

21st March, 1923

**THE
LEGISLATIVE ASSEMBLY DEBATES**

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OF THE

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LEGISLATIVE ASSEMBLY.

Wednesday, 21st March, 1923.

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

GOVERNOR GENERAL'S ASSENT TO BILLS.

Mr. President: I have to acquaint the House that His Excellency the Governor General has been pleased to give his assent to the following Bills:

The Indian Cotton Cess Act, 1923;
The Indian Income-tax (Amendment) Act, 1923;
The Government Savings Banks (Amendment) Act, 1923;
The Prisoners (Amendment) Act, 1923;
The Criminal Law (Amendment) Act, 1923.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Sir Henry Moncrieff Smith (Secretary, Legislative Department): Sir, in the absence of the Honourable the Home Member I move the motion which stands in his name to-day, namely:

"That the further amendments made by the Council of State in the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, be taken into consideration."

The House is well aware, Sir, that the Council of State, so far as the volume of amendments made by it is concerned, has done very little to the Bill. They have in fact made four amendments, three of which were put forward at the instance of Government and the fourth by a non-official Member. The three matters in which Government sought to amend the Bill as it was passed by the Legislative Assembly were in respect of the changes made by this Assembly in sections 162, 195 and 406. I do not think, Sir, at this stage I need enter into details as to Government's motives or reasons for putting forward these amendments which the Council of State accepted. As the individual amendments are taken into consideration, it will be open to the House to discuss them and Government will then have an opportunity of explaining its own position with regard to them.

Mr. President: The question is:

"That the further amendments made by the Council of State in the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, be taken into consideration."

The motion was adopted.

Mr. President: Amendment made by the Council of State:

"That in clause 34 of the Bill—

(a) in the proviso to the proposed sub-section (1) of section 162, the words 'allow inspection to the accused and' were omitted; and

(b) after the same proviso the following proviso was added, namely:

'Provided further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused'."

The question I have to put is that this Assembly do agree with the Council of State in the said amendment.

Bhai Man Singh (East Punjab: Sikh): I have sent notice of two amendments but I do not know if copies have been received or not.

My first amendment is that this whole change should be omitted and that the clause, as passed by the Legislative Assembly, should be reinstated. In the alternative I have suggested that the words "or that its disclosure to the accused is not essential in the interests of justice" should be omitted.

Mr. President: As regards the first proposal made by the Honourable Member, an amendment must be in a form which can be put from the Chair in its proper place in the Bill, and therefore, the first proposal of the Honourable Member is one that I cannot accept. The second one is in order.

Bhai Man Singh: May I then, Sir, propose the second amendment only. I am just now told that it is the result of some compromise effected, of which I of course have got absolutely no knowledge, but if some of our Members have got this knowledge and declare that it is a compromise then I have nothing to say. As a matter of fact, I really object to the words "that its disclosure to the accused is not essential in the interests of justice", because they are so wide that anything could be brought under them, and, practically speaking, if we retain these words, the whole change that we have made becomes a nullity. As I have been told that there has been a compromise, I do not wish to move this amendment.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadian): Sir, as there may be two conflicting views regarding this amendment, I may be permitted to say a few words in connection therewith. As Honourable Members are aware, when this clause was under discussion in this House, the non-official Members moved and carried an amendment that all statements made to the police should be available to the accused for the purpose of cross-examination. The Honourable the Home Member took exception to the generality of this amendment and pointed out a case of a widespread conspiracy in which the names of persons not directly concerned in the trial of the case might be involved and which would highly prejudice the administration and not serve the immediate purpose of the accused, and consequently it was moved by the Honourable the Home Member that this clause required some modification. Honourable Members will remember that we on this side of the House were prepared to accede to the suggestion made by the Honourable the Home Member, and while several drafts were exchanged nothing could be settled and nothing was settled. In this state the amendment went to the other House and then after some discussion the clause

which the Honourable Members find now before them for consideration was drafted. I find one Honourable Member suggesting that this disclosure to the accused is not essential in the interests of justice (*Mr. T. V. Seshagiri Ayyar*: "Unnecessary.")—is unnecessary. I wish to point out that that is a very necessary safeguard in the interests of the accused. That is to say, if it is essential in the interests of justice to the accused, copies shall be given and the exception that finds a place now in section 162 seems to me a very limited exception, and it is not likely to frustrate the ends of justice. If it does and cases do arise in which the accused is deprived of the right of cross-examining witnesses in the light of the statements made to the police it will be open to Honourable Members to move for the further amendment of this section later on; but for the present I think it worth while accepting the clause as it has been drafted and accepted in another place.

Mr. President: The question is that this Assembly do agree with the Council of State in the said amendment.

The motion was adopted.

Mr. President: Further amendment made by the Council of State:

"In sub-clause (5) of clause 47 of the Bill, for the proposed new sub-section (5) of section 195, the following sub-section be substituted, namely:

'(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

The question I have to put is that this Assembly do agree to the amendment made by the Council of State.

The motion was adopted.

Mr. President: Further amendment made by the Council of State:

"For clause 109 of the Bill the following clause be substituted, namely:—

'109. For section 406 of the said Code the following section shall be substituted, Amendment of section 406, Code of Criminal Procedure, 1898. namely:—

'406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(a) if made by a Presidency Magistrate, to the High Court:

(b) if made by any other Magistrate, to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session:

Provided further that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123."

Dr. H. S. Gour: Sir, I oppose the proviso and I wish to give my reasons for doing so. Honourable Members will remember that this clause was the subject of a lengthy debate in this House. The object of constituting the Sessions Judge as the sole appellate tribunal in cases of apprehended breach of peace and security of behaviour was justified on the broad principle that the District Magistrate is technically and in many

[Dr. H. S. Gour.]

cases in reality the head of the district police, and proceedings, whether under section 107 or section 110, are initiated by the police with his cognizance and at times with his approval. Therefore if a Magistrate subordinate to him decides a case under these sections it is but just and fair that the appeal should lie to an independent tribunal, neither prepossessed nor prejudiced nor suspected of prepossession or prejudice in favour of or against either side. Honourable Members will realise that for a long series of years the country at large has been crying for what is now known as the separation of the judicial and executive functions, and a small beginning was made in this House by transferring these appeals from the head of the district police to an independent judicial officer. All that could be said for and against our amendment was said by the representatives of either side, and after full consideration we decided that such cases must go to the Sessions Court who is a judicial officer and before whom the accused is likely to get better justice. That amendment has been substantially altered in another place and I wish to point out to the Honourable Members here that if we accede to the clause inserted elsewhere we shall be neutralising the effect of the amendment we made after long and anxious debate. What is the effect of this proviso which is sought to be inserted? The effect is that the Local Government may by mere notification completely frustrate the declared policy and object of the Indian Legislature and that all such cases shall be heard in appeal by the Court of Session. It arms the chief executive authority in the Province to constitute a special tribunal in derogation of the wishes of this House. Sir, Honourable Members are not unfamiliar with the constitution of such exceptional tribunals by executive notifications. My lawyer friends also know the great danger of arming the executive with this power. The Central Legislature is the sole judge and shall not allow the executive to do its work in designating officers to hear appeals from these cases. If Honourable Members desire that the District Magistrate should continue in future as he has been empowered in the past to hear appeals against these police cases, let them cut out the proviso and let them also cut out what they decided on the last occasion. But let there be no doubt that if this proviso is allowed to obtain a place on the Statute Book, it will completely neutralise the effect of the amendment which this House made, because the Local Governments always prefer rough and ready justice to considered and deliberate justice which the Sessions Judges deliver. Executive Governments will complain and I know the Honourable the Home Member will lay before you considerations of economy, of convenience, and appeal to you in the name of economy and convenience to allow the proviso to go on the Statute Book. But I ask, Sir, was this not the consideration presented to you on the last occasion when this amendment was under discussion in this House, and did you ignore that consideration presented to you by the occupants of the Government Benches? What fresh facts could be brought to light have been brought to light. What facts are there now to ask you to reconsider your judgment and go back upon the amendment which you deliberately made, despite the opposition of the Honourable the Home Member and his colleagues? I submit that the time has now come when cheaper justice, expeditious justice must be subordinated to the higher considerations of purer, unadulterated and unsuspected justice. It has been said and it was said on the last occasion that these are after all preventive sections. They penalise nobody and what harm is done if an accused is bound over

to be of good behaviour or to keep the peace? Well, Sir, I am sure that those who advance that argument would not like to be bound over on the mere ground that no harm is done if security is demanded of them for being of good behaviour or to maintain the peace. We know, Sir, that a man's character is at times blighted by proceedings taken under these sections; he becomes a police suspect and the proceedings under section 110 expose him to a systematic persecution which curtails his liberty, exposes him to the ignominy and shame of a person who is or suspected to be a habitual criminal, not because there has been any conviction against him, but because he is bound over to be of good behaviour. Who is bound over to be of good behaviour? Who can be bound over to be of good behaviour? A person who has been of bad behaviour, who is a habitual criminal, does mischief, commits thefts, robbery, dacoity and all the allied offences which are categorised in that section. Listen not, therefore, to the plea that might be raised that no conviction is made in an order passed under section 110. Dismiss from your consideration that these are mere preventive sections and they do no harm but are merely intended to preserve the public peace. Reflect for one moment on the great injury that has been done to individuals in proceedings instituted against them under these sections; and I ask, therefore, that these sections cannot be dismissed as sections of a purely preventive character. These are all the arguments that have been advanced, arguments based on considerations of economy and of convenience and of what is called the comparatively trivial character of the proceedings under these sections. I have dealt with them, and I have no doubt that the House will agree with me that this provision is a dangerous provision and that it should be deleted from the Statute Book.

The Honourable Sir Malcolm Halley (Home Member): May I ask that the Honourable Member will put himself in order by informing us exactly what motion he is putting forward?

Dr. H. S. Gour: Sir, I move that the clause which runs thus be not accepted by this House:

"Provided that the Local Government may by notification in the local official Gazette direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session."

The Honourable Sir Malcolm Halley: Sir, I am afraid the Honourable Member has not quite put himself in order yet. At this stage of the proceedings the motion that will be made is dictated by the following rule:

"The other Chamber may either agree to the Bill as originally passed in the originating Chamber or as further amended by that Chamber, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the originating Chamber has disagreed."

Dr. H. S. Gour: I therefore insist that I want the restoration of this clause as it was originally passed by this House and we do not accept the amendment made in another place.

Mr. President: Does the Honourable Member wish to put the motion in the form that this Assembly do insist on its original amendment?

Dr. H. S. Gour: Yes.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): They have added a further amendment to our amendment.

Mr. President: As far as I can see it does not apply to the whole of the new section.

Sir Henry Moncrieff Smith: The whole section has been redrafted by the Council of State, and if this House confines itself to insistence on the amendment that it previously made it must not only remove that proviso but it will set the clause back into the form in which it emerged from this House on the last occasion.

Dr. H. S. Gour: I may say in this connection, Sir, that we shall not quibble about words and if there are any verbal changes made for the purpose of improving the draft, we will treat it as substantially an amendment of this House, though there may be verbal variations. What we object to is the insertion of the proviso which I have read out and which substantially varies the amendment of this House in the Council of State.

Mr. President: The procedure laid down in the rule makes it evident that the Assembly must insist on the entire clause as originally amended by the Assembly and the rules will not permit the acceptance of the suggestion made by Dr. Gour.

Dr. H. S. Gour: Very well, Sir; to comply with the rule I insist upon the restoration of the clause as amended by this House.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muham-
madan): Was notice given of this amendment, I wish to know.

Mr. President: It cannot be called an amendment. A special form of procedure is provided for the stage which we have now reached. Honourable Members will realise that the Bill originated in the Council of State and then it came to this Assembly and was taken in January; then it went back to the Council of State and now it has come back again from the Council of State a second time. The procedure is restricted to that laid down in rule 36, sub-rule (4), which is the operative rule for the purposes of the present discussion.

The Honourable Sir Malcolm Hailey: Sir, I merely rise for the purpose of getting the motion in order. We quite understand the purport of the opposition of Dr. Gour. We merely wish to get the matter into such form that it will comply with the requirements of our Standing Orders, and in that connection I will explain to the House what exactly will happen if it follows Dr. Gour in what he has proposed. If the Bill is now returned with a message intimating that this Chamber insists on amendments to which the originating Chamber is unable to agree, then that Chamber may either report the fact of the disagreement to the Governor General or allow the Bill to lapse. We have, therefore, arrived at a somewhat interesting stage in the history of the Criminal Procedure Code (Amendment) Bill. I shall not weary the House by again reciting its long previous history, and it is quite unnecessary for me to remind the House of the fact that this Bill has engaged a considerable portion of the time of this Session. It has gone back to the other House, and the other House has returned it here. As a result of much work here, there and between, if I may so put it, we have now arrived at an agreement on practically every point at issue; or shall we say that if we have not arrived at an agreement, for that connotes a certain mental satisfaction which is perhaps present neither in our minds nor yours, we have at least arrived at a settlement on every point except this. If we do not arrive at a settlement on this point, then, as I have just pointed out to the House, the

other Chamber will eventually be faced either with the necessity of reporting to the Governor General the fact of this disagreement or of allowing the Bill to lapse. Well, for my part, Sir, I should be sorry to see the Bill lapse, if only because of the great amount of time, labour and anxious care that has been bestowed upon it. Believe me, we should not have thought of introducing this proviso unless we had been fully convinced of its necessity, for we recognized the consequences its insertion was likely to bring in view of the opinions previously expressed in this House. I will admit at once that from what I may describe as a purely Home Department point of view there are some features about the Criminal Procedure Code, as it now stands, which do not greatly commend themselves to me. There are many improvements, I admit, and we should be glad to see those improvements introduced; but there are other features which, as I have said, do not greatly commend themselves to us, and the question will finally arise in our minds whether we, balancing the two, are so enamoured of the revised Criminal Procedure Code that we shall attempt to take any further steps to put it into final operation or whether we shall perforce be obliged to retain the law as it now stands. That is the decision at which we shall have to arrive. I should be glad to avoid having to settle those issues.

Now, Sir, the House will agree that we have tried to meet it in every possible direction, and here we have one item, not an item perhaps of the very first importance (*Dr. H. S. Gour*: "No") on which we have been unable to arrive at an agreement. Now what are the facts about this? We have conceded the principle that appeals ought to go to the Sessions Judge. So much we have conceded, but we have found ourselves unable to go with the position described by *Dr. Gour*. He says that the Legislative Assembly has decided and must insist that all appeals shall go to the Sessions Judge; but our point is that this Assembly has not yet provided the Sessions Judges to whom those appeals should go, and it cannot do so. I would remind the House, in the first place, that we have now open to appeal orders passed under section 107. Appeals, therefore, against those orders will be heard for the first time, and will swell the general body of appeals under these security sections. Now I have been unable to form any accurate calculation of what the total number of appeals will be that are likely to go to Sessions Judges. I can only tell the House there are on the average of the last three years 43,000 persons annually subjected to this class of orders in India. The House can form its own conclusion as to the number of such persons who are likely to appeal to Sessions Judges. They must be considerable. There will first be the appeals against the order of the District Magistrate in which there is now no appeal. Then as regards appeals against the orders of first class Magistrates, which are now heard by District Magistrates, I would point out that there is a much larger number of District Magistrates than of Sessions Judges, and take it whatever way you will, it is quite certain that we should have to increase the number of Sessions Judges to hear these appeals. That is to say, that although we have at present an organization which can and does hear the appeals and against whom I will not admit the charge that they do not hear those appeals properly,—yet we should add to the expenditure of the Local Governments by forcing them to appoint fresh Sessions Judges. Various calculations have been formed as to the numbers which will be required. I do not wish to pin my faith to those, for they cannot, in the circumstances, be accurate. It has been suggested, for instance, that in the Punjab from 5 to 7 Sessions Judges will be required; and in other provinces such, as the United Provinces, there would equally be a certain

[Sir Malcolm Hailey.]

necessity of appointing fresh Sessions Judges. Now, Sir, how does the case stand with regard to our Sessions Judges? We have, as the House is aware, already thrown additional criminal work on them as a result of the enactment of our Racial Distinctions Bill. Local Governments pointed out at the time and High Courts also adverted to the fact that that would be the result. As the House is well aware, District and Sessions Judges have now practically to confine themselves in many areas to their appellate work and can do little original civil work; in some cases it is much worse. Listen to what the Patna High Courts said on the subject. They were writing on the subject of the changes introduced by the Racial Distinctions Bill. They said:

"The Judges entertain no doubt that in this province no District and Sessions Judge will have time to attend to any civil appellate business. It was once hoped that District Judges would occasionally take original civil suits, but in the majority of districts that hope is now impossible of fulfilment and the most that can be expected is that they should in the exercise of their appellate jurisdiction see something of the work of their Munsifs and Subordinate Judges."

Now, if that is the case already, have we any right here to add to the work of Sessions Judges to such an extent that they will not even be able to attend to their civil appellate work? Having already given up hope largely of their being able to take original work, we now intrench on the time which they can give to their appellate work, and the only alternative to that is appointing fresh Sessions Judges. Dr. Gour sought to make light of this consideration, and I think that when the matter was previously discussed other Members resented our taking shelter behind considerations which were mainly financial in their nature. Well, Sir, we have, I am afraid, learnt in the course of the budget debates the importance of such considerations in regard to our own finances, and I think that it is the duty of this House to show an equal consideration to the finances of Local Governments; nay, to show consideration also to the interests of civil litigation in the provinces. I believe that there are provinces where the Local Government would not find it necessary to use this proviso; there are places where the number of orders passed under Chapter VIII of the Criminal Procedure Code is small and there would be no reason for withdrawing such cases from the purview of the Sessions Judge; but there are undoubtedly provinces where the considerations to which I have referred would and must apply. Now, Sir, that is the ground and, I think, the substantial ground on which we have felt ourselves obliged to insert this proviso. May I add that there is nothing in it which justifies the criticism that Dr. Gour has extended against it as unusual, or as taking the matter out of the hand of the Legislature and placing it in the hand of the executive. You have parallels elsewhere. The Local Government can by Notification, for instance, decide whether trials shall be by jury or by assessors. The Local Government (although I know this provision is objected to) can decide when section 30 powers should be given to Magistrates. And you will find as the result of the investigations which we are now making, following the report of the Racial Distinctions Committee regarding the use of that section, that Local Governments will take their stand in regard to its use not on grounds of principle but on grounds of economy. There is therefore I say nothing unusual in this proviso and nothing unreasonable. I admit there is in many quarters a strong feeling that there should be a complete division of functions between the executive and the judicial, an old-standing feeling which has found fresh impetus from the Committees

appointed at the motion of our Legislative Councils. Well, how far have Local Governments as yet found themselves in a position to carry out such recommendations? Nowhere, I believe, and it may be some time before they can do so. I say to the House this, that they may advisedly leave this question to be decided as part of the general question of the separation of executive and judicial functions, as indeed it is a part. When Local Governments are in a position to carry out the concrete suggestions of the various committees they have appointed in regard to the separation, then will be the time, but not before, to insist that all appeals against orders passed under Chapter VIII of the Criminal Procedure Code shall come before the Sessions Judges. But until then you must be swayed by exactly the same considerations as are swaying Local Governments in this respect: that is to say, that whatever desire there may be to completely separate these functions, yet for the present financial considerations are too strong. You have here in your Act a provision on which future action can be taken as circumstances permit. Leave it there. When the wider question is settled and provision is made for the administrative changes which that settlement will involve, then this section will stand in good stead. But meanwhile the proviso is in our opinion necessary.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban):

Sir, I think the House must recognize the strength of the plea put forward by the Honourable the Home Member for the retention of the provision as a purely transitory measure. We all know, and the Home Member himself has admitted it, that we must do all we can to get judicial and executive functions separated. That is the ideal that we had before us for a long time, an ideal which the Government is just recognizing as needful but for the attainment of which active support was not forthcoming on its part so long. That support is now coming. One must admit the correctness of what has been stated with regard to the heaviness of the work of Sessions Judges. We feel that every day in Bengal. The instance of Bihar and Orissa has been quoted, but long-suffering Bengal complains as little as possible. The District Judge, who is also the Sessions Judge in most places, has absolutely no time for what would be considered his legitimate work, his original suits, his appeal work and miscellaneous civil work. The head of the judiciary of the district undoubtedly ought to see as much of appeal work both civil and criminal as possible, and he will do so where it can be arranged for; where it cannot be is the only area in regard to which I understand this provision is to apply and for as short a period as possible. Having regard to that view of things, about which there can be no gain-saying, and fully conceding the soundness of the proposition that economic grounds ought not to be a reason for the denial of justice, it is impossible to insist that this provision shall rigidly stand out. The District Magistrate, I hope, will soon be relieved of all work of this kind; when the District Magistrate entirely takes over the judicial work, he will have to do work of this kind to a very considerable extent. Where the Local Government feels that a particular District Magistrate is not fit to be entrusted with this work, or where this is not desirable, I have no doubt that the proviso will be judicially interpreted and judicially administered. For this reason, Sir, and not for the first reason put forward by the Honourable the Home Member do I object to Dr. Gour's motion. The first objection put forward was that, for fear of possible lapse of the Bill, the House ought to agree to the alteration made by the Council of State. If unfortunately that is the position of things created by the Standing Rules

[Sir Deva Prasad Sarvadhikary.]

and Orders, you have got to face it, and think about amending it in a way that will not involve the lapsing or rejection of a whole measure because, with regard to a small part of the Bill like this, there happens to be a difference of opinion between the two Houses. Even if there be an acute difference of opinion, the undesirable results that the Home Member has indicated ought not to take place and nothing should interfere with our reaping the fruits of long-drawn labours like those we have gone through. But the likelihood of the result indicated would not itself influence our consideration. On other grounds, however, on the somewhat low ground of expediency, I think we might allow this provision to stand for the present, absolutely on the understanding put forward by the Honourable the Home Member that it is a temporary, transitory provision necessitated by the exigencies of the case, to be remedied as soon as possible, and never to be applied unless there is the clearest possible necessity for it.

Mr. P. B. Haigh (Bombay: Nominated Official): Sir, my reason for rising to address the House this morning is because Dr. Gour has made use of some expressions which I do not think ought to go unchallenged. I believe, Sir, that I am the only Member of this House who is actually at this moment a District Magistrate, and I trust therefore that the House will forgive me if I attempt to make some reply to what Dr. Gour has said. Sir, Dr. Gour has told the House that the justice administered by District Magistrates is rough and ready in comparison with the considered and deliberate justice of the Sessions Judge. Well, Sir

Dr. H. S. Gour: I rise, Sir, to a point of order. I am afraid my friend, Mr. Haigh, must have entirely misunderstood me. What I said was that Government wanted rough and ready justice

Sir Deva Prasad Sarvadhikary: And wanted Magistrates to administer it.

Dr. H. S. Gour: Yes, I repeat that statement.

Mr. P. B. Haigh: I cannot see the point of order. As for the statement that Government wants rough and ready justice, well, Sir, I am not in a position to answer for the Government; the Honourable the Leader of the House will no doubt do that. But Dr. Gour went further and went on to say that the justice administered by the District Magistrate, as compared with that administered by the Sessions Judge, was impure, adulterated, suspect. Sir, I repudiate those charges, and I would beg Dr. Gour to remember that even District Magistrates are not devoid of a sense of professional probity: and when a case in which a man who was bound over to be of good behaviour comes up to the District Magistrate on appeal, he has no right to assume that the District Magistrate will not undertake consideration of that case without a due sense of his responsibility towards the accused and towards the Government whom he is serving. Sir, I feel it my duty to protest in the name of District Magistrates against charges of that kind and language of that sort being used in this House. Sir, as regards the general question, I do not wish to add anything to what the Honourable the Home Member has said; and from the words of the last speaker it is quite clear now that the consideration that he has urged will carry their due weight with this House. But I would point out one thing to Honourable Members, and that is, that if Dr. Gour could have his way, and if

the effect of his motion would simply be to exclude the proviso, then the very large number of persons who will be affected by this section and who will be compelled to go on appeal in every case, not to the District Magistrate but to the Sessions Judge, will inevitably in many districts be subjected to great delay, and I doubt whether, even in the interests of those persons, it is desirable that this proviso should be exercised.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): Sir, we are driven to a very unfortunate position. The Honourable the Home Member has laid before us the procedure in case Dr. Gour's motion is accepted. It will mean that the work on this Bill for the last three years, that is, of all those persons who went before us and our work for the last three months on this Bill, will be completely lost, and it stands a chance of being destroyed at the hands of the Council by its allowing it to a lapse. Well, Sir, who is responsible for this position? We from the very beginning have been, and as has been conceded by the Honourable the Home Member, the whole country is very strong on this point. They want to have the executive functions of the District Magistrate to be separated from the judicial, and it was to give expression to our feelings on this point that this particular amendment was introduced by this Assembly in the Criminal Procedure Code. We knew at the time that

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the Honourable the Home Member was opposed to it, but he is a strong man and he must have his way. The Government go to the Council of State and force their will on that august body. They come back again to us and they want to force our hands. Either we must accept it at the point of the bayonet or throw it out. Now, being in this position, our difficulty is that we do not know what to do. We do not want that the Bill for which we have spent such anxious thought and time for so many months should go by the board in this manner; at the same time, we do not want that this proviso objected to by Dr. Gour should receive universal recognition; because in the same breath you say that the appeal should go to the Sessions Judge and yet that the Local Government should undo all what we have done here, that it may transfer these appeals again to the District Magistrate. But, however, situated as we are, we must accept the inevitable and there is only one way out of it, and that way has been suggested by the Honourable Member himself, the gentleman who is responsible for all our misfortunes, and that is, if we let this proviso go now, afterwards when the separation of the executive from the judiciary is carried out, we can come back to the Legislature with a fresh amendment of the Criminal Procedure Code. That is the only alternative left. I know it, Sir, for a fact that all criminal cases, whether they be original or appeal, before the district Magistrate do not give much satisfaction. In spite of what the Honourable Mr. Haigh has said, I join issue with him. Is there a gentleman in this Assembly who has any experience of cases heard by District Magistrates who can lay his hand on his heart and say that the District Magistrate is the proper judicial officer to hear judicial cases? I know it for a fact for the last 40 years that there are very few appeals, if any at all, which are accepted by the District Magistrate. In fact they have a printed form ready which says: "I see no reason for interference". These are the only words that the parties receive, and naturally so, because they are such busy officers who have so many and multifarious duties to do. The District Magistrate is not sitting there as a judicial officer, but he is there as a Magistrate, whose functions, according to him and according to all accepted notions, are very different from those of a judge and therefore we cannot . . .

The Honourable Sir Malcolm Hailey: Is a Magistrate not a judicial officer?

Mr. Pyari Lal: He might be just technically so to suit the exigencies of the executive Government; otherwise he cannot possibly devote the amount of time required to decide judicial cases. Therefore, on all hands it is very desirable that he should be relieved of this work. I understand that the United Provinces Government have already decided this matter and they have formulated their views and submitted them to the Government of India; and if that reform is accepted, of course as a matter of fact the amendment above referred to will have to be introduced at a very early date in the Assembly and if other Governments also follow suit, I suppose not much harm will be done if we let the present occasion pass and come afterwards and have this suggested amendment introduced.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): May I enquire from the Government whether they will undertake to issue instructions that this power should be very sparingly exercised, so that the apprehensions that have been entertained by Dr. Gour that as a rule all Local Governments will be empowered under this, may be removed?

The Honourable Sir Malcolm Hailey: In a matter of this kind we consider it proper to leave that discretion to Local Governments. I should be very sorry indeed to think that any instructions that were issued from the Government of India could be interpreted in the sense that we ourselves thought that the charges which have been levied here to-day against the judicial character of District Magistrates had any justification. I consider that this is a matter which must be left to the Local Governments and to the public opinion as expressed through local Councils.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I wish to say at the outset that I neither agree with Mr. Haigh nor with my friend, Mr. Pyari Lal, about their estimate of the judicial work done by District Magistrates. There are some very excellent District Magistrates who write elaborate, well reasoned and well thought out judgments, while there are others who do not do it. But there is one fact which we ought to take into account and it is this, that as far as a District Magistrate is concerned, it is his duty to hear all sorts of reports from the police. Influential and important men come from all over the district, they relate to him their own troubles, their own grievances, and thus a great deal of information reaches him which does not reach the Sessions Judge. The Sessions Judge, therefore, has certainly to depend more on the record before him than on outside information. Be that as it may—there is a very strong feeling that it would be far better if these appeals were decided by Sessions Judges. I shall ask the Honourable the Home Member to consider one particular matter. He may feel convinced that these appeals could very well be heard by District Magistrates but he ought to take into account the very strong feeling that exists in the country. As a matter of fact, a European lawyer of eminence, while I was coming up here, said to me “If you can get nothing done please see that these appeals in what are called in my province *badmashi* cases, should on appeal go up to the Sessions Judge and should not be heard by the District Magistrate.” It may be a wrong feeling, but there the feeling is, and I venture to think that a careful and cautious administrator will make a note of that feeling and will try to do all that he can in order to remove it. If the Honourable the Home Member will tell the House

that this provision is really temporary, for 2 years or 3 years or 4 years, and that there is not the slightest apprehension of its remaining long on the Statute Book, I venture to think that, as a matter of compromise, it will be acceptable even to my friend Dr. Gour and to Mr. Pyari Lal.

Mr. Pyari Lal: I have accepted it already under those circumstances.

Munshi Iswar Saran: Sir, there is no doubt that the acceptance of this provision may lead to a few more appointments of District Judges, but I shall ask the Honourable the Home Member to consider the new arrangement which has already been made. Subordinate Judges in many places have been given the status of Additional Sessions Judges and they hear criminal appeals. Moreover, as appeals from Magistrates of the first class generally go to Sessions Judges, I do not see why this provision should be introduced, which would be an exception.

I must confess that the Home Member laid great stress, and very rightly, on the financial or the economic consideration, and he did not seriously combat the view that it would not on the whole be better and more advisable that these appeals should go to the Sessions Judge. I shall say this, that a little expense for the production of the belief amongst the vast masses of the people that justice is done to them would be well justified. I shall say only one word, Sir, and it is this. The Honourable the Home Member has said, if you insist on it there is this trouble, that either this Bill will lapse, or the matter will have to be reported to the Governor General. Sir, prudence and compromise are most admirable virtues, but there are occasions when they degenerate into either weakness or vice. This is the situation. It was the same thing over the Racial Distinctions Bill—accept this or that condition or the whole Bill drops. It is the same thing here again—we are told to accept this proviso, otherwise the whole Bill lapses. I do not say it is the Home Member or Government that has brought us face to face with this situation. Whether it is due to the intervention of some mysterious power I know not, but we are confronted with a position which is not acceptable to us, and then it is said, “Look here, the work of so many years will be wasted if you do not agree with this proviso, there are so many improvements you can have by accepting it.” Too much stress is being laid on this line of argument, and I should say that it is time now, or perhaps the time will soon come, if it has not come to-day, when this House will have to make up its mind and say “Well, we are clear, we adopt this attitude, and we are ready to take the consequences.” I shall say to the Honourable the Home Member that he will shorten the debate and there will be no necessity for voting if he will state that this is only a temporary measure, and we need not entertain any apprehension regarding its becoming permanent.

Mr. Darcy Lindsay (Bengal: European): I move that the question be now put.

Mr. P. E. Percival (Bombay: Nominated Official): Sir, as a Sessions Judge myself I am not likely to be unduly biased in favour of District Magistrates; but I may say I have had some experience of the work of Magistrates, because I have been taking appeals for the last 15 years from Magistrates, including District Magistrates. I believe that Honourable Members have an idea that the District Magistrates are sometimes influenced by considerations other than the actual evidence before them. This, however, is not really so except in an infinitesimal number of cases. Well, Sir, I would also like to confirm the statement of the Honourable

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the Home Member that Sessions Judges, especially in Sind where I come from, have very little, if any, time for civil work. They are occupied the whole time with criminal work. Sessions cases and criminal appeals take up practically the whole time of Sessions Judges; and the additional work thrown on them by the Racial Distinctions Bill and this Bill will still further the criminal work of Sessions Judges. There is one other point to which I should like to draw attention, as I think, it has not been realised by Honourable Members; and that is that the alterations made by this Bill in section 406 have had the effect mentioned by my Honourable friend Sir Henry Moncrieff Smith in regard to another clause, namely, that the Government have already gone nine-tenths of the way to meet the wishes of the Assembly. I believe that 90 amendments, large or small, have been made in this Bill by the House, and have been accepted by Government, that is to say, cases in which Government have been out-voted, and cases in which Government have accepted the amendments; and there remains only this one little item, in which case too Government have gone nine-tenths of the way to meet non-official opinion. Now the existing law is that there is no appeal in the case of security against a breach of the peace. Under the present Bill there is going to be an appeal in the case of security against a breach of the peace as well as of security for good behaviour. That is one alteration. The second alteration is that there is at present no appeal from an order of a District Magistrate or of a Presidency Magistrate. Now there is going to be an appeal from the Presidency Magistrate to the High Court and from the District Magistrate to the Sessions Judge. So in that case the wishes of the Assembly have been entirely met. There remains the third case, that is an appeal from a First Class Magistrate. Now Honourable Members will see that even in that case the wishes of the Assembly have been met to a very great extent, that is to say, the normal procedure will be in future that appeals from First Class Magistrates will go to Sessions Judges and not to District Magistrates. The one and only distinction that has been made in this Bill, which is not in accordance with the suggestions of this Assembly, is that the Local Governments, where they think it necessary in districts such as those in Sind where there is a great deal of criminal work, and in those districts only, can, by notification, direct that such appeals will go to the District Magistrate. I think it is not probable that Local Governments will apply this provision in districts which are not very criminal. There are districts in which there is not a very large amount of crime, and in those districts only the appeals will go to the Sessions Judge; but there are districts in which the Sessions Judges have no time to take these appeals. Therefore I do suggest, in the interests of the Local Governments themselves, that this proviso might be allowed to stand. I appeal to Honourable Members that, as in the case of the Racial Distinctions Bill, so in this Bill also they will act in a spirit of compromise and accept this small amendment which will meet the wishes of the Local Governments.

Mr. Harchandral Vishindas: I move that the question be put.
The motion was adopted.

Mr. President: Amendment moved:

"That this Assembly do insist on clause 109 as amended by the Assembly."

The motion was negatived.

Mr. President: The question is:

"That this Assembly do agree with the Council of State in the said amendment."

The motion was adopted.

Mr. President: Further amendment made by the Council of State:

"That in clause 145 of the Bill in the proposed sub-section (8) of section 526 the words 'prior to the accused entering on his defence' were omitted."

The question is that this Assembly do agree with the Council of State in that amendment.

The motion was adopted.

Mr. President: The question is:

"That this Assembly do agree to the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, as further amended by the Council of State."

The motion was adopted.

THE INDIAN OFFICIAL SECRETS BILL.

The Honourable Sir Malcolm Hailey (Home Member): Sir, I beg to move:

"That the amendments made by the Council of State in the Bill to consolidate and amend the law in British India relating to official secrets be taken into consideration."

As will be seen, Sir, the amendments introduced are small and I think I am correct in saying that they merely give effect to two small amendments that were put forward in this Assembly by a somewhat keen critic of our Bill, but which he did not move. We ourselves thought, however, that it was our duty to move them as rendering the Bill more complete and carrying out generally the ideas which had actuated the Select Committee in dealing with the Bill.

Mr. President: The question is:

"That the amendments made by the Council of State in the Bill to consolidate and amend the law in British India relating to official secrets be taken into consideration."

The motion was adopted.

Mr. President: Amendment made by the Council of State:

"In part (e) of sub-clause (1) of clause 6 of the Bill, for the words 'or uses' the words 'or knowingly uses' were substituted."

The question I have to put is that this Assembly do agree with the Council of State in that amendment.

The motion was adopted.

Mr. President: Further amendment made by the Council of State:

"In Part (b) of sub-clause (2) of clause 6 of the Bill, for the words 'neglects or' the word 'wilfully' was substituted."

The question I have to put is that this Assembly do agree with the Council of State in that amendment.

The motion was adopted.

THE ABOLITION OF TRANSPORTATION BILL.

The Honourable Sir Malcolm Hailey (Home Member): Sir, I beg to move:

"That the Bill to provide for the abolition of the punishment of transportation in respect of criminal offences be referred to a Select Committee consisting of Rao Bahadur T. Rangachariar, Mr. J. N. Mukherjee, Mr. K. B. L. Agnihotri, Mr. N. M. Samarth, Mr. P. E. Percival, Colonel Sir Henry Stanyon, Munshi Iswar Saran, Chaudhri Shahab ud-Din, and myself."

The circumstances in which I put this motion will no doubt be perfectly clear to the House when it remembers the terms in which a motion for introduction was put forward by Sir William Vincent in September 1921. We are taking action to do away with the punishment of transportation in consequence of the Report of the Jails Committee. As Sir William Vincent explained in introducing the Bill, there was little difficulty on the question of principle. The whole difficulty arose in detail, that is to say, on the Schedules. We then stated that we would place the Bill before Local Governments and take their opinion. Those opinions are now complete, but some of them have only just arrived and we have not therefore had time to circulate them, but we shall place them at the disposal of the Select Committee, if my motion is accepted. I have said before, there is probably no difficulty on the subject of principle. The question of detail presents great difficulties and we therefore wish to have the matter considered in the light of the opinions of Local Governments as soon as possible by a Select Committee. That is the reason why I make this motion at this stage, hoping that the Select Committee may possibly be able to commence its sittings a few days before our session in July next.

Khan Bahadur Saiyid Muhammad Ismail Khan (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, may I have your permission to suggest that two more names be added to the Select Committee, namely, those of Khan Bahadur Sarfaraz Hussain Khan and Rai Bahadur Lakshmi Prasad Sinha. They are both Honorary Magistrates of great experience and if their names be added to the personnel of the Select Committee proposed by the Home Member I am sure they will be of great assistance to the Select Committee.

Mr. President: The question is:

"That the following names be added to the list of Members of the Select Committee, namely, Khan Bahadur Sarfaraz Hussain Khan and Rai Bahadur Lakshmi Prasad Sinha."

The motion was adopted.

The question is that the Bill be referred to that Select Committee.

The motion was adopted.

THE INDIAN MERCHANT SHIPPING BILL.

Mr. President (to the Honourable Mr. C. A. Innes): The motion for the consideration of this Bill to consolidate certain enactments relating to Merchant Shipping has already been passed.

The Honourable Mr. C. A. Innes (Commerce and Industries Member): Yes, Sir.

Mr. President: Will the Honourable Member now move his amendment to clause 4?

The Honourable Mr. C. A. Innes: May I explain, Sir, why I bring this Bill forward again for consideration. I should just like to explain to the House why I have again ventured to place this Bill before the House. The House will remember that last March when I moved that the Bill to amend our Mercantile Marine law should be taken into consideration, I explained that our Mercantile Marine law was contained in no less than 21 different enactments some of them dating back 75 years and many of them overlapping and interlocking in the most complicated and confused way. The result is that our ship-owners, our sea captains, the Maritime Local Governments and the Government of India have the very greatest difficulty in ascertaining the law on any particular point. In addition to that, the law in many respects is out of date. Consequently, when the Statute Law Revision Committee was established, almost the first thing we asked them to take up was the consolidation and amendment of these laws. Well, I believe that they departed in this matter from the usual procedure. Instead of proceeding first with amendment and then going in for consolidation, they decided that, having regard to all the circumstances of the case, in this particular instance consolidation must be taken up first as a condition precedent to amendment; but acting again on the advice of the Statute Law Revision Committee, I did not move last March that the Bill should be passed into law. On the contrary, I suggested that we should be given time to prepare an amending Bill, that the amending Bill should then be placed before the House, and that, at a convenient stage, the amending Bill and the Consolidation Bill should be referred back to a Joint Select Committee in order that a final Bill might be placed before the House. Well, Sir, further experience has shown that it will be a long time before we can place an amending Bill before the Assembly. We have already addressed Local Governments on two matters which will involve an amendment of certain Chapters of this Consolidation Bill. We have also had an officer on special duty in the Department, and we have advanced a considerable way with our amendments to the Bill. But these amendments will require reference to Maritime Local Governments and it will certainly take a considerable time before I am in a position to place final proposals before the House. Consequently, the Statute Law Revision Committee has again addressed the Government of India and has suggested that this Consolidation Bill should be passed into law. They suggest that this Bill, though possibly it contains defects especially in the matter that it does not deal with the registration of ships, is a very useful measure in the clarification of our Shipping Law; and, therefore, acting on the advice of that Committee, I have again brought the Bill before the House.

I now beg to move:

"That in clause 4 for the words 'used for the public purposes' the following be substituted, namely:

'employed otherwise than for profit in the public service'."

This clause, Sir, exempts from the operation of the Act ships belonging to His Majesty or the Government of India and ships belonging to any foreign Prince or State and used for the public purposes of that foreign Prince or State. It has been suggested to us that the words "used for public purposes" are obscure and require clarification, a special point being that certain foreign States, the United States Government and the Australian Commonwealth also, have started State lines of passenger steamers, and it has been suggested to us that there is no reason why these State lines should be exempted from the operation of our Shipping Law. The existing law is also rather obscure on the subject, the actual

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phrase used being different in different Acts. We have referred the point to the President of the Statute Law Revision Committee and on his advice we have suggested this amendment. I move that amendment, Sir.

The motion was adopted.

Mr. President: The question is that clause 4, as amended, stand part of the Bill.

Mr. B. A. Spence (Bombay: European): Might I ask the Honourable Member for Commerce, Sir, exactly what the words "or the Government" mean in this clause 4—is it the Government of India?

The Honourable Mr. C. A. Innes: The Government of this country, Sir.

Clause 4, as amended, was added to the Bill.

Clauses 5—16, inclusive, were added to the Bill.

The Honourable Mr. C. A. Innes: Sir, I beg to move:

"That in sub-clause (1) of clause 17, for the words 'Lientenant, Sub-Lientenant, Navigating Lieutenant or Navigating Sub-Lientenant in His Majesty's Navy or of Lieutenant in the Royal Indian Marine,' the words 'Lieutenant in His Majesty's Navy or in the Royal Indian Marine' be substituted."

This is purely a drafting amendment. The clause exempts from the necessity of examination for certificates of competence certain officers of the Royal Navy and the Royal Indian Marine. We are advised that the wording I am now suggesting is necessary in order to bring our law in accordance with the fact.

The motion was adopted.

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

Clauses 18 to 92, inclusive, were added to the Bill.

The Honourable Mr. C. A. Innes: Sir, I beg to move:

"That in clause 93 for the word 'revocable' the word 'irrevocable' be substituted."

I am here, Sir, correcting a printing error. This clause is based on section 73 of the Indian Merchant Shipping Act of 1879 and by a printing mistake they have put in the word "revocable" instead of "irrevocable."

Sir Montagu Webb (Bombay: European): In my copy of the Bill the word "irrevocable" duly appears.

The Honourable Mr. C. A. Innes: I think the explanation of that, Sir, is that the Legislative Department thought they might possibly treat this merely as a printing error, but afterwards decided that the amendment ought to be brought before the House. In the original copy of the Bill as placed before the House the word is "revocable." I think that is the explanation.

The motion was adopted.

Clause 95, as amended, was added to the Bill.

Clauses 94 to 296, inclusive, were added to the Bill.

Schedule I was added to the Bill.

Schedules II, III, IV and V were added to the Bill.

Clauses 1, 2 and 3 were added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Mr. C. A. Innes: Sir, I beg to move:

"That the Bill as passed by the Council of State and as amended by this Assembly be passed."

The motion was adopted.

THE INDIAN PENAL CODE (AMENDMENT) BILL

The Honourable Sir Malcolm Hailey (Home Member): Sir, I beg to move:

"That the amendment made by the Council of State in the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and children, be taken into consideration."

As the House will see, the amendment consisted merely in introducing the commencement clause as to the necessity of which, and I hope the justification for which, I previously addressed the House in asking for the passing of this Bill.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Sir, I am still in doubt as to the object the Government have in view with regard to this matter. I take it, Sir, that the clause has been inserted in order that time may be given to the Honourable the Home Member to ascertain from the Local Governments their view on the amendment which we adopted. Supposing, Sir, it happens that Local Governments are against raising the age from 16 to 18, does it follow that the Act itself will not be brought into force at any time? This clause says simply:

"It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint."

There is no obligation apparently on the part of Government to bring it into force at any time. Supposing on the receipt of opinions, the Government of India is convinced that the Local Governments are opposed to the raising of the age from 16 to 18, is it the intention of Government not to bring the Act into force at all? If that is the object, the result will be this, that although we have passed the Act here the Government by executive order may never bring it into force. That will be the situation which would arise by the amendment made in the other House. I should like to know what the view of Government would be in case the Local Governments are opposed to the raising of the age from 16 to 18.

The Honourable Sir Malcolm Hailey: The purpose of the commencement clause is not that which Mr. Seshagiri Ayyar has suggested. It is that we may have an opportunity of consulting Local Governments and the public with regard to the action which should be taken not only in respect of this one new clause in the Indian Penal Code but in regard to the effect which its addition would have on existing sections of the Code. We wish to have an opportunity of consulting Local Governments and local bodies on both questions. Now he asks me what would happen if public opinion—he says the Local Governments, but I am going to say, if I may, instead, public opinion—is opposed to the raising of the age as originally proposed in our Bill from 16 to 18. I ask him in return, would there not be an obligation on us, if public opinion really were against this, to bring the matter before the Legislature again? A commencement clause was necessary, first, in order that we might have an opportunity of such consultation; and that such consultation is required in view of the effect of the

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new Bill on the existing clauses of the Indian Penal Code I think every one here will admit. Now, what would have been the alternative? The alternative would have been to ask the Governor General not to give his assent to the Bill until such consultation had taken place—an undesirable alternative. It is far better that it should be effected in this natural and constitutional way. As for the future, Sir, I cannot of course bind myself here. If we find that there is a general feeling in favour of raising the age to 18 throughout the Indian Penal Code, if that is a very general feeling throughout India, we should have no hesitation in coming up on the subject to the Legislature. That is one possibility. The other possibility is that there may be an equally strong feeling on the other side. It is suggested that if we find that feeling so strong, and if, therefore, in consequence of it we do not bring the Bill into operation at all, then . . .

Mr. T. V. Seshagiri Ayyar: Suppose the opinions are equally balanced?

The Honourable Sir Malcolm Hailey: The Honourable Member is presenting me with a conundrum so difficult that I cannot at present see an answer to it, for I find it difficult to assume that opinion can be really equally balanced on a question of this nature. However, at present I am on the alternative suggested by the Honourable Member himself, namely, if opinion were strongly against the proposed general raising of the age I am afraid that I should be inclined to give the Governor General the advice that, if public opinion were really seriously against the Assembly on this matter of social legislation, if it were seriously against the Assembly—I am not using the word lightly—that he should refuse his assent to the Bill. I am afraid, that if public opinion were seriously against the Assembly—and I say again seriously—I should give the Governor General the advice not to put the Bill into operation until those who were in favour of the change from 16 to 18 had persuaded public opinion that it was wrong. That, I think, is a perfectly reasonable and logical position, and the only one consistent with our own responsibility. I do not think that anybody can complain if an executive government, on whom after all the burden of carrying a measure of this sort into effect must rest, should have some consideration of what would happen if there were wide popular opinion expressed against a measure which the Legislature had passed. That is the position, Sir. I have tried to put it perfectly frankly. But for the present I do not think the Honourable Member need envisage the further possibilities that he has suggested. For the present all we want is an opportunity of consideration.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I was rather surprised at the question put by my Honourable friend to my left who is here to press public opinion always; his question rather suggests a lurking feeling that in this matter public opinion may assert itself against the advanced social reformers who are responsible for the passing of this measure in this Assembly. If that is not the fear, then we need not be afraid of public opinion. (*Mr. T. V. Seshagiri Ayyar:* "I am not afraid.") I am glad to hear that my Honourable friends are not afraid of public opinion. But there is a great deal of necessity for taking public opinion in this matter, for the very simple reason that we are taking the public by surprise by this measure. When this Bill was introduced it was introduced to suppress white slave traffic. Let us remember that. The public paid no more attention to it, because it concerned white slaves, and not brown slaves. If . . .

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): On a point of order, my friend is not correct.

Mr. President: That is not a point of order. If the Honourable Member wishes to correct Mr. Rangachariar he can do so later. If Mr. Rangachariar chooses to give way, he may do so, but he is in possession of the House.

Rao Bahadur T. Rangachariar: Sir, I am perfectly in order. I know the contents of the Bill as it was put forth to the public; it was a Bill, as it was introduced, to suppress white slave traffic in this country; the public therefore did not care what provision you enacted. They wanted to suppress white slave traffic and they were quite willing to have it suppressed; you may put any age you like, 21 or 25; they did not care about it. But, Sir, this Bill has now assumed a new shape in that you have enacted a new provision concerning a domestic crime, a crime committed inside the country, with reference to people in the land. Of this the public had no notice; of this the public had no opportunity to give expression to their views. Therefore, Sir, I think Government are acting with a full sense of responsibility in saying that they will consult public opinion before they put this into force. Sir, when the Government say "we want to consult public opinion," that we, the representatives of public opinion, should cry against it seems to me an enigma.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, as I was the first on the last occasion to raise a question which involved a constitutional issue, may I once more ask the House to consider what position they would be put in if they consent to the course suggested by the Honourable the Home Member. We have already a second chamber; the Honourable the Home Member wishes now to introduce a third chamber, the Chamber of public opinion. (*Cries of "Hear, hear."*)

The Honourable Sir Malcolm Halley: I acknowledge the compliment, Sir.

Dr. H. S. Gour: Now, Sir, I ask Honourable Members what is public opinion and how do the Government collect public opinion? Are there any written rules about it? Is there any constitutional way of gathering public opinion? There is no referendum, no plebescite; the public letter is a letter drafted by the Home Department to the Local Governments with a direction to consult such bodies or persons as the Local Governments may deem fit. The Local Governments thereupon collect the opinions of such bodies and persons as they think fit; these opinions are then collected in the offices of the Local Governments and transmitted with the opinions of the Local Governments themselves to the Home Department. There they are digested, summarised and laid before the Home Member. Afterwards the thing passes out of the sight of man into the inner cabinet of the Government of India; that is public opinion. There is no constitutional way of collecting public opinion, and the history of the last twenty years shows that whenever Government have collected public opinion, public opinion has always sided with the Government. I give you a few examples. When the question of mass education was agitating the late Imperial Legislative Council, the Honourable Mr. Gokhale pressed for free and compulsory mass education. That motion was opposed by the Government. Afterwards they acceded to the wishes of that House and said that they will consult public opinion. Honourable Members will be surprised to hear that the public opinion collected by the Home Department was universally against free primary education

The Honourable Sir Malcolm Hailey: Compulsory.

Dr. H. S. Gour: Yes.

The Honourable Sir Malcolm Hailey: And that is exactly the position at the present day in most provinces.

Dr. H. S. Gour: There are numerous examples where public opinion, the so-called public opinion, collected in the manner in which it is done, has not voiced the true sentiments of the people of this country.

Mr. President: The Honourable Member is straying away from the motion before the House. After all, this is the arena of public opinion.

Dr. H. S. Gour: I therefore submit that the setting up of another tribunal, another body, to revise and correct the proceedings of this House is unconstitutional. It is not provided by any part of the written law. The Honourable the Home Member says that under the Act this Bill cannot become law unless it is assented to by the Governor General. That is a constitutional position, and the Governor General is entitled to withhold his assent which he may do on a sufficient cause shown. I submit that is a sufficient safeguard against any hasty or ill-advised action taken by this House in the matter of social or other legislation. Why do the Government now wish to forge another weapon and add it to their already too powerful armoury? You had an example this morning of the deliberate opinion recorded by this House, modified in another place, and, as an Honourable Member put it, thrust down the throats of this House at the point of the bayonet. Well, Sir, that is bad enough, but it would be much worse if the ram rod of public opinion is to be thrust into the delicate machinery of the Central Legislature. I therefore submit that we should not submit to this departure from the established constitution which gives Government sufficient safeguards against ill-judged and hasty legislation, and we should not give the Government the power of withholding their assent or of indefinitely postponing the commencement of a measure passed by the two Houses. Sir, it is a dangerous precedent; it is unconstitutional; it is unworkable, and I submit there is no machinery which this House has prescribed or accepted for the purpose of collecting public opinion—public opinion of what classes, of what persons, of my friend Mr. Rangachariar? If his opinion is to guide social legislation we shall have to wait till the Greek kalends before any advance is made in this direction. When we were told that we do not want this piece of legislation because it does not suit a certain class of landholders in my friend's presidency who would be prejudicially affected if the age of consent is raised from 16 to 18 [*A Voice* (from the Madras Benches): "It is not true"]—that was his plea, that was his statement, that was his sole justification for resisting this motion. He is now prepared to trample under foot the established rules of constitution merely because he thinks that this is a fine moment for postponing the bringing into operation of this most salutary piece of social legislation. My friend must remember that he may get an immediate advantage, but at what cost? He is sacrificing a principle which might hereafter be used against this Legislature. Some of his pet schemes might pass through in both the Houses, and yet the Government may say, 'we are not bound to enact these into law until

we have consulted public opinion.' Remember, then, that it is a weapon which might be used as much against my Honourable and learned friend, as against the social reformer. I therefore ask, Sir, that this House should not give its assent to a departure from the ordinary constitution and reinforce the executive Government who may, upon what they consider to be public opinion, refuse to bring into operation a measure which we have passed and which has passed the other Chamber. I ask, Sir, do not Honourable Members know, do they not realise that in a vast body of opinions collected there are bound to be opinions some for and some against social legislation? All social legislation cannot be supported by the unanimous voice of the people. It must of necessity be supported by people who believe in the utility of social advancement. Conservatives and those who desire to make no advance will always oppose any movement directed towards the amelioration or advancement of their fellow-men. I therefore submit, are you to leave to this unsafe judgment of the executive as to what they consider to be public opinion on a matter of this great national importance? In the printed compilation which was presented to the Members of this House in connection with this measure, has not this question been thrashed out in all its details? (*A Voice*: "No.") My friend Mr. Rangachariar said that the public were misled into thinking that this had something to do with the White Slave Traffic. I deny that state-

1 P.M. ment. If Honourable Members will turn to any page of that compilation they will find that all the public bodies and Associations were dealing with, not the International Convention, but the specific amendments of the Indian Penal Code, and they were asked whether the age should be limited to 16 or extended to 18 or 21. This question, Sir, was the subject of a debate in this House, and surely, intelligent public opinion, if it follows the debates in this House and in the other House, could not be unaware of the true nature of the reform that Members of this House then desired and have since enacted by a measure of legislation. I therefore submit that it would be creating an abnormal and dangerous procedure if this House in a moment of weakness, in a moment of supine indifference, were to allow the Government to seize hold of an advantage by referring to what they call public opinion, a question upon which our voice, the voice of the constituted representatives of the people should be final and should not be open to further revision.

Then, Sir, my friend the Honourable Mr. Rangachariar said, you need not be afraid of public opinion, the public have been taken by surprise. I have answered both those questions. My learned friend does not disguise his real sentiments. (*Rao Bahadur T. Rangachariar*: "Never does.") He never does, he says. But whether he ever does or not, on this occasion his intention is manifest. He is prepared to oppose this measure by hook or by crook. I do not know, Sir, as he said the other day, whether that crook is going to be a straight one. I have a shrewd suspicion that it is not. But whether this measure is to be opposed by Mr. Rangachariar by, for the time being, lending his support to the Honourable the Home Member or not, I appeal to this House for the sake of its own dignity, for the sake of the constitution which it is called upon to work, and lest dangerous precedents should be created, to resist this additional power which the Honourable the Home Member wishes to confer upon the executive Government. I submit, if the existing constitution gives the Governor General the power, and that power is being enlarged because the Governor General cannot indefinitely withhold his

[Dr. H. S. Gour.]

assent to a measure of legislation passed by the two Houses . . . (*The Honourable Sir Malcolm Hailey*: "Why not?") If he can I do not see, Sir, why you should not rely upon that power and why you should add a commencing clause. Please justify it yourself. I do not understand it. If the Governor General possesses the power under the existing law to withhold his consent and he can withhold it for any length of time, then I ask, why have you inserted this commencing clause? What is the real object? Why do you not avail yourself of it? No explanation of it has been given, and I submit, in the absence of explanation, I feel suspicious that this clause will unduly enlarge the power of the Government to refuse to extend the operation of an Act which would otherwise be extended if the Government had the power merely to advise the Governor General to withhold his assent.

On these grounds, Sir, I oppose the commencing clause.

Mr. President: The question of the assent of the Governor General is not a proper thing to be brought in here. It is part of the constitution that laws are passed by the Indian Legislature, which is composed of the two Chambers and of the Governor General for that purpose. Here the sole question in issue is whether the Governor General in Council, that is, the body commonly described as responsive to this Chamber, is to be given a discretion in the choice of the date when this measure is to come into force.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, I rise to support my Honourable friend Dr. Gour. This, Sir, seems to be a day of surprises. During the course of the last few hours the Honourable the Home Member seems to have developed a very wonderful love for the public opinion of this country. It was only yesterday that he appealed to the Members of this House that, in order that they should do what he considered to be just and right, they should flout the opinion of their constituencies and follow the Honourable the Home Member's lead. Sir, to-day he wants the Honourable Members to consult public opinion, not the public opinion as represented by this House, but as represented by some other organizations in the country. I do not know which organizations he referred to. Did he refer to the Indian National Congress? Does he consider that the Indian National Congress or any other Congress is more representative of public opinion than this body. Sir, my second surprise is that my Honourable friend Mr. Rangachariar, who I thought had some opinion of this Assembly as a representative body, has shown to-day that he has no respect for the representative character of this Assembly. (*Rao Bahadur T. Rangachariar*: "Not in social matters.") Sir, he says, not in social matters. If he considers this Assembly to be a representative body for legislation then it is as representative of public opinion in social legislation as in any other legislation. (Hear, hear.) Sir, my Honourable friend Mr. Rangachariar said we need not be afraid of public opinion. Certainly I am not. I am quite sure if you go to the public again public opinion will support the view which I have put forward on two previous occasions. But that is not the question. I feel that this Assembly represents public opinion in India more than any other body in this country. I am not prepared to accept the verdict of public opinion in this country as represented by any other body. That is the

reason why I support my Honourable friend Dr. Gour. Sir, if public opinion has not been consulted, whose fault is this? It is more than a year since this question was discussed by this Assembly. When it was brought forward first in this Assembly a large section of this House expressed its views on certain matters. The Government of India knew that they were going to bring forward a Bill to give effect to the Convention. They consulted the Local Governments and the Local Governments have consulted public opinion. We do not know on what points public opinion was consulted. Unfortunately, I have not got here the letter which the Government of India wrote to the Local Governments and to organizations representing public opinion. If we had that letter before us we would know on what points public opinion was consulted. Sir, I think that public opinion was consulted on the main question before us, and if it was not consulted it is not our fault but the fault of the Government of India. And I also feel that this House should not accept the main amendment which the Council of State has made. What is the use of that amendment? If the Government of India is against the Bill, let them advise the Governor General to withhold his assent to that Bill. If the Government of India is in favour of this section but the Government of India want to consult public opinion as regards the raising of the age from 16 to 18 in other sections of the Penal Code, then the way open to Government is to allow this Bill to be passed and then to consult public opinion as regards the change of age from 16 to 18 in the other sections of the Penal Code. I assure the Government of India that I shall give my fullest support to that proposal of theirs if they come forward with such a proposal at all. Therefore, I think, if this House accepts the amendment made by the Council of State, it will stultify itself in the first place as being an unrepresentative body, and in the second place as showing by their own vote that they had made a mistake. I therefore hope that this Assembly will do nothing of the kind and throw out the amendment made by the Council of State.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars: Landholders): Sir, I also rise to support what has been stated by the Honourable Dr. Gour. In matters of social legislation we feel very reluctant to be guided in any manner by my Honourable friend Rao Bahadur Rangachariar. I trust that the House will not be misled on this occasion by my friend whom I have just now mentioned. It is only reasonable that a measure that has been passed by this House should receive better consideration. After it has been passed, that it should be referred to certain bodies for an expression of opinion which is to be deemed public opinion, this procedure is reprehensible; I daresay that this procedure is not being adopted anywhere else, and this is a novel procedure intended to defeat the measures that found any favour with this House. With these remarks, I resume my seat.

Rai Bahadur Bakshi Sohan Lal (Jullunder Division: Non-Muhamadan): Sir, I have to ask one question. May I specially ask for the rule or order under which a Bill may be circulated for public opinion after it has been concurrently passed by both the Chambers of the Legislature, and also what would be the fate of this Bill, which has been passed by both the Houses, if the public opinion is not collected before the end of this Session, which is quite close, and if the Home Member does not like to move under order 4 (2) given at page 29.

Mr. President: The word 'opinion' has been used in a somewhat confusing sense. There is the purely official and technical sense in which the phrase 'eliciting opinion' is used. That consists—I am not sure that I accept Dr. Gour's description of it as exact, but I accept it as a roughly accurate description—of the process by which Government consults Local Governments, High Courts and certain other constituted authorities regarding the applicability of a measure in certain circumstances. The Honourable Member is thinking of something totally different; he is thinking of consulting the friends of the Honourable Members below him and other persons supposed to represent a certain state of social opinion. The point at issue here is whether the Government is to have a discretion in applying this; and the Home Member has put forward the plea that the Government ought to have such discretion, because it wishes to assure itself regarding the general state of opinion on this subject in the provinces. There is no real point of order that can be raised here.

Rai Bahadur Bakshi Sohan Lal: The Standing Order has not been noted, as I asked, under which any matter connected with the Bill is to be referred to

Mr. J. Chaudhuri: Sir, may I ask the Honourable Sir Malcolm Hailey to remove some misapprehension? My friend, Mr. Rangachariar, said that the measure was called white slave traffic, but is it not the case that this measure was brought first in the form of a Resolution before this House which related to the International Convention, and then, it was distinctly stated that it was not merely the white slave traffic which came within the scope of the Convention but it related to traffic in women and children generally? I would further ask if the object of the circulation of this Bill is not only to ascertain opinion on this particular measure but also with regard to the raising of the age-limit in the cognate sections of the Indian Penal Code, which are not before us? I do not oppose, Sir, the decision of the Government, for this reason that if the cognate sections of the Indian Penal Code are modified in the light of this, of course, that too will be in the interest of social reform or rather protection of women and children. And the third question that we raise is, is not the scope of this Bill independent of the consent of the person who is procured? In the Indian Penal Code, if anyone procures another without her or her guardian's consent, for immoral or illicit purposes, then only the person procuring will be punishable. The International Convention is different from the scope of the existing provisions of Indian Penal Code, inasmuch as it would punish the procurer irrespective of any such consent. Those are the three points that I would like the Honourable Member to clear up.

The Honourable Sir Malcolm Hailey: Sir, I am astonished to hear that to-day is a day of surprises. When I moved for the final passing of this Bill, dealing perfectly frankly with the House, I said that I intended to secure, if I could, the insertion of a commencement clause. I explained the reason, and the House, with full knowledge of that, passed the Bill. Where then have I sprung a surprise on an astonished House? It knew all about it from the very first (*Mr. N. M. Joshi:* "Your love of public opinion, that was the surprise.") And it agreed from the first. It is only

when the Bill comes back again, that some reason is found for what Dr. Gour described as a suspicion. Well, I hope that we may in the future manage to take such a course as may avoid arousing suspicion in Dr. Gour's breast,—for those suspicions seem to take an unconscionable time to explain, and to involve a good deal of fervent language. 'Unworkable, unconstitutional, flouting the Assembly'—all that arises out of a little suspicion. Now, Sir, let me first, before I proceed to deal with those suspicions, deal with his facts, or may I rather say, his mis-statements. He said that the exact terms of the Indian Penal Code amendment which would be necessary had been placed before the public, and that that fact was fully shown in the opinions recorded in the mass of correspondence that was placed before Members. Well, I have here the original documents; they do not, as the House will see, constitute a mass of correspondence. The terms on which the matter was placed before Local Governments and the public are here; the letter began by reciting the fact that we had acceded to the International Convention for the suppression of the traffic in women and children and the like. It referred to the Resolutions that were brought forward in the Council of State and in the Legislative Assembly. It mentioned that Mr. Joshi pressed for the acceptance of the convention at the age accepted by other countries, that is 21 years, and lost that motion by 8 votes. On the other hand, it pointed out that Dr. Gour thought that the age should be 18 instead of 16. It stated briefly the objections to that change in the age which were voiced in the Assembly. It said in conclusion that as a result of the opinions received, necessary steps would be taken to draft the sections that were required in the Indian Penal Code. It is, therefore, incorrect to say that the public had before it the amendments of the other sections of the Indian Penal Code which are now involved; and Mr. Rangachariar was perfectly correct in saying that no one has yet been consulted on the effect—the net effect—which this amendment would have on the remaining sections of the Indian Penal Code. He is further perfectly correct—the House will know how much it goes to my heart to have to agree with Mr. Rangachariar—in saying that one object of introducing a commencement clause was to give us an opportunity of consulting not only with regard to the age which should be taken for this particular offence, but for the remaining and more serious offences in the Indian Penal Code. We sought an opportunity in fact to deal with the question as a whole, and if possible to avoid the surprising illogicality that the age of 18 should apply to what will strike most people as a comparatively minor offence while the age of 16 would apply to some of the gravest offences which a man can commit. (*Voices*: "Why pass this measure?") (*Dr. H. S. Gour*: "Don't pass this measure.") Don't pass the Bill. In effect, I am only seeking delay in bringing it into operation. Sir, this measure, which was accepted by the House by a majority of three, after they had originally thrown out a somewhat more strenuous attempt to raise the age of majority on the part of Mr. Joshi, is now described by Dr. Gour as so sacrosanct that we must consult nobody any further on the subject. He says that public opinion has been sufficiently ascertained already in these opinions. Let me say that if anybody will refer again to those papers,—he will find that it was a matter which aroused very little public interest at the time, owing no doubt to the fact that it seemed to deal at first sight purely with external traffic.

Rao Bahadur T. Rangachariar: And I think we gave the title "White Slave Traffic" in our Bill.

The Honourable Sir Malcolm Hailey: It had that title undoubtedly:

Dr. H. S. Gour: May I point out in this connection that Sir Reginald Craddock introduced a similar measure at the instance of the Honourable Mr. Dadabhoi in the old Council and the matter has been before the public since the last 10 years.

The Honourable Sir Malcolm Hailey: Yes, Sir, and the late Council would not have it. That is the case. The particular proposal contained in this Bill was undoubtedly introduced to the public—don't let us bind ourselves to the facts—under the title of the White Slave Traffic, and that is the reason why it received so little examination on the part of the various people to whom it was submitted; and indeed many of the opinions recorded turn entirely on the question of the age which should be taken in penalising the procurement of girls from outside India. But, Dr. Gour adds that it is no matter if public opinion was not sufficiently ascertained before; there is no other standard of public opinion than this House. I can very well understand a gentleman in Dr. Gour's somewhat peculiar position objecting to the collection and the recording of public opinion. He has had a somewhat sad experience. He exhibits in his own case an almost theological hatred of other people's opinion when directed against a measure to which he is devoted. I can understand that in his case the experience is such that it does not incline him to go to the public again. I have a great admiration for those social reformers—there are some in India but more perhaps in Europe—who live and work among the classes adversely affected by our social organisation and seeks to ameliorate their conditions. I have somewhat less admiration for the social reformer whose chief efforts are in the Legislature, not that I object to anybody taking legislative action, but because he himself does little to prepare the ground for the steps which he wishes to carry into legislation. But I have always noticed with regard to your social reformer that he is as a rule peculiarly unreceptive in regard to other people's opinion. When he has once made up his mind on the desirability of a measure, then nobody else is right and nobody else has a right to say a word. That is exactly the case here. By a majority of some 3 Members, the party which wished this reform in the Legislative Assembly has secured the passing of the Bill, and, as far as I can see, their one object now is to prevent anyone else throughout India having a word to say on the subject. (*Voices:* "No.") That, I think, is an attitude which hardly redounds to their credit, and indeed, I think, many of the opinions which they have used here to-day on the subject of the undesirability of Government consulting public opinion, will strike the outside world in a somewhat curious light. (*Sir Dena Prasad Sarvadhikary:* "There is no they in it. It is singular.") The final question has been asked us, "Why, if you think it wrong yourselves to introduce this Bill without further delay and consideration, why don't you advise the Governor General to refuse his assent to it?" I have explained before that I am quite prepared to advise the Governor General to refuse his assent to it. (*Voices:* "Do so.") But this, I consider, is a far more desirable way of effecting what we want. After all, when the Governor General has refused his assent to the Bill that refusal cannot subsequently be withdrawn. The Bill goes; but by the process I suggest we keep it alive. I think that in itself ought to be a sufficient answer to those who would have us place the whole responsibility on the Governor General. As I say, that in itself should be a sufficient answer to those objections.

(Voices: "No.") But if it is not a sufficient answer let me quote to Honourable Members the fact that in a very considerable number of the Bills which we have introduced in the Legislature, there is a commencement clause. There is no novelty about it whatever. It is one of the commonest of devices of legislation, and indeed

Rao Bahadur T. Rangachariar: We did it the other day in the Racial Distinctions Bill.

The Honourable Sir Malcolm Hailey: You have done it in the Racial Distinctions Bill and in the Criminal Procedure Code; you have done it to-day in yet another Act. My friends, who are a little better acquainted with drafting of legislation than I, could probably recite you the names of a hundred Acts with a similar beginning. Simply because we wish to take this very ordinary procedure in this case we are treated at once with suspicion. We are told that we have broken through every constitutional safeguard and the most extraordinary exaggeration is used in speaking of our proposal. This last is perhaps the worst. We are told that we should invoke the power of the veto powers of the Governor General merely in order to delay the operation of a Bill about the effect of which we wish to inquire. That is, we are invited to use the heaviest machinery of the State in order to effect a purpose which can be equally well achieved by the very simple, very ordinary and the entirely constitutional device which I have placed before the House.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): I am sorry to observe that the Honourable the Home Member has invited all this hostile criticism by his 'over-honesty.' If he had not stated in the very beginning that he was going to elicit public opinion on the point, we would not have said anything about it, and if this commencement clause were introduced just as it was, that is, silently, there would have been an end of the matter. But the difficulty arises from the fact that he states that he is going to consult public opinion now after we have passed the Act. What Dr. Gour says is that this is unconstitutional. Surely, we are putting the cart before the horse. If public opinion was to be invited, it ought to have been done before the Bill came to be considered and passed by this Assembly. That stage is long past. Let the Honourable the Home Member keep his own ideas to himself of what he means to do before allowing this Bill to have force. It is I suppose perfectly open to him, as Home Member, to ask for any information that he likes and this Assembly need not know it, and he may postpone its enforcement for five or ten years or for any length of time he likes. It is perfectly in his power to do so.

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

Mr. President: Amendment made by the Council of State:

" Clause 1 was re-numbered sub-clause (1) of clause 1, and to that clause the following sub-clause was added, namely :

' (2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint '."

The question is that this Assembly do agree with the Council of State in that amendment.

The Assembly divided :

AYES—67.

Abdul Quadir, Maulvi.
 Abdulla, Mr. S. M.
 Abul Kasem, Maulvi.
 Achariyar, Rao Bahadur P. T.
 Srinivasa.
 Ahsan Khan, Mr. M.
 Aiyar, Mr. A. V. V.
 Akram Hussain, Prince A. M. M.
 Allen, Mr. B. C.
 Ayyangar, Mr. M. G. M.
 Basu, Mr. J. N.
 Bhanja Deo, Raja R. N.
 Bhargava, Pardit J. L.
 Blackett, Sir Basil.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bridge, Mr. G.
 Burdon, Mr. E.
 Cabell, Mr. W. H. L.
 Chatterjee, Mr. A. C.
 Chaudhuri, Mr. J.
 Clark, Mr. G. S.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Dalal, Sardar B. A.
 Das, Babu B. S.
 Faridoonji, Mr. R.
 Ghulam Sarwar Khan, Chaudhuri.
 Gidney, Lieut.-Col. H. A. J.
 Ginwala, Mr. P. P.
 Haigh, Mr. P. B.
 Hailey, the Honourable Sir Malcolm.
 Hindley, Mr. C. D. M.
 Holme, Mr. H. E.

Hullah, Mr. J.
 Ikramullah Khan, Raja Mohd.
 Innes, the Honourable Mr. C. A.
 Jamall, Mr. A. O.
 Jamnadas Dwarkadas, Mr.
 Jejeebhoy, Sir Jamsetjee.
 Kamat, Mr. B. S.
 Ley, Mr. A. H.
 Lindsay, Mr. Darcy.
 Misra, Mr. B. N.
 Mitter, Mr. K. N.
 Moir, Mr. T. E.
 Moncrieff Smith, Sir Henry.
 Muhammad Hussain, Mr. T.
 Muhammad Ismail, Mr. S.
 Mukherjee, Mr. J. N.
 Percival, Mr. P. E.
 Pyari Lal, Mr.
 Ramji, Mr. Manmohandas.
 Rangachariar, Mr. T.
 Rhodes, Sir Campbell.
 Samarth, Mr. N. M.
 Sams, Mr. H. A.
 Sarfaraz Hussain Khan, Mr.
 Singh, Babu B. P.
 Singh, Mr. S. N.
 Sinha, Babu Ambica Prasad.
 Spence, Mr. R. A.
 Srinivasa Rao, Mr. P. V.
 Subrahmanayam, Mr. C. S.
 Townsend, Mr. C. A. H.
 Ujagar Singh, Baba Bedi.
 Vishindas, Mr. H.
 Webb, Sir Montagu.

NOES—22.

Asjad-ul-lah, Maulvi Miyan.
 Ayyar, Mr. T. V. Seshagiri.
 Bagde, Mr. K. G.
 Barua, Mr. D. C.
 Gour, Dr. H. S.
 Iswar Saran, Munshi.
 Jafri, Mr. S. H. K.
 Jatkari, Mr. B. H. R.
 Joshi, Mr. N. M.
 Lakshmi Narayan Lal, Mr.
 Latthe, Mr. A. B.

Man Singh, Bhai.
 Mudaliar, Mr. S.
 Nabi Hadi, Mr. S. M.
 Nag, Mr. G. C.
 Neogy, Mr. K. C.
 Reddi, Mr. M. K.
 Sarvadhikary, Sir Deva Prasad.
 Schamnad, Mr. Mahmood.
 Shahani, Mr. S. C.
 Sohan Lal, Mr. Bakshi.
 Venkatapatiraju, Mr. B.

The motion was adopted.

Mr. President: Further amendment made by the Council of State in the Indian Penal Code (Amendment) Bill:

“The following clause was added after clause 3:—

“4. In the Second Schedule to the Code of Criminal Procedure, 1898, after the Amendment of Schedule II, Code of entry relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely:—

366 A	Procurement of minor girl.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.
366 B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.”

The question I have to put is that this Assembly do agree with the Council of State in that amendment.

The motion was adopted.

STATEMENT OF DEMANDS REFUSED BY THE LEGISLATIVE ASSEMBLY AND RESTORED BY THE GOVERNOR GENERAL IN COUNCIL.

The Honourable Sir Basil Blackett (Finance Member): Sir, in pursuance of Standing Order No. 73, I lay on the table a statement showing the action taken by the Governor General in Council in pursuance of section 67A (7) of the Government of India Act in regard to certain demands for grants which have been refused by the Legislative Assembly and are regarded as essential to the discharge of his responsibilities. It is just a formal statement:

"In pursuance of section 67A (7) of the Government of India Act the Governor General in Council is pleased to declare that the following demands which have been refused by the Legislative Assembly are essential to the discharge of his responsibilities, namely:

Number of demand.	Service to which demand relates.	Amount of demand refused by the Legislative Assembly.
8	Railways—Working Expenses	Rs. 1,14,00,000
44	Miscellaneous—Public Services Commission	3,00,000

E. M. COOK,

The 28th March, 1923.

Secretary to the Government of India."

ELECTION OF MEMBERS FOR THE PUBLIC ACCOUNTS COMMITTEE.

Mr. President: Before adjourning, I would invite the attention of the Assembly, particularly the non-official Members of the Assembly, to the fact that at the end of the business to-day an election of Members to serve on the Committee on Public Accounts has been set down. Eight Members have to be elected by a procedure which ought by now to be familiar to Members. The following candidates have been proposed for election to the Committee:

- Mr. Braja Sundar Dass,
- Mr. B. N. Misra,
- Mr. N. M. Joshi,
- Mr. Syed Nabi Hadi,
- Mr. Ambica Prasad Sinha,
- Mr. K. Ahmed,
- Mr. K. G. Bagde,
- Mr. K. C. Neogy,
- Rao Bahadur P. V. Srinivasa Rao,
- Sardar Gulab Singh,
- Rai Sahib Lakshmi Narayan Lal.

I may also remind Honourable Members that the ballot for Resolutions to be set down for Saturday will take place during the luncheon interval.

THE INDIAN FINANCE BILL.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): Before you adjourn, Sir, I should like to put one question to the Honourable the Leader of the House with regard to procedure. We are informed that in the other House the Finance Bill has been laid on the table as a recommended Bill. What will be the exact procedure which will come into effect now? Will the Bill at all come back to this Assembly. We should like to know this, because some of us are rather anxious to get away. As there is not much time before us, I should like to know from the Honourable the Leader of the House if the Bill is likely to come back to this Assembly.

The Honourable Sir Malcolm Hailey (Home Member): I will take it from the Honourable Member that such a recommendation has been made. I must take the facts from him.

Mr. Jamnadas Dwarkadas: I am only informed of this; I do not know whether it is true.

The Honourable Sir Basil Blackett (Finance Member): Sir, I can confirm the fact.

Mr. President: The Honourable Member cannot expect an answer to a hypothetical question.

Mr. Jamnadas Dwarkadas: The Honourable the Finance Member has confirmed the fact.

The Honourable Sir Malcolm Hailey: In those circumstances I can only refer the Honourable Member to section 67B of the Government of India Act from which it will be clear that if the recommended Bill is passed by the Council of State it will have to come back to the Assembly.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): When will the other House take up the Finance Bill?

The Honourable Sir Malcolm Hailey: On Friday, and our intention is to bring it back to this House on Monday.

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

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

THE MALKHARODA AND GAONTIA VILLAGES LAWS BILL.

The Honourable Sir Malcolm Hailey (Home Member): Sir I beg to move:

"That the Bill to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces, as passed by the Council of State, be taken into consideration."

The object, Sir, of this Bill will be sufficiently clear to the House in the Statement of Objects and Reasons, and indeed I think that if I were to attempt to add to that Statement of Objects and Reasons by any verbal statement of my own, I might perhaps add great complexity to what is

already, as I am sure the House will feel, a sufficiently complicated question.

Babu Braja Sundar Das (Orissa Divisions: Non-Muhammadian): Sir, I beg to oppose the consideration of this measure on the following grounds. This Bill originated in the Council of State and properly speaking the people affected are not represented there practically, and moreover there is nothing on paper to show whether the consent of the people affected has been obtained or not. Then it is well known to the Government of India that there has been an agitation going on for a very long time that the tracts of the Ooriya-speaking people should be placed under one Government. But that is a larger question which I do not like to bring in here. Let me mention incidentally that instead of putting all the Ooriya-speaking tracts together, some small portions are being taken from the Government of Bihar and Orissa. Two years ago some villages were taken away from the district of Balasore and added to Midnapur in Bengal, and the people of those villages were never consulted. Here again, it is doubtful whether the people of the villages concerned have been consulted. As we see from the Statement of Objects and Reasons, it will appear that a few Zemindars were left out in Central Provinces at the time of the redistribution of districts by Lord Curzon in 1905 and Sambalpur was added to Bengal. Phuljhar, Padampur and some other Ooriya-speaking Zemindars were left in the Central Provinces. Those Zemindars have certain villages under them in what now constitutes the Province of Bihar and Orissa. These Zemindars carry on their litigation work in the Criminal Courts of the Central Provinces therefore the people, ignorant as they are, did not object to it, and this created a precedent for their demanding that these villages should be added to the Central Provinces. As I have already stated, the Bill originated in the Council of State where had there been a single representative from Orissa I think he would have questioned it; but there was no representative practically and therefore the Bill had an easy passage in the Upper House.

My friend, Mr. Joshi, just mentioned a few minutes ago that the Honourable the Home Member has surprisingly developed a love of public opinion recently. That love, I find now is completely lost here in this piece of legislation. The Honourable the Home Member asked us to defer our consideration of the previous measure simply because the people had not been sufficiently consulted, and here I think the people have not been consulted at all. Sir, this small piece of legislation does not affect the Government of India, nor does it affect the other advanced Provinces, but it really affects a small people like Ooriyas—therefore I commend it to the Government that the consideration of the Bill, or the passing of the Bill, should be postponed and public opinion—I mean the opinion of those really concerned, i.e., the people of the villages affected—be obtained as well as the opinion of the Governments concerned be obtained. I do not know—there are no papers to show—whether the Bihar Government has been consulted or not, or whether the people of those villages have been consulted at all. As far as I do know, public bodies in Orissa have not been consulted; and therefore I put it to the Government to defer the consideration of this measure for a little longer. It won't affect anybody. At the same time it will give satisfaction to the people themselves, and particularly as the larger question is hanging in the balance before the Government of India, and as we have been agitating for the last 20 years and still we do press on the Government of India to put all Ooriya-speaking tracts under one administration. Therefore I would submit to the Government and to the House to

[Babu Braja Sundar Das.]

defer the consideration of this Bill a little longer. With these few words, I oppose the motion.

Mr. B. N. Misra (Orissa Division: Non-Muhammadian): Sir, I also beg to oppose the consideration of this Bill which the Honourable the Home Member has brought forward, though my attitude is one of a friendly critic of Government.

I shall invite the attention of Honourable Members of this House to the several proclamations referred to in the beginning. That is, the proclamation of the Government of India in 1905; then again in 1912; then again in 1923. Honourable Members will find that this part of the Ooriya country is being kicked like a football from one Government to another Government. If I tell them a little more they will be surprised to learn that this part of the Sambalpur district prior to 1860 formed part of the Orissa Commissioner. Then it was transferred to the Chota Nagpur Division and it remained for some time under the Commissioner of Chota Nagpur. Then it went to the Central Provinces. About 1905 it again came back to Bengal and then to Bihar and Orissa. So that Honourable Members will find that the people residing in this border land between the Ooriya country and the Central Provinces are being treated very lightly. Of course they are really a sort of backward people in those parts and I must say that the Reforms Scheme has not, I think, been extended to that part as it is a backward tract and there is no representation of it either in the Central Provinces Government, not to speak of the Council of State. The fact remains however that for the purposes of judicial administration or civil administration this part has been under the Sambalpur District all along and for a long time under Bengal and now under Bihar and Orissa. As for the case referred to, when I was practising at the Calcutta High Court the case was there; then after a separate High Court was established at Patna it was transferred there and then on some grounds it went to the lower court and then again it was tried in the Sambalpur and Manbhum District and it then went to the High Court and so on. So practically these people for the last so many years are accustomed to look to the Patna High Court and the Calcutta High Court for their litigation, and now if this Bill is passed then the result would be that these litigants or perhaps all the pending cases will have to go to the Central Provinces administration because clause 3 says "and the said territories are hereby declared for all the purposes of the Central Provinces Courts Act, 1917, to form part of the territories to which that Act extends." So the result will be that these litigants will again have to go to the Central Provinces and will have to go to the Judicial Commissioner at Nagpur.

My other objection is this; the Honourable the Home Member will remember that in reply to certain questions of mine about uniting all the Ooriya-speaking tracts under one Government, he was pleased to reply that the matter was under the consideration of the Government of India and of course Honourable Members are aware that a Resolution was moved in this very Assembly before the Reforms Scheme in 1920 and the Government of India promised to consider the matter and they have obtained the opinion of the Local Governments and the matter is finally awaiting their finishing hand to give a final stroke to the long desired object of the Ooriyas, that is to bring all the Ooriya-speaking tracts under one administration and if that is the case, this Bill can wait. If the Government of

India consider the case favourably and all the Ooriya-speaking tracts are brought under one Government, these people from this Malkharoda Jaghir and Gaontia villages will come back again to the Ooriya province; then in that case it will be a great hardship if this Bill is passed now, and the consideration of this Bill may therefore be postponed till that question is decided. I do not think it will take such a long time as the Local Governments have already been asked for and the local Council of Bihar and Orissa has already expressed its view as required under the Government of India Act, for the transfer of territories from one administration to another. Under these circumstances this may be postponed and it will not act as any hardship. With these remarks I oppose this motion.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): This discussion is proceeding, Sir, under some misapprehension. The Sambalpur District of the Central Provinces was detached and made a part of the Province of Bengal some 18 or 20 years ago, prior to which it was an integral part of the Central Provinces and the first settlement of that district was made by an officer of the Central Provinces administration. Honourable Members who have spoken on this Resolution seem to be of opinion that the Government are trying to filch the district of Sambalpur from Bihar and Orissa and tack it on to the Central Provinces, and the last speaker seems to have taken for granted that the zemindari of Malkharoda is an Ooriya-speaking Zemindari. Nothing can be further from the truth. The Malkharoda and Phuljhar Zemindari with which I am very intimately familiar is a Hindi-speaking Zemindari and it is wrong to assume that it is a part of the Ooriya-speaking tract. What happened is this. A portion of the Sambalpur District is no doubt Ooriya-speaking; but interspersed in that district there are a very large number of Zemindaris which are purely Lariya-speaking or Hindi-speaking Zemindaris. It has been ever since the annexation of the District of Sambalpur first in the Province of Bengal and later on after the formation of Bihar and Orissa it has been a standing grievance with the people of that district that they are not able to obtain administration of justice with that despatch which their position deserves. Now, let me illustrate to the Honourable Members the position of these unfortunate people. If they have got any case in court, the Sessions Court is in Cuttack and if they want to go to Patna they have first to go to Calcutta and then go on to Bankipore or Patna. Their long connection with the Central Provinces, their revenue laws being the same as the Central Provinces Revenue Laws, and the whole district being subject to the Central Provinces Land Revenue Act and the existence of the Gaonti tenure in that district which is the tenure generally prevalent in the division of Chhattisgarh of which Raipur is the headquarters, and of which Sambalpur formed a district, has always tended to remind them of the good old days when they were part and parcel of the Central Provinces; and they have never become reconciled to the position that has been allotted to them as a border district first of Bengal and later on of Bihar and Orissa. But as I have said, Sir, this is a larger question. We must not confuse the issue. We are here concerned with the very small matter referred to in Schedule 2. The names of the Malkharoda Jaghir and Gaontia villages are set out there. These are the people regarding whom the Government of India propose legislation. It is a matter of doubt and it is to settle that doubt that the Government of India have undertaken this legislation to declare that they are part and parcel of the Central Provinces and are subject to the jurisdiction of the courts in that province. I do not see what advantage

[Dr. H. S. Gour.]

will be gained by further delay and further consideration. Of course, I do not share the passion for popular opinion of the Honourable the Home Member, but nevertheless I recognise that there may be a time and occasion when delay would improve matters; but in this small matter upon which the Statement of Objects and Reasons appended to the Bill is sufficiently clear, I do not see what further light can be thrown on the subject and I therefore support the motion of the Government and oppose the motion made by my two Honourable friends.

The Honourable Sir Malcolm Hailey: I am very glad to have obtained the assistance of Dr. Gour who with his local knowledge has been able to dissipate, and I hope finally to dissipate some of the doubts which my Honourable friend behind had cast on this case. I am not going to run the risk of further confusing the House by any lengthy statement on the subject. There are, however, one or two considerations that I must put forward in order to explain our position. What is the exact operation that we are undertaking? There were certain villages which we thought we had left with the Central Provinces. They are under the Central Provinces revenue law; they have been accustomed to go to the Central Provinces courts. Their civil administration, since their transfer or since their assumed transfer, has been in the Central Provinces

Mr. B. N. Misra: My Honourable friend will find that since this territory was transferred to Calcutta in 1905, the people always went to the Calcutta High Court, and after 1912 they are under the Patna High Court.

Dr. H. S. Gour: They are under the Central Provinces law.

The Honourable Sir Malcolm Hailey: I will explain how far they have since 1905 been under the Calcutta or Patna High Court. Our intention was to leave these villages which were under the Central Provinces revenue law in the Central Provinces. Now it has been discovered that in the notification which we issued we had not carried out our intention, and I imagine that this has come as a considerable surprise to the people themselves. The Honourable Member said that they are accustomed to look to Patna for their appellate jurisdiction. As far as we know only one case has gone to Patna. Some acute legal brain discovered that there was a doubt as to where their appeal lay. It was finally decided that it lay with Patna, but until that discovery was made,—I believe, that the people were under the impression that the whole of their appellate jurisdiction lay in the Central Provinces itself. We have issued a notification, as we are entitled to do, assigning these villages to the Central Provinces, and we merely ask for legislation in order to clear any doubts or remove any difficulties that may have arisen owing to the fact that our intention was not properly carried out in our Notification. That is all that the Bill sets out to do.

Now, I am told that we should delay this case on one major and one minor consideration. The major consideration is this, that the Ooriya-speaking peoples have for a long time been seeking union under one administration. There are certain Ooriya tracts in Madras, some in Bengal, some in Bihar and Orissa and some in the Central Provinces, and this much-divided people desire for union under one of the existing administrations or a new administration of their own. The Honourable Member says that as the matter is under our consideration, he has no doubt of a favourable

decision. If there is a favourable decision, so much the better for him, but I very much doubt if it can be an early decision. Here you have four Governments, all of whom want to keep under them their existing Ooriya-speaking populations—a great compliment to my friend. Each Local Government is prepared, I think, to take over more Ooriyas from another Local Government, but not to give up what they already have. I should not be surprised that the proper solution of the whole question did not lie in the constitution of a sub-province or a new province. That, indeed, is, I believe, the only solution which will give complete happiness to my friend. But it is not a solution at which one can arrive easily, nor is it one which we could carry it into execution speedily in our present financial condition. And indeed, Sir, with the lessons before us of what has happened when we previously attempted to re-arrange the boundaries of provinces, I feel myself that a good deal of hesitation is required before we put any such scheme into execution. That, Sir, is the case, and I do not think, after what I have said, that anybody would feel that it is worth while delaying this small piece of legislation which relates only to a few villages until the larger consummation arrives to which my Honourable friend looks forward so fondly.

Then, there is the minor consideration, namely, that the people themselves have not been consulted. We have, of course, consulted the Local Governments. I cannot trace here any definite expression of opinion on the question of what my Honourable friends have been pleased to describe as a transfer,—I cannot trace any definite expression of opinion from these villages, but may I point out to them the case is exactly the opposite to what they put. They say that we are transferring these villages from one province to another. We say that these villages have been under the Central Provinces administration, they have been under the Central Provinces revenue law, and that they themselves believe that they are under the Central Provinces, and all we are doing is to confirm that decision and not to make a change. If we were really proposing to take these villages from one province to another, then there might be good reason to consult them. All we are seeking to do is to leave them where we thought they were and where, in my opinion, they themselves believe they are. But with regard to any question of their transfer to Ooriya-speaking confederation, might I point out to my Honourable friend that Dr. Gour was perfectly correct in saying that the larger portions of these villages, namely, those in the Malkharoda Jaghir, are not Ooriya-speaking at all. On that point, we, of course, have consulted the people, I mean on the point whether they wish to join any Ooriya-speaking confederation. Malkharoda it is stated to have no Ooriya element in its population or language. As might be expected therefore, considerable opposition was there expressed to the proposal to amalgamate the tract with the Province of Bihar and Orissa. That does not look, Sir, as though there was any need to consult them on the question now before us.

Then again as regards certain villages in the Chandrapur-Padampur Zemindari, the people there speak a variety of Hindi, and here we are told the feeling is the same, and the preference to present arrangements is unanimous. Some of the villages state that they suffer great inconvenience and many disadvantages from the difference in language and habits of life, and they would like to be amalgamated with the Bilaspur district, rather than with the Ooriya-speaking tracts. So all the evidence we have is that these villages would very much prefer to be in the Central Provinces.

[Sir Malcolm Hailey.]

That, Sir, is our case. If after that the House considers that we are doing an injustice to these people, then we are perfectly willing to take any other measures to rectify our decision that may be required. (A Voice: "Commencement clause.") As I said before, it must be an unhappy situation for these people who imagined that they were in the Central Provinces, suddenly to discover that they have to take their appeals to Patna—an exceedingly difficult and long journey for them, and an inconvenient matter in another way, for all their institutions, as far as we know, and certainly their revenue law are those of the Central Provinces.

Mr. B. N. Misra: Sir, the Honourable the Home Member said that the law of the Central Provinces applies in Sambalpur. No doubt the whole district of Sambalpur was under the Central Provinces revenue law and the whole district has been transferred and there is no dispute about that. But what is the good of keeping these 20 or 30 villages separate when you have transferred an area of over 4,000 square miles? What is the good of keeping about 50 square miles?

The Honourable Sir Malcolm Hailey: Then perhaps the best thing we could do would be to take away Sambalpur and return it to the Central Provinces.

Mr. President: The question is that the Bill be taken into consideration.

The motion was adopted.

Clauses 1 to 5 were added to the Bill.

The Schedule was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Malcolm Hailey: Sir, I move that the Bill be passed.

The motion was adopted.

THE LEGAL PRACTITIONERS (WOMEN) BILL.

The Honourable Sir Malcolm Hailey (Home Member); Sir, I move for leave to introduce a Bill for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.

Sir, the circumstances under which I introduce this Bill, of which I may say in the language used by after-dinner speakers the pleasant duty has been conferred on me of introducing this Bill, are of course known to the House. The original author of the measure was Dr. Gour and to him the credit is due. We found on examination of his Bill that merely on a matter of drafting it did not meet the situation. We therefore proposed to take the sense of the House on that occasion on the matter of principle. The House approved the principle, approved it I think unanimously. We then undertook to bring in a Bill ourselves which should give full effect

to it and here, Sir, is the Bill. I think I need say little myself in commendation of a measure which in effect has already been passed by the House, and which I know has the approval of the House. Nominally it is a Government measure, but we are only too glad to recognize that it is not in reality a measure promoted by Government and that the credit for it is due to those progressive non-official Members who have had the cause of the women of India at heart. (Hear, hear.)

Mr. President: The question is that leave be given to introduce the Bill.

The motion was adopted.

The Honourable Sir Malcolm Hailey: Sir, I beg to introduce the Bill. With your permission, Sir, I beg to move that the Bill be taken into consideration.

The motion was adopted.

Clauses 1 to 3 were added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Malcolm Hailey: I could wish that every measure I have to introduce to this House could have as easy a passage. But perhaps, Sir, the measures which I have to introduce to the House are not, all of them, quite so beneficent as this.

Sir, I beg to move that the Bill be passed.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I wish to most heartily congratulate Sir Malcolm Hailey and the Government on the introduction of this beneficent measure. Unfortunately it is on rare occasions that I am filled with such gratitude to and admiration for Government as I am filled with at this moment. I have no doubt that this measure will be welcomed by the entire educated community all over the country. I am glad Sir Malcolm Hailey did not wait for his hat to be blown off by Indian suffragettes before introducing this measure. He and the Government have profited by the experience of other countries and I most heartily congratulate them.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, I shall be failing in my duty if I also do not join in offering my most hearty congratulations to the Honourable the Home Member for the despatch with which he has carried out the promise that was given to this House that, if the House by a majority carried my motion, to refer my motion to the Select Committee, the Government would introduce a more comprehensive measure drafted on the same lines. And I am glad, Sir, that before this Session is over this beneficent piece of legislation will find its place on the Statute Book. It is the commencement of the emancipation of womanhood, and I can only hope that the benevolence which the Government have shown in this connection will also be extended to other similar matters.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muhammadan): Sir, I have never yet made any speech on the motion for the passing of a Bill; but on this occasion my heart is so filled with joy that I cannot help giving expression to my feelings. The House may perhaps consider this to be

[Khan Bahadur Sarfaraz Hussain Khan.]

a small matter, but this time I find that India is giving woman her proper place.

Mr. President: The question is that the Bill be passed.

The motion was adopted.

ELECTION OF MEMBERS FOR THE PUBLIC ACCOUNTS COMMITTEE.

Mr. President: The House will now proceed to the election of Members to serve on the Committee of Public Accounts. I announced before the Lunch adjournment that there are 11 candidates for 8 seats on that Committee. Honourable Members will find the 11 names printed on the ballot paper and the instructions in their usual form. I think Members understand by now the procedure by way of the single transferable vote. I presume that all the 11 candidates still wish to keep their names on the ballot paper.

As only non-official Members take part in the election of Members to serve on the Public Accounts Committee and as there is another item of business which if disposed of would enable official Members to go away if they so choose, I call upon the Honourable the Home Member to oblige the House by moving his motion for referring the proposed amendments to the Standing Orders to a Select Committee.

AMENDMENT OF STANDING ORDERS.

The Honourable Sir Malcolm Hailey (Home Member): Sir, I have to move for leave to amend the Standing Orders of the Legislative Assembly by adding to them a Standing Order in the form annexed, on petitions relating to Bills pending before the Legislative Assembly. The motion which I make is the outcome of proposals put forward originally from a non-official quarter and, as the House will perhaps remember, those proposals were referred to a Committee on which non-officials were fully represented. The draft Standing Order itself is practically in the form recommended by that Committee, it is I think fully in accord with modern parliamentary practice.

Mr. President: Honourable Members will see the form of the draft Standing Order, which I need not read to the House. I have to ask whether objection is taken. As no objection is taken, the Honourable Member has leave.

The Honourable Sir Malcolm Hailey: I now move that the proposed amendments be referred to a Select Committee.

Mr. President: The question is:

"That the proposed amendments be referred to a Select Committee."

The motion was adopted.

The House will now proceed to the election of Members to serve on the Committee on Public Accounts. Members will come to the table to receive the ballot paper.

(Election Proceeding.)

Mr. President: The result of the election will be announced in due course.

STATEMENT OF BUSINESS.

The Honourable Sir Malcolm Hailey (Home Member): As several Members were absent yesterday evening when I made an announcement about the course of business, I should like to again remind the House that on Thursday we are taking private Bills. We propose, after we have finished Government business on Monday, to continue with those Bills, and again on Tuesday, in order that we may dispose of as many as possible before the Session ends.

Mr. S. O. Shahani (Sind Jagirdars and Zamindars: Landholders): Sir, may I inquire as to when the Session ends?

The Honourable Sir Malcolm Hailey: To the best of our belief, Sir, on Tuesday.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 22nd March, 1928.