

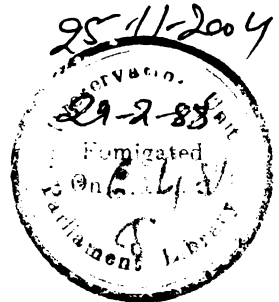
Thursday, 12th March, 1925

THE
COUNCIL OF STATE DEBATES

Volume V

(20th January to 26th March 1925)

FIFTH SESSION
OF THE
COUNCIL OF STATE, 1925



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COUNCIL OF STATE.

Thursday, 12th March, 1925.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

MEMBERS SWORN:

The Honourable Mr. V. Ramadas Pantulu (Madras: Non-Muhamadan) and the Honourable Mr. Pratap Chandra Dutt (Madras: Nominated Official).

QUESTION AND ANSWER.

USE OF THE TWO-PICE OBLONG POSTAL ENVELOPES FOR BOOK-POST PURPOSES.

133. THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY:

(a) Is it a fact that two-pice oblong postal envelopes are largely in requisition and can be used for book-post purposes in sending printed and typed matter with the flap of the envelope put in?

(b) If the answer to (a) be in the affirmative, would Government please state whether the existing stock of two-pice oblong postal envelopes could not be utilised for such purposes, without any financial loss?

(c) Is it a fact that in case of such use of the two-pice oblong postal envelopes, wider use of square one anna postal envelopes would be facilitated?

(d) Is it also a fact that the square one anna class of envelopes is largely in requisition and that the public is not willing to use altered two-pice oblong postal envelopes in preference to square envelopes?

(e) Is it a fact that the full permissible weight cannot be conveniently put into the altered two-pice envelopes doing duty for square envelopes?

THE HONOURABLE MR. A. H. LEY: (a), (b) and (c). The Honourable Member's question presumably refers to the small oblong embossed envelopes bearing an embossed stamp of two pice. These envelopes have been either overprinted to represent one anna, or have had additional stamps affixed. If there are any left which have not yet been so treated, it would be most undesirable to sell them at their original face value, as they would undoubtedly then be used for other than packet-post purposes. This would not only involve an undue amount of labour on the Post Office in collecting charges for under-payment, thus causing inconvenience to the public, but would also lead to the danger of a recurrence of forgeries, which in fact arose in the past when such envelopes were issued without being overprinted.

The answer to parts (d) and (e) of the question is in the affirmative. I need only remind the Honourable Member that the stock of these envelopes which is left is small, and is likely to be shortly exhausted.

STATEMENTS LAID ON THE TABLE.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, I beg to lay on the table three statements showing the area, production, export and prices of wheat and rice during the last 5 years which were promised in reply to questions Nos. 99 and 100 asked by the Honourable Dr. Sir Deva Prasad Sarvadhikary at the meeting of the Council of State held on the 23rd February, 1925.

The answer to the Honourable Member's question No. 101 (a) and (b) of the same date is as follows:

The value of exports in 1924 was greater than the value of exports in 1923 by about 74 lakhs of rupees, but in quantity exports in 1924 exceeded exports in 1923 by a little over 26,000 tons. Taking into account the total Indian production of wheat in the year 1923-24, which was in the neighbourhood of 9½ million tons, the increase in exports was not such as to call for any action on the part of Government.

I.

AREA, PRODUCTION, EXPORT, AND EXPORT PRICES OF WHEAT.

WHEAT.

Exports.

—	Area.	Production.	Quantity.	Value.	Declared value per cwt.
	Acres.	Tons.	Tons.	Rs.	Rs. A. P.
1919-20 . . .	29,949,000	10,122,000	8,643	20,36,600	11 12 6
1920-21 . . .	25,784,000	6,706,000	237,665	4,10,03,199	8 10 0
1921-22 . . .	28,207,000	9,830,000	80,809	1,46,82,887	9 1 4
1922-23 . . .	30,852,000	9,974,000	220,194	3,44,02,127	7 13 0
1923-24 . . .	31,197,000	9,747,000	638,252	9,11,80,928	7 2 3

WHEAT FLOUR.

Exports.

—	Quantity.	Value.	Declared value per cwt.
	Tons.	Rs.	Rs. A. P.
1919-20	48,209	1,48,01,730	15 5 7
1920-21	60,769	1,71,94,860	14 2 4
1921-22	64,420	1,87,01,834	14 8 3
1922-23	50,055	1,30,11,262	12 15 9
1923-24	57,295	1,14,20,769	9 15 6

II.

AREA, PRODUCTION, EXPORTS, AND EXPORT PRICES OF RICE.

RICE NOT IN THE HUSK.

Exports.

	Area.	Production.	Quantity.	Value.	Declared value per cwt.
	Acres.	Tons.	Tons.	Rs.	Rs. A. P.
1919-20 . . .	79,422,000*	32,024,000*	617,606	9,91,17,970	8 0 5
1920-21 . . .	78,952,000*	27,656,000*	1,059,931	17,89,20,310	8 7 1
1921-22 . . .	81,667,000	33,143,000	1,366,456	24,53,20,807	8 15 10
1922-23 . . .	82,402,000	33,703,000	2,037,939	34,69,98,178	8 4 11
1923-24 . . .	78,241,000	28,130,000	2,176,785	34,61,73,660	7 15 3

RICE IN THE HUSK (PADDY).

Exports.

	Quantity.	Value.	Declared value per cwt.
	Tons.	Rs.	Rs. A. P.
1919-20	33,825	28,34,450	4 3 0
1920-21	35,260	30,77,220	4 5 10
1921-22	39,018	35,54,055	4 8 10
1922-23	37,328	34,13,498	4 9 2
1923-24	29,536	27,98,978	4 11 10

RICE FLOUR AND GROUND RICE.

Exports.

	Quantity.	Value.	Declared value per cwt.
	Tons.	Rs.	Rs. A. P.
1919-20	8,845	21,64,870	12 3 10
1920-21	39	10,870	13 15 0
1921-22	35	6,806	9 11 7
1922-23	72	12,731	8 13 5
1923-24	83	12,702	7 10 5

* Excluding Hyderabad for which figures are not available.

III.

Wholesale Prices of Wheat and Rice.

End of—	WHEAT.			RICE.			
	Bombay.	Karachi.	Lyallpur.	CALCUTTA.		BANGOON.	
	(Delhi White.)	(Punjab White.)	(Punjab White.)	Ballam.	Seeta.	Big mills.	Small mills.
	Per cwt.	Per 636 lbs.	Per Md.	Per Md.	Per Md.	Per 7,500 lbs.	Per 7,500 lbs.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1920—							
March . . .	8 10 6	44 0 0	5 1 0	7 12 0	9 4 0	455 0 0	...
June . . .	9 6 6	44 8 0	4 12 0	9 0 0	10 4 0	497 8 0	515 0 0
September . .	9 11 6	49 0 0	5 7 0	8 12 0	10 8 0	477 8 0	515 0 0
December . .	9 3 0	49 0 0	5 7 0	8 8 0	8 12 0	340 0 0	357 8 0
1921—							
March . . .	9 2 6	50 8 0	5 15 0	6 13 0	8 8 0	422 8 0	447 8 0
June . . .	10 6 9	58 8 0	7 8 0	7 14 0	9 0 0	585 0 0	587 8 0
September . .	10 3 6	74 8 0	9 4 0	7 14 0	9 12 0	637 8 0	640 0 0
December . .	9 5 0	61 0 0	9 8 0	6 12 0	8 8 0	380 0 0	415 0 0
1922—							
March . . .	9 8 0	..	6 6 0	7 2 0	9 4 0	485 0 0	512 8 0
June . . .	9 11 0	46 4 0	495 0 0	530 0 0
September . .	7 10 0	39 4 0	4 7 0	7 4 0	9 8 0	445 0 0	485 0 0
December . .	7 6 3	42 0 0	4 9 0	7 2 0	8 4 0	402 8 0	440 0 0
1923—							
March . . .	7 8 6	39 12 0	4 2 0	6 10 0	8 4 0	480 0 0	500 0 0
June . . .	7 9 9	37 0 0	3 14 0	6 10 0	7 4 0	392 8 0	430 0 0
September . .	6 12 0	34 0 0	3 9 0	5 14 0	7 4 0	440 0 0	480 0 0
December . .	7 4 3	35 12 0	3 13 0	5 13 0	7 0 0	455 0 0	500 0 0
1924—							
March . . .	6 12 3	35 14 0	3 11 6	5 9 0	7 10 0	470 0 0	485 0 0
June . . .	7 8 3	38 0 0	3 15 6	6 0 0	8 4 0	...	515 0 0
September . .	9 13 3	46 4 0	4 15 6	7 12 0	9 8 0	525 0 0	540 0 0
December . .	7 10 6	47 2 0	5 3 0	9 2 0	8 8 0	...	444 0 0

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Is the Honourable Member in a position to tell the House what the present state of affairs is?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: I am glad to say that from or about the beginning of February of this year prices are slightly falling.

CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill to amend the Cantonments (House-Accommodation) Act, 1923, as passed by the Legislative Assembly, be taken into consideration."

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the Cantonments (House-Accommodation) Act, 1923, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill, as passed by the Legislative Assembly, be now passed."

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the Cantonments (House-Accommodation) Act, 1923, as passed by the Legislative Assembly, be passed."

The motion was adopted.

INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, I beg to move:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Seeing that there has already been a full-dress debate on this Bill in another place, I have no intention, nor do I consider it necessary, to detain the House for any length of time in discussing its provisions in detail. I regard this as a humanitarian piece of legislation. Every one of us knows that almost at the end of every Haj season India was convulsed with the news that a large number of pilgrims who had proceeded to that holy city for the purpose of performing a meritorious act were stranded either in Mecca or in Medina or in Jeddah. Who does not know or who has not heard the harrowing tales of inconvenience, discomfort and starvation which befell the lot of these unfortunate people? They were faced with all kinds of epidemics and they had on account of their utter state of destitution to fall an easy prey to them. On every one of those occasions either public funds had to go to their rescue to repatriate them back to their respective homes or private charity had to be tapped to produce the same result. If I inform the House of the actual state of destitution during the last few years I am sure they will agree with me

[Sir Muhammad Habibullah.]

in thinking that this unfortunate state of affairs should be ended rather than mended. I shall not weary the House with a long recital of the figures relating to the past several years. I shall merely confine myself now to placing before them the figures from the year 1921. In that year, Sir, out of a total pilgrim traffic of 10,854 which left India, no less than 500, or $4\frac{1}{2}$ per cent., were rendered destitute. In the following year, things were worse. Out of a total of 12,849, there were so many as 1,106 destitute persons, representing a percentage of $8\frac{1}{2}$. The succeeding year reached almost a climax, for in that year the percentage of destitutes rose to 11·4. In the following year, namely, 1924, it became necessary for the Shipping Companies to introduce an experimental voluntary system of deposit of return fares in the case of pilgrims who intended to go to the Hedjaz. And what was the result? The result was that under this system no more than 0·9 were returned as destitute. But, when it is remembered that there was still an element of option in this system, it was not possible to eradicate the evil altogether. I would ask the House whether it is fair to the general tax-payer that from year to year the Government of India should be called upon to shoulder the financial responsibility incidental to the repatriation of a large number of pilgrims who go without the means to return back to their homes. In the year 1921-22 the Government of India had to spend no less than Rs. 40,000 for that purpose and in the year 1923-24 another sum of Rs. 35,000 had to be spent in the same direction. Thanks indeed to the large-hearted sympathy of the Central Haj Committee at Bombay, they undertook the responsibility of bringing these destitutes back home in the year 1922-23. Neither public funds nor private charity should always be relied upon as the remedy for this evil. It, therefore, became necessary to devise means for the purpose of effectively suppressing, if I may say so, this evil.

Before I proceed to discuss or rather to refer to the provisions in the Bill, I may also invite the attention of the House to one very significant fact. Out of the pilgrims who find their way to the Hedjaz, four principal countries contribute the bulk of them. The Dutch East Indies send no less than 30 per cent. of the total pilgrims. Malaya sends 12 per cent. Egypt sends 11 per cent. and India contributes 27 per cent. Let us see whether in those countries which contribute towards this pilgrimage the state of affairs is as bad as is admittedly the case in India. In the Dutch East Indies and Malaya there is a rule which prevents any pilgrim from going to the Hedjaz unless and until he shall have purchased a return ticket for reaching his home after performing the Haj. This is an obligatory injunction. In effect he will not be given a ticket unless and until he pays for the return journey. In Egypt, which I think cannot be regarded as doing anything against the tenets of Islam, the rule does not stop there, but it calls upon every pilgrim not only to purchase a return ticket, but also to pay in advance for all the expenses of messing and other items incidental to the pilgrimage. What we have now provided in our Bill is not that he should take a return ticket as an obligatory measure, but we have left it optional with the pilgrim either to take a return ticket or to deposit the value of the return ticket which, under certain eventualities, definitely mentioned in the Bill, is returnable to him in case he does not return back home. In the event of his death in the Hedjaz, this amount is returnable to his heirs or other representatives whom he may nominate for that purpose. It must be recognised also that that the Hedjaz, as we all know, is a centre from which epidemics spread usually to other

countries, and we owe it to other countries as well that we shall do nothing which will add to their embarrassment in having to grapple with epidemics which owe their origin mainly to the Hedjaz pilgrims, and which again were contributed by people going from India. The House also remembers, I suppose, the Paris Sanitary Convention under which we have certain obligations, and we cannot discharge them unless and until we make the condition of the pilgrims better than what it is at the present moment.

One word as regards its religious aspect, about which reference has been made in certain quarters. It is true, Sir, that I am not a religious divine, nor can I claim the honour of proficiency in Islamic theology, but all the same, Sir, I am a true Mussalman and I shall yield to none in my love of or respect for Islam. I should certainly be no party to any legislative measure being placed on the Statute-book if I knew, or had the least suspicion in my mind, that it would err against the tenets of Islam, or militate against them. I have sought inspiration not merely from those religious books which I think I can claim to know, but also from those whose profession it is to give advice on religious matters. The most recent pronouncement on that matter is by no less a person than Maulana Saiyed Sulaiman Nadwi, who went the other day as a delegate to Islamic countries for purposes which I need not now mention, and who on return to India, has expressed his opinion in a journal called the "Khilafat" where he makes this significant statement:

"I have heard so much about the pitiable plight of Indian pilgrims, that I am considerably tempted towards the deposit system, as is under consideration by the Legislative Assembly."

He returned only the other day to India with full, complete and first-hand knowledge in regard to the actual condition of the pilgrims in that city, and after deliberate consideration, he has come to the conclusion that the deposit system which the Legislative Council were considering by means of this Bill which I have now the honour to present to this House, is the only method by which the existing evil can be grappled with. I need not therefore say much more on that aspect, and I would now beg the House to grant me permission to take this Bill into consideration.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The clauses of the Bill fall into two or three natural groups which I shall put to the Council.

Clauses 2, 3 and 4. The question is:

"That these clauses do stand part of the Bill."

The motion was adopted.

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

Clauses 5 and 6. The question is:

"That these clauses do stand part of the Bill."

The motion was adopted.

Clauses 5 and 6 were added to the Bill.

[The President.]

Clauses 7 and 8. The question is :

“ That these clauses do stand part of the Bill.”

The motion was adopted.

Clauses 7 and 8 were added to the Bill.

Clause 1. The question is :

“ That this clause do stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The question is :

“ That these be the Title and Preamble to the Bill.”

The motion was adopted.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: Sir, I now beg to move :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I welcome the speech made by the Honourable Member in charge of the Bill in moving that the Bill be taken into consideration. As regards the Bills that are introduced, considered and passed in the other House, this Council, for obvious reasons, is at a disadvantage in considering their detailed provisions unless the salient features of such Bills are put succinctly before the House. Honourable Members no doubt are expected to know the trend of discussion in the other House. All the same I submit, Sir, it would be more convenient if Honourable Members in charge of such measures made brief speeches in this House to explain the necessity which has influenced the Government in introducing legislation. It is in this view that I welcome all the more the considered speech made by the Honourable Sir Muhammad Habibullah a short time ago.

On the merits of the question, Sir, I do not think it is necessary to detain the House long. Having considered the whole matter and the literature upon the subject carefully, I am free to admit the time has come when, with due regard to public interest, it is no longer possible for the Government to shelve this question. This piece of legislation I have no doubt is beneficial, and if in the course of its working we find that any case has been made out for any alterations I have every reason to believe that the Government will not be slow to act in the desired direction and will bring forward the necessary amendments. There is however one point on which I expected the Honourable Member to throw some light. It has been a standing grievance of pilgrims for many years that not infrequently they have to wait in Bombay sometimes for weeks, sometimes even longer, and that the shipping companies are not in a position to tell them definitely when the ships will sail, or when they have advertised certain dates the ships do not sail on those dates. Similar remarks apply to the sailing of pilgrim ships on the homeward journey from Jeddah. This entails great hardships on those pilgrims who are proceeding from Bombay on the outward journey or returning from Jeddah on the homeward journey; and looking to the financial position of most of these pilgrims which has been described so fully by the Honourable Sir Muhammad Habibullah, any delay in the sailing of these ships hits the

pilgrims very hard. Care therefore, Sir, should be taken that the dates advertised for the sailing of the ships are strictly adhered to; and further that when a sufficient number of pilgrims is to be found either in Bombay or in Jeddah then care should be taken to arrange for the sailing of the ships without any unnecessary delay. That is a point on which the present Bill is silent. I know the reason why such a provision has not been included in the present Bill. I expected that the Honourable Member, as he did in another place, would give an assurance to the House that the necessary legislation would be introduced at an early date. I was a little disappointed that the Honourable Member omitted that point from his speech. I would welcome an assurance on this point. I have no doubt that this is a point that has been engaging for some time past the serious consideration of Government and I hope Government will take early steps to remedy this evil also.

I support, Sir, that this Bill be passed.

*THE HONOURABLE MR. YAMIN KHAN (United Provinces West: Muhammadan): Sir, I also support this motion. I would like however to make a few remarks on certain clauses about which I could not really find out why they have been put in this Bill. As regards the matter which has been so ably dealt with by the Honourable Sir Muhammad Habibullah, that was really a matter for the Legislative Assembly to discuss more exhaustively because they are the real representatives of the people with whom it is really concerned (*The Honourable Saiyid Raza Ali*: "Are we not?"). No we are not (*The Honourable Saiyid Raza Ali*: "Question, question?") Now, Sir, with regard to this clause 3, I wonder why it has been put in this Bill. Up to now, as far as I understand, every ship has to touch at the port of Aden on its way to Jeddah and on its way back from Jeddah to India. The clause says:

"Where any pilgrim ship touches at Aden in compliance with an order made under section 203, the authority at Aden empowered to grant the certificate required under that section. . . ."

which means that every pilgrim ship will not touch the port of Aden but only those ships that are ordered to go there. I do not see the advisability of introducing this clause, or why there is any necessity to stop pilgrim ships touching at the port of Aden. Sometimes it happens, as we hear from different people, that when they have to go on a long journey without touching any port for 9 or 12 days they feel great hardships. The passengers would like to have a little breathing time. The daily sound of the engines and machinery puts people out of gear, and people who like myself are bad sailors would welcome a stop of two or three hours at any port which we could make after 4 or 5 days journeying. Then there are the necessities of life and other things that might be required; fuel might run short or the provision boxes might have become empty; because on these pilgrim ships as we all know pilgrims do not get provisions supplied from the ship, they have to carry their own stocks of food along with them. So if the boat touches at Aden, if they have run short they can change or get fresh supplies at Aden or if they have to start from Bombay direct to Jeddah sometimes passengers have to halt at Bombay for a month or so waiting for their boat and any fresh supplies which they have brought along with them from their homes are exhausted before they start. So, Sir, I at least could not understand why this provision has been introduced, and it has not been explained,

*Speech not corrected by the Honourable Member.

[Mr. Yamin Khan.]

by the Honourable Member as to what was the necessity of introducing this change in the existing law. I hope the Honourable Member will clear up this point.

THE HONOURABLE DR. SİR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadian): Sir, I think the House and the Government may well be congratulated that the passage of this Bill in this House has been undertaken by a representative Muhammadan gentleman who has gratuitously claimed to be a true Moslem. That went without saying. A great deal of the misunderstanding elsewhere may have been due to the want of clear exposition of the case such as this House has been treated to. It is always an advantage, Sir, when dealing with communal questions of this importance that leading representatives of the community concerned should be entrusted with seeing through any measures that may be in contemplation. For the lack of it the Hindu community has sometimes suffered. It is, not with regard to communal aspects of the question before the House, that I want to take up its time, after particularly the fairly free passage that has been promised. The point that I want definitely to bring before this House and to the attention of the Honourable Member in charge, is a grievance of Bengal Muhammadans, which I had hoped would be voiced by my Haji friend from Bengal, who is unfortunately absent from the House to-day. It may not be generally known that Bengal Muhammadans suffer from a great disability; many of them do not talk Urdu. That has been a trouble in regard to our educational questions and other questions into which I shall not enter for the present. I had occasion of coming into contact with a number of Bengal Hajis, who do not talk Urdu and who were at a great disadvantage abroad when religious fervour and zeal took them on these long pilgrimages. There is another aspect of the thing regarding which I should rather be reticent, if I could, namely, that the non-Urdu speaking Muhammadan is looked upon by even his co-religionists abroad with a certain amount of distant feeling, if not distrust. That has been very much in the way of a number of Bengal Muhammadan pilgrims and the destitution in their case has been proportionate because they have not been able to express themselves freely and fully to their co-religionists in whose company they find themselves. I do not know whether any effective measures can be taken in a matter like this; but it is a live question and I shall be glad if the Honourable Member can have any steps taken in the matter of ensuring interpretation and guidance so far as those who do not talk Urdu are concerned. Destitution in the case of the Bengal Muhammadan is proportionately great because they, as a class, are generally poor. They are not lacking all the same in religious fervour and zeal and they undertake these pilgrimages without due consideration as to what may be ahead. At the present moment I do not see any likelihood of the acceptance of the proposals favouring the Egyptian practice of deposit of costs of the pilgrimage as well, but if Muhammadan sentiment at large is not opposed to it, the next step must be to see not only that outgoing pilgrims are provided with means of return to their country, but also the means of maintaining themselves during the Haj. The language difficulty exists to a certain extent I am told—I am not personally aware of it—in the case of Muhammadans from the Dutch Indies some of whom do not talk any Muhammadan language, but strange to say, speak Sanskrit, and interpretation in their case is provided.

THE HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras: Non-Muhammadan): Sir, supposing a pilgrim makes an undertaking that he does not return within two years, and supposing he has to return earlier than two years, will he be precluded from returning to India before two years? That is one doubt that has arisen.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: No.

THE HONOURABLE MR. K. V. RANGASWAMI AYYANGAR: Then to defeat the provisions of this Bill he may give an undertaking that he is not going to return for two years for the sake of not taking the return ticket and then he may go and make the pilgrimage without depositing in advance the return fare and return before two years. This is one point that has arisen here. But apart from that, I beg to say that my sympathies go with the poor, the poor who have not the capacity to advance the return fare here. After begging or doing some work there in Mecca they may earn their return fare. I quite agree with the points raised by the Honourable Sir Deva Prasad Sarvadhikary and I need not repeat all that he has said here to-day. I suppose all these points have been considered by the Honourable Member in charge of the Bill and he knows more about the conditions prevailing there than I can know: I simply express my sympathies with the poor classes who want to make the pilgrimage and who cannot afford to deposit the return fare in India itself.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: Sir, I am highly thankful to the House for the kind reception which they have given to this measure, and I feel considerably elated by the observation made by my Honourable friend Sir Deva Prasad Sarvadhikary that the fact that I happen to profess the same faith which this Bill is intended to affect has been a source of confidence in the minds of my Honourable friends who belong to the Hindu community that I would not have ventured to have brought this forward but for the fact that I felt religiously convinced that it was a correct measure.

Now, Sir, passing on to a few observations which were made by some of the Honourable Members, who have obliged me by their observations, I am sorry indeed that I missed to repeat the assurance which I had given in another place in regard to a matter which was pressed on my attention by those who were keen about it and to whom I had passed my word that I would bring forward an amendment of the Bill now before the House to carry out their intentions. I refer to the inconvenience which is alleged to exist by reason of the indefinite delays which occur at the port of embarkation in the sailing of the ships. I had already undertaken to provide by means of a further Bill that the dates of sailing should be notified previously for public information, and that a period should be allowed thereafter within which the steamship company must make arrangements to leave the port, unless it be for unforeseen reasons over which they have no control, and that thereafter if the ship does not sail, something in the shape of a detention fee should be paid in respect of pilgrims who had already purchased tickets. As Honourable Members of this House may be aware, I translated that promise into actual action in another place: but as it was held that that motion was out of order, we had no other alternative but to reserve it for another occasion, and I give the assurance once more that I shall take the earliest opportunity of further amending the Bill in that direction. As

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regards similar inconvenience which is alleged to exist in the case of pilgrims homeward bound, I would invite the attention of the Honourable Member to the provision which already finds a place in the Bill. We have taken that fact into account in clause 7. Section 209-A provides that there should be a deposit made by the company for defraying expenses of the kind referred to by the Honourable Member.

Passing on, Sir, to the objection as to why Aden has been eliminated from the ports where a ship should necessarily call, I will invite the attention of the Honourable Member who made that criticism to paragraph 2 of the Statement of Objects and Reasons, which definitely mentions why, instead of making it obligatory on the part of every ship to touch at Aden, power has now been given to the Local Government to decide whether a particular ship should call at Aden or not. It does not, therefore, prohibit any ship from calling at Aden, but it is a matter of discretion. We made this change on the strength of the representation that was made to us that the calling of every ship at Aden was no more necessary under the present state of modern sanitary conditions, but that if experience showed that it was preferable that every ship should call at Aden, the matter, of course, will be reconsidered.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: The Bill which is before us is without the Statement of Objects and Reasons.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: The copy which I have before me has got the Statement of Objects and Reasons.

Then, Sir, my Honourable friend from Madras pointed to a possible danger by which a pilgrim might dupe the authorities by declaring, before starting, his intention of not returning within two years and then subsequently doing so. Well, there is nothing to prevent his doing so. But if it was found that merely for the purpose of saving himself from the provisions of the Bill which enjoin the deposit of the return fare he had made a false declaration, it will be, I take it, competent for the authorities to take such action as the circumstances of the case may justify. The rule-making power which has been given to His Excellency the Governor General will provide for the form of, and the officer before whom, such a declaration should be made. Therefore, I cannot say at the present moment what the form of that declaration will be and what the penalty resulting from it. However, I shall certainly bear in mind the possible evasion of the rule which has been brought to my notice by my friend from Madras. He sympathised in a way with those who go to Mecca by begging and he drew rather a sad picture of the plight of those individuals who, though they do not possess even a single farthing in their pocket, are yet confident that they could persuade the richer class of pilgrims to part with their hard-earned cash and thus enable them not only to return but also to enrich themselves at the expense of the latter. As I have already said, I am a true Mussalman and I do not wish to deviate an inch from that position. I know my religion and I do not think that anybody has the least doubt that I do not. The injunction in the Koran prohibits begging and this being so I, as a true Mussalman, should never do anything which will encourage begging. For the information of my Honourable friend—of course, I do not think he can understand the original if I quote it to him from the Koran—I will merely read to

him the translation of two particular passages which, I think, he will see are very wholesome. This is from the translation of the Koran :

"The pilgrimage must be performed in the well known months. Whosoever, therefore, purposeth to go on pilgrimage, let him not transgress nor quarrel in the pilgrimage. The good which ye do, God knoweth it. Make provision for your journey, verily the best provision is abstinence from beggary."

Therefore, the religion of Islam which is based on the bed-rock of reason cannot be regarded as issuing an injunction which those who do not possess the goods of the earth in sufficiency could not carry out. It is not said that if a Mussalman has not performed the Haj he ceases to be within the fold of the Islam. This is one of the obligations laid on the shoulders of those who could perform it, who have the means to perform it and who can therefore do it without detriment either to themselves or to the society at large. I therefore wish to emphasise upon my Honourable friend from Madras that begging is by no means encouraged by Islam, nor will I welcome a man who went to perform his Haj by begging and returned to his country by the same means.

THE HONOURABLE MR. K. V. RANGASWAMI AYYANGAR: But the conditions are not like that. In Madras there are plenty of Mussalman beggars.

THE HONOURABLE THE PRESIDENT: The question is :

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as passed by the Legislative Assembly, be passed."

The motion was adopted.

COTTON GINNING AND PRESSING FACTORIES BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to provide for the better regulation of cotton ginning and cotton pressing factories, as passed by the Legislative Assembly, be taken into consideration."

The interest which this Council has always taken in economic matters affecting the agriculturists and the better organisation of trade ensures, I think, a warm welcome to this Bill, because those are the main objects towards which this Bill is directed. It is one of a series of measures which have come from the recommendations of the Indian Cotton Committee. Many Members of this House will remember the report of that Committee which was published a few years ago and, although it is rather an ancient Committee now, I think it is only fair to say how valuable was their report. It was full of suggestions, which were practical, authoritative and useful and based on a very careful examination of the facts. Much that that Committee recommended has already been carried into effect, especially in the lines of the improved organisation of the trade and of the appointment of authoritative bodies dealing with the trade in, and with the cultivation and production of, cotton. I refer especially to the East India Cotton Association whose business is chiefly to deal with the marketing of cotton and control of the cotton markets in Bombay. I also refer to the Central Cotton Committee which is a representative body of the different Agricultural Departments, agriculturists and the trade and whose chief object is the improvement of cotton cultivation and production. Sir, one of the biggest difficulties in connection with cotton, which the original Cotton Committee emphasised, and with which these two

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bodies, to which I have just alluded, have had to deal, arises from the mixing which goes on. Cotton inevitably passes through many hands from the cultivator to the final spinner, and in the course of that journey it suffers, I think, many vicissitudes. I am certain that the experienced and excellent representatives of the spinners that we have in this House will bear me out in this statement. These evils result in a loss to the spinner and a loss to the cultivator. They cause a loss to the spinner because what he desires is an even run of cotton through his mill, and the mixing of cotton or the defects which arise from bad ginning only result in a loss which he sees clearly in the wastage in his blow room and on the cleaning machine. He is equally conscious of the losses that bad ginning bring upon him. They also mean a loss to the cultivator. Many of our cultivators have, especially in later years, been taking great care to grow better types of cotton. Their experience is however roughly uniform. They gain a premium for their better quality cotton

12 NOV. at first, and after a time the premium rapidly runs off, very largely, or mainly due to the fact that the reputation of their cotton has been damaged and that often is not the fault of the cultivator. Therefore, Sir, we have got these difficulties, which result in loss both to our spinner and our cultivator. In other words, they are a dead economic loss to the country as a whole. They may afford a temporary or fleeting profit to some middleman, but for the country as a whole they are a dead economic loss.

It was to try and check this dead economic loss that the Central Cotton Committee applied itself. One of its recommendations this House and the Assembly have already carried into law, and that is the Act for regulating the transport of cotton. That was passed two years ago and has already had very good effects in certain districts. That Act however by itself will not meet the whole of this question of mixing, and the Central Cotton Committee at one time even advocated the introduction of complete system of licensing of presses and gins with the necessary corollary of inspection. Well, Sir, that was a remedy which very few would wish to see introduced. Government inspection in matters of trade is not, except of course, in deleterious trades, a thing which the commercial community welcomes or Government readily undertake. It is the last desperate resort. In the Bill as it is put forward, that question of licensing and Government inspection has entirely gone out. It does not occur. It is no business of officials or Government inspectors to enter a factory and decide whether cottons of different characters or different staple are being mixed. The Bill attempts to attack the evil in another way. Its object is to put the trade in a better position to deal with the difficulty itself. The Bill aims at enabling the trade to know and to ascertain easily and readily in which gins or pressing factories, chiefly pressing factories, these evils may be occurring. That is all it does, and that in itself should be, we believe, a potent and useful weapon in checking this present evil.

This is how we hope and expect it will work. The Bill lays down that every press should be given a distinctive mark, and that to every bale which is pressed in that press a serial number and the mark of the press should be indelibly placed on the bale. Therefore, there will be a tally which goes with that bale right through its course ultimately to the mill, with the result that any press which habitually practises these malpractices or mixes its cotton will soon and ultimately get a bad name. We all know in business how valuable a good reputation for a house or a firm is.

A bad reputation for a house or a firm is equally deleterious, and the object of this Bill is to make it certain that those who are practising mixing, which depreciates the general reputation and value of Indian cotton, should gradually become known. Thereby the trade itself can bring pressure to bear upon them. It goes no further than that.

The provisions of the Bill merely turn upon that principle. They require the press owner to maintain a register of bales pressed. That is only fair; every good press owner does it now. That enables the owner of the pressing factory to get back upon the man for whom he is pressing cotton if it is due to him that is getting his press a bad name. Therefore if it is not the press owner, but one who deals with the press who is bringing this mixed cotton to the press, the fault can be traced back to him. The next thing it lays down is that the press should submit returns of the total number of bales pressed, mere statistical returns. This is perfectly simple. Returns are to be supplied once a week. That will be useful to the trade as a check on the crop forecast and an indication of the rate at which the cotton is pressed. Those statistics will be collected and tabulated and totals published. The Bill also lays down that only recognised weights and scales shall be used in press houses and ginneries. That is a provision fair to the cultivator. A certain amount of damage is done to cotton inadvertently through the bad design of ginneries, and the Bill lays down that any ginneries which are constructed in future must conform to certain simple specifications which will be put down in the rules, the chief of which will be a separate entrance and exit for the *kapas* and for the cotton.

Now, Sir, this Bill, as I have just explained, is designed purely to endeavour the trade to meet a difficulty which has been recognised in India to exist for the last 50 or 60 years. Attempts have been made in the past to deal with it by official inspection, as in the old Bombay Cotton Factories Act and have failed. And now we are attempting to deal with it by putting the trade itself in a position to deal with it. An encouraging factor is that the trade is in a better position now to deal with this question to-day than ever before because of the existence of those two authoritative bodies, namely, the East India Cotton Association of Bombay, and the Central Cotton Committee. The first are experts in their own trade. The last of these is composed of merchants, spinners, agriculturists, and representatives from all the provinces and of those interested in the production of cotton, and the upcountry handling of cotton. The Central Cotton Committee's advice would be taken on all matters connected with rules under this Act. They are in fact very largely the authors of this present Bill. That is equivalent to saying that this Bill and its principles have been threshed out and examined already by a committee representative of all the cotton growing portions of India and of the cotton trades. The Bill has also been circulated three times to all Local Governments, and it has received from them practically unanimous support. I hope it will have the same unanimous support in this Council.

I move the motion standing in my name.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General): Sir, I have noticed with some regret that there has been considerable opposition to this Bill in the Legislative Assembly, and that opposition was offered from Members of the Central Provinces. I have also noticed that that opposition was throughout all the stages of the Bill, from its very

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inception to the final passing of the measure in the Legislative Assembly. I am not surprised to a certain extent at that opposition, because I find that, even in the country, there is a great deal of misunderstanding about this measure. I have been intimately associated with the cotton and ginning and pressing industry for the last 25 years, and I own various factories in several Presidencies and also in the Native States, and I can claim therefore to speak with some knowledge and information on the subject. Sir, for the last several years it has been noticed that the quality of cotton grown in India has been considerably deteriorating, and, despite all measures adopted by Government from time to time to improve its quality, no real progress in the quality of the cotton grown in this country has taken place. This, as some of my agriculturist friends here know, is partly due to the primitive methods employed and the non-scientific cultivation of cotton, and partly to the malpractices which have been freely resorted to in this country. I am sorry to say that these questionable practices have been also adopted by gins and pressing factory owners. These malpractices are of various kinds. Merchants in conspiracy with the owners of factories water their cotton at the time of baling with the express object of causing an increment in weight and thus cheating not only the exporter but the consumer of the cotton. Another method is the mixing of cotton of good quality with cotton of inferior quality in order to obtain a good price for the cotton. Some factories have even gone to the extent of allowing their customers to mix absolute waste and rubbish with good cotton for the purpose of making an illicit gain. And when all these dishonest practices are going on many straightforward owners of cotton ginning and pressing factories have to remain quiet and stand powerless, because, if they interfere with the routine work of the merchants, they will be simply told to mind their own business.

Now, Sir, cotton is one of the staple industries of this country. With our growing textile industry and with the requisitioning of Indian cotton not only on the continent of Europe but in England and in the Far East, it is necessary that all precautionary measures should be taken for the good and wholesome growth and for the preservation of the quality of Indian cotton. As such I welcome this piece of legislation. This legislation is not at all likely to cause any hardship to either the grower of cotton or to the owner of a ginnery or pressing factory. In fact, this measure is absolutely indispensable in the interests of the growers of cotton who unfortunately on account of the prevalent malpractices do not fetch the real value for their commodity. If the quality of the cotton is improved the cultivator will be placed in a very advantageous position, and that has just happened elsewhere. Since the passing of the Cotton Transport Act only a short time ago, the Bombay Administration the other day in their communiqué made it perfectly clear that within a brief interval of 18 months the cotton growers of Gujrat have profited to the tune of several lakhs of rupees owing to the passing of that measure. Now the provisions of this Bill are certainly not of a drastic character. The Central Cotton Committee recommended the adoption of licensing for ginneries and pressing factories and also recommended that power should be vested by a central Act to the Local Government for the purpose of licensing such delinquent factories if they find it necessary. In many countries provision by legislation has been made for the protection of staple cotton against pollution by malpractices of this kind. In some countries not only are stringent provisions adopted but such malpractices have been criminally penalised and attended with heavy

punishments. Well, this Bill does no more than simply make it obligatory on owners of presses and ginning factories to keep certain registers, to maintain accounts, to adopt certain marks and methods prescribed by the rules under this Bill, to keep the serial number of the bales pressed in their factories; and, in the case of new ginning and pressing factories being constructed, to make certain structural improvements and innovations as prescribed by the Bill. Now it could hardly be said that a Bill of this nature can be regarded as a drastic measure or that it will inflict any great hardship on the ginning or pressing factory owner. I have read carefully the opinions that have been given by various Provincial Governments who all recommend a measure of greater severity and power, the scope of which would be sufficiently wider so that a variety of malpractices may be effectually dealt with; but I think the Honourable Sir Charles Innes has placed before the Legislature a measure which can only be regarded as of a mild type and as a first step towards the attainment of the ultimate object. Unhappily I have seen in various newspapers in India much unnecessary criticism against this Bill and Members of Council have been asked to oppose the Bill. There is a great deal of misunderstanding prevalent over this measure. In the first instance, it has been pointed out that this Bill is proposed or is undertaken for the express purpose of promoting the interests of foreigners. Now I submit that there is absolutely no sense in this suggestion. It is true that a part of our cotton is exported to the continent of Europe and part to Japan; but of the 52 lakhs of bales which is our average production, the Indian mills consume nearly or little more than one-third, and you know what an advantage it is to our own mills to have good cotton not only for spinning but for the manufacture of cloth. It is in the interests of India that we should have a superior quality of cotton grown in this country. Even if other countries are profited by it, all the better because our cultivators in the long run are placed in a far more advantageous position by competition with foreign countries in obtaining higher prices for their commodity. It has also been pointed out that the Government of India made a mistake in undertaking central legislation of this nature as cotton is grown in many parts of India and the Provinces could have been safely left to deal with their local troubles. My submission is that as one interested in the cotton industry, I would like to see central legislation which would prescribe uniformity of rules and regulations all over India and not make the framing of rules for the marketing of cotton and the carrying on of trade dependent on the idiosyncracies of individual provinces and their trade advisers. Cotton for marketing purposes has no provincial boundaries. All cotton is despatched to the ports, especially to places like Bombay, where it is partly sold for local consumption and partly exported. It is therefore necessary that legislation of this character should be an all-India one. It has also been said that this Bill is likely to fail, because it will cause an undue interference with the trade, and in support of this the history of the Cotton Frauds Act of 1875 has been given for the purpose of showing that this Bill will not meet with a larger measure of success than its predecessor. Now, I have carefully gone through this Bill and I am of opinion that it will not in any way interfere with the trade in any way; it does not interfere with the growers of cotton; it does not interfere in any way seriously with the proprietors of ginning and press factories. It imposes on them certain obligations to keep certain registers and marks and accounts which every well managed company or a proprietor of a business always adopts. Personally I can say that I find that there is nothing very special or new in this Bill which has not been adopted in my own factories or in any well regulated concerns. We keep most of

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these registers which this Bill seeks to impose upon factory owners. I do not think that this Bill will at all interfere with the conduct of ordinary business; on the other hand, as the Honourable Mr. Chadwick has just said, it will put the trade in a position to protect itself, and I assure the House that the cotton trade unaided will not be in a position to protect itself. Some measure as this is necessary in the interests of our large body of agriculturists who are dependent on cotton and also in the interests of our textile industries, which for the manufacture of cloth and its local requirements must depend on the production of good cotton. But, Sir, though I agree with this measure, I must point out to my Honourable friend Mr. Chadwick that the Bill as it stands will not wholly accomplish the aim which it is intended to achieve. Government know and many Honourable Members know that in India our normal cotton crop is about 52 lakhs of bales, out of which about 30 or 32 lakhs is produced in British India and the rest in Native States. There is a vast tract of cotton belt extending from Manmad up to Secunderabad on the one side and another rich belt contiguous to Sholapur and right up to Raichur. In the Bombay Presidency in Kathiawar alone there is a big tract where cotton is grown, and there is likewise an immense tract of black cotton soil in the Indore State. Gwalior State has also a voluminous area under cotton cultivation from Bina to Ujjain, and at all these various places nearly 20 to 25 lakhs of bales of cotton are gathered and despatched to Bombay for sale. So, a measure of this kind is not likely to attain its full objective unless Government undertake a somewhat comprehensive scheme and bring home to the rulers of Native States the advisability of co-operating with the British Government in this matter; and I am sure if the Government of India tactfully move in this matter, the Native States, whose interests in this matter are identical with the interests of the country at large, may be induced to go in for legislation on similar lines. I am afraid that unless we get a full measure of support and co-operation from the Native States in India in the matter of the growth of cotton and also for the prevention of malpractices in ginneries and press factories in their States, which I understand number over 2,000 factories, very little progress will be attained towards reaching the object we have in view. I have, therefore, found it necessary to point this out to Government and I hope they will ask the Native States to extend their co-operation in this important matter. With these words, Sir, I heartily support this Bill.

*THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhamadan): Sir, at this stage I may say at once that I do not propose to oppose the motion for taking this Bill into consideration, bearing in mind especially that it has been well considered, threshed out and passed by another House. We had very pertinent remarks from the Honourable Sir Maneckji Dadabhoy. It is perfectly clear that there is much to be desired in a Bill of this kind; it is not perfect in itself even so far as its object is concerned, and unless some steps are taken for the purpose of ensuring the egress into British India of bales which come from Native States, no Bill of this kind can be of any success. I shall try to confine myself to what strikes me as being the prominent features so far as the principles of such a measure are concerned. Of all the agricultural products in India cotton seems to have attracted a very large amount of attention even from the days of the East India Company, as I find from 1805 when

*Speech not corrected by the Honourable Member.

cotton was being collected instead of assessment in order to enable the manufacturer to turn cotton into cloth, elsewhere not in India. Dr. Voelkar, who was appointed as an expert in 1897, if I mistake not, brought out clearly how other Indian products suffered from adulteration during transit and how Indian wheat suffered in foreign markets in consequence of the adulteration at the hands of the intermediary purchasers and sellers. Adulteration is a matter, therefore, very much like embroidery to the trade concerned, and any measures that are likely to be taken would always prove not quite abortive, but not quite successful. The present Bill does not stop with the production of cotton but it marks the transit of cotton directly it is tendered for purchase. I have had some experience of how cotton is purchased and it struck me that the mixing of cotton was beyond the possibility of checking. The agriculturists and growers bring cotton to the market as their fields produce it. It is not one sort of seed that is supplied to them; there is a mixture of seed, which must result in an equally good, bad or indifferent yield. It is not felt by the cotton grower that all that cotton as collected in the fields has to be carried away for the acceptance of the purchaser. I have seen thousands of cart-loads coming up for sale within the precincts of the Cotton Committee's locality and when hundreds of cart-loads of cotton are collected together they are presented to the ginning factory together. I have had a case which disclosed how very difficult it was to bring home the guilt to anybody. The original factories alleged no responsibility for the cotton that is stocked together for the purpose of ginning when thousands of carts come in with cotton in that locality. The Bill therefore wisely, it seems to me, does not aim at confining the cotton at the first stage. Then it tries to tackle the difficulty in another way. When it is claimed, therefore, that it is in the interests of the grower, I am very nervous in accepting that as the true criterion of this Bill. That this Bill appears to be in the interests of the purchasers will be seen from its various clauses. The interests of the purchasers may have some effect on the interests of the producers also and to that extent it is in the interests of the producers as well. If you look at the provisions of this Bill, it will be found that the principles involved in it are manifold. In the first instance, this Bill proposes to be self-contained. In fact, it lays down the duties and the responsibilities. It creates offences and it punishes such offences as distinguished from the ordinary criminal law of the country. In the second place, it deals with the contractual relations of the parties as will be seen from clause 11. For instance, one of the contracting parties may refuse to accept the bales if tendered under certain conditions, that is bales not marked in the manner prescribed. Then, again, it interferes largely with the responsibility of persons to the ordinary courts in India. That seems to be the modernised idea in almost every Bill that I have been marking passing through this House. There is a tendency to note down in regard to certain sections that "Nothing under this Act shall submit a man to any other proceedings." That seems to me to be a modern tendency. That is a provision which I find very rarely, if at all, in the older laws. It only means the arresting of the ordinary jurisdiction of the mufassil courts and freeing in a manner persons from a certain responsibility which ordinarily attaches to them and thus evading the consequences of their act. So, this Bill provides, as I said before, with reference to several matters and looks as if it is a self-contained measure. In the "Definitions" one finds the use of the several expressions that appear in clause 2. I am speaking only of the principles and it is difficult

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to find any particular use of the expression "cotton waste" as it is used in clause 2. I speak of course subject to correction, but possibly unless this particular use is made of that expression, it may appear as if the definition is standing for the information of all courts which can construe it in a particular manner. Now, looking into the particular clauses of the enactment, so far as the principles are affected, they throw the burden upon the owner of either the ginning factory or the pressing factory, and in certain cases it is claimed that the owner may cause a certain thing to be done. Certain clauses hold the owner responsible for certain things and the responsibility is transmitted to one to whom the concern is also transferred in due course. That seems to be the sequence of the clauses. In maintaining that this Bill creates certain offences. I think it should have made it perfectly clear that since these are the minor offences, the criminal law of the country may not apply to particular acts. Judicial officers find it very difficult oftentimes to separate the offences when a certain offence is brought under the Indian Penal Code as well as under any special enactment. But where a certain offence falls under two definitions, one under the special enactment and the other under the general enactment there is a tendency and also a temptation in the way of the prosecution to evade the particular sanction required by a particular measure and thus bring the offence under the general law of the land. For instance, even if the principle of the Bill were to be as laid down in clause 11 where it is said that "No prosecution under this Act shall be instituted" the prosecutor may as well say that he is prosecuting the man under the Indian Penal Code. For instance, it is said in clause 3, sub-clause (5) (b) that if "any entry in any such register is proved to be false in any material particular". Here there is nothing to prevent the prosecutor taking up the case within the jurisdiction of this Bill and prosecuting the offender without any sanction, or he can take the offender before any court that is authorised for dealing with such offences. It is merely in the case of doubt that you find that this Bill makes it penal. The fine is Rs. 50 which may be enhanced to Rs. 100. In another place it is made a daily fine. So, it is a self-contained Bill to a very great extent. Then, again you have got the civil side of the question. Clause 14 contemplates that it is possible for a person to reject the bales when they are tendered. In fact, that would not be a legal tender, speaking generally. The clause says:

"No bales other than bales marked in accordance with section 4 shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract."

This introduces a somewhat larger question of international law. I do not know myself where the bales may come from and whether it will be possible for the person to reject them. It may be in America or it may be in Japan. Who has to decide about the rejection of these bales, assuming that it is to be done? I trust therefore that very great attention will have to be paid, though this measure looks very very small. I would have really wished, as the Honourable Sir Maneckji Dadabhoy suggested, that there ought to be a comprehensive measure in dealing with the whole cotton question as suggested. There may be numerous recommendations made by the Cotton Committee and such recommendations are bound to be made from time to time when a Committee has for its

object the looking after of the cotton industry. But it would be very difficult to deal with every suggestion of this kind by a separate enactment coming before this House or the other House. A reference was made to the Cotton Frauds Act of the early seventies. I know a little bit of the history of that Act myself and how it came to an end. I know how Mr. James made a report on this matter and how the Bombay Government in a Resolution dated 1894 dealt with that Act. It had to vanish after all. It was then in the interests of a certain concern and was abolished at the instance of purchasing concerns and not at the instance of the producers.

Then I shall take objection to the principle involved in clause 15 which lays down:

"No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act."

Assuming for a moment that certain bales are offered to a man and he rejects them, there is no manner of enforcing the Bill, if he merely says it is a *bona fide* act on his part that he has rejected them. He did not know. One cannot see; for instance, in transit the marks may suffer, and if he proves that he acted *bona fide*, whatever those marks, he gets away. When I am speaking for all I may be excused for taking extreme cases because we are discussing certain features of a legal enactment. The modern tendency is that jurisdiction ought not to be encouraged. Almost every enactment contains a provision of this kind and I should very much like that that principle is not to be introduced in this small enactment. Let it be left to the ordinary law of the country. The contractual relations of the parties may be governed by their contracts, and when they find a *bona fide* mistake has occurred, they will be able to get adequate relief. I think that in the principles involved there is some objectionable portion. But remembering that this is after all a Bill which aims at proving that it is not the producer that is responsible for the adulteration and that his innocence is being held up to countries outside, but it is the intermediary that is responsible, we may welcome it, and it is in that spirit that I will not oppose the introduction of this Bill in this Council.

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, coming as I do from a province which is so intimately connected with the trade of cotton, I think it will not be out of place for me to say a few words, although I shall be very brief, in connection with this Bill. As an axiom, Sir, in conjunction with most of the Members of this Council who have any connection with trade and commerce, I object to any undue interference on the part of Government with any trade. But this is a case, Sir, where the trade has found itself in a position in which it was unable to protect itself against malpractices; the trade then sought the assistance of Government and I congratulate the Commerce Department in coming forward, and in their endeavour to render the assistance which was called for. The Honourable Sir Maneckji Dadabhai referred to a criticism in the other House of this Bill,—an objection that the Bill attempted to preserve the interests of the foreigner rather than anybody else—That view I think, Sir, the Honourable Members of this Council will dismiss at once. The Bill obviously is not intended to preserve the interests of the foreigner, but rather it is intended to preserve the good name of India in its cotton trade. Then, Sir, the Honourable Mr. Karandikar said he thought the Bill in effect would look after the interests of the purchaser. I do not think anybody will have any quarrel with the

[Sir Arthur Froom.]

Honourable Mr. Karandikar in that respect. If you have a thing to sell who is the most important party in the contract? It is the purchaser, because if the purchaser is not satisfied you cannot sell your goods. I do not see any reason to quarrel with this Bill if it does in some way look after the interests of the purchaser. I also understood from the speech of the Honourable Mr. Karandikar that he did not think a great deal of this Bill, but that he was not going to oppose it. I regard the Bill, Sir, as a good one, but a mild one, and I do not think the Government have been altogether wrong in making this Bill a mild one. It introduces no penalty; it does not seek to add a section to the Indian Penal Code, but it endeavours to provide some means whereby the purchaser of cotton can be protected, and I think, having due regard to the fact that Government should interfere as little as possible in trade and commerce, Government have acted on the right lines. They are endeavouring to provide a means by which the purchaser of cotton can put his finger on the spot where the cotton has been adulterated. Then Government say, "We will leave it to you." And what does that leaving mean? What would you or I do if we found we had been done down by a man who had been selling us goods? We would take good care that we would not go to that man again, and that is one of the main objects of this Bill. I think the Bill is good in that respect; it introduces no extreme penalty, but it leaves the trade to look after itself and it aims at assisting the trade to look after itself where the trade has found itself up against a brick wall. Sir, I welcome this measure.

THE HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-official): Sir, I fully concur with what has fallen from Sir Arthur Froom. This is a very good Bill, and the State does not interfere so much in matters of trade now-a-days. I entirely agree with him that the State should, as far as possible, not interfere with trade. But here the State is trying to protect the cotton trade for very good and cogent reasons. As a matter of fact, it is known that for the last 50 years there have been numerous suggestions for improving the cotton trade. Several times the Bombay Chamber of Commerce, when consulted on the question, opined that it should be left alone and it will provide for itself. But fifty years have gone by and attempts to improve the cotton have proved abortive, and nothing has been done; and I think it is very right and proper on the part of the State now to protect the country's cotton trade. By protecting it, I think the State will also protect the purchaser. And if the purchaser is protected, what does it mean? It means that the more the cotton produced is good in quality and carefully ginned and pressed the more the purchasers will like to buy it, and therefore the consumption will increase, and if the consumption increases, it means a larger profit to the cotton cultivator, and the cotton cultivator himself will come round to see that, after all, the Government have done a wise and beneficent thing. Taking into consideration all these matters which are in the interests of the producer, the consumer and the purchaser alike and also of the State itself, I think a Bill was never put before this Council which had so many merits about it. I therefore cordially welcome it.

THE HONOURABLE MR. D. T. CHADWICK: I thank the House for the support which has been given to this Bill, even for the uneasy support given by the Honourable Mr. Karandikar. Sometimes I did not know whether he meant to support it or not, but he gave the Bill the benefit of the doubt. On the other side it has the full support of Sir Maneckji

Dadabhoy and of our leading representatives from Bombay. If this Bill passes, I can assure Sir Maneckji Dadabhoy that I will discuss the question of the Indian States with the Political Secretary, but as far as we are concerned, we are restricted of course to British India, and I cannot go beyond that. I do not think any of the fears of my Honourable friend Mr. Karandikar have any foundation whatever. He said that clause 15 would oust the jurisdiction of the courts. I am at a complete loss to know how he came to such a conclusion. All it does is to provide the usual clause to protect an officer in carrying out the Act when acting in good faith.

THE HONOURABLE MR. R. P. KARANDIKAR: The courts may hold differently.

THE HONOURABLE MR. D. T. CHADWICK: I think the court will translate that section in my way. I hope so. To say that clause 15 is a suggestion to cancel the whole of the Contract Act is, I think, a little strong. I think there is nothing else which I need say on this Bill, and I thank the House for the support it has received in discussion.

THE HONOURABLE THE PRESIDENT: The question is:

* "That the Bill to provide for the better regulation of cotton ginning and cotton pressing factories, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: Which clause does the Honourable Member wish to speak on?

THE HONOURABLE MR. R. P. KARANDIKAR: Clause 2, Sir. I have only a word or two to say about the definition of "cotton waste". I do not see any propriety in retaining the definition of "cotton waste" in this clause.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I think it is very essential that this definition should be retained. Unless you describe the term "waste" it will be impossible to bring about any successful working of this Bill. Waste consists of a variety of articles. The present description given in clause (e) to my mind covers almost all the qualities of waste which are known to the mill industry and to the people who are connected with the sale of waste. I cannot therefore understand at all the propriety of removing this very important clause in the Bill which will emasculate the Bill altogether.

THE HONOURABLE SIR DINSHAW WACHA: Sir, I support what has just been said by my Honourable friend Sir Maneckji Dadabhoy.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I do not think my Honourable friend has realised that clause 2 (b) reads:

"'cotton' means ginned or unginned cotton, or cotton waste."

Therefore under the rest of the Bill cotton waste is included in the word "cotton" and therefore a definition of cotton waste is needed. The reason for bringing waste within the purview of the Bill is that the Cotton Committee reported that "cotton is mixed with waste which is imported from the mills specifically for that purpose and is sold as cotton." Therefore it is essential to include cotton waste in the Bill.

Clause 2 was added to the Bill.

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

[Mr. D. T. Chadwick.]

Clauses 8, 9, 10, 11 and 12 were added to the Bill.

Clauses 13, 14 and 15 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

"That the Bill, as passed by the Legislative Assembly, be passed."

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I only wish to make one observation in this connection. This Bill is to be brought into force on any date which the Governor General by notification may deem fit. I only wish to point out to the Honourable the Commerce Secretary that reasonable and sufficient notice of the coming into operation of this measure should be given to the public.

THE HONOURABLE MR. D. T. CHADWICK: Yes, Sir, I promise that.

THE HONOURABLE MR. R. P. KARANDIKAR: Sir, one may express the hope that in framing the rules the Central Government will be in a position to consult the Local Governments. Under clause 12:

"The Governor General in Council may make rules to provide for:

- (a) the allotment of a special mark be used by each pressing factory for the purpose of the marking of bales;
- (b) the manner in which bales shall be marked; and
- (c) the manner in which the weekly statements referred to in section 5 shall be published."

I wish very much that it could be left to the Local Government, so that if it be one of the transferred subjects the Minister may be consulted in the framing of the rules and his action may be controlled in a manner by the vote of the Council. But I have no doubt that before the framing of the rules by the Central Government, every Local Government will be afforded an opportunity of having its say in the matter after consulting the Councils and so on.

THE HONOURABLE MR. D. T. CHADWICK: Sir, my Honourable friend has brought forward a strange suggestion on the third reading. He wants an undertaking that the rules shall be placed to the vote of the local Legislative Councils. I think I understood him aright. He asks that I should give an undertaking that any rules framed by the Governor General shall be communicated to the Minister in charge in the Local Government, who would consult his Legislative Council.

THE HONOURABLE MR. R. P. KARANDIKAR: Sir, may I make the matter clear. What I wanted to say was that before the framing of any such rules the Central Government would ascertain from the Local Government the views of the Council; not that after the rules are made they should be placed before the local Legislative Council.

THE HONOURABLE MR. D. T. CHADWICK: Sir, these rules deal entirely with the machinery of putting the Bill into force and it is quite unusual, and I think quite unnecessary, to take the time of any Council with the details of such ordinary adjectival rules by laying them before a Council. There is no question of making new offences or of introducing any new principles under the rules that will be framed. The next thing is that when the

Governor General does frame rules of this nature it is the customary practice to consult the Local Governments before they are finally published or issued. That is part of the ordinary routine. I do not give any definite undertaking that any particular people will be consulted or that any particular people will not be consulted; but I do give the undertaking that these rules will be dealt with in the manner customary in the matter of framing rules.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide for the better regulation of cotton ginning and cotton pressing factories, as passed by the Legislative Assembly, be passed."

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): The Council is aware, Sir, that Monday and Wednesday next week are non-official days for which Resolutions have been duly ballotted. Government, however, will have no business to place before the Council earlier than Saturday, the 21st, on which day the Finance Bill, should it be passed in another place in time to admit of its being laid on the table here on Wednesday, the 18th, could be proceeded with. Three other Bills, to amend the Indian Income-tax Act, the Indian Tariff Act and the Indian Stamp Act, respectively, will, it is hoped, be passed by the Assembly on the 18th and, in the event of our meeting on the following Saturday for the Finance Bill, they would be laid on the table on that day and proceeded with on Tuesday, the 24th. The Resolution of which notice has been given by the Honourable Mr. McWatters in the matter of the reduction of provincial contributions and the remission of the Bengal Government's contribution will, with your permission, be taken up as soon as the Finance Bill has been passed by this Council, and it is not impossible that the consideration of the Finance Bill and the discussion of this Resolution will absorb Monday the 23rd as well as Saturday, the 21st, should the consideration of the Finance Bill open on that day. We should, therefore, on the programme which I have outlined,—which is, of course, subject to your pleasure as regards the days on which the Council should meet,—have Government business for Saturday, the 21st, extending possibly to Monday, the 23rd, and for Tuesday, the 24th. Whether Government will have any business to place before the Council after the 24th is a question on which I hope to be in a position to make a statement on Monday next.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): May I be permitted, Sir, to ask the Honourable the Leader of the House two questions, namely, as to whether there will be any further non-official day given after the 18th of March for Resolutions that have been ballotted for and admitted by you, Sir, but which were not within the fifteen-day notice limit, on the 18th. I also desire to ask the Honourable the Leader of the House as to whether an opportunity will be given to this House to discuss the Report of the Reforms Committee presided over by the Honourable Sir Alexander Muddiman.

THE HONOURABLE SIR NARASIMHA SARMA: I do not think it will be possible for the Government to suggest the allotment by His Excellency of any date for the discussion of non-official Resolutions after the 18th and

[Sir Narasimha Sarma.]

it is not proposed that the Government should allot any official days for the discussion of the Reforms Report.

THE HONOURABLE THE PRESIDENT: The Council will now adjourn till Monday, the 16th of March, at Eleven O'Clock.

The Council then adjourned till Eleven of the Clock, on Monday, the 16th March, 1925.
