

3rd February, 1923

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(Official Report)

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(1st February, 1923 to 20th February, 1923.)

THIRD SESSION
OF THE
LEGISLATIVE ASSEMBLY, 1923.



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LEGISLATIVE ASSEMBLY.

Saturday, 3rd February, 1923.

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

MEMBER SWORN:

Mr. Andrew Gourlay Clow, M.L.A. (Industries Department: Nominated Official).

RAILWAY CAPITAL EXPENDITURE.

Mr. C. D. M. Hindley: I lay on the table the information promised in reply to a question by Mr. P. L. Misra on the 17th January, 1923, regarding Railway Capital Expenditure.

As the Finance and Revenue accounts of the Government of India so far as Railways are concerned have been recast from 1920-21, references are given to the volume for that year. The details of the total capital expenditure to end of 1920-21 from different sources are given below:

	Rs. (Lakhs.)
Direct Government outlay	308,23
Capital contributed by Company's and Indian States	75,74
Grants from Famine Relief and Insurance	7,87
Grants from Imperial and Provincial Revenues	6,43
Liabilities involved in the purchase of Railways undischarged at end of 1920-21	124,90
Total	523,19

The Honourable Member's attention is invited to Account No. 74 (pages 280 and 281) of the Finance and Revenue Accounts of the Government of India for 1920-21.

The difference between the above and the figure of Rs. 558,32 appearing in Appendix 4 of Volume II of the Administration Report is largely due to the fact that while the figures in the Finance and Revenue Accounts represent the standing liability of Government on railway account, the figures in the Administration Report represent the capital cost of the Railways. Capital liability to the extent of Rs. 24,51 as shown in Column 12 of Account No. 74, on page 281 of the Finance and Revenue Accounts, has been redeemed through the operation of annuity and sinking funds.

QUESTIONS AND ANSWERS.

GRANT TO THE IMPERIAL INSTITUTE.

306. *Mr. W. S. J. Willson: 1. Is it a fact that the Government of India decided to discontinue the annual Indian grant to the Imperial Institute with effect from the end of the present financial year?

2. Is it a fact that at the time when the Government decided to discontinue this grant the British Government and the Governments of the Dominions and other overseas countries of the Empire had decided largely to enhance their grants to the Imperial Institute?

3. Did the question of severing the connection of the Government of India with the Imperial Institute arise on the report of the Indian Industrial Commission, and is it a fact that no representative of the Institute was invited to give evidence oral or written to this Commission?

4. Did the Government receive a statement prepared by the Committee for India of the Imperial Institute, controverting the conclusions in respect of the Institute arrived at in the Report of the Indian Industrial Commission?

5. Did the Government, after the receipt of this statement, call for a report from Sir William Meyer, the High Commissioner for India, as to the advisability of continuing to subscribe to the maintenance of the Imperial Institute?

6. Are the Government aware that Sir William Meyer framed his Report without communicating with the Committee for India of the Imperial Institute, or the Director of the Institute, and without giving the representatives of the Institute any opportunity of being heard?

7. Are the Government aware that neither Sir William Meyer's Report nor any statement of the grounds on which the Government decided to discontinue the grant has been communicated to the Imperial Institute?

8. Have the Government received from the Association of British Chambers of Commerce in England a Resolution passed unanimously by that body in July 1922 regretting the decision of the Government of India to discontinue the annual grant to the Imperial Institute, and expressing an earnest hope that in view of the valuable work which the Imperial Institute has done for India, with which the British Chambers of Commerce have in recent years been closely associated, the Government of India will reconsider its decision?

9. Has the Government of India's attention been called to a similar Resolution passed by a majority of the Associated Chambers of Commerce of India and Ceylon at their annual meeting held in Calcutta on the 8th and 9th January, 1923?

10. Will the Government be pleased to lay on the table all the papers connected with the discontinuance of the grant, including the despatch of the Government of India to the Secretary of State for India dated 29th November, 1918; the reply to this despatch made by the Committee for India of the Imperial Institute on 24th November, 1919, and also Sir William Meyer's Report?

11. Do the Government, having regard to the requests of the Chambers of Commerce of the United Kingdom and of India propose to reconsider the decision to discontinue the annual Indian grant to the Imperial

Institute, in the light of the testimony that has been furnished as to the value of the work of the Institute to India?

Mr. J. Hullah: (1) Yes.

(2) Yes with the exception of Australia and South Africa which were unable to grant any subsidy.

(3) No representative of the Imperial Institute was invited to give evidence to the Industrial Commission, but it was not as a result of that Commission's report that the Government of India decided to sever the connection with the Institute. In fact they had come to that conclusion 3 or 4 years before the publication of the Industrial Commission's Report.

(4) Yes.

(5) Yes.

(6) Yes.

(7) It is a fact that Sir William Meyer's report has not been communicated to the Imperial Institute. It is not a fact that no statement of the grounds of the Government of India's decision has been communicated to the Institute. The grounds of this decision were fully set forth in this Government's despatch to the Secretary of State for India, No. 9, dated the 29th November 1918, a copy of which has been seen by the Committee for India of the Imperial Institute.

(8) The Government of India have received the Association's Resolution, not from the Association itself, but from the President of the Associated Chamber of Commerce of India and Ceylon, and also from the President of the Indian Merchants' Chamber and Bureau, Bombay.

(9) Yes.

(10) The Government of India are not at present prepared to lay on the table the papers mentioned. They will however consider further whether these papers should be made public.

(11) The Government of India see no good reason to reconsider their decision.

INDIAN ARMY EXPENDITURE ON STORES.

307. ***Munshi Iswar Saran:** (a) Is it a fact that the total value of stores such as provisions, forage, medical, ordnance, clothing, mechanical transport, animals, petrol, lubricants and miscellaneous stores required and consumed by the Indian Army during 1921-22 was about 10 crores and a half? If this figure be wrong, will Government give the correct figure?

(b) Is it a fact that the cost of maintenance of the Departments for storing and distributing these stores during 1921-22 was about 5 crores and 30 lacs i.e., about 50 per cent. of the value of the stores? If this figure be wrong, will Government give the correct figure?

***Mr. E. Burdon:** (a) No. On the assumption that by the "Indian Army" the Honourable Member means the Army in India, the correct figure is Rs. 18 crores.

(b) No. The correct figure is Rs. 5 crores.

INDIAN ARMY STORES MANUFACTURING DEPÔTS.

308. ***Munshi Iswar Saran:** (a) Is it a fact that the cost of the maintenance of manufacturing depôts, inspection and testing of stores during

1921-22, was over 3 crores of rupees? If this figure be wrong will Government give the correct figure?

(b) Is it a fact that the value of the output of the Military Manufacturing Departments during 1921-22, was under 3 crores of rupees? If this figure be wrong, will Government give the correct figure?

Mr. E. Burdon: (a) No. Rs. 38 lakhs, approximately.

(b) Yes. Rupees two crores 31 lakhs. This figure represents the value of articles turned out for the Army only.

The above answers are based on the assumption that the Honourable Member is referring to Ordnance and Clothing Factories only.

CONDEMNED MILITARY STORES.

309. ***Munshi Iswar Saran:** Will Government state the total value of stores and equipment which were condemned or lost and the cost of which was written off and borne by the State during 1921-22?

Mr. E. Burdon: The total value of medical stores written off during the period in question is Rs. 1,17,339.

With regard to Supply and Transport Stores and equipment, the total value of stores written off by the Government of India during the year 1921 was Rs. 18,97,936. This figure does not include losses written off by General Officer Commanding, etc., under their financial powers, information regarding which is not at present available.

The value of marine stores (including coal) written off during 1921-22 was Rs. 67,179.

Particulars of ordnance equipment written off are being collected and will be communicated to the Honourable Member as soon as possible.

BRITISH ELEMENT IN INDIAN ARMY.

310. ***Munshi Iswar Saran:** Will Government state if the direct and indirect cost of the maintenance of the British element in the Army in India of about 70,000 British officers and other ranks is over 42 crores while the cost of the maintenance of the Indian element of about 2½ lacs is about 23 crores? If these figures are wrong, will Government give the correct figures?

Mr. E. Burdon: The direct cost of the British Army in India is shown separately in the Budget, to which I would refer the Honourable Member. In that part of the Budget which relates to the Indian Army will be found figures of the direct cost of British officers and British other ranks; the figures for British officers include the cost of Indian officers holding King's Commissions. In order to ascertain separately the total cost of the British element and the Indian element in the Indian Army, it would be necessary to undertake a laborious compilation which could not be justified, and *actually it would be impracticable to apportion correctly under these two heads miscellaneous charges such as contingencies, travelling allowances, staff charges and so on.*

INDIAN MEDICAL OFFICERS IN REGIMENTS.

311. ***Munshi Iswar Saran:** Will Government state the number of Indian Medical Service officers required for a regiment of 1,000 strong before and after the War?

Mr. E. Burdon: Before the war one Indian Medical Service officer was attached to each Indian regiment. Since the war the station hospital system has been introduced for Indian troops and medical officers are no longer attached to regiments. The strength of an Indian regiment both before the war and now is less than 1,000 men.

INDIAN ARMY SICK BEDS.

312. ***Munshi Iswar Saran:** Is it a fact that sick bed accommodation at 5 to 12 per cent. of the strength making an average of over 7 per cent. for the whole Indian Army is maintained as against 5 per cent. of the pre-war days?

Mr. E. Burdon: No. Sick bed accommodation at 5 per cent. of the strength is maintained everywhere, except at Lahore, where 7 per cent. of the strength is maintained.

BED ACCOMMODATION IN MILITARY HOSPITALS.

313. ***Munshi Iswar Saran:** Is it a fact that an average of about 50 per cent. bed accommodation in the hospitals in the Indian Army remains unoccupied? If this percentage be wrong, will Government give the correct percentage?

Mr. E. Burdon: 50 per cent. is an approximate average for the whole year, but during certain periods of the year, when the rate of sickness is high, the whole of the bed accommodation is occasionally required.

DUTIES OF I. M. S. OFFICERS.

314. ***Munshi Iswar Saran:** 1. Will Government state the average number of sick in the Indian Army which an Indian Medical Service officer does actually look after?

2. (a) Is it a fact that in a number of military hospitals—British and Indian—there are not more than 4 patients of minor ailments in charge of a medical officer?

(b) Are such medical officers given some other work by the Military Department and if so, what is the nature of the work so given?

Mr. E. Burdon: 1. The number varies widely according to the circumstances of different stations and different times of the year. It is impracticable to calculate the average with any degree of accuracy.

2. (a) No.

2. (b) Medical officers have much work other than the actual care of the sick in hospital, which is only a part of their duties. The work of a medical officer comprises the general medical supervision of troops, pathological investigation, and hygienic measures necessary to the maintenance of the health and the physical development of troops.

RETIRED INDIAN MEDICAL SERVICE OFFICERS RE-EMPLOYED.

315. ***Munsh* Iswar Saran:** (a) Will Government state the number of (i) European and (ii) Indian retired Indian Medical Service officers who are still re-employed?

(b) Are such officers in receipt of their full pension as well as the pay of the rank or the post which they hold?

(c) Will Government state the special reasons for the retention of such officers?

Mr. E. Burdon: (a) to (c) No retired officers of the Indian Medical Service, European or Indian, are employed by the Government of India. It is understood that a retired European officer of the Indian Medical Service is employed by the Government of Bihar and Orissa in an appointment which is outside the cadre of Indian Medical Service appointments. The terms of his engagement are not known to the Government of India.

CHINA MURDER CASE.

316. ***Lala Girdharilal Agarwala:** What are the correct facts of the case known in Delhi as the China murder case and what was the result?

BANIA MURDER CASE.

317. ***Lala Girdharilal Agarwala:** What are the correct facts of the case known in Delhi as Bania murder case or uncle-nephew murder case and what was the result?

The Honourable Sir Malcolm Hailey: In reply to Lala Girdharilal Agarwala, I propose to answer questions 316 and 317 together. Both the cases referred to in the question were very fully reported in the Press at the time. The brief facts and the result of the trials are as follows:

CHINAMAN MURDER CASE.

In this case a Chinaman, silk seller, was decoyed to the Public Works Department store godown at Chandrawal by certain tonga drivers and there robbed and murdered with a kirpan. The clerk in charge of the stores was granted a pardon and turned approver. One Inayatullah and another man were convicted and sentenced to death while a third was acquitted by the Sessions Judge, Delhi. The High Court of Judicature at Lahore accepted the appeals and acquitted both the appellants on the ground that there was not sufficient corroboration of the approver's statement.

BANIA MURDER CASE.

In June, 1922, a Bania youth, named Ram Krishan, who was a cloth broker, disappeared. In July his body was unearthed by the Police in circumstances which led to the trial of his uncle, his cousin, and four other men (of whom two became approvers) on a charge of murder. The Sessions Judge, Delhi, convicted one of the four, and acquitted the remaining accused. The appeal is still pending in the High Court.

UNSTARRED QUESTIONS AND ANSWERS.

CANTONMENT COMMITTEES.

134. **Lala Girdharilal Agarwala:** What is the proportionate representation of owners of property (or their agents) on the personnel of Cantonment Committees framed under the Cantonment Act?

Mr. E. Burdon: The constitution of Cantonment Committees is determined by sections 3 and 4 of the Cantonment Code, 1912. No special provision is made for the representation of owners of property or their agents on those Committees.

CHAKRATA CANTONMENT COMMITTEE.

135. **Lala Girdharilal Agarwala:** What is the total number of members of the Chakrata Cantonment Committee and how many of them are owners of property within the said Cantonment?

Mr. E. Burdon: The total number is six. None of them owns property within the cantonment.

RENT IN CHAKRATA.

136. **Lala Girdharilal Agarwala:** (a) Is it a fact that the cost of labour and materials of building has increased in Chakrata Cantonment?

(b) Has there been any corresponding increase of rents of houses?

(c) Have rents decreased in any case?

Mr. E. Burdon: (a) Yes

(b) No; not as a general rule.

(c) No.

INDIANISATION OF THE ARMY.

137. **Rai Sahib Lakshmi Narayan Lal:** (a) Have the Government got any programme of Indianisation of the army?

(b) If so, will the Government be pleased to give a definite idea as to the period in which that programme is to be fulfilled?

(c) If not, do the Government propose to consider the desirability of settling a programme for the Indianisation of the army at their earliest convenience?

Mr. E. Burdon: (a) to (c) The attention of the Honourable Member is invited to the speech made by His Excellency the Commander-in-Chief on the 24th January, in this Assembly on the Resolution moved by Mr. Mohammad Yamin Khan, regarding the grant of King's Commissions to Indians.

TRAINING OF INDIAN OFFICERS.

138. **Rai Sahib Lakshmi Narayan Lal:** (a) Have the Government got any scheme for a proper machinery for the training of the Indian Officers for the army in this country?

(b) If so, what is the estimate for the scheme and when is the scheme likely to be given effect to?

(c) If not, do the Government propose to consider the desirability of having such a scheme and estimate prepared at their earliest convenience?

Mr. E. Burdon: (a) to (c) The Honourable Member's question is answered almost entirely by the speech which His Excellency the Commander-in-Chief made in this Assembly on the 24th January, on the Resolution moved by Mr. Mohammad Yamin Khan, in regard to the Indianisation of the Indian Army. The total cost of the measures which have been adopted and are in contemplation for the training of Indians for a military career has not yet been fully estimated.

BRITISH ELEMENT IN IMPERIAL SERVICES.

139. **Rai Sahib Lakshmi Narayan Lal:** (a) Will the Government be pleased to state what is the minimum and maximum of the British element which they require in the Imperial services of the country?

(b) Have the Government got the minimum fixed as yet?

(c) If not, do the Government propose to consider the desirability of fixing such a minimum at its earliest convenience?

The Honourable Sir Malcolm Hailey: The issues raised by the Honourable Member will doubtless be considered by the Royal Commission, the decision to appoint which I announced in the House on the 25th January.

CURTAILMENTS IN BUDGET GRANTS.

140. **Rai Sahib Lakshmi Narayan Lal:** (a) Will the Government be pleased to lay on the table a full statement of the amounts curtailed under each head on account of the curtailment of the amount of 9 crores of rupees by the Assembly in the last Budget?

(b) Could the Government keep their expenditure within the limits fixed by the said curtailment?

(c) If not, will the Government be pleased to lay on the table a full statement of the amounts spent in excess of the said limits under each head?

(d) Will the Government be pleased to state as to how the Government have been able to manage for the amount spent in excess of the said limits?

(e) If the said excess, if any, has been managed by loans, will the Government be pleased to lay on the table a full statement regarding the loans giving the dates, the amounts, the rates of interest and the creditors of the said loans?

The Honourable Sir Basil Blackett: (a) The aggregate reduction made by the Assembly in the demands for grants presented in March last amounted to Rs. 95,72,000 and not 9 crores.

(b), (c) and (d) As the Honourable Member is aware, the Assembly voted in September last, a supplementary grant of Rs. 18,09,000 to which extent it was then estimated that the aggregate grant voted in March, 1922, would prove insufficient. It was expected, however, that the bulk of this excess would be set off by savings under non-voted expenditure.

(e) The revenue deficit in the current year has been met out of the borrowings of Government, but no portion of the latter has been specifically earmarked for this purpose. More recent figures of probable expenditure and information on the other points referred to by the Honourable Member will be available to the House when the Budget is presented next month.

SECRET SERVICE GRANTS.

The Honourable Sir Malcolm Hailey (Home Member): I ask your leave to make a statement to the House in regard to an answer I gave a few days ago to a supplementary question in regard to certain Secret Service grants. At the moment I forgot that there are two sources of expenditure namely, the Director of the Central Bureau of Information, and the Director of the Intelligence Bureau.

I stated that the Secret Service funds under discussion were part of the votable expenditure that was audited. I was thinking at the time of the regular expenditure of the Director of the Central Bureau of Information; this is voted and is audited. The Secret Service funds, which are controlled by the Director of the Intelligence Bureau, are not audited and are not part of votable expenditure. I am sorry that in answering the question, I did not keep these two cases separate in my mind; and I have thought it proper to give the House the correct information on the subject at the earliest opportunity.

HIGH COMMISSIONER IN ENGLAND.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Sir, before asking the question of which I have given private notice, may I with your permission, Sir, convey to the Government of India through the Honourable the Commerce Member our thanks for having appointed an Indian to the high office of High Commissioner in England, and for having made an excellent choice. Sir, the question of which I have given notice is this: What is to be the pay of the new High Commissioner in England?

The Honourable Mr. C. A. Innes (Commerce and Industries Member): With your permission, Sir, I will thank Mr. Seshagiri Ayyar for the remarks he has made. I need only say that we are quite satisfied that we could not have made a better selection for this high office.

As regards Mr. Seshagiri Ayyar's question, the answer is that the salary of the post has been fixed at £3,000 per annum.

Mr. T. V. Seshagiri Ayyar: What was the pay of the late High Commissioner, and had he a pension in addition to the pay?

The Honourable Mr. C. A. Innes: His pay, Sir, was £3,000 per annum and he did not draw his pension in addition.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): Sir, as my Honourable friend, Mr. Seshagiri Ayyar, has made a reference to the appointment of an Indian as High Commissioner, may I, on behalf of the National Party, also express our gratitude to the Government for the appointment of an eminent Indian to the post of High Commissioner. And I may also add that in the opinion of the National Party there is hardly an Indian more fitted for the post in the whole of India than Mr. Dalal.

THE WORKMEN'S COMPENSATION BILL. c

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

"That the Report of the Joint Committee on the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, be taken into consideration."

Perhaps, Sir, I may remind the House of certain points which I brought to their notice when I introduced this Bill in September last. The first point I desire to make—or rather, to re-affirm, is that this is no piece of hasty ill-considered legislation. The Government of India indeed have had this legislation under continuous consideration for the last 3 years. In 1921 we put to Local Governments and to the public certain provisional conclusions. We received a very large number of replies to that circular and those replies disclosed the fact that all over India there was complete acceptance of the principle of legislation of this kind and almost complete unanimity of opinion that the time had come to introduce this legislation. It is easy enough, Sir, to agree to the principle of legislation of this kind. It is only when we get to the details that the real difficulties begin, and that is why in July last we assembled a preliminary Committee. I think I may say that it was a strong Committee, a Committee upon which employers and workmen were adequately represented. We placed before the Legislature a Bill based upon the recommendations of that Committee and that Bill has again been circulated to all Local Governments and to the commercial public. I think I may claim again that the Bill has had on the whole a very favourable reception, but I do not wish to be misunderstood. I do not claim that the Bill is in any way a perfect measure. On the contrary, I realise that many clauses of the Bill are open to criticism. But what I do claim is that the Bill is an honest carefully thought-out attempt to adopt to Indian conditions a very difficult piece of legislation; and I think also that I can claim that the Bill is an earnest of the Government of India's desire to undertake progressive legislation of this kind when we are satisfied that it is right to do so. There are one or two points now that I will ask the House to remember.

In the first place, the Bill in many of its clauses represents a compromise between interests which, in a matter of this kind, must conflict. I refer to the interests of the employer, on the one hand, and the work-people on the other hand. Our policy in that matter has been to endeavour to hold the balance between these two conflicting interests to the very best of our ability; and I think I may claim that as a result of that policy we have been able to carry employers with us in a very remarkable way. In fact, nothing has surprised me more, and nothing has pleased me more than the extraordinarily generous reception that this piece of legislation has met from employers all over India. And I will make the further point that in social legislation of this kind it is a matter of the greatest importance to carry your employers with you instead of trying to impose legislation upon unwilling employers.

The next point I desire to emphasise is the serious responsibility that the Government and the Legislature incur in this legislation. The experience of workmen's compensation legislation in all countries has been that it has led to a very great amount of litigation. We have always to keep that danger before us—we have had it before us throughout in drafting the Bill. We have so attempted to draw the Bill that an employer and a workman, merely on reading the Bill, may know where they stand.

The employer will know his obligations; the workman will know his rights. It is that consideration which accounts for many of the features of the Bill which have no doubt attracted notice. I refer to such facts as that we have relied upon the principle of relationship rather than dependence and the proof of dependence. It is also seen in the machinery we have provided for the settlement of disputes. The policy of the Bill is that all cases arising out of the Bill must first be settled if possible by agreement between the parties. It is only if the parties themselves cannot arrive at an agreement that we provide machinery for the settlement of those disputes. We have tried to make that machinery as simple and as inexpensive as possible. There is yet a third point which I wish to impress upon the House. I think we have got to be careful in legislation of this kind that we do not impose too heavy a burden upon industry. We have got to remember that the provisions of this Bill will apply not merely to large employers of labour but also to small industries; and I think that at the present time when industries have not advanced very far in India and when we hope that they will now begin to advance we ought to refrain from imposing upon these industries a burden which may have the effect of stunting and retarding their growth and development. I move, Sir, that the Bill be taken into consideration.

Mr. B. S. Kamat (Bombay Central Division: Non-Muhammadan Rural): Sir, I feel my first duty is to congratulate the Government of India and my friend, the Honourable Mr. Innes upon producing a measure of such a beneficent character. The Honourable Mr. Innes told the House that this is not a hasty piece of legislation; that is perfectly correct. The Government of India have taken a great deal of pains over this measure for over two years. The close investigation which they have applied to this subject, which is no doubt of a very technical character, has been thorough and comprehensive; I also believe they have consulted public opinion both from Local Governments and from the industries concerned to a degree which is noteworthy in this piece of legislation. Then again, Sir, as the Honourable Mr. Innes told us, we are glad to hear that this measure is an earnest of similar beneficent legislation for the welfare of the labouring classes. Indeed with the advent of machinery into India the chances of accidents to workmen grew a good deal, and it is but natural that in the wake of machinery there should come legislation which safeguards the interests of workmen from such accidents. Sir, I think I must make it clear to the House that this Bill affects not only employers in private industries, but, I believe, it affects even the State as employers in certain concerns, for instance, in Telegraphs, and Railways, Port Trusts and similar concerns; also it affects municipalities. It is, therefore, a sign of good spirit and a sense of fairness on the part of Government that along with other employers they are also coming forward to share their liability and the responsibility in the application of this Bill. The Honourable Mr. Innes told the House that the employers consulted by Government have been able to go a great length in meeting the interests of workmen. I am very glad to hear it. It only proves that in matters which concern the real welfare of the working classes, the employers, whether private or State, take up a very fair attitude in these matters. Then again it will be seen that those industries have been roped in which are organised and in which the hazard to the workmen is particularly peculiar and of a dangerous character; further, I believe the Bill takes another precaution, namely, to see that points in dispute between the workmen and the employer will be as few as possible. Indeed every section, every sub-clause has been

[Mr. B. S. Kamat.]

thoroughly threshed out and so far as the workman is concerned every facility is thrown in his way, so that the procedure will not be complicated for the workman to get his right and obtain the relief for which this Bill is intended.

Although, Sir, on the whole the general provisions of the Bill are good, there are some points which, I recognise, may be found wanting in this from the point of view of certain people. I do think one or two points which really speaking should have been included in the scope of this Bill have not been included. I may instance one or two of such points. One was the case of Indian seamen. Under the present Bill probably Indian lascars will not be able to get a relief easily if an accident happens to them on the high seas or if the lascars happen to be employed by shipping companies under the British Shipping Registration Acts. That is a difficulty which we all felt in the Joint Committee. The Indian seaman, if he is to get relief not under the Indian Workmen's Compensation Act, but under the English Act, will find it extremely difficult to lodge his claim in British Courts and to obtain the relief, say, in London. I believe that in this matter this present Bill does not go as far as it should go. It is extremely difficult for an Indian lascar, for instance, to seek relief and get compensation by putting in a claim in a court in London; the question of jurisdiction and the alternatives for relief which he has under the Indian Act and the English Act were points so technical, I believe, that those who framed this Bill had to give a wide berth to them and to leave the difficulty unsolved. If some of my lawyer friends can suggest a solution for this difficulty I think the House would be grateful.

There is one more point to which I wish to refer, and that is that along with the Workmen's Compensation Bill there will come to India I hope a new social order, a new era for the workmen; I daresay they will try to be more organised than they are now. It would be a very good thing indeed from the workmen's point of view if this new social era is opened up to him; along with this there will also come I am sure another feature, namely, Insurance Companies will have to frame schedules and a sort of system of insurance to cover the liability of employers. The point which I wish to bring to the notice of the Government in this connection is this: in all other countries where Workmen's Compensation Acts have been in force, I believe insurance in some form or another has been an invariable accompaniment. The question here will be when insurance companies frame their schedules whether Government will exercise some sort of supervision over their rates of premia. Speaking from the point of view of employers and those who will have to cover the risk, I do think the State will have to exercise some sort of supervision over the insurance companies' rates. After all the compensation which will be paid on behalf of the industry to the injured workman will fall on the industry and just as in other countries there is a sort of supervision over the insurance companies, I believe even here the State ought to exercise some sort of supervision. Indeed in other countries the methods of insurance are different from what they probably will be here. In America, for instance, there is a State fund for insurance. In Italy, Switzerland and other countries there is a compulsory sort of insurance; not so in England, I know. But there, there is definite supervision on the part of the State to see that the Insurance Companies do not charge extraordinary rates of premium for the industry. In fact, definite percentages have been laid down, so that out of the total premium received so much shall be for the management of

the Insurance Companies and no more, and the rest shall go towards the benefit of the insured. That sort of thing, I believe, will have to be done by the State even here.

There is one point, Sir, to which I wish to refer, namely, the machinery that has been set up for the carrying out of the provisions of this Bill. In order that there should be cheap and expeditious justice and settlement of claims, this Bill sets up a Commissioner for dealing with the Workmen's Compensation Act provisions. Now it is indeed a great convenience, that all disputes should be referred and all points should be settled by this Commissioner. So far as the expedition in the settlement of disputes is concerned, it is a great convenience. On the other hand, it must be recognised that a great deal will depend on the *personnel* of these Commissioners and the spirit in which they work the provisions of this Bill. Well, if they work the provisions in a good spirit and hold the balance even between the employers and the employes, I believe the justice which they will deal out will be very good. But, on the other hand, I do feel that the provisions of this Bill give the Commissioner a very large amount of power, and it depends upon him to work those provisions in a proper, just and equitable manner. However, we are making this as an experiment, namely, centreing of this power into the hands of the Commissioner alone. That will be an experiment which shall be tried in the first instance. Just as in England the workmen's compensation has gone through a process of evolution and it has been amended on various occasions, probably here also in the light of experience gained we shall have to amend our own provisions. But I bring it to the notice of Government that in appointing the Commissioners and leaving to them the sole duty of settling disputes between the employers and the employees they should see that, after all, the spirit in which the Commissioners work this Bill should be a spirit of absolute even-handed justice between the two conflicting interests. Otherwise, I must say that the powers which we have entrusted in the hands of these officers will have to be greatly curtailed in the light of the experience which we may gain. I do hope the House will give its warmest support to this Bill both in the interests of workmen as well as the industry. This is, I say again, a very beneficent measure, and I accord my warmest support to it, and once more thank the Government for having brought out a Bill of such a character for the first time in India.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, may I also, with your permission, congratulate the Honourable Mover of this Bill on the beneficent measure which he has placed before this Assembly. I do not wish to speak on those provisions of the Bill which will be discussed here in detail. I shall refer only to a few sections which have been omitted by the Joint Select Committee and upon which I shall have no opportunity hereafter to speak. The sections to which I refer are sections 3, 4 and 5 of the original Bill defining the liability of the employers in the case of certain accidents. Sir, I feel that these sections in the Bill ought not to have been omitted by the Joint Select Committee. In the first place, the Committee which was originally appointed by the Government and which my Honourable friend, Mr. Innes, said was a very strong Committee, had approved of those sections. Sir, I am also of opinion that the Committee which considered originally this Bill, excepting one of its members, was indeed a Committee of experts. I am therefore surprised very much that the Joint Committee should have omitted those sections altogether, and this omission, in my opinion, is a great defect.

[Mr. N. M. Joshi.]

Sir, I need not remind the Members of this House that the principle underlying the Workmen's Compensation Bill and the principle which underlies what is called the Employer's liability are quite different. In the case of workmen's compensation the principle is that when a man introduces certain industries which involve risks to others he should be held civilly liable for those risks. In the case of workmen's compensation, therefore, there is no question of the negligence or fault of either the employers or the employes. The workman receives compensation because it is in the interests of the industry that he should receive compensation and because the risks which cause the accidents are incidental to the industry. The principle of the employer's liability sections which were originally included was that where an employer was negligent under certain circumstances and had failed to make proper provision to safeguard safety of the workmen, he should be held civilly liable for damages. Sir, this principle of employer's liability has been accepted in England since the year 1880. It is now more than 40 years, therefore, that this legislation defining the employer's liability has been in existence in England. I am, therefore, surprised that the representatives of the Government of India on the Joint Committee should have yielded to the majority of the Joint Committee in this matter. This omission will be particularly felt by those employes who are somewhat educated and better paid. In the case of an ordinary workman, I do not think he would ever think of going to the Civil Court for damages, even though the negligence of the employer may be very clear, because action in a Civil Court is more costly and there are several other difficulties if he takes up that course. But in the case of better paid employes, who are also educated, if it is clearly shown that the employer has been negligent, those employes should have the right to go to the Civil Court. Sir, I therefore feel that the Bill in this respect is clearly defective, even the sections in the original Bill were not quite satisfactory. If I had my way, I should have extended the employer's liability to all workmen, but in the original Bill it was applicable only to those classes of workmen who are governed by the Workmen's Compensation Bill. But even though those sections were deficient, the Joint Committee thought it fit to omit them. With these remarks, Sir, I offer my congratulations to the Honourable Member on having introduced this measure.

Captain E. V. Sassoon (Bombay Millowners' Association: Indian Commerce): Sir, when the Bill which is now before this House was brought to the attention of those members of the Millowners' Association, including myself, to whom the matter had been referred, with one exception we declared that the Bill was a bad Bill. We considered that it had sacrificed principle for expediency and that the Legislature and its Committees had shown a complete lack of vision in their attempt to deal with this most important development in the industrial progress of this great country. We felt that, rather than that such an emasculated measure should take its place on the Statute Book, we would prefer the subject to be studied afresh to enable a Bill to be put forward which would more nearly approach the problem from a modern western standpoint. The exception to whom I have referred, Sir, was my predecessor in this House, Mr. Saklatvala. Mr. Saklatvala, suggested that, before the Committee gave a definite opinion, it might allow him to impart to me as his successor to this House the information on this subject which he had been able to gather through his work on the Select Committee. This he proceeded to do by sending round those weighty packets of files which Members

of this House are so intimate with. Sir, by dint of burning much midnight oil, I succeeded in acquiring some faint glimmerings of the difficulties of the subject and the attempts that the Select Committee had made to deal with it; with the result that, when we met again, I found it necessary to inform my Committee that my views had altered and, so far from this Bill being a bad Bill, hastily thrown together with no regard to the problem and its needs, I considered that this Bill though there was hardly a clause which could not be amended or debated on and justifiably so was still an extraordinarily carefully thought-out piece of work in its main lines and designed to act as a solid foundation on which future developments could be built as experience dictated. My Committee was good enough to approve our views and I stand here to-day on behalf of the millowners of Bombay to welcome this Bill as a first step and an experiment, appreciating the fact that in passing this measure the labours of the Government and of this House will have only begun with their desire to deal with a subject which I confidently say all classes, whether ruling, employing or employed, wish to see handled sympathetically, adequately and practically.

Sir, the view that I take of the problem is that there are certain basic aims which should be always before us, even though they may not be immediately practicable: Firstly, that those who fall by the wayside in the industrial fight for existence, through no fault of their own, should be adequately cared for; secondly, those truly dependent on them should not be asked to bear the full brunt of the blow due to the incapacitation of the breadwinner, but at the same time should be encouraged to help themselves, so as not to become pauperised; thirdly, that a generous scale of benefits should be provided at the lowest possible cost. And this, Sir, leads one to certain practical considerations that are of vital importance. Every workman who takes compensation by a fraudulent claim or by malingering, every workman who does not take advantage of offers to be cured speedily and delays or aggravates an injury, often turning a slight temporary disability into a serious permanent one, every workman who is allowed, or in any way encouraged, to exaggerate his disability, thus bringing into play those vast and little-known forces of auto-suggestion and so prolonging or intensifying his injury, everyone of these, Sir, by receiving compensation which should not be necessary is adding to the total cost of compensation, and thus either reducing the benefits to the genuine cases or adding unnecessarily and unjustifiably to the general cost of living; for I need hardly tell this House that the payment of compensation, as one of the costs of production, has eventually, in part at any rate, to be borne by the consumer. There is also another important consequence to be considered. If the workman be encouraged to dwell on any slight ailment in the hope that it may develop into something that may justify compensation, his character will be affected, his moral fibre undermined and his value as a man and citizen depreciated. I am afraid that a study of the effects of the Workmen's Compensation Act in England leads one to wonder whether a hysterical unbalanced trait has not been developed in the national character which was not so prominent in the past.

Now, Sir, as regards the Bill before us, I would suggest that it be strengthened in every way to reduce the possibility of fraud, malingering and lastly litigation, even at the risk of appearing unsympathetic. The passing of this Bill will make one thing certain and that is, it will greatly increase the demand for doctors. If this Bill results in encouraging the young

[Captain E. V. Sassoon.]

Indian to take up a medical career in preference to a legal, I for one should consider this as an additional point in its favour. Honourable Members will consider that I am unduly prejudiced against lawyers but I cannot forget the remark that was once made by Voltaire, who said that he only regretted going to law twice, once when he lost his suit and once when he won it. Sir, it is a great deal more valuable to the country that an injured workman should recover his health than that he should win a suit and get good compensation for his injuries, and I commend this point of view to the Honourable and learned Members of this House when they are about to decide on a suitable career for their sons.

• In conclusion, Sir, any legislation which succeeds in satisfying the general aims I have so roughly sketched would prove, I think, immeasurably superior to similar legislation existing in other countries, no doubt partly owing to the fact that there was so little practical experience in existence when those measures were instituted and partly because they started by legislating on too ambitious a scale. Let us profit, therefore, by their mistakes and develop our programme by steady evolution. I venture to assert that by following that road the eventual results of our efforts will make them worthy of being copied by those western nations who admittedly lead to-day the cry of the injured workers.

With these words, Sir, I welcome the Bill before us.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadian Urban): Sir, I welcome Captain Sassoon's suggestion that we should have more doctors and better doctors, if necessary, at the sacrifice and expense of the lawyers. I have a double-barrelled personal consideration: less lawyers will give us existing lawyers a better chance and more doctors will be welcome to me because I am trying to nurse a race of doctors. I wonder, Sir, why, having said all that Captain Sassoon has said, I do not see any amendment tabled by him on lines brought out by him that I should have welcomed, viz., that the Commissioner to be appointed by the Act should have a medical referee associated with him in some effective way. Much of the difficulties, even if you otherwise succeed in keeping down litigation, much of the difficulties that will be experienced in the working of this Act will disappear if there be independent and reliable medical opinion to balance that on behalf of the employer and of the workman, if the latter can afford it. Doctors are notorious for difference of opinion and, when diversity of interest is at stake, that difference is likely to be accentuated. Therefore, I should have welcomed some provision by which the Commissioner who is invested with large and salutary powers, had a capable Medical Referee to fall back upon so that the workman and the employers would be better protected. The Commissioner would also be better able to do his work by falling back on those who can give him independent medical advice. I appreciate, Sir, there are difficulties in the way of this being done everywhere. Industries are expanding in this country and it may not be possible everywhere in the outlying tracts of the country to have suitable medical referees. But a first beginning might have been made. This is a first step, a very important and very good first step, towards healthy labour legislation. I believe in treating labour well both from the humanitarian and State point

of view as well as from the point of view of expediency. Labour better treated is always good from the investor's point of view and the Government are realising and the people who are supporting them are realising that labour should be better treated before labour organisers for the purpose of extorting protection as in other countries. I am unable, however, to share Mr. Joshi's regret that the employers' liability question has not been mixed up with the question of workmen's compensation for slow development is healthy in these matters. Well, we have had, to borrow Mr. Rangachariar's classical phrase, homilies preached in many quarters that when a Committee of this House goes into a question thoroughly, it is not up to this House to bring up questions in detail again and have them thrashed out as if the whole House was again going into Committee. Paragraph 3 of the Joint Committee report fully deals with the point which Mr. Joshi has raised. The position taken up there is I believe technically doubtful, it is doubtful whether a Select Committee can pick and choose like this. I should like however to wait and see how this Act works and what developments may be necessary. If, Sir, in 1886 or later on we had taken up the question of codification of the law of torts which has been waiting since then, some of our difficulties might have been at an end. It is no use regretting that now. But in the absence of that, these first piecemeal steps are becoming necessary and they will have to expand as we grow. With these words, Sir, I should like to give a very warm welcome to this measure and express the hope that the machinery for insurance will develop under Government care. Without it an Act like this cannot properly work if the employer and the employed are to be protected.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, there can be no two opinions about it that the Bill is of a very useful character and I share the view that the Government may be thanked for the introduction of this measure. My study of the Bill leads me to believe that some of the provisions, no doubt, in some cases, will offer temptations to labourers to abuse the provisions of this Bill. But at the same time I feel that there are some sections which will give a great amount of encouragement to labourers to flock to our factories, and consequently, eventually, there will be a great aid to the industrial development of the country. The most important characteristic of this Bill, as it seems to me, is that it is a measure which has got the sympathy both of the employers and the employees. I can hardly come across any measure, in regard to which either the one party or the other party has not got a serious complaint. But, as I have said before, this is a Bill which has got, more or less, the approbation of both sides, and therefore the Government and the Honourable Mover must be thanked for it. There have been some remarks in regard to the introduction of work for Doctors and it has been said that there will be some sort of reduction, so far as the work of the legal practitioners goes. In reply to that I may say that in the first place we do not grudge it. We have got ample work. But I may tell you, for your information, that there is a provision in this Bill—section 30—which allows a great loophole. There is a provision for appeals in this section and lawyers will have a sufficient share in that direction. I must say in the end that I appreciate all the remarks which have been made in favour of this Bill as a complete Bill, but I have got to differ from the Honourable Mr. Joshi, when he says that it is not comprehensive in its character. This is a tentative measure and when we see that our workmen have proved themselves fit and up to it, then we may extend the provisions of this Bill to some other class of labourers. But for the present, circumstanced as we

[Dr. Nand Lal.]

are, this is a complete answer to the requirements of the country. With these remarks, Sir, I support the motion very heartily.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Sir, I do not rise to speak on the Bill, but I ask your ruling upon a very important matter which the Bill as put before this House raises. It is this. When the question was discussed before the Bill went to the Joint Committee, the Bill contained provisions relating to employers' liability as well as to the compensation to be paid by employers. This House then approved of the principle of both those objects, namely, employers' liability due to negligence and compensation due to accident. After the Bill has been considered by the Joint Committee, it comes to us in a denuded form. The portion relating to the liability of employers due to negligence has been cut out; and the result is that this House is not in a position to discuss a matter for the principle of which it had given its sanction before committing the Bill to the Joint Committee. My question to you is this. Is it open to a Joint Committee to which a Bill containing two principles has been submitted, to cut out one of the principles and thereby make it impossible for the House to give its opinion upon that principle? That is the point which I submit for your consideration.

Mr. President: Having no notice of the point of order which the Honourable Member wishes to raise I have not yet had time to give mature consideration to it. I have not the original Bill before me. The Honourable Member will see that the last clause in the report of the Joint Committee says:

"We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended."

But I must assume, until I am able to give it further consideration, that the Joint Committee would not have inserted the last clause unless they had been satisfied that the Bill was not altered in the manner the Honourable Member suggests. I notice that there were several prominent lawyers on the Committee, one of whom is sitting beside him; and I should imagine that if the Bill had been so altered, the eagle eye of his Honourable colleague from Madras (Mr. Rangachariar) would not have allowed the point to escape him.

Mr. T. V. Seshagiri Ayyar: I had the consent of my Honourable friend from Madras to make this motion. I consulted him about this. The title of the Bill also has been altered. The point which I raise for your consideration, Sir, is this. Is it open to a Joint Committee to give up a principle without that principle being submitted for the consideration of the House? The original title of the Bill was "Employers' Liability and Compensation." That has been altered into "Workmen's compensation." They have cut out a particular portion of the title itself, and they have cut out the provisions of the Bill which related to employers' liability thereby making it impossible for this House to give its decision upon those provisions. It is a difficult point and I think it is a point which must be decided because on future occasions a similar question may arise; and it is desirable that the House should have your guidance in a matter of such importance, namely, where the House has approved of certain principles can the Joint Committee omit one of those principles making it impossible thereby for the House to express its opinion thereon. That is a very serious problem, and if it is submitted to it may lead to grave

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complications. Therefore, Sir, it is desirable that there should be a definite and decisive ruling upon the point. Paragraph 3 of the Joint Committee's report says:

"Perhaps the most important alteration which we have made in the Bill is the elimination of the provisions relating to employer's liability. The majority of us are not satisfied that it is either necessary or wise to retain these provisions in the Bill. It has not been demonstrated"

and so on. So, by a majority the Joint Committee have come to the conclusion that this portion should be omitted from consideration. It may be that the minority there may find support in this House; but the result of this deletion is that this House is debarred from going into those provisions. That is a great and serious matter upon which I ask your ruling.

Mr. President: What is the practical point that the Honourable Member raises? Do I understand that the practical point which the Honourable Member raises is this:—Whether it is open to the Assembly to discuss clauses which the Joint Committee have excised? The Bill as sent up by this House to the Joint Committee contained these clauses and therefore it is perfectly open to the Assembly to restore them. If that is the essence of the point of order raised by the Honourable Member then I uphold his contention.

Sir Montagu Webb (Bombay: European): I think it is competent for the House to restore the provision which has been excised.

Mr. President: It is perfectly competent for the House to restore the provision which was in the Bill and which has been excised by the Joint Committee.

Mr. T. V. Seshagiri Ayyar: Having regard to your ruling, Sir, I hope this House would allow amendments to be sent in before the matter is again taken up for consideration, because on the Bill as it stood we were not in a position to send in any amendments on this question and we were not sure what the ruling of the Chair would be upon a matter of this importance. Having regard now to your ruling, I hope you will give permission to send in amendments so that the matter may be taken up for discussion before the Bill is finally disposed of.

Mr. President: In the meantime we may proceed with the Bill.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): We may proceed with the Bill and before it is finally disposed of, any Member who likes may move that these sections which have been omitted by the Joint Committee may be re-inserted in their appropriate places.

The Honourable Mr. C. A. Innes: I have no objection to any Member who wishes to restore the provisions in the original Bill moving now an amendment to that effect or giving me notice now of the amendment to that effect. I take it, Sir, that we shall not probably come to that question till Monday. I suggest that any Member who wishes to put in an amendment to the effect that the clauses of the Bill omitted by the Joint Committee should be restored may give notice of that amendment to-day.

Mr. N. M. Joshi: May I ask, Sir, why amendments should be restricted to the original sections? We may like to improve the original sections.

Mr. President: The Honourable Member is perfectly aware that any sections before the House are open to improvement. That is why they are before them.

It is impossible for any one to say at the moment how long the consideration of this Bill will last; but, without actually committing myself, I am prepared to meet the Honourable Commerce Member and the House generally on the point of waiving the period of notice required. But I think it would not merely be a courtesy to the promoter of the Bill but would conduce to the efficient despatch of legislation if Honourable Members who wish to insert any amendments of that character would draw them up at the earliest possible moment and give the Government the longest possible notice. Otherwise, we may encounter undue difficulties due to hasty drafting.

On the raising of points of order of this kind, I should like to appeal to Honourable Members to give the Chair the maximum possible notice of their intention to do so. Least of all qualities which I wish to claim is omniscience, and therefore I should like to have full opportunity of consulting both the officers of the Department at my disposal and the documents at my disposal in order to arrive at considered conclusions. On a matter of this importance, on which it so happens that I was able to give a decision without previous consideration, I should like to appeal to Honourable Members to give the utmost possible notice, because, as Honourable Members are aware, rulings given from the Chair are apt to create precedents.

The motion, that the Report of the Joint Committee on the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, be taken into consideration, was adopted.

Mr. President: The question is that clause 1 do stand part of the Bill.

Mr. T. V. Seshagiri Ayyar: If you are going to allow amendments to be sent in which would include employer's liability, this clause will have to be altered. May I suggest that the consideration of this clause be postponed?

Mr. President: As a matter of fact, it may have escaped the Honourable Member's notice that clause 1 in the original Bill reads exactly in the same terms as clause 1 in the amended Bill. If Honourable Members, however, think that it is desirable to amend the short title, I am prepared to accept a motion for discussion that the consideration of clause 1 be postponed.

Mr. T. V. Seshagiri Ayyar: I move that the consideration of clause 1 of the Bill be postponed.

Mr. President: The question is that the consideration of clause 1 of the Bill be postponed.

The motion was adopted.

Mr. President: Clause 2.

Mr. N. C. Sircar (Bengal: National Chamber of Commerce): I sent in notice of my amendment before I read the whole Bill. Clause 2 is at

the very start; but before I read the whole Bill I was under a misapprehension that the compensation increased and decreased according to the number of dependants. But as it is not so, I do not move the first two amendments.*

Captain E. V. Sassoon: When I placed my amendment on the paper I quite realised that in treating of the question of dependants it was very difficult to know where to stop in placing on record those who were to be allowed to divide up the compensation as laid down in this Bill. But at the time it appeared to me that a widowed sister would have been more or less in the same position as an unmarried sister. I consider that the workman brother would have had to look after her as he would his unmarried sister. But Members who know more than I do, ignorant as I am of the customs in India, tell me that the widowed sister is generally looked after by her husband's relatives. If that is the case, my whole argument for putting forward the widowed sister falls to the ground and I therefore will not press my amendment.†

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions: Non-Muhammadan Rural): Though the custom prevails that the widowed sister is supported by the family of her husband, it may often happen that she was supported by and was dependent on the earnings of her deceased brother. In such a case it will be very hard if we do not allow the widowed sister also some advantage under this Bill. Therefore I propose that the words "or widowed" should be inserted after the word "unmarried" and before the word "sister".

Mr. President: Amendment moved:

"In clause 2 (1) in sub-clause (d), before the word 'sister' insert the words 'or widowed'."

The Honourable Mr. C. A. Innes: The reason why we do not include the widowed sister is the very reason which has been given to the House by Captain Sassoon. We understood that ordinarily a widowed sister lives in the family to which she is married. That is certainly the case over the greater part of Madras. There may be exceptional cases where a widowed sister does depend for maintenance on her deceased brother, but, Sir, I do not think that in a Bill of this kind we should try to provide for every exceptional case. It seems to me to be a much sounder principle to keep the list of relatives as small as possible, and in the whole Bill we have tried to make the list of dependants as small as ever we possibly could in order that the real dependants may get the benefits of the Bill.

Mr. J. Chaudhuri: Sir, I support the amendment and for this reason. The criterion should be whether the widowed sister lives in the husband's family or in a brother's family. We know that in Bengal and some other places a widowed sister may live in a brother's and not in a husband's family. It all depends upon the circumstances. In many cases the husband's family is not of sufficient means to maintain the widow; then the widow comes back to her parents' house and lives in her parents' family.

* "That in sub-clause (d), of clause 2 (1):

(a) the word 'husband' be omitted;

(b) after the word 'mother' the words 'if he or she is infirm or disabled or has no other son or daughter to provide for him or her' be inserted."

† "That in sub-clause (d), of clause 2 (1) after the word 'unmarried' the words 'or widowed' be inserted."

[Mr. J. Chaudhuri.]

In such cases I submit it will be hardship to her not to have the advantages provided in this Bill for her benefit as well.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, my friend has referred to the widowed sister. He is a lawyer, but he seems to have forgotten the elementary principle of Hindu law that a widowed sister has no claim, no legal claim upon her parents for her maintenance: and when under the general law she has no claim I fail to see why under the provisions of this Bill she would be given an exceptional treatment. I oppose the amendment.

Rai D. C. Barua Bahadur (Assam Valley: Non-Muhammadan): Sir, I beg to oppose this amendment also. It is too much to expect from the employer anything in the shape of compensation or maintenance for the sister. Sir, under the Hindu law a sister is not an heir to a brother, but in this case of payment of compensation the employer is going to be compelled to make good the deficit, and to pay compensation to the deceased's sister when her brother is dead. Sir, it will be extending the principles of humanity to a very great extent. The institutions of public utility will suffer to a great extent if we go on extending such benefits to such relations as a widowed sister. And there is another aspect of the matter, Sir. When a brother dies of accident or injuries, then the sister will be brought from her husband's family into the family of her deceased brother, and she will be put forth to claim compensation on account of the decease of her brother. So there will be many difficulties in giving compensation or ascertaining whether the compensation should be given to the sister or not. So, Sir, in these circumstances at least I beg to oppose the amendment.

(An Honourable Member: "I move that the question be put.")

The motion was adopted.

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

The motion was negatived.

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

"In sub-clause (d) of clause 2 (1):

'After the word 'sister' insert the words 'grand-father, grand-mother, minor grand-son and unmarried grand-daughter'."

Sir, I generally accept the principle enunciated by the Honourable Mover of this Bill that we should not have a very large number of relatives in addition to the list already given. But even after having accepted that, I propose that these four relatives mentioned by me should be added. The cases which I have suggested are not exceptional cases. You will always find some cases where a grand-father or a grand-mother is dependent upon a grand-son or grand-daughter, and *vice versa*, and it is therefore necessary that we should include them in this list. I may add for the information of my Honourable friend, Mr. Barua, that by adding to the number of relatives here the amount of compensation is not increased at all. The simple effect of my amendment will be that in those cases where a man leaves only a grand-father or a grand-mother or a grand-son or a grand-daughter, these relatives, namely, the grand-father, grand-mother, grand-son or grand-daughter will not be without compensation if they are found to be dependent upon a deceased workman. Sir, my amendment will, I hope, be acceptable to the House.

The President: Further amendment moved:

"In sub-clause (d) of clause 2 (1), after the word 'sister' insert the words 'grand-father, grand-mother, minor grand-son and unmarried grand-daughter'."

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): May I rise to a point of order. My amendment runs 'or such others as being closely related absolutely depend on, or are entitled to maintenance by law and custom'. This will cover the persons that have been proposed by Mr. Joshi. So, practically, if his amendment is voted against, my amendment will be rather weakened. I think, my amendment being of a more general character, it ought to precede his amendment.

The President: As regards that, Honourable Members may in this case simply vote against Mr. Joshi and then move their own.

The Honourable Mr. C. A. Innes: Sir, Mr. Joshi, I am glad to see, has agreed to the general principle of this clause as at present drafted, namely, that we should keep the list of relatives confined to a comparatively small number. The only point, the only difficulty, is, exactly where we should draw the line, and I should like briefly to explain why we put it as in the Bill, why we have kept the list as small as ever we could. In the first place, as I explained when I made my speech this morning, we are out for simplicity and ease of working in the Bill. That is the reason why we have tried to keep the list of dependants confined as far as possible to people ordinarily living in the same house as the deceased workman. We also felt that if we included in the list, as proposed in the amendment, a long line of distant relatives who might not be at all dependent on the workman, we might add to the work of the Commissioner, since under clause 8 (4) the Commissioner would probably feel bound to issue notices to all those relatives. That might result in delay in distributing the compensation to the people, to the closer relatives who really ought to get the benefit of it. And another obvious disadvantage in a long list which rather weighed with me was that the Commissioner under clause 8 (4) might not be able to give these remote relatives any compensation at all. We feared that if we had an unduly long list, we might excite hopes which, in practice, in the result, would not be fulfilled, and we might create a good deal of heart-burning. These dependants might go to the Commissioner, claim compensation, and find that the Commissioner had decided to give the whole compensation to the widow, the sons, and so on, and would refuse them any compensation at all. On the whole therefore we decided that the wiser course was to keep this list of relatives just as small as ever we could, and that is the reason why we excluded the grand-father and the other people mentioned by Mr. Joshi.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): Sir, I wish to say only a few words on this amendment of Mr. Joshi's. I agree with Mr. Joshi and also with my Honourable friend, Mr. Innes, that the list of relatives or dependants should be as small as possible. But I think the suggestion that Mr. Joshi has made has a good deal of force in it. Our experience is that we do find a grand-father and grand-mother dependent upon the grand-son, and if the grand-son suddenly passes away it would be difficult for the old grand-father and the old grand-mother to maintain themselves in their old age. So, as far as that part of Mr. Joshi's amendment is concerned, in which he wishes to extend the benefit to the grand-father and grand-mother, I am entirely in agreement with him. Unless

[Mr. Jamnadas Dwarkadas.]

this benefit is extended to them, I feel, Sir, that it would be a great hardship to the grand-father and grand-mother to have to maintain themselves in their old age.

With regard to the minor grand-son and unmarried grand-daughter, I am not sure that the amendment is necessary. We find, Sir, from statistics that there is scarcely a workman above the age of 40; therefore you are not likely to find a workman leaving a minor grand-son or an unmarried grand-daughter. This part of the amendment, I think, is not necessary, but so far as the first part of the amendment is concerned, I give my strong support to it.

Rai Bahadur S. N. Singh (Bihar and Orissa: Nominated Official): Sir, I rise to oppose this amendment as I think it should not be accepted. Sir, I think the definition of the term "dependant" is already wide enough and I am sure any undue further extension would not be allowed by the House. The obvious result will be the whittling down of the amount payable to each such relation and an increase in litigation in some cases.

I am aware that some representative public bodies consulted in this connection have pointed out that the term "dependant" covers a much wider range under the corresponding English Act than is proposed to be assigned to it in the Bill under consideration. But I am also aware that some of them have made it clear that this term should cover only such close and near relations as are actually dependent upon the deceased or his earnings at the time of his death. The remarkable point in this connection is, however, that the Honourable Mover of the amendment is not true to his own original idea, as expressed in his Note of Dissent, where he stated that under "dependant" he would include 'grand-father, grand-mother, in case both the parents are dead, and minor fatherless grand-son and minor fatherless grand-daughter.' It goes without saying, Sir, that this amendment covers a much wider field than was originally intended by Mr. Joshi. I think, Sir, that the general feeling among those concerned is that the list of dependants should be kept reasonably small. I beg therefore to suggest, Sir, that the definition of the term "dependant" as already amended, may remain as it is and we may very well wait and see how it works.

Sir Henry Moncrieff Smith (Secretary, Legislative Department): Sir, I have only one word to say on the drafting of this amendment. Mr. Jamnadas Dwarkadas expressed a doubt as to whether we should find a minor grand-son or an unmarried grand-daughter. I also have a very grave doubt as to whether we shall find any unmarried grand-fathers or grand-mothers.

Dr. Nand Lal: Sir, if I may be allowed to move my amendment (No. 6) I believe Mr. Joshi will withdraw his amendment.

The Honourable Mr. A. O. Chatterjee (Education Member): Sir, one practical difficulty which weighed both with the original Committee which sat in Jutia and again with the Joint Select Committee, was that if the grand-father or the grand-mother had other children who were earning their livelihood it would be wrong to bring them in to participate in the benefit. As some Honourable Members have expressed considerable feeling in the matter, I may say on behalf of Government that we shall be willing to

accept a compromise so as to include the paternal grand-parent provided that both parents are dead and the son's children, that is, the minor children, if their father is dead. If that is accepted by the House generally we shall introduce that addition, provided that my friend, Sir Henry Moncrieff Smith, is able to put in a draft which avoids unmarried grand-parents.

Mr. President: Am I to understand that the Government Member has an amendment ready?

Sir Henry Moncrieff Smith: I have nothing ready, Sir. I would suggest that consideration of this point be postponed to give the drafting Department time to look into it.

Mr. President: The amendment moved is:

"In sub-clause (d) of clause 2 (1) after the word 'sister' insert the words 'grand-father, grand-mother, minor grand-son and unmarried grand-daughter'."

The original question was that that amendment be made.

Since which an amendment has been moved that further consideration of sub-clause (d) of sub-section (1) of section 2 be postponed.

The Honourable Mr. C. A. Innes: Sir, I do not know if Sir Henry Moncrieff Smith would accept it, but we have got the whole clause redrafted. If so, I think the House might possibly be prepared to go on with the consideration of this clause. What we suggest is that clause 2 (1) (d) read as follows:

"'Dependant' means the following relatives of a deceased workman, namely: wife, husband, parent, paternal grand-father if the parent be dead, minor child, minor brother, unmarried sister and son's children if their father be dead'."

That seems to me to bring them all in, Sir.

Mr. President: I think we might proceed to add this sub-section of the clause to the Bill on the understanding that the Government will insert this particular amendment in another place. I imagine that the terms of this amendment are not likely to lead to a constitutional crisis between the two Chambers.

Mr. N. M. Joshi: Sir, I ask for leave to withdraw my amendment.

The amendment (No. 4) was, by leave of the Assembly, withdrawn.

Mr. President: Does the Honourable Member for Commerce also ask for leave to withdraw his motion?

The Honourable Mr. C. A. Innes: Yes, Sir.

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

Mr. President: That disposes of amendments Nos. 4, 5, 6 and 7.

Dr. Nand Lal: Not No. 6, Sir.

Mr. President: I am prepared to hear the Honourable Member from the Punjab why it is not disposed of.

Dr. Nand Lal: Sir, the amendment which stands in my name runs as follows:

"That in sub-clause (d) of clause 2 (1) after the word 'sister' insert the words 'sonless grand-father, sonless grand-mother, parentless minor grand-child'."

[Dr. Nand Lal.]

The clause which is before the House when read with the proposed amendment will read as follows:

“ ‘Dependant’ means the wife, husband, father, mother, minor son, minor daughter, minor brother or unmarried sister, sonless grand-father, sonless grand-mother, parentless minor grand-child of a deceased workman.”

Mr. President: I must point out to the Honourable Member that though he is in order technically in moving this amendment, in substance, as the Honourable Member knows, he has the explicit pledge of the Government that they are going to introduce a new sub-clause in another place to meet precisely the point which he wants.

Dr. Nand Lal: If I rightly followed the Government to my understanding, it does not include grand-child, and if it does, certainly I shall be the first person to appreciate that idea.

May I ask that the amendment which the Government proposes to place before the House may be read out?

The Honourable Mr. C. A. Innes: I will answer the Honourable Member, if I may. The amendment which the Government proposed was that the whole clause should be re-drafted as follows:

“ ‘Dependant’ means the following relatives of the deceased workman, namely:

Wife, husband, parents, paternal grand-parent if both parents be dead, minor child, minor brother, unmarried sister, son's children if their father be dead.”

Dr. Nand Lal: Yes, Sir, it includes my amendment, and I therefore withdraw my amendment (No. 6).

Mr. B. N. Misra: Sir, my amendment is rather different from the amendments put forward by other Members. I move my amendment, which runs as follows:

“ In sub-clause (d) of clause 2 (1) after the word ‘sister’ the following be inserted:

‘ or such others as being closely related, absolutely depend on, or are entitled to maintenance by law and custom ’.”

Sir, some dependants of the workmen have been included in the clause, but as far as I understood the Honourable Member for Commerce, Mr. Innes and Mr. Joshi, they said that they do not want a large number of dependants as it will complicate matters, there will be difficulty and litigation, the amount they will get will be very small and so on. But I do not contemplate such a case. What I contemplate is where there is a person absolutely dependant on the workman, say, for instance, grand-mother—mother's mother. The mother's mother owing to natural affection brought up the grandson. In fact the mother's mother spent all her earnings and income for the grandson and brought him up. When the grandson grew he earned money and helped the grandmother. But when the grandson passes away, the grandmother is really at a disadvantage, having spent all her income and property over the grandson, on whom she was absolutely dependent. I do not contemplate a case in which if the grandson dies there are others living to help her. Take the case where there is a grandmother and grandson. The grandson grew up and was employed in some factory or somewhere else and died on account of some injury or accident. Then, the grandmother is, I think, in justice entitled to have a share from the compensation given to such a deceased workman. I consider it is only just to classify her as dependant or relation absolutely dependent upon the deceased workman. I think there will be

no objection to giving some compensation or classifying her as a dependant. For instance, there is a widow sister-in-law. There are two brothers. The elder brother died and the elder brother's wife brought up her husband's younger brother. When this boy grew up, he got employed and supported his brother's wife, because she spent all her money over him and took so much trouble over her husband's brother. If this man dies, the woman should be entitled under those circumstances to get compensation, because she was absolutely dependent on the deceased workman. The present definition covers minor son. But sometimes there may be a grown up son, who is blind, or a grown up son either deaf or dumb. Such incapable persons who are unable to earn are naturally dependent upon the income or earning of their father. In such cases even the Hindu law states that such blind, deaf or dumb sons or a son who suffers from leprosy or other incurable diseases should be maintained by the father even if they are grown up. There is no such provision. The provision only enables the minor son to be a dependant on the workman. But, in such cases, as I have pointed out, according to the Hindu Law, the father is bound to maintain them. When such a workman dies, I think these blind, deaf or dumb sons should be classified as dependants and they should get compensation. I think, Honourable Members of the House will not view my amendment as adding to the list. My amendment meets such other urgent and exceptional cases. I hope Honourable Members of the House will accept the amendment. And then the second part includes those who by law and custom are entitled to maintenance. I think all the lawyer Members of this House will agree with me that the grandfather or grandmother or grandson are real dependants. Such persons ought to be allowed to be classified as dependants of the deceased workman, because they are entitled to maintenance by law. With these words, Sir, I move my amendment.

Mr. J. Chaudhuri: I oppose this amendment, Sir. My friend is under a misapprehension that we are discussing the law of inheritance here. We are neither considering the question of Hindu Law or Muhammadan Law or any other law. The simple principle is that when a workman is injured in the course of employment in a risky industry whether his immediate dependants would get compensation or not; and I submit that the amendment that Government proposes to introduce with regard to this clause is as far as we can reasonably go. The compensation will be available to Hindus, Muhammadans, Christians, Jews and other communities, all alike. So I hope my friends will not misunderstand the scope of this Bill and go off at a tangent and discuss Hindu law of inheritance or the Muhammadan law of inheritance or any other law or custom with regard to maintenance or similar intricate questions. With these general remarks I beg to oppose this motion.

(Several Honourable Members: "The question may now be put.")

(Mr. J. N. Mukherjee made a remark to a Member behind him, which was inaudible.)

Mr. President: If the Honourable Member wishes to speak, he should address the Chair.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): I beg to address the Chair, and I beg the Chair's pardon. I stood up to speak but was interrupted by my friend from behind. However, I observe that a tendency is growing up on the part

[Mr. J. N. Mukherjee.]

of certain Members of the House to cry "vote, vote" without trying to enter at all into the merits of a question. It is all very well for people who cannot imagine that they may at any time be the possible recipients of any portion of the compensation money that may have to be paid to a deceased workman's relations, to consider these question unsympathetically, and to try and rush things in an undeserved manner. I stand up, however, to protest against any such tendency. I submit, Sir, that the question before the House is a very important one, and we can not lose sight of the question of the distribution of the compensation money. The question is not one of heirship. Many of my Honourable friends have misunderstood it. The idea underlying the question is that those who have been deprived of support by the death or injury of a workman should continue to receive support. I think, Sir, that if the clause which deals with the distribution of the compensation money by the Commissioner is defective in any respect, it should be amended in its appropriate place. But, at the present moment, what we are considering is, in what manner the ring of recipients should be determined in the first place. My Honourable friend, Mr. Chaudhuri, stood up and said that there was no question of inheritance involved in the case. Certainly, there is no question of inheritance in the amendment proposed by my Honourable friend, Mr. Misra. It refers only to those relations of a deceased workman, who are entitled to maintenance by law and custom. The point is, if a workman is killed while working, certain dependants of his are thereby deprived of their maintenance or support, which they used to get from the deceased workman in his life-time. That is the chief point we have to keep in view. That being so, the question of heirship does not arise. The Commissioner, or the person who has got to distribute this money is given by the Bill some discretion in the matter, and he may pick out of the persons specified in this circle or ring of men those who are best fitted to receive the compensation. So, the question ought not to be a very complicated one; at any rate, we ought not to complicate it by imagining things which do not exist in the body of the Bill. Therefore I submit that, although as a matter of fact there may be some other dependants, as for instance, old maid servants or such like persons, who are not contemplated by the proposed amendment or by the Bill, the amendment suggests only such persons as are closely related and absolutely dependent on the deceased workman. I suppose the words "absolutely depend on" undoubtedly mean those dependants who are within the circle of his relations. If not, the matter may be cleared up.

Mr. B. N. Misra: I meant relations.

Mr. J. N. Mukherjee: Clause 8 of the Bill bears on this question of compensation. The first sub-clause of it says:

"Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability, be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit."

Then we pass on to where it is not a case of death

Mr. President: Order, order. I point out to the Honourable Member that we are dealing here with the definition of dependants and not with

the procedure to be adopted by the Commissioner in dividing up the proceeds of any compensation.

Mr. J. N. Mukherjee: What I am pointing out is not a question of procedure at all, but a question of right to receive the compensation. If I can make myself intelligible, what I mean to say is this. If the ring of possible recipients of this compensation money be not unduly restricted, the Commissioner will have the opportunity of paying the money to the person or persons who, to his mind, may be the fittest person or persons, among the relatives of the deceased workman to receive the compensation money; and what is more, it is provided in the Bill that in case there is no such dependant within that ring mentioned in the definition, the money is to be escheated or returned to the person or employer who has got to pay the money to the Commissioner. Therefore in view of the danger of unduly restricting the number of possible recipients we are by the proposed amendment attempting to enlarge the circle and reduce the chance of an escheat or return back of the money to the person who paid it. If the object of the Bill is to provide for the distribution of the compensation money in a suitable manner, so that the dependants, that is to say, the persons who should have a share in the compensation money, the number of such relations should not be unduly restricted, in the manner proposed. The effect of such restriction will be what I have submitted to the House. Therefore it is not a question of procedure; it is a question of right which is intimately mixed up with this question of definition. I think, Sir, there is a great deal to be considered so far as the present amendment is concerned. We know that there are certain persons in the body of Hindu law who are not heirs, but who receive maintenance and whom a Hindu is bound to maintain. If a definition is laid down in the Bill without contemplating the existence of such people, my idea is that it will work great hardship and the whole object of the Bill will be frustrated by so unduly restricting the circle of dependants entitled to receive the compensation, and for the reason I have just submitted, namely, that if they are not mentioned or otherwise indicated in the definition, the compensation will revert to the person who paid it. I therefore submit for the consideration of the House that this amendment be taken into sympathetic consideration.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, as one of those unfortunates who unintentionally offended Mr. Mukherjee, a word of explanation as to why we asked that the question should be put may be in order. Sir, the object and scope of this Bill has not been correctly understood by the framers of this amendment. It is creating a special right, a special remedy, a speedy remedy in order to benefit workmen and their dependants. We did not want to complicate the procedure by entering into questions of who are dependants and who are not dependants. We wanted a rule of thumb by which the Commissioner is not to embark upon an inquiry whether a certain person was dependant or not. The law presumes in certain cases they must have been dependant, and we take care to enumerate from our limited knowledge as to who are the likely persons who can be safely said to depend without any evidence about it. What is it this amendment wants? "Such others as being closely related." In the first place the Commissioner will have to determine whether the person claiming compensation is closely related or related in any other way, and what is the definition of close relation? Is my wife's sister a close relation of mine or not? I know, Sir, of many a case where an unfortunate widowed sister lives with

[Rao Bahadur T. Rangachariar.]

her married sister and depends upon that sister and her husband. My friend, Mr. Mukherjee, knows that my wife's sister or my mother-in-law, who is often a welcome visitor in my house has no legal claim on me. Now, you have the case of those closely related or absolutely dependant upon. How is the poor Commissioner to determine between these two questions and again who are entitled to maintenance by law or custom? Is it a family custom? Is it *kala achar* or *desa achar*? What is this poor Commissioner to do? I have great respect for my friend, Mr. Mukherjee, and usually he has a clear vision in this matter. How is the custom to be proved? The poor Commissioner, in distributing this small amount of Rs. 200, Rs. 300 or Rs. 500, as the case may be, has to embark upon an inquiry as to whether there is a custom and how many witnesses there are to prove the custom; whether there have been prior judgments in support of the custom and whether it has been recognised in a court. All these things have to be determined. Is this the way this special remedy is to be given? If my Honourable friends will think about it they will see it is quite out of place. Therefore, you must have a rule of thumb, and the Legislature must provide that rule of thumb. I earnestly appeal to them not to complicate the machinery in this way.

Sir Deva Prasad Sarvadhikary: Sir, Mr. Rangachariar's misfortunes are so few that, when he brings forward one, one is inclined to sympathise with him. He knows his part of the country; Mr. Mukherjee and I know ours, and Mr. Misra knows his. Therefore, even at the sacrifice of losing reputation for clarity of vision at Mr. Rangachariar's hands, I give my support to this amendment. Mr. Misra has mentioned a very pertinent case, the widow of the brother, divided or undivided, does not matter. Mr. Rangachariar's mother-in-law and sister-in-law may be able to take care of themselves, for they may have their brothers or other relations but this poor widow, of whom Bengal knows so well (*Rao Bahadur T. Rangachariar*: "Of whom we all know so well"), Orissa knows so well, needs protection which the amendment suggests.

Mr. Mukherjee was referring at some length to clause 8 of the Bill. That helps us in realising that there is really no difficulty of this kind that Mr. Rangachariar thinks of. The Commissioner, who knows the local circumstances, knows local customs and knows exactly how matters stand among the classes of people concerned, will be able to deal with the question of apportionment under the very large discretionary powers that are given to him under clause 8. What are you doing here is merely extending the scope of the definition but not the liability of the employer or very much adding to the work of the Commissioner.

Supposing this widow that I am referring to—and she looms very large in Bengal—was the only dependant, not in the sense of the definition here, but the only dependant in the family, as she often is, she being not in the list, she will be absolutely unprovided for although money may be available. I do not see, Sir, that very great difficulty will come in because what is close relation, what is absolute dependence, what the law and custom in a particular tract of country is, are not fully defined. No one will be any the worse for this expansion of scope. The Commissioner may have some more work to do, but under sub-section (1) of clause 8 discretion is allowed to him to do as he thinks fit.

Mr. J. Chaudhuri: I move that the question be now put.

The Honourable Mr. A. C. Chatterjee: Sir, my Honourable friend, Mr. Rangachariar, has stated the Government case so well that I had thought it would be unnecessary for us to participate in the debate on this amendment. But my Honourable friend opposite has quoted, or stressed his experience of the conditions of Bengal, and therefore I feel more or less bound to get up and intervene.

I think my Honourable friend, Sir Deva Prasad, as well as Mr. Mukherjee over here, are really confusing the issues very considerably. They are thinking of middle-class families. We want this Bill to apply to the working-classes, to people whose income is very limited indeed. Personally, Sir, I think I have as much experience of Bengali families as my Honourable friends have, and I do not think among the working classes it is at all common to find a brother's widow dependent on a younger brother.

Sir Deva Prasad Sarvadhikary: Many.

The Honourable Mr. A. C. Chatterjee: Excuse me. I do not agree. They all earn their own livelihood. The earnings of a man are not really sufficient to maintain a very large family of widows. Therefore, Sir, I do not think the sentimental question arises at all. As Mr. Rangachariar has already pointed out, the whole scope of the Bill is based on the idea that dependency will not have to be proved and I think this amendment will cut athwart the whole principle of the Bill. I hope the House will not accept the amendment.

The motion was negatived.

The Honourable Mr. C. A. Innes: Sir, have I your permission—the Legislative Department have now put into shape the amendment of which, with the permission of the House, I gave notice a little while ago—have I your permission, Sir, to move it?

[Permission given.]

I beg to move:

"That for clause 2 (1) (d) the following be substituted:

'(d) 'Dependant' means any of the following relations of a deceased workman, namely:

A wife, husband, parent, minor son, minor daughter, minor brother or unmarried sister;

and includes the minor children of a deceased son of the workman, and, where no parent of the workman is alive, a paternal grand-parent."

The motion was adopted.

Mr. N. C. Sircar: My amendment is:

"That in sub-clause (f) of clause 2 (1), after the word 'person' the words 'or body of persons whether incorporated or not' be inserted."

In clause 2 (1) (e) in the definition of 'employer' we have the words "whether incorporated or not" after the word 'persons,' and I want in the case of managing agents likewise to insert the words "or body of persons whether incorporated or not" after the word 'person,' because the managing agent may be the managing agent of a limited liability company and the company may be incorporated; therefore I want to insert those words after the word 'person'.

Mr. President: Where does the Honourable Member mean to insert those words, after the word 'person' in line 1, or after the word 'person' in line 3?

Mr. N. C. Sircar: I want the insertion in line 3.

Mr. President: The question is:

"That in sub-clause (f) of clause 2 (1), after the word 'person' in line 3 the words 'or body of persons whether incorporated or not' be inserted."

The motion was adopted.

Rao Bahadur T. Rangachariar: Sir, my amendment* relates to the definition of the words "qualified medical practitioner." As it now stands in the proposed Bill, Honourable Members will see that "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same, or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners or in any area where no such last-mentioned Act is in force any person declared by the Local Government by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act. The object of my amendment is to omit the words "where no such last-mentioned Act is in force." The result of that will be that the Local Government may declare a person to be a qualified medical practitioner for the purposes of this Act even in places where a Medical Act or any other Act referred to previously is in force. My object is this: I want to give wide power to Local Governments to qualify medical practitioners for the purposes of this Act. Now, medical practitioners have to certify as to the injuries sustained by these workmen and as we know, Sir, our country is not full of western medical practitioners. It is very difficult to find such medical practitioners even in taluk centres practising western medical science or fully qualified to be registered under this Act; and I know also there is a prejudice among this learned body of doctors to include in their fold persons who, although they may be qualified in the western science, take in the assistance of Vaidyans or Hakims; they consider that to be a disqualification. In fact, I know there was a case in Madras

Mr. Jamnadas Dwarkadas: In Bombay also.

Rao Bahadur T. Rangachariar: I do not know of Bombay, but I know of two cases in Madras where two very eminent men of the medical profession practising the western medicine had committed the sin of consulting a Vaidyan in very serious cases. The Vaidyan gave them good and sound advice and saved the life of the patient. They had not succeeded by the western system and so they had called in the assistance of the Vaidyan and succeeded in effecting a cure. This was considered a grave dereliction of duty and breach of discipline: (*A Voice*: "Grave misconduct.") So that there was a considerable agitation amongst the gentlemen practising the western science that they should be excluded from the register of medical practitioners. Sir, I know one doctor, who is also my doctor, who is well known in Madras, and who does not scruple about these things. When he finds that with the western system he cannot succeed in a case he invokes the aid of the Indian medicine. In fact, he

* "That in clause (i) of clause 2 (1) the words 'in any area where no such last named Act is in force' be omitted."

was put on special duty by the Madras Government to investigate the possibilities of including these drugs also in the pharmacopœa—I hope I am using the right word—of these medical people. Sir, therefore I want to provide that persons who are not on the register should also be declared to be qualified. I do not say that they should be declared qualified by any irresponsible person. I will leave the power to the Local Government. I fully trust the Local Government, I fully trust to the judgment of the Local Government, and I say that if the Local Government chooses to say that a certain person may be declared to be a qualified medical practitioner for the purposes of this Act, why should we quarrel with it? Why should we deprive the Local Government of the power to declare certain people qualified because this Medical Act is in force? In other places where the Medical Act is not in force you trust to the judgment of the Local Government, but if the Medical Act is in force then the Local Government is not to be trusted. I think it is not right. Therefore, I want to give the power to the Local Government to declare a person to be a qualified medical practitioner for the purposes of this Act even in places where the Medical Act is not in force. That is the object of this amendment. I therefore, Sir, move the deletion of these words.

The Honourable Mr. A. C. Chatterjee: Sir, I think my Honourable friend, Mr. Rangachariar, has moved this amendment under a misapprehension. It struck me when he was speaking that he thought that unless the definition of a qualified medical practitioner was amended in the way suggested by him, it would not be possible for a man to be attended by a Vaid or Hakim, and it would not be possible for him to tender the evidence of a Vaid or Hakim or of a man who was not qualified in the manner as at present suggested, before a Commissioner. I think, Sir, that is not the intention of the Bill. So far as I can discover, the reference to 'a qualified medical practitioner' comes in only in clauses 6, 11 and 32. The Honourable gentleman will find that it is only where a workman applies for a review under clause 6 that he has to produce the certificate of a medical practitioner. Also it is only where an employer compels a workman to accept either examination or treatment given by his own doctor that the definition of 'a qualified medical practitioner' comes in. Sir, in the interests of the workman himself, I think it would be most dangerous to authorise the employer to employ any kind of medical practitioner who may be available in the locality. There is nothing whatever to prevent a man from putting forward the opinion of his own Vaid or his own Hakim or any kind of medical practitioner before the Commissioner regarding the injuries sustained by him.

Dr. Nand Lal: He will be recognised by the Local Government.

The Honourable Mr. A. C. Chatterjee: I am coming to that. Then, Sir, my Honourable friend is trying to draw a red herring across the whole discussion by quoting the case of a man who was disqualified in Madras, according to his account, because he consulted Vaid and Hakims. Well, Sir, the Honourable gentleman himself has mentioned the case of his own medical attendant who has been entrusted by the Local Government with most important inquiries in spite of the fact that he does consort with Vaid and Hakims. I think, Sir, my Honourable friend has demolished his own case.

My Honourable friend has suggested that we should not distrust the Local Governments. I, Sir, have no desire whatever to suggest that

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we should not trust Local Governments. But these Acts, which are referred to in the definition, have been passed by local Legislatures. All these Acts have been passed by the representatives of the people in the local Legislatures and it is for the local Legislative Councils to amend the Acts if they consider it desirable to do so. We would really be interfering with the discretion of the representatives of the people, of men who are serving on the local Legislative Councils. If the amendment of the Honourable Member is accepted, there will be a very serious danger indeed of a certain amount of conflict between the Local Governments and the local Legislative Councils. My Honourable friend shakes his head in his usual oracular manner, but I again repeat my assertion that we will only be creating friction between the Local Governments and the local Legislative Councils. Sir, I have here all the local Acts. I do not know if my Honourable friend has studied them. He will find that under these Acts practically everybody is entitled to registration. I will just quote from the Madras Act. According to the Schedule of that Act, all the following persons are entitled to be registered:

"Persons possessing the degree of Doctor, Bachelor and Licentiate of Medicine, and Master, Bachelor and Licentiate of Surgery, of the Universities of Madras, Bombay, Calcutta, Allahabad and Lahore. Persons possessing a diploma or certificate granted by the British Indian Government or the Government of Ceylon to any person trained in medical college or school (*I emphasise the word 'school'*) declaring him to be qualified to practise medicine and surgery."

Mr. T. V. Seshagiri Ayyar: There are rules also.

Mr. A. C. Chatterjee: Yes, of course there are rules. That is what I am suggesting. We are really leaving it to the local Legislative Councils to consider which persons should be considered as qualified medical practitioners.

Rao Bahadur T. Rangachariar: Should also be registered. Why so?

Mr. A. C. Chatterjee: Yes, exactly. We are leaving it to the representatives of the people. My Honourable friend in this case does not trust the representatives of the people. He wants to give the discretion to Local Governments. I think, Sir, his amendment is extraordinarily unsound and I hope the House will reject it.

Dr. Darcy Lindsay (Bengal: European): I agree, Sir, with my Honourable friend, Mr. Chatterjee, that this is a most undesirable amendment to make. It would be a grave error for this House to indicate to Local Governments that there should be any lower standard of qualification for medical practitioners than their several Acts allow. We have the Indian Factories Act, and the Act of 1858 referred to in this clause. There is also, Sir, the point of view of insurance. We have heard from my Honourable friend, Mr. Kamat, that insurance forms a very important feature of this Act and that the employer is to be safeguarded by effecting insurance and, as Mr. Kamat said, at most favourable rates. That being so, Sir, we must take into consideration the point of view of the insurance companies, and any weakening of the medical qualification will, in my opinion, strike at the very root of the Act. The uncertainty of the position if it is left to Local Governments to modify the qualifications may make it almost impossible for insurance companies to give that protection that Mr. Kamat desires. The Advisory Committee which sat in Simla had the advantage of the expert opinion of Mr. McBride, a gentleman who has

a world-wide knowledge of the Workmen's Compensation Act and he was very emphatic on this particular point that the reins must be tightened where medical qualifications were concerned. One point where the advice of the medical officer is of great importance is this. A workman may go to his country and his return to work is indefinite. The employer or the insurance company who is protecting the employer wishes to know whether the workman is able to return to work. A qualified medical practitioner has to be engaged to examine the man and report. As my Honourable friend, Mr. Chatterjee, pointed out, if the company or the employer is permitted to engage the services of a man of lower qualification, he may come to a decision greatly against the interests of the workman himself and I do not agree with Mr. Rangachariar that this amendment would be for the benefit of the workman. My Honourable friend in his note of dissent says "There may be persons who for reasons of their own may not wish to register themselves or who are not fully qualified to come on the register and yet qualified enough to say 'a man has lost a thumb'." I ask you, Sir, is that any qualification—to say a man has lost a thumb? Anybody can say "a man has lost a thumb" but what we want is qualification for the proper treatment of the injured thumb, and also to say whether the wound is sufficiently healed to enable the workman to return to his work. With these words, Sir, I strongly oppose the amendment.

Dr. Nand Lal: Sir, I am in support of this amendment. Three grounds have been advanced in opposition to it. The first is that the employer will appoint a man according to his own choice, and that man, possibly to see that the object of the employer is attended to, may not act properly and may, thus, eventually prove prejudicial to the workman. The other ground which has been advanced is that it is quite probable that inefficient surgeons or inefficient physicians may be recognised and this recognition may not be beneficial either to the employer or to the employee. The third ground which has been advanced, in opposition, as I said before, is this, that if there are such people they may make efforts to be qualified, and after their having been so qualified, their names will have an entry on the register and therefore they will come within the scope of this Bill, and if they are not sufficiently able to stand the test, then they are utterly unfit to handle this work, and so the amendment is of no avail. These grounds have been set forth, as I have already submitted, in opposition.

When I examine all these grounds I find that there is no force in any of them. First of all, if the employer is without scruples, he is quite prepared to stoop low, then there will be nothing to prevent him from stooping low in the case of recognised medical practitioners too. The Government Benches will bear this in mind that no quack or inefficient man will be allowed to give certificate or stand as a witness, but a man who has authoritatively been recognised. That recognition is the greatest test. Only that man will have that distinction who is really sufficiently able to certify or examine. Therefore, there is no fear, so far as that ground is concerned. The other ground that he will be incapable, so far as that question goes, there have been a number of cases where our Indian physicians and surgeons, though they have not passed the test in some first class recognized medical colleges, are equally able, and as regards these, this appeal is made. Suppose, in some area, there is no man who has got a diploma or a degree from some officially recognized medical college, but there is a man who has had training, officially enabling him to practise and, so far as practice goes, he has a fairly good experience and

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is fully capable of giving a certificate and fully capable of examining patient or injured workman and the expression of his opinion will be sufficient to determine the question of disablement. Why should the workman be deprived of the services of the man who is living close by? On the other hand, why should that able man be depreciated so far as merits go? The third ground is that he should make efforts to qualify him in that behalf. Does my learned friend seriously mean to say, that in order to give the benefit of his services and ability to a workman or to the employer he may undergo a special test? It is not necessary at all. If he is capable and able to handle these questions, then he will be recognised and will be considered sufficiently well-qualified for the purposes of this Act. (Mr. J. Chaudhuri: "Leave it to Local Government.") Yes, it will be done. That is why I am recommending this. (Rao Bahadur T. Rangachariar: "That is my amendment.") Therefore, I have submitted there is not much strength in the opposition, and consequently, being in favour of the spirit of the recommendation which has been embodied in this amendment, I very strongly support it.

The Honourable Mr. C. A. Innes: Sir, I would appeal to the House not to accept this amendment of Mr. Rangachariar, for if that amendment is accepted, it may have a very mischievous result. I should like just to give a history of this case. When I submitted the Bill to the House, we had a very much more stringent definition of qualified medical practitioners, and we made the definition very stringent indeed because we knew what an effect upon the Insurance Companies it would have if they thought that we were in any way inadequate in our standards of medical practice. In the Select Committee, in deference to views expressed to the Select Committee, we watered down our original definition and we adopted the existing definition of qualified medical practitioner, which has been taken from the Factories Act. Now, Sir, that definition came before the House only two days ago in regard to the Mines Bill. Exception was not taken to it by my Honourable friend, Mr. Rangachariar, nor by anybody else in this House. In this particular case the thing is of far greater importance, and yet Mr. Rangachariar wishes to alter the definition here. As I have said, it may have a very great effect upon the working of this Bill. It may send up the insurance rates for every employer in India, and I suggest, Sir, that if Mr. Rangachariar wishes to get recognition or registration of his Vaidas or Hakims or anybody else, let him do so by a separate Resolution but let him not prejudice the chances of this particular Bill working successfully. I oppose the amendment, Sir, most heartily.

Mr. N. M. Joshi: From the point of view of the working classes, I think, Sir, there is some disadvantage as well as some advantage in the amendment of my Honourable friend Mr. Rangachariar. In my opinion the disadvantage is that it may encourage them to go to Vaidas or Hakims, which I do not want them to do. But unfortunately, Sir, knowing the conditions of the working classes in this country and knowing very well section 11, sub-section (4), I think there is a great advantage in the amendment also. Unfortunately Government has thought it fit to include in the Bill, sub-section (4) of section 11, which is not found at least in English legislation. According to this clause a workman, if he is not treated by a qualified medical practitioner, stands to lose something. Sir, I know very well that a large number of the working class people do go to Vaidas and Hakims, and therefore if this section stands, that is, sub-section

(4) of section 11, then evidently there is a great advantage in having the expression 'qualified medical practitioner,' defined, as my Honourable friend, Mr. Rangachariar, has done; otherwise a large number of the working class people when injured will lose the benefit of the Workmen's Compensation Bill, because a large number of them go to Vaid and Hakims, and it would be quite easy for the employers to show that the injury was aggravated on account of the Vaid, that the workman got treatment from an ordinary qualified medical practitioner and not from a registered medical practitioner. I think therefore that on the whole I would support the amendment instead of opposing it.

Mr. Jamnadas Dwarkadas: Sir, the grievance, as far as I understand, that Mr. Rangachariar makes is this. He does not want men with lower qualifications to be included in the section of this Act. I think what Mr. Rangachariar complains against, is the exclusion of certain men, otherwise qualified men who have taken degrees in the recognized Universities, the exclusion of these men from the definition under the Act.

(Dr. Nand Lal was rising from his seat.)

I can explain better if I am not interrupted. Mr. Rangachariar, I think, complained that there have been cases in which qualified medical men, who were known to have degrees and were recognized by the Universities, were excluded by the Medical Council because they showed tendency in many cases to prefer the Ayurvedic or Unani system to the English system, or because they also took the assistance of these two systems of medical examination in certain cases. Some years ago in Bombay we had a case like that, I mean the case of Dr. Popat Prabburam, L.M.S. of the Bombay University, a well-known and highly respected physician of many years' standing. He has been qualified medical practitioner for many years past, but he was disqualified by the Medical Council on the ground—and this Medical Council I am constrained to say consisted mostly of Indian doctors—he was disqualified on the ground that he was guilty of grave misconduct in as much as he used to take the assistance of the Ayurvedic or Unani systems of medicine. That is a grave injustice; there is not the slightest doubt about that. I may also point out that in Bombay at any rate the English doctors, who are not in the Council, unfortunately, fought in favour of the inclusion of Dr. Popat and said that they themselves had found that in many cases the assistance of men who knew the Ayurvedic system was very helpful to them. Now the difficulty when you come to deal with Ayurvedic and Unani practitioners is that you have not got an organization from which you can, say, pick out the best qualified men. I quite recognize that difficulty, though there should be nothing in the Act to prevent such men as advocate the use of the Ayurvedic system from being registered; and if they refuse to be registered because their advocacy of the Ayurvedic system is challenged, then I should think they are doing an act which commends itself to us and is worthy of our respect rather than of our condemnation. But in laying this grievance we should not forget that it is a case which can be fought out on its own merits. I am in entire agreement with the grievance that Mr. Rangachariar makes. I think it is a great grievance and it has got to be redressed and fought out. But I think it ought to be made the subject of a full-dress debate if this Assembly has the power to have a discussion on it! Or, at any rate, we ought to agitate in our provinces to get the local Legislatures to amend the Act so as to make the inclusion of such practitioners possible under the definition given in the Act. I therefore think that we should be justified in carrying the section as it stands and in

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throwing out Mr. Rangachariar's amendment. If I may suggest to Mr. Rangachariar—I am very happy to do so—I think this grievance may form the subject of a separate debate.

Dr. H. S. Gour: Sir, I am afraid my friend on the left has taken advantage of the provisions of this Workmen's Compensation Act to deliver a flank attack upon a wholly different Act, the Medical Act of 1858. I deprecate, Sir, any reference to that Act, because the main question with which we are at close grips in connection with this Act is, what will be the value and effect of a workman injured in the course of his employment if he is treated by a quack instead of a qualified medical practitioner. (*Rao Bahadur T. Rangachariar:* "Will the Local Government qualify a quack?") My learned friend says, will the Local Government qualify a quack? If my friend has no apprehension of that character, he must know that the medical practitioners who are registered under the Act are also registered under the Acts of the various local Councils which are lawfully constituted bodies and exclude only those who indulge in nostrums and drugs which, time and test have proved to be not only innocuous but in many cases mischievous. But, I say, Sir, I shall not be led into a digression from the main point. The main point with which this House is confronted is this. A workman is injured. Mr. Darcy Lindsay, who is an insurance expert, has told you that if you are to enlarge the provisions of this definition of a qualified medical practitioner, you will raise the insurance premia. Is the House prepared to do it? And that is the only question with which we are at present concerned. If my friend Mr. Rangachariar has any grievance against the operation of the Medical Act, I have no doubt he will be able to find time and opportunity for ventilating it. But, so far as the working of the Workmen's Compensation Act is concerned, we must take it as a fact—I hope my Honourable friend will take it as a fact—that we shall weaken the salutary provisions of this Act by such a definition of a medical practitioner; and that being the sole question—and the sole question before this House—I would invite the attention of this House to this—and this question only—and I hope that they will unanimously throw out Mr. Rangachariar's amendment.

(*An Honourable Member:* "I move that the question be now put.")

Chaudhri Shahab-ud-Din (East Central Punjab: Muhammadan): Sir, there appears to be some understanding on both sides. The proposed definition in the Bill gives Local Governments the power to notify as "qualified medical practitioners" persons who are registered either under the Act of 1858 or under the subsequent local Acts, which have been passed in almost all provinces of India during the past ten years; and it further provides that where no such Act is in force, the Local Government is free to notify any person as a qualified medical practitioner for the purposes of this measure. Now, let us see who are possibly excluded from the category of practitioners if full operation is given to the definition as it stands. The Vaidis is the first class and Hakims is the second class of persons who are excluded but this is not all. There are practitioners of the western system of medicine who have not thought fit to get their names registered under the local Acts which have been passed in the various provinces, because they do not perhaps like to bind themselves and bring them under certain restrictions to which every person who is registered and is a member of the local medical council is subject. So, if the amendment proposed by Mr. Rangachariar is not adopted, the one result will

be that such eminent men who have not thought fit to get themselves registered shall be excluded. That is to say, the Local Government shall not be in a position to notify them as "qualified medical practitioners" for the purpose of this Act.

The Honourable Mr. A. C. Chatterjee: Can you name any such eminent men?

Chaudhri Shahab-ud-Din: I can certainly point out some.

The Honourable Mr. A. C. Chatterjee: Are there any such men? Can you name any now?

Chaudhri Shahab-ud-Din: There are some non-co-operators who do not want to come under these Acts.

Then the second class of practitioners of western medical system who will be excluded is of those who were once registered as members of the Medical Councils, but who, for some technical reason, have been excluded from Councils, say for technical misconduct. Such gentlemen may not perhaps be fit to be registered as members of medical councils but yet if they are eminent practitioners and people have faith and confidence in them, there is no reason, if a Local Government deem it proper to notify them as qualified medical practitioners, why the Local Government should not be given an opportunity to do so. And as regards Vaid and Hakims, I quite agree that it is not fair on the part of Mr. Rangachariar that he should take advantage of this amendment incidentally to have a very complicated point solved one way or the other. The status of Vaid and Hakims is a big question and it should be fought in the local Councils. But as regards the first class of men, that is, men who practise the western medical system, they should not be excluded, especially when this is left to the discretion of the Local Government. It is not left to the discretion of any Legislative Council or a private individual. If the Local Government deems it fit to notify a certain person as a "qualified medical practitioner," even though he is not registered as such, I think the discretion of the Local Governments should not be fettered, and it should be left to them to notify such persons as "qualified medical practitioners" if they care to do so. Mr. Rangachariar is enlarging in a sense the definition, and is not narrowing it, and I have no apprehension, absolutely no fear, that a Local Government will ever, in any case, notify a Hakim or a Vaid as a "qualified medical practitioner" for the purposes of this Act.

Dr. H. S. Gour: Then the amendment is superfluous.

Chaudhri Shahab-ud-Din: No, it is not. I have pointed out that there are two important classes of men who stand a chance of not being notified as "qualified medical practitioners" under this Act if the amendment proposed by Mr. Rangachariar is carried. I would join issue with those who hold that there are no medical practitioners who have kept themselves aloof from the so-called medical councils. There are such men; I need not name them; I know some of them. Similarly, there are men who have been excluded. And if there are such men, a Local Government must be given an opportunity to notify them as qualified medical practitioners if it deems fit to do so, for the purposes of this Act. For this reason I support the amendment, though there is a danger indeed of its being extended by some Local Governments beyond the proper limits.

(Several Honourable Members: "The question may now be put.")

Mr. President: The amendment moved is:

"In clause (i) of clause 2 (1) the words 'in any area where no such last-named Act is in force' be omitted."

The motion was negatived.

Dr. H. S. Gour: I have been asked by Mr. Kabeer-ud-Din Ahmed to move the amendment* which stands in his name. He has given me authority to move it. The question which his amendment raises is a very difficult question. It has been adverted to by the Members of the Select Committee. If Members of the House will look at the last paragraph on the front page, they will see that the Joint Committee advert to this question in the following words:

"A much larger question which arises with regard to seamen is the possibility of applying the Act in the case of the crews of vessels registered, whether in or outside of British India, under the Merchant Shipping Act, 1894. We realise that there are important legal difficulties in providing an alternative remedy in the cases of such seamen, but we recommend that the whole question be taken up with the British Government."

The question to which this amendment invites your attention is the question relating to the compensation to Indian lascars not serving in foreign registered vessels but in vessels having, as it were, an Indian domicile. Steamers that ply between the ports of Bombay, Madras, Calcutta and foreign ports have all, as Honourable Members of this House know, their offices at those ports. Their agents are resident there and they live and carry on business within British India. Does the mere fact that the lascar suffers an accident outside the territorial waters of British India, take away the jurisdiction of the Indian Legislature to provide for the payment of compensation to their own seamen? That is the short question with which the Select Committee were confronted. I have read to you an extract from their report from which Honourable Members will see that they did not categorically decide that question one way or the other; they merely allude to it. One of the Honourable Members of that Select Committee, my friend, Mr. Rangachariar, has referred to that question more in detail in his note at page 2, where he says:

"I am not satisfied that it is *ultra vires* for the Indian Legislature to legislate for Indian seamen employed in foreign registered ships."

Honourable Members will see that, though it may be an innovation in this country, Workmen's Compensation Acts have been for a large number of years in force in all civilised countries of the world and under the Acts of the Legislatures of those countries seamen are entitled to compensation. It is conceivable that a French, Italian or British seaman, serving in a French, Italian or British ship, may suffer an accident in American waters. He is entitled to compensation from the employers of his own country and, by parity of reasoning, he, who employs an Indian seaman in British India, should be held liable to pay him compensation here, irrespective and regardless of the place where the Indian seaman received his injury.

* "That if sub-clause (k) of clause 2 (1), the word 'registered' be omitted and after the word 'ship' the following be inserted:

'of not less than one hundred tons; and includes any Indian seaman who has entered into a contract of service with any shipping company or its agent or master of a ship in India.'"

That is the view on first principles. But when we refer to the Government of India Act we find a very clear provision existing in the Act to provide for legislation of this character. Honourable Members are no doubt aware of the existence of section 65, clauses (a) and (c). I shall refresh their memory by reading them:

"The Indian Legislature has power to make laws for all persons, for all posts and for all places and things within British India and for all native Indian subjects of His Majesty without and beyond as well as within British India."

The Indian Penal Code in one of the earlier sections—section 3 or 4—provides for the punishment of Indians for offences committed outside British India. The jurisdiction attaches to persons, whether resident within British India or going outside of it. Consequently, the *ex-territorial* jurisdiction of the Indian Legislature is recognised and finds a place on the Indian Statute Book. Is there any exception in the case of a Workmen's Compensation Bill? If there were, I have no doubt, Sir, the pundits of the Legislative Department would have supplied us with chapter and verse and told us how and to what extent the Indian Legislature has not the power to legislate for Indian seamen receiving injuries outside the territorial waters of British India. I have no doubt that the Select Committee would have bowed to the sapience and wisdom of the Legislative Department. But we find no reference to it here. We merely find that it is written here that there are important legal difficulties. But, I submit, Sir, it was the duty of the Select Committee to face those difficulties. Have they done so? I submit, not. And if they have done so, surely no reference is made to any opinion of legal experts outside the Legislative Department whom they have asked and consulted on this important question of constitutional law. I submit, Sir, the mere fact that there is a legal difficulty should not have deterred the Select Committee from facing it when it was their duty to provide for compensation also in the case of Indian seamen. I have thus far referred to two aspects of the question. I have shown to the Members of this Honourable House that so far as we can see, the powers of the Indian Legislature are sufficiently ample to give the House the jurisdiction which it wants of legislating for compensation to Indian seamen. I have also shown that apart from a very vague allusion to legal difficulties it is not clear that any legal opinion was taken on the subject of the powers of the Indian Legislature. If any opinion is taken in future, let me beg of Honourable Members on the other side to avoid as danger signals those law officers of the Crown. Let them take the opinions of men who are conversant with Indian law and the Indian constitution. Now, Sir, I pass on to a third question, and that question is: assuming that this House has jurisdiction to legislate, should we legislate? I think on this point I and my friends on the Treasury Benches would be at one. I have no doubt that this beneficent piece of legislation will not be shorn of its utility and usefulness in excluding from its scope this very large class of deserving and hardworked workmen, namely, the Indian lascars. I shall not therefore dilate upon this last question. I shall rest content by formally moving my amendment and ask the Honourable House to support it.

Mr. K. O. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I am one of those Members of the Joint Select Committee who feel very strongly that the benefits of the present Bill should be extended to the Indian seaman; but when we considered the matter in the Joint Select Committee we were confronted with the question as to how far it was competent

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for this Legislature to legislate for Indian seamen who were engaged on ships registered under the British Merchant Shipping Act. I must confess that so far as this question of legal difficulty was concerned, we had not the advantage of any outside legal opinion. We had to depend upon the advice which was tendered to us by the Legislative Department. I am very sorry I had not the opportunity of consulting Dr. Gour himself, for the very good reason, that he was not here at that time.

Now, Sir, the first answer that we got when we raised this question was that the benefits of the English Workmen's Compensation Act are available to the Indian seamen engaged on ships registered under the British Act. But I pointed out with reference to some particular cases of which I had papers with me showing the amount of difficulty which the Indian lascars has to experience while trying to get the benefits of the English Compensation Act. For instance, I had with me papers relating to cases of injured seamen residing in Calcutta who were asked to go to England in order to prove the nature of their injuries. In another case, where an Indian lascars had died as a result of an accident sustained at a French port, no compensation was received by his widow or other dependants. In yet another case I found that the mother of an unfortunate lascars who lost his life as a result of a similar accident wrote to the Government of India, to the Shipping Master, to the Marine Department of the Government of Bengal and other authorities asking for compensation.

That shows that these people are absolutely at a loss to find out as to which party to look to for help in these matters. So that, so far as these difficulties are concerned, I don't think that there is any question that the Indian lascars are deserving of every sympathy of this House.

Now, Sir, we have it on the authority of the Indian Seamen's Union of Calcutta that the class of lascars whom we are going to exclude from the benefits of this Act forms by far a large majority of the Indian lascars. In other words, for all practical purposes we are excluding all the Indian lascars from the benefits of the present Bill. Well, this is what the Indian Seamen's Union says with regard to this matter: "It practically deprives by far the major portion of the Indian seamen of their rights and privileges under the present legislation." Dr. Gour has referred to the Government of India Act, and he maintains that we have authority to legislate in this matter. I am not in a position to make any assertion in regard to that. But I would point out that the English Merchant Shipping Act of 1894 in section 125 recognises the right of the Indian Legislature to legislate in certain matters in regard to the engagement of lascars. This is what it says under the head 'Agreement with Lascars':

"The agreement shall be made in such form and contain such provisions and be executed in such manner and contain such conditions for securing the return of the lascars to his own country, and for other purposes, as the Governor General of India in Council or the Governor in Council of any Indian residency in which an agreement is made, may direct."

As I have already stated, I do not wish to dogmatise on this point, but I think this is a question which ought to be explored further than it has been up to now.

The Honourable Mr. O. A. Innes: Sir, I entirely agree with Mr. Neogy's last sentence. I entirely agree that this very difficult question of Indian seamen does require further exploration, and as the House will see from the

Joint Select Committee's Report, we have every intention of making that further investigation and exploration. All I want the House to do is not to be in too much of a hurry. We are up against here an extremely difficult question, a question which raises difficult points of constitutional law on which I for one am not in a position to give any opinion whatsoever. Now I should like to make it perfectly clear that I recognise and the Government recognise that we have to give in a Bill of this kind every consideration to the claims and needs of Indian lascar seamen. We have recognised that, and we always have recognised it. Let no one in this House think that we have not recognised that from the beginning and that we have not devoted a great deal of time and attention to the subject. We have. We discussed it in the Committee in July; we discussed it again in the Joint Select Committee. Now, the first objection I have to Mr. Ahmed's amendment is that obviously it goes a great deal too far. In the first place, the amendment as it stands makes absolute nonsense of the preceding clause in the Bill, so we can hardly accept it as it stands. And in the second place, the amendment as it stands goes a great deal further than even the English Workmen's Compensation Act has ever tried to go. The amendment states that it shall include any Indian seaman who has entered into a contract of service with any shipping company or its agent or master of a ship in India. That is to say, supposing a German or a French or a British ship or a ship of any other nationality comes to India, picks up a lascar seaman here and the lascar seaman enters into a contract with the master of the ship, that seaman is eligible for the benefits of the Bill. Now, the English Workmen's Compensation Act does not go as far as that. What it says is: "Members of the crew of any ship registered in the United Kingdom or of any other British ship or vessel, the owner or managing agent or manager resides or has his principal place of business in the United Kingdom." Mr. Ahmed's amendment goes further than that. He does not make it a *sine qua non* that the owner or managing agent or manager should have his place of residence in British India. Further, looking at it in another way, the amendment does not go far enough. Because, if we are going to introduce this provision into the Bill, Mr. Ahmed does not make any suggestion that we should make provision for the detention of a foreign ship. Supposing a man enters into a contract of service with the master of a foreign ship. While the ship is still in port, he suffers injury by accident. He gives notice of the accident and he lays his claim before the Commissioner. What is there to prevent the owner of that ship from clearing out of the port or going off to, it may be, France or Germany? The English Merchant Shipping Act makes provision in cases of that kind for detention. Mr. Ahmed's amendment does not go as far as that. Now, our difficulty is that the lawyers on the main point disagree. Dr. Gour seems to have no doubt that the Indian Legislature can make this Workmen's Compensation Bill cover accidents occurring outside the limits of British India. Our advice received from the Legislative Department was that it was very doubtful whether they could do so. We arrived at the conclusion that, if we introduced provision of this kind, it would merely cover the case of accidents occurring either when the ship was in the Indian port or when it was within Indian territorial waters. And we did not think it was going to do much good to introduce partial legislation to cover accidents of that limited class. What is the real grievance of the Indian lascar seaman serving on a British ship in this matter? You have got to remember that the lascar serving on a ship registered in the United Kingdom is covered by the English Workmen's Compensation Act already. He can, and he does, recover compensation under that Act. He has done so frequently. But we

[Mr. C. A. Innes.]

recognise that it must be inconvenient for a lascar to sue in the British courts and in the Industries Department, what we thought ought to be done was to see whether we could not provide him with an alternative remedy, the option of suing under the English Act in the English courts or of suing under the Indian Act in the Indian courts. And, if we can do that, then we shall have done far more for the lascar seaman than will be effected by Mr. Ahmed's amendment. Now, I have promised, we undertake to take up that question with the Board of Trade at Home. All I ask the House to do is this—I ask them to remember that this is an experimental Bill, that we are merely making a start with this Bill in a difficult piece of legislation. And I am quite prepared, when we have cleared up that question, to make further provision for the Indian lascar seaman and I hope the House will accept that as a reasonable solution for the present of a very difficult question.

Dr. H. S. Gour: Sir, in view of the assurance given by the Honourable Mr. Innes, I beg to withdraw my amendment.

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

Mr. N. C. Sircar: Sir, my amendment is:

"That in clause (2) (1) (m), the following be added at the end:
'or any bonus earned by the employee'."

This section deals with wages. It says:

"Wages includes any privilege or benefit which is capable of being estimated in money."

Bonus is a privilege which cannot be estimated. Bonus is generally paid occasionally for any good work done by any employee and it cannot be part of wages and cannot be estimated. For these reasons, Sir, I ask that the words "or any bonus earned by the employee" be added at the end of the clause.

Mr. A. G. Glow (Industries Department: Nominated Official): Sir, I rise to oppose this amendment. I am quite unable to see any difference between a bonus and wages. Mr. Sircar himself admits in his own amendment, by the use of the last four words that a bonus is earned by an employee. Let us suppose that this amendment is carried. How is the Commissioner to say what is a bonus and what is wages? Some mills—I can give instances to Mr. Sircar,—pay a weekly bonus, some mills pay a monthly bonus and some pay an annual bonus. There is no difficulty whatever in estimating the amount of the bonus. The amount of the bonus is announced in the company's reports and is published in the newspapers. It is known to the employer and to the worker. The only effect, if we agree to exclude a bonus, will be that the employers will gradually cease paying wages at all. Month by month they will hand over Rs. 20, Rs. 25 or Rs. 30 to the employee and say: "This is a bonus which I give you because you have done excellent work for me." This is not a fanciful suggestion. At one time in an Income-Tax Act, they specified that salary would be included and bonus would not be included, and the result was that they gradually found that salaries were disappearing and that bonuses were increasing correspondingly. I ask the House to do justice to workmen. What we are trying to do is to give compensation that will bear some relation to the earnings of the workman before he was injured. Mr. Sircar

himself admits that this is part of the workman's earnings, and I ask the House to include it in his wages.

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

The motion was negatived.

Mr. N. C. Sircar: Sir, my next amendment is:

"That in sub-clause (n) (ii) of clause 2 (1), for the word 'three' the word 'one' be substituted."

My ground for moving this amendment is this. A workman generally does not get more than Rs. 100 as a monthly wage. It is only Supervisors who get a higher pay than Rs. 100, and the workmen generally never get more than Rs. 100. I therefore ask that the word "three" be substituted by the word "one".

The Honourable Mr. A. C. Chatterjee: Sir, the Honourable gentleman has not given any arguments at all in support of his amendment. I do not really think it is necessary to waste the time of the House at this late hour of the day. I only want to say, Sir, that ordinarily, there ought not to have been any limitation with regard to wages, especially as we had put in other limitations in other parts of the Bill. But we purposely wanted to limit the application of this Bill to the poorer classes, to the lower middle classes, that is to say, to the artisans, the skilled artisans, and the foremen in the factories. A great many of them do earn more than Rs. 100 a month now-a-days and I think it would be extremely unjust to a very deserving class of artisans, skilled mechanics and people of that type if my Honourable friend Mr. Sircar's amendment is carried.

The motion was negatived.

Mr. President: The question is that clause 2, as amended, do stand part of the Bill.

The motion was adopted.

Mr. President: In view of the fact that there is an important Select Committee sitting this afternoon, I propose to adjourn now.

The Assembly then adjourned till Eleven of the Clock on Monday, the 5th February, 1923.