members contemplate this position? Do they desire that the University degrees in Delhi should be depreciated in the manner suggested? I think not. Now, take for instance the foreign Universities. Honourable Members know that a very large number of Universities exist in America which are not incorporated by any Act of Parliament but which are more or less of a very questionable character. Diplomas and degrees are given by these Universities. Let us assume that they apply for *adeundem* degrees and the Executive Council is persuaded that these people coming with beautifully embellished diplomas endorsed on parchment paper are worthy of equivalent degrees. Now, you have no information. The University of Delhi has got no information and the only corrective that this University can receive is from the Governor General in Council. Honourable Members must further remember that when the Mover of this amendment seems to suggest that the Governor General in Council is an autocratic body, they must not also forget that the Governor General in Council are liable to be called to account on the floor of this House and ultimately, therefore, the Members of this House can exercise a certain degree of control and power over

the decisions of the Governor General in Council. Finally, therefore, I submit that this power which vests in the Governor General in Council is a salutary power intended to guard the University against those disruptive tendencies which may get into it on account of the preachings of patriotic gentlemen who may induce the University to confer degrees which the better mind of the Indian nation may not approve of. I therefore ask the House to negative this amendment moved by Sir Deva Prasad Sarvadhikary.

Mr. H. Sharp: I propose that the question be now put.

The motion was adopted.

Mr. Deputy President: The question is :

'That in clause 35, sub-clause (*4*) be omitted.'

The motion was negatived.

Clauses 35 to 47 were added to the Bill.

Mr. K. C. Neogy: I beg to move the amendment which stands in my name :

'That item (*iii*) of sub-clause (*1*) of Statute 2 of the Schedule be omitted.'

This amendment of mine may seem to be a puzzle to many Members of this House, because the effect of it would be to exclude from membership of the Court the Educational Commissioner with the Government of India. I can assure this House that my intentions are not so drastic as that. I wanted to use this opportunity merely for drawing the attention of the House to the fact that this office has been rendered quite redundant by the introduction of the Reforms. If reference is made to the despatches that led to the creation of . . . . .

Mr. Deputy President: Order, order. The question is :

'That Statute 1 of the Schedule stand part of the Bill.'

The motion was adopted.

Statute 1 of the Schedule was added to the Bill.

Mr. K. C. Neogy: Sir, I was referring to the despatches relating to the creation of this appointment, and I find . . . . .

Mr. H. Sharp: I rise to a point of order. From the preamble of the Honourable Member's speech I gather that he is going to be extremely disorderly. I cannot imagine that his speech can at all be in order. It might come up as a Resolution of a general nature, or it might possibly come up in the course of the Budget discussion, but I do not think that it has any place in reference to this Bill.

Mr. K. C. Neogy: My intention is this, that if we pass this item, it should not be said afterward: 'You have committed yourself to this office, and the Educational Commissioner has proved himself indispensable in connection with the University of Delhi' and all that. I have no objection to his being on the Court, but it should be on the express understanding that we consent to his being there without prejudice to our right to question the utility of his office.

5 P.M.

[Mr. K. C. Neogy.]

I was referring to the despatches relating to the creation of this appointment, because I wanted to show that the object with which this appointment was created does no longer exist.

The Honourable Mian Sir Muhammad Shafi: If it will satisfy my Honourable friend, Mr. Neogy's conscience, the Government have no hesitation in saying that the Educational Commissioner with the Government of India will continue to be a Member of the Court of this University so long as that office is in existence, and it does not prejudice him in any way at all.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): As I read that clause, that applies to the officers therein mentioned. It says:

'The following persons shall be ex-officio members of the Court, namely'.

Supposing the persons disappear, they as ex-officio members disappear also.

Mr. K. C. Neogy: As I have already made it clear, I have no intention of pressing this amendment, and I beg to withdraw it.

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

Sir Deva Prasad Sarvadhikary: By way of some slight assistance to hard-worked officials, on whose behalf we are constantly hearing mournful pleas, I ask for leave to withdraw my amendments* to Statute 2 (*1*) of the Schedule and Statute 2(*6*) of the Schedule to the Bill.

The amendments were, by leave of the Assembly, withdrawn.

Statute 2 of the Schedule was added to the Bill.

Mr. K. C. Neogy: I beg to move:

'That the word 'eight' be substituted for the word 'five' in sub-clause (*1*) (*iv*) of Statute 3 of the Schedule.'

I shall be very brief in making my submission. It will be seen that the proportion of members of the Court, to be elected members of the Executive Council will be about 25 per cent. of the strength of the Executive Council. My amendment seeks to raise this proportion to 33 per cent. approximately. It has been observed that the present constitution of the recent Universities as recommended by the Calcutta University Commission is somewhat different from the constitution of the older Universities, in so far as the Court does not occupy a position analogous to the position occupied by the Senate. Therefore, I thought that it was only doing the Court bare justice to propose that the Court should have effective representation on the Executive Council. I know that this inadequacy of representation of the Court on the Executive Council is about to lead to some friction in the Dacca University. I was reading the proceedings of the latest meeting of the Court there, and I found distinct premonitory signs of a serious conflict between the Executive Council and the Court. We should try to prevent it in Delhi. I therefore suggest that this number should be increased by 3. I hope that there will be no objection to this amendment of mine.

*(1) That to Statute 2 (*1*) of the Schedule to the Bill the following be added:

'(*xiii*) members of the Executive Council of the Governor General in charge of the Departments of Education and of Commerce and Industry, and

(*xiv*) the Principal of the Lady Hardinge Medical College.'

(2) That the word 'twelve' be substituted for the word 'fifteen' in Statute 2 (*6*) of the Schedule to the Bill.

Mr. H. Sharp: The number of members of the Court elected by the Court to be members of the Executive Council has as a matter of fact been already increased by the Joint Committee.

Mr. K. C. Neogy: Only by one.

Mr. H. Sharp: By one, as Mr. Neogy remarks. The increase of one in the case of a small body, which must necessarily have a limited composition if it is at all going to do its work satisfactorily, is not such a small thing. After all the Executive Council (I think somebody has already described it as an oligarchy, but I do not go so far as that) is not supposed to be a large body with a great deal of popular representation or anything of that sort on it. The Calcutta University Commission described its duties in the *locus classicus* on the subject:

'A University needs statesmanlike guidance in the accommodation of means to ends and also in the provision of means; and not less in mediation between the possible misconceptions of the public and the possibly too restricted outlook of the scholar,'

and so on.

What we want is a small body, which must be, I think, largely of an *ex-officio* nature, of men who are fully acquainted with the history and the needs and so on of the University. If we raise this number again from 5 (which was originally 4) to 8, we shall make it an unwieldy body. But I do not think it is really necessary to increase the number. After all we have five members of the Court and we have two members of the Academic Council, also elected and the Deans of the Faculties will also be persons elected by the Faculties themselves from among certain professors. I therefore suggest that this amendment be not accepted.

Mr. Deputy President: The question is:

'That the word 'eight' be substituted for the word 'five' in sub-clause (*i*) (*iv*) of Statute 3 of the Schedule.'

The motion was negatived.

Mr. H. Sharp: I have a little consequential amendment to make as follows:

'That in Statute 3, sub-clause (*i*) of the Schedule after the word 'Vice-Chancellor' the words 'the Rector' be inserted.'

The motion was adopted.

Statute 3, as amended, and Statute 4 of the Schedule were added to the Bill.

Mr. H. Sharp: I have another slight consequential amendment to Statute 5 of the Schedule, namely:

'That in Statute 5, sub-clause (*i*), after the word 'Vice-Chancellor' the words 'and the Rector' be inserted.'

The motion was adopted.

Statute 5, as amended, and Statutes 6, 7 and 8 were added to the Bill.

Mr. H. Sharp: I beg to move:

'That in Statute 9, after the word 'thereof' the words 'the Rector' be inserted.'

The motion was adopted.

Statute 9, as amended, and Statutes 10, 11, 12, 13, 14, 15 and 16 were added to the Bill.

Mr. H. Sharp: Sir, I beg to move :

'That in Statute 17 (*1*), after sub-clause (*1*), the following be inserted, namely :
'2. The Rector' and the subsequent sub-clauses be re-numbered.'

That is again part of the proposal that I have made.

The motion was adopted.

Statute 17, as amended, was added to the Bill.

The Preamble and the Title were added to the Bill.

Mr. H. Sharp: Sir, I beg to move :

'That the Bill, as amended, be passed.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 23rd February, 1922.