

5th March, 1925

THE  
**LEGISLATIVE ASSEMBLY DEBATES**  
**(Official Report)**

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OF THE

**SECOND LEGISLATIVE ASSEMBLY, 1925**

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# LEGISLATIVE ASSEMBLY.

Thursday, 5th March, 1925.

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

## QUESTION AND ANSWER.

### OBJECTS OF THE VISIT OF HIS EXCELLENCY THE VICEROY TO ENGLAND.

**Mr. M. A. Jinnah:** Sir, may I ask a question of which I have given private notice to the Honourable the Home Member?

(a) Is it a fact that His Excellency the Viceroy is going to England on short leave to confer with Lord Birkenhead?

(b) Will the Government be pleased to state the exact nature of Lord Reading's mission to England?

(c) Will the Government be pleased to state why no announcement on the subject was made in this House and the Government have left the announcement to be made by the Reuter's Agency?

(d) Will the Government be pleased to make a statement in this House as regards the matters to be discussed by Lord Reading with Lord Birkenhead and generally the purpose of his visit?

**The Honourable Sir Alexander Muddiman:** (a) Yes.

(c) An official communiqué was issued on Wednesday morning (4th) in the following terms:

"The Secretary of State for India in Council has invited His Excellency the Viceroy to come to England in April next for short leave not exceeding four months in order to secure an opportunity of personal discussion with His Excellency. The Earl of Reading has accepted the invitation.

His Majesty the King has been pleased to approve of the appointment of the Earl of Lytton, Governor of Bengal, to act as Viceroy and Governor-General during Lord Reading's absence on leave."

The announcement was made by communiqué both in England and in India as this was considered the most convenient, as it is the usual course.

(b) and (d). As stated in the communiqué, the object of His Excellency the Viceroy's visit to England is to secure an opportunity of personal discussion between His Excellency and the Secretary of State for India. All the more important outstanding matters relating to the affairs of India will doubtless be included in the subjects of discussion, but I regret that I am unable to make any more precise statement.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether among the more outstanding questions which will no doubt form the subjects of discussion between His Excellency the Viceroy and the Right Honourable

the Secretary of State for India will be the Muddiman Committee's Report which will be published on the 9th? May I also know in that connection whether this House will be allowed an opportunity before it disperses of expressing its own views and also laying them before the Secretary of State before this discussion between the Viceroy and the Secretary of State takes place?

**The Honourable Sir Alexander Muddiman:** I should like to have notice of that question, Sir.

**Diwan Bahadur M. Ramachandra Rao:** Will it be possible, Sir, to indicate the more outstanding questions referred to by the Honourable the Home Member?

**The Honourable Sir Alexander Muddiman:** Not in a more precise manner than I have already indicated.

**Diwan Bahadur M. Ramachandra Rao:** Not in a more precise manner than saying that the more outstanding questions will be discussed. I should like to know what those questions are and to have a little more information on the subject?

**The Honourable Sir Alexander Muddiman:** What I said was that the more outstanding questions will be discussed. It is not for me to say what the Secretary of State and the Governor General will discuss, but they will be the more important outstanding questions.

**Diwan Bahadur M. Ramachandra Rao:** Are the Government of India in a position to state what those more important outstanding questions will be?

**The Honourable Sir Alexander Muddiman:** I have already stated in reply to the question put by my Honourable friend Mr Jinnah that I am not in a position to make a more precise statement than I have already made.

**Diwan Bahadur M. Ramachandra Rao:** Have the Government of India made up their mind as to what those more important outstanding questions will be?

**Mr. V. J. Patel:** Is it not a fact that the Muddiman Committee's Report will be one of the main questions that will be discussed?

**The Honourable Sir Alexander Muddiman:** If the Honourable Member thinks it is one of the more important outstanding questions I should think it probably might. (Laughter.)

**Diwan Bahadur M. Ramachandra Rao:** Would it be possible, Sir, to make a statement about the outstanding questions even when the Government of India make up their mind and before the House disperses?

**The Honourable Sir Alexander Muddiman:** If the Honourable Member expects me to make a precise statement with regard to the matters that will be discussed between the Secretary of State and the Governor General, I am afraid it is not possible for me to do so.

**Diwan Bahadur M. Ramachandra Rao:** May I know, Sir, whether it is not desirable that Members of this House should know, at any rate in a form in which it is possible for us to know, what the outstanding questions will be, so that we may be in a position to discuss the subjects, as we may

have to make our representations both to the Viceroy and the Secretary of State?

**The Honourable Sir Alexander Muddiman:** The Honourable Member is in as good a position as I am to say what the more important outstanding questions are in which he is personally interested, and he is therefore in a position to make any representations to any authority which he considers desirable.

**Mr. M. A. Jinnah:** May I know, Sir, whether the Government of India propose to give an opportunity or to urge that an opportunity should be given for non-official representation at this discussion so as to assist the Earl of Reading and Lord Birkenhead in their discussion?

**The Honourable Sir Alexander Muddiman:** I think the Honourable Member can have no real doubts as to the obvious answer to that question (Laughter.)

### THE INDIAN TARIFF (AMENDMENT) BILL.

#### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**The Honourable Sir Charles Innes** (Commerce Member): Sir, I beg to present the report of the Select Committee to which the Bill further to amend the Indian Tariff Act of 1894 was referred.

### THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

**The Honourable Sir Basil Blackett** (Finance Member): Sir, I move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922.

The purposes of this Bill are given in the Statement of Objects and Reasons. The position is that overseas pay drawn in sterling is liable to Indian income-tax. But under the law as it stands there are no very convenient methods of collecting it, methods convenient either from the point of view of the Government which collects or of the officer who is liable for income-tax. This Bill proposes to provide a convenient means.

I beg to move.

**Mr. President:** The question is:

“That leave be given further to amend the Indian Income-tax Act, 1922.”

The motion was adopted.

**The Honourable Sir Basil Blackett:** Sir, I introduce the Bill.

### THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

**Mr. J. W. Bhoré** (Secretary, Department of Education, Health and Lands): Sir, I beg to move:

“That the Bill to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as amended, be passed.”

**Mr. President:** The question is:

“That the Bill to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as amended, be passed.”

**Maulvi Mohammad Shafee** (Tirhut Division: Muhammadan): Sir, I thank Mr. Bhore for giving me this opportunity of expressing my views again on this subject. It has been a subject of very anxious consideration for me and I have been devoting all my time to it for solving it in a manner which might be acceptable to the Honourable Members of this House. I tried, Sir, to understand my Honourable friends who spoke on this subject the other day when it was brought up for consideration. I tried to find out whether they have got any reasons to advance for the purpose of thrusting this legislation upon the Haj pilgrims. I could not find, Sir, any argument they put forward in support of legislation. I thought I might be wrong and I might not have heard my Honourable friends. Therefore I read with very great care the speeches that were delivered that day in the small book that is supplied to us. I have read with great care all the speeches this morning as the book came to me late last night. I find that none of the speakers that day have advanced any arguments to support the position that legislation was necessary to force the pilgrims either to purchase a return ticket or to make a deposit. The speech of Mr. Hudson must have produced, I understand, some effect on the minds of the Honourable Members of this House, because he spoke that day from personal experience, as he said, and that he has been sympathetic to the poor pilgrims in Karachi. I have read his speech, Sir, twice this morning to find out if his speech shows any necessity for enforcing this system on the pilgrims by legislation. I admit he is very clear in all the points that he has raised. He has, I find, ruled out of his consideration one system, namely, the compulsory return ticket system. He says nothing on this point and I infer that he does not think that system to be workable and to be enforceable by legislation. As to the deposit system, all that he said would convince one that the system of deposit had become very popular with the pilgrims and that not one of the pilgrims complained to him about that system in Karachi last year. This argument of Mr. Hudson is all the more in my favour. If it has become so popular, why should the Government make it legally obligatory on the pilgrims to deposit. My sole objection is this. Mr. Hudson has not given any reason for legislation. Why should the Government force the hands of the Legislature to give them the power to punish all those who would not care to purchase return tickets or make a deposit. And this is all that I am contending for all the time. My object is that the Government should make arrangements with the shipping companies for providing return tickets to all those who want them, as well as make arrangements for making deposits not only for the return passage but for food and other necessities of life for those who want them. The shipping companies have the right to refuse those who do not pay for a return ticket if it suits them. They have got in the same way the right not to take any pilgrim on their ships if he does not deposit the return passage money with the Government, but this is the right of the carrier. Let the carriers impose their terms on the pilgrims and the pilgrims then will have the right to choose their carriers. It is the carrier then who will have to take pretty good care that his terms are attractive and not prohibitive. I have concrete examples of the system once being legalised the passage rates soaring higher and higher, and then the pilgrim being in the hands of the shipping companies and the Govern-

ment of the country which legalises compulsion. The pilgrim cannot get out of their hands then. I am dead certain that, within a short time of the introduction of the system of compulsion by legislation, the fares would be raised to any amount, double, treble or four times without any apology by anybody, and this means the prevention of a very large number of Mussalmans from undertaking the Haj pilgrimage. I will try to bring this point home to the Honourable Members of this House. It is easy to understand that the number of pilgrims must depend on the amount required for undertaking the journey. For instance 20,000 pilgrims embarked for India when the passage rates for both the journeys were Rs. 51. Necessarily the number would be reduced in proportion, or much more than the proportion, to the raising of the passage rates. As to the raising of the passage rates, I can give a concrete example. From Singapore to Jeddah the pilgrims were taken on board a ship for about Rs. 67, and for the return passage they had to pay about Rs. 100. In 1914 when the Malay States made the return tickets compulsory, the passage rates rose to Rs. 267. The result was that pilgrims from the Malay States began to travel by Japanese boats to Calcutta, and then by rail to Bombay, and from Bombay to Jeddah by ships, and all this at a much lower expense than on their own ships from Singapore. It is for these reasons that I say that legislation is not at all necessary, and I plead that Mr. Hudson's elucidation the other day in this House makes my point still stronger.

But, Sir, it is not a new thing for us to find that the Government deal with the evil which presents itself by embarking on superficial legislation of the kind they have undertaken in this matter. My trouble is that they are incapable of diving deep into the problem. They meet with a boil and apply their knife to it. It is no doubt very trying to apply one's mind to understand the root cause of the evil, and then try to remedy the same. For example take the case of the origin of this House where we are sitting under the Reform scheme. The Government met with difficulties in administering the country in their own way, and thought the remedy lay in giving the representatives of the people a place in which to talk more freely and more frequently, and they thought that was enough for satisfying their desire. The remedy they have decided upon is now in operation and most of the Members of this House now more fully realise what these talks mean and how far the constitution of this House has gone to remedy the evil that exists. Take another example; take the example of the Bengal Ordinance

**Mr. President:** Order, order, the Honourable Member is travelling far from the return ticket.

**Maulvi Mohammad Shafee:** All right, Sir. I wanted to give examples, I would leave that now. But I could enumerate to you a number of such illustrations where the remedy has always been superficial. The method in my humble opinion is absolutely faulty and should not be resorted to if the real remedy is at heart.

My other difficulty, Sir, is that the Government are so constituted that, whatever remedy they decide upon, it does not meet with the approval of the people concerned. The men responsible for the policy of the Government have very little in common with the people of the country. Both are, no doubt, human beings, but one considers himself to be a celestial being and the other to be an earthly one, and there lies the disparity, and I therefore say there is very little which is common between them. The Haj pilgrims are drawn from a class of people whose hopes and aspirations, religious fervour and zeal, and standard of comfort and

[Maulvi Mohammad Shafee.]

convenience are not shared at all by those who are responsible for the compulsory provisions of this Bill. This is my real trouble and I do not know in spite of my utmost endeavours how to bring home to such people the real difficulties of the Haj pilgrims.

The return ticket system has already been in operation by an arrangement made by the Government of India with the shipping companies, as is said in the statement supplied to me. It was first arranged in 1914-15, again in 1915-16, in the peculiar conditions existing during the world war. The arrangement was also made in 1919-20 and in 1920-21. It appears that it was afterwards given up. I presume that they found it unworkable and hence gave it up, because we do not find this system of return tickets being insisted on in the case of the pilgrims in later years. We do not know what a tremendous amount the shipping companies would have made by issuing only return tickets to Haj pilgrims in these four years I have enumerated. However, I am certain that nobody who has had any experience of the Haj traffic wants again to insist upon return tickets. Even Mr. Hudson in his long speech the other day said not a single word about it. I do not wish to dilate on this point any more.

I would now say that the alternative system which has been introduced in this Bill is certainly not to the advantage either of the Government or of the pilgrims. The confusion arising from the two systems side by side would be very great. I would state the most important of it. The pilgrim class, as everybody knows, is in the hands of the brokers and touts either of the shipping companies or of the Moallims of Mecca who come here to canvass for pilgrims. They naturally preach the benefits of either of the two systems which suit them, and the pilgrim will sometimes be in a fix as to which system to choose. A large mass of them will then be put to very serious danger as they will not be able to decide the relative advantages and disadvantages of the two systems. They will be simply a prey in the hands of the brokers. Besides serious trouble to the pilgrims themselves, the Pilgrim Department will also be put to the inconvenience of having two sets of officers to keep up a record of the two systems. I hope therefore that the Honourable Members of this House will differentiate between the two systems and will urge upon the President to put these two clauses of the Bill separately to the vote. There is clause (a) and clause (b). (Maulvi Muhammad Yakub: "To-day the clauses will not be put to the vote but the whole Bill.") Thank you for that information. I thought they could be put separately too. (Maulvi Muhammad Yakub: "No, not to-day"; Haji Wajihuddin: "That stage is past").

Now, Sir, I want to say something on the test of the usefulness of the measure which was introduced last year. I take it for granted for argument's sake that the system which is going to be introduced by this legislation is useful to the pilgrims. Is there no method of satisfying ourselves of the benefits of the system before legislating,—whether the system works well or whether it puts the pilgrims to more inconveniences. I think this is a most modest claim that I make and every reasonable man should accede to it. As to the deposit system which was introduced during the last Haj season we are told that there was no trouble in inducing Haj pilgrims to make a deposit of Rs. 60 in Bombay and in Karachi. Now Government have done what they wanted. As the Government

have said, a large percentage of those who wanted to come back soon after have come back, and they must now be convinced whether the system is good or bad, and whether it has cost them more or just as much as they were prepared to pay. But an appreciable percentage of pilgrims who made the deposit have yet to come back. Their number if the report of the Government is correct is 3,202. I wanted other details about this deposit system and put questions with that object soon after the Bill was taken into consideration but they have not been answered yet, neither have I been given any information about it privately although I have sought such information by all the means open to me. Now there are 3,202 pilgrims whose deposits are still to be withdrawn by their representatives because they have not returned to India. It is, I say, the case of these people that will determine the utility of the system. Some 8 months have elapsed since the deposits were made. How can you judge of the utility of the system when you have allowed 18 months for the return journey? You must allow some time to elapse for the consequences of that system to be fully realized. I do not understand, Sir, this hurry about legislation when the work of deposits is going on so smoothly as has been described.

The Honourable Members of this House, I believe, can have no doubt in their minds that the deposit system when made compulsory would be fraught with all the disadvantages which a rigid system is liable to. If you want to introduce the system do it by all means but leave it to take care of itself. It is only then that the organisers of the system will take every precaution so to fix the amount as to make it more economic, and to make such arrangements for receiving the deposits as to give more convenience to the depositors, and to make such arrangements for withdrawal as to give more facilities to the representatives of the pilgrims for getting a refund. I ask my Honourable friends in this House, after I have given them all the facts so far as I could put them together, to remember that this is a very serious problem for the Moslem community. All those who are concerned with the comfort and convenience of the Haj pilgrims have been consulted by me. Maulvi Abdul Kadir of the Punjab who came here yesterday was consulted by me. Maulana Syed Suleiman Nadwi who came the other day was also consulted by me. All of them are agreed that Government should not enforce any system by legislation; they must make all arrangements for return tickets, for deposits, etc., and leave it to the choice of the people to do as they think proper. They say that last year, when there was no legislation to strengthen the hands of those who were responsible for the pilgrim traffic, they induced pilgrims to make deposits and succeeded in doing so. Now the same thing can be done this year and next year. If we then find trouble arising out of it we can decide whether any legislation is necessary or not. (*An Honourable Member*: "Has no trouble arisen yet?"). I am told that last year there was no dissatisfaction. That is what Mr. Hudson told me; and it is what Maulvi Abdul Kadir and Maulana Syed Suleiman Nadwi also told me. There was no legislation last year. This piece of legislation you are going to enact to-day was not then in existence. Now when you did not experience any trouble last year without any legislation, why should you force this legislation on the Haj pilgrims this year unless you find some other fact which entitles you to come to this House? With these words, Sir, I again oppose the passing of this Bill into law.

**Maulvi Sayad Murtuza Sahib Bahadur** (South Madras: Muhammadan): Sir, I associate myself with my Honourable friend Maulvi Mohammad Shafee in opposing the passing of this Bill into law. The other day, Sir, he made out a fairly strong case against the consideration of this Bill. As a lawyer he did justice to the subject, but I am only a layman, Sir, and so I cannot dwell upon the subject in all its aspects. I shall confine myself, therefore, to the religious aspect of the subject which he did not attach so much importance to as he did in the case of some shipping companies. I do not want to bother myself with the *bona fides* or *mala fides* of the Government. I shall restrict myself to the religious aspect, Sir; the religious aspect being that going to Mecca in the case of those who are in a position to undertake the journey is incumbent. The Koran says, Sir, in the fourth chapter that those that can afford to meet the expenses and those that command good health should necessarily perform the Haj pilgrimage once in their life-time. As regards the word *Istita-ah* which is implied in *Manistata-a* *Ilahi* *Sabeela*, there are four schools of thought. So far as my Muslim brothers of North India are concerned, they are not in touch with one school of thought, the Shafis. My Honourable friend, Mr. Mahmood Schammad, who is absent, belongs to that school of thought and in fact the whole of Malabar belongs to that school. The Shafees are found in abundance not only in Malabar but also in so many other districts of my Presidency. I come from Madras as you all know. I represent half of the Province and there are 25 per cent. of Shafees there. What do their divines say? They say that those that are physically fit ought to perform the Haj; they attach minor importance to financial adequacy. So far as Hanafees are concerned they attach equal importance to physical fitness and to financial ability to meet the expenses. These Shafges are, as I have said, 25 per cent. The other day my Honourable friend Mr. Moir, made a reference to the religious fanaticism of Moplahs; and we often hear about the fanaticism of the Muslims of the North-West Frontier Province. May I ask my Honourable friend, the Member in charge, as to whether he has perused the opinions of those gentlemen that belong to the North-West Frontier Province and Malabar? All the Malabar gentlemen, including Thangals and Maulvis, are dead against this measure. So also the Muslim leaders of the North-West Frontier Province.

**Mr. President:** I think my Honourable friend has mistaken the nature of the Bill we are discussing. The Bill only provides for compulsory return tickets and deposits in the case of pilgrims desiring to go to Jeddah. The matter that he is discussing is entirely outside the scope of the Bill.

**Maulvi Sayad Murtuza Sahib Bahadur:** They are all of opinion, Sir, that this compulsory system of return tickets and deposits is not favourable to them at all. On the other hand it formulates a policy of prohibition. The word "prohibition" itself does find a place in the Bill. So I ask the Member in charge whether he is justified in placing any prohibition on a religious observance. Some of my Honourable Muslim friends the other day said that it was incumbent only on those that can afford to meet the expenses. But I ask them whether there is any restriction imposed by the Koran or by the traditions of the Prophet on those that cannot afford to meet the expenses. Sir, it is a meritorious act on the part of those that are not well-to-do and yet want to go on pilgrimage to Mecca. This system surely tends to be a stumbling block to them. Moreover, as has been pointed out by my Honourable friend, Maulvi Mohammad Shafee, about 2,500 persons do not return every year. I am not at one with him when

He says there were no destitutes last year; the figures show there were at least 160 destitutes even last year. But we do not seek repatriation at the hands of the Government in their favour. When they go over there with the object of performing a meritorious deed, a deed of piety, let them subject themselves to certain hardships. In short, if by legislation the Government want to fan the embers of fanaticism then such a measure as this may be resorted to. If not, I would request the Government not to pass such a Bill as this which is surely calculated to encroach on the religious rights of the Muslims, to whom religion is anything and everything.

**Maulvi Muhammad Yakub** (Rohilkhand and Kumaon Divisions: Muhammadan Rural): Sir, I never thought that after making a speech on this Bill on the last occasion I would be called upon to make another speech when the Bill comes up before this House for passing. But, Sir, I find that this Bill is being used in the way in which a drowning man lays hands upon a very weak reed, that it is being utilised in order to regain some of the waning popularity which some people in this country have lost over the masses. I find, Sir, that misleading articles are being published in the newspapers; I find that meetings are being got up and that certain Muhammadan members of the Assembly are being denounced for helping the Government in a Bill which is stigmatised as a Haj-breaking Bill. Sir, it is on account of these things that I am obliged to make a few remarks again to-day. You will excuse me, Sir, if I dilate a little on this point and try to show that this agitation is not at all genuine, that it is merely a got-up agitation.

Well, Sir, when this Bill was introduced for the first time in this House last year, soon after its introduction I wrote a letter to the Secretary of the Jamiat-ul-Ulema at Delhi and another letter to the Mufti of the great Arabic University at Deoband. I sent them translations of this Bill in Urdu and requested them to favour me with their opinions. (*Haji Wajihuddin*: "I also did the same".) I was not content only with this: I published a translation of that Bill in vernacular newspapers in my province and called for the opinions of the Muslims throughout the whole of India. The Bill in the form in which it was introduced contained some very objectionable provisions which have been deleted in the Select Committee stage. But what did I find? I found that even the objectionable Bill was not objected to by any Muhammadan for twelve months. They were sleeping over the Bill for twelve months and not a single discordant note came to my notice throughout the whole of the year. Then again, they were holding a very big meeting, the annual meeting of the Jamiat-ul-Ulema at Moradabad, my native place, in January last. There personally I spoke to the learned Secretary of that Association and requested him saying that this Bill was coming on in the Assembly very soon, and would the Ulemas kindly favour us with their religious opinion? Still, Sir, nothing was done. The Bill was not discussed then in that big Assembly of Ulemas and no resolution was passed on it. After that what do I find? When I came to Delhi I heard that a small meeting of the Working Committee of the Jamiat-ul-Ulema was about to be convened in order to discuss this measure. I heard that my Honourable friend, Maulvi Mohammad Shafee, was every day in communication with the Secretary and the President of the Jamiat. Well, I called on the Secretary of the Jamiat here at Delhi again and requested him saying, "You are going to discuss this Bill and I request you to give us some religious authorities to show that a system like this would be considered

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as an interference with the religious performance of our Haj." But what do I find? I find that the Ulemas in the Working Committee did not issue any *Fatwa* or religious commandment; they only issued a statement or a resolution; they did not quote a single religious authority in that statement of theirs to show that this was a measure which was calculated to interfere with the religious performance of the Haj. Now, Sir, allow me to say a few words about the proceedings of this meeting as well. This meeting was held at the House of Hakim Ajmal Khan Sahib, and I have got the authority of the Hakim Sahib who is himself a great Arabic scholar and a Haji himself; he told me that he was in favour of this Bill, that he opposed the Ulemas in passing this resolution which they have passed; he insisted upon them not to pass this resolution; he told me that he had to leave the meeting for two or three minutes, and when he came back he found that this resolution had been hurriedly passed in his absence; and he again tried to persuade the Ulemas not to issue such a statement, but they would not listen to him. He also told me that Maulvi Abul Kalam Azad, the famous theologian of Calcutta, and a very great worker in the cause of Khilafat, was also in support of this measure and that he was opposed to what the Maulvis have done. And here we are told that Mr. Mohammad Shafee has consulted this and that Ulema and that those people oppose this Bill. Now, Sir, on the last occasion my friend Mr. Mohammad Shafee told us to wait till the return of the Hija's deputation. He wanted then, to know what they had to say on this matter, and to-day he says that he has consulted Maulvi Abdul Kadir and Maulana Suleiman Saheb. You will be surprised if I quote from a big letter from that very gentleman, one of the greatest theologians of the day, who was a member of the Hija's deputation. This letter was published in the *Bombay Chronicle* of the 12th of February.

**Maulvi Mohammad Shafee:** I was told to refer to a copy of the paper of the 11th, and I could not find anything in it. Here I have it.

**Maulvi Muhammad Yakub:** This is the *Bombay Chronicle*, dated Thursday, the 12th February, 1925. Probably I gave a wrong date.

Now, Sir, these are the words of the Maulana Suleiman. He says:

"I have heard so much about the pitiable plights of the Indian pilgrims that I am favourably inclined towards the deposit scheme as is under the consideration of the Assembly."

**Maulvi Mohammad Shafee:** Will you kindly hand that paper over to me?

**Maulvi Muhammad Yakub:** Yes, most certainly. (The paper was handed over to Maulvi Muhammad Shafee). I hope that after seeing this letter, which I believe, is not a forged letter because it is published in a nationalist paper, the *Bombay Chronicle*, whose *bona fides* cannot be doubted by the Maulana, my friend will see that the opinion of the Maulvis is not altogether against this measure.

**Maulvi Mohammad Shafee:** I must say, Sir, that there must be some misunderstanding, because I had a personal talk with the Maulanas on this point.

**Maulvi Muhammad Yakub:** But here is his letter. You can read it and draw your own conclusions. Now, Sir, we find that after sleeping over this matter for a year, a working committee of 12 or 13 Ulemas is being got up, and this manifesto is issued by that Committee, with the result that a great excitement prevails in some places in the country in connection with

this matter. As I said in the beginning, Sir, some gentlemen want to utilise this Bill as a handle to regain their lost popularity. Because we find in the articles which are published in the papers that some Muhammadan Members of the Assembly headed by Mr. Jinnah conspired with the Government. Now, Sir, the House will see that my friend Mr. Jinnah did not utter a single word when this Bill came before the House for discussion. He did not take any prominent part in the discussions on this Bill, but still we find that in the articles which are published in the papers Mr. Jinnah is figuring very prominently among the supporters of this Bill. This shows clearly that the objections are not *bona fide*, that those who are opposed to this measure do not care for religion, but they are utilising this Bill to regain their lost power among the masses, and aim at discrediting Mr. Jinnah and his party. (A Voice: "Whom do you mean by they?") I do not mean any of the Honourable Members of this House. There are other gentlemen outside this House, one of whom was in the press gallery the other day when this Bill was being discussed in this House. That gentleman, for whom I have the greatest respect, was in the press gallery when this Bill was being discussed and as soon as he left the press gallery, he had a talk outside the House with an old friend and class fellow of his, who is a responsible . . . .

**Maulvi Mohammad Shafee:** May I know, Sir, if the Honourable Member is entitled to refer to all these things as they do not affect the Bill at all.

**Mr. President:** The Honourable Member had better leave private conversation alone. This is a matter of the opinion of the Moslem community, and that is very much to the point.

**Maulvi Muhammad Yakub:** What I want to point out is, if my friend Maulvi Mohammad Shafee can quote the views of people with whom he had a talk outside this House, certainly, Sir, I am also entitled to say what the gentleman who left the press gallery said with regard to this Bill. He held the view that this Bill did not interfere with the religious performance of the Haj. (A Voice: "What is the name of that gentleman?") His name is Maulana Mahommed Ali, Editor of the *Comrade* and the *Hamdard*.

**Pandit Shamlal Nehru:** May I know who is the other gentleman the Honourable Member is referring to?

**Maulvi Muhammad Yakub:** I cannot mention his name, Sir. All I can say is that he was a responsible officer of the Government. I would not like to mention his name, but if Mr. Mahommed Ali would challenge that he did not say this, I would be quite ready to give him the name of the official with whom he had a talk on this matter. He clearly said in the lobby of this very House that this Bill did not interfere with the religious performance of the Haj. And the next day a big article was published in his vernacular paper *Hamdard* criticising this Bill, and a similar article was also published in the *Comrade*, and we were stigmatised as being a party who have conspired with the Government.

Now, Sir, all these facts clearly demonstrate that this agitation is a got-up agitation, it is a false agitation, and it is not a real agitation at all. I appeal to my Muhammadan friends in this House not to be swayed by any fear, or that they should be carried away by the articles which are published in the papers. I know the hearts of some of them are trembling as they do not know what to do, because in their heart of hearts they are in support of this Bill, but they dare not come and vote.

**Khan Bahadur W. M. Hussanally:** My heart is not trembling.

**Maulvi Muhammad Yakub:** I know that you have got a big heart. I assure my Muhammadan friends that they need not be afraid of their voters. When the real facts will come to light, and when those facts which I have stated and which will be stated hereafter in the public press are known, they will at once see that this is a false agitation, that it was a got-up agitation, and that really this Bill did not interfere with religion. In fact it is intended to facilitate the pilgrims, and it is intended to facilitate the Haj.

Sir, it was said that the Government of India wanted to decrease the number of pilgrims and therefore this Bill was introduced. Well, last year and the year before last we were told that Sheriff Hussein was a pet of the Government of India, and therefore Government wanted to send more pilgrims. (*A Voice*: "King Hussein please.") All right, it was said that King Hussein was a pet of the Government of India, and therefore Government wanted to send more pilgrims to Mecca. While this Bill was introduced last year, King Hussein was on his throne, he was a pet of the Government of India. Therefore, is it not self-contradictory to say now that the Government wanted to decrease the number of pilgrims? Was the number of pilgrims decreased on account of anything that has been done by the British Government? Read what Maulana Suleiman says. It was on account of the tyranny, it was on account of the misrule of that ex-King Hussein, who was rightly deposed, that the number of pilgrims from India and from other parts of the world decreased, and not on account of anything that was done by the British Government. Now, Sir, Maulana

12 Noon. Mohammad Shafee Sahib has at great length criticised the system of return tickets and he said that it entails more hardship than a deposit of the passage money. I say, Sir, if you think that one of the two alternatives is worse, why not adopt the better one. It has been left to the option of the Hajis. Here you have got two systems, and you have got two alternatives. You can choose the better of these two. What is the harm? If the idea of the Maulana was to improve this Bill, he could have introduced some amendments in order to mitigate or to remove what he considered as hardships, instead of trying to throw out the Bill and saying that it will interfere with the religious performances of Mussalmans. The Maulana says that we are hurriedly passing this Bill. I am astounded to hear the Maulana saying that we are hurriedly passing this Bill. When was it introduced, Sir? More than a year ago.

**Maulvi Mohammad Shafee:** It is necessity that makes the time short or long.

**Maulvi Muhammad Yakub:** I do not understand the necessity for waiting any further. We have got the opinion of Maulana Suleiman, a member of the Hedjaz deputation. The Bill was circulated to the public. The public had ample time to consider it. It was published in the papers and everything was done. I do not know what the Maulana means by saying that it is being passed hurriedly. What more benefit would be gained if the passage of this Bill is postponed for another year or for another session? I really cannot understand what he means.

Then, Sir, Maulana Murtuza has dealt with the religious aspect of this Bill. Really I have very great respect for those people who have got a religious trend of mind; but let me tell Maulana Murtuza, as a religiously inclined Mussalman, he must know that Tirmazi is a standard book of Hadis. Among Mussalmans it is being considered as an authority on Hadis. And we find in Tirmazi a Hadis in which it is reported by Ibn-e-Omar that a

man came to the Prophet, may peace be on him, and asked him what was it that makes Haj compulsory, and the reply he received was provision and conveyance. If you have not got sufficient provision, Haj is not compulsory upon you. Now, Sir, on the first day that this Bill was being discussed, and even now, Maulana Murtuza has said that it is a meritorious thing for a Mussalman even if he has no money to perform this Haj. But I would remind him on the other hand that Islam has in very clear terms ordered Mussalmans not to beg. Begging also is as sinful as anyone of the sins which the Muslim law enumerates.

**Maulvi Sayad Murtuza Sahib Bahadur:** I do not advocate the cause of professional mendicancy. I hate it from the bottom of my heart as my friend Maulvi Muhammad Yakub Sahib does.

**Maulvi Muhammad Yakub:** If he is against mendicancy, then I am sure he would agree with me, because this Bill is intended only to check professional mendicants. It is not a check upon those who are not professional mendicants. They have got to purchase tickets. They have to spend money. What does it matter if you purchase a return ticket at Bombay or you deposit your money? In fact, it makes your position more convenient because it makes your money more secure. It may happen that even a wealthy man may be robbed on his way or a theft may take place at his residence in Mecca, and he becomes moneyless. If he has got a return ticket or deposit for the return passage, at least he will have the satisfaction of knowing that he would reach his home safely, and for this reason I submit that this Bill facilitates, and does not in any way interfere with the religious performance of the Haj.

There is one thing more to which I wish to draw the attention of the House. In the writings which have been published against this Bill only the provision of the return money and the deposit of the passage money has been mentioned, but the other provisions of the Bill which facilitate the performance of the Haj have purposely been omitted from being published in the papers in order not to give the Muhammadans a chance to know what this Bill is. Now, Sir, do not we find in this Bill another provision in section 209-A to the following effect:

"Port-clearance shall not be granted from any port in British India to any pilgrim ship unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of ten thousand rupees, conditioned that, if any pilgrim who has been carried to the Hedjaz by that ship with a return ticket issued in British India within the previous eighteen months is owing to his inability to obtain accommodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to the British Consul at Jeddah, notifying his desire to embark for the return passage, the master, owner or agent aforesaid shall pay to the Local Government in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the Local Government claims as the cost of repatriating the pilgrim, together with a sum of one rupee for each day after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah."

The greatest hardship that was undergone by the Hajis was that for months and months they were detained at Jeddah and their provisions were exhausted. Now, Sir, this has become impossible on account of this provision in this Bill, and I am really surprised to see that my friend Maulana Mohammad Shafee and those who think with him only referred to the provision regarding return passage and return tickets and not to this provision. That provision is supported by this provision which greatly reduces the hardships of the Hajis. As regards the inconvenience to which

[Maulvi Muhammad Yakub.]

the intending pilgrims are subjected at Bombay on account of the ships not sailing on the dates advertised, as, I said the other day, my friend the Honourable Mr. Bhore was going to make an announcement that another supplementary Bill was soon going to be placed before the House. He has made the announcement that very soon that Bill will come before the House and by that Bill the dates of the sailing of the ships from Bombay will also be assured. Now, these were the two hardships to which Haj pilgrims were subjected, first that they were detained at Bombay for months and months and the little money which they had in their pockets was exhausted; also on their way back they were stranded at Jeddah for a very long time and their provisions were exhausted. When this law provides for removing these two great difficulties of pilgrims how can anybody say that this Bill interferes with the performance of the Haj? On the other hand, this Bill provides all that law can do to facilitate pilgrimage. What more can we do? In India we can only do this much that we can make it compulsory upon the shipping companies to start ships from Bombay at the right time and also from Jeddah, so that people may not be stranded. There is only one thing more now for me to say, and it is this. Maulana Mohammad Shafee wants to know what is the necessity for having this law? Why do you make it compulsory? Why not give that authority in the hands of the shipping companies? Now, Sir, I am really surprised to hear that instead of giving power in the hands of an organised Government my friend Maulana wants to leave Hajis at the mercy of those shipping companies, about whom he himself had great complaints the other day. Is it justifiable, is it reasonable, that you should give the arbitrary power in the hands of the shipping companies?

**Haji Wajihuddin:** It is not compulsory for everyone, but only for third class passengers.

**Maulvi Muhammad Yakub:** As my friend, Haji Wajihuddin says, this is not compulsory for anybody except those who travel in the third class. It is not compulsory for any man who travels in the second class, the first class or any other class. I can only say that it is really astounding to hear that the Maulana likes to invest the power in the hands of the companies and not in the hands of the Government. What is the difference, if you give that authority in the hands of a shipping company or in the hands of the Government? I am really unable to follow the logic of the Maulana. I think, Sir, I have disposed of all the objections that were raised by my Honourable friend and I have clearly shown to this House, and the world at large, that the Bill is intended only to facilitate the pilgrimage and I would ask the Honourable Members of this House to go deep into the cause of this agitation which is being got up outside this House against this Bill. What is the real cause of it and why this agitation has been raised.

**Maulvi Mohammad Shafee:** I see the Honourable Member is attributing motives to us. I take very strong exception to it.

**Maulvi Muhammad Yakub:** You may take exception or you may not—probably you will—but these are the facts which I have laid before this Assembly and it is for the public and for the Members of this House to draw their own conclusions. I have already made it clear that my remarks were not intended for you. With these remarks, Sir, I support the passing of this Bill.

**The Honourable Sir Muhammad Habibullah** (Education, Health and Lands Member): Sir, as I have been referred to more than once both on

the previous occasion and on this and as appeals were addressed to me individually, I think it my duty to speak a few words on this occasion. I am a Mussalman. I take pride in the fact that I am a Mussalman. I confess that I am not a religious divine, nor am I well-versed in Islamic theology. It is equally true, Sir, that I cannot claim the honour of prefixing the word " Maulvi " or " Haji " to my name. But all the same my fervour, my enthusiasm, my love and my respect for my religion are no less keen than that of any of those whom I have enumerated above. (Hear, hear). This Bill was introduced at a time when probably one of their own co-religionists, I mean the Muhammadan friends here, was not in charge. But it is now in the hands of one who is one of their Islamic brethren. As soon as I took over charge and found that this measure had to be piloted through this Assembly, I took great care to call to my aid and assistance a large number of my Islamic brethren, whom I see around me, to consult them, take counsel from them and seek advice from them as to whether this particular measure should be piloted through this Honourable House or not. I am indeed highly grateful to them for the assistance which they rendered on that occasion and the advice that they gave me. Detractors of this Bill there were, as usual. They were not slow to hoist the flag " Religion in danger ", but the unanimity of opinion indicated that there was nothing in this measure which would endanger religion or which would operate as an impediment against those devoted to the cause of Islam and who wished to perform the Haj. Fortified, therefore, Sir, with the opinion of my own co-religionists, I sought counsel from outside in the same way as I am assured some of my Honourable friends in this House did, and from every direction I received encouragement to the effect that this piece of legislation was in no way opposed or detrimental to the tenets of Islam. If, therefore, Sir, I have ventured to pursue this measure through this House, I have done so with a clear conscience that I am not putting on the Statute-book a measure which I regard as opposed to my religion. And I only hope that my friends who belong to the same religion as I do will take that assurance from me. One word, I think, Sir, I must add. As a result of the consultation to which I have already referred I had not only arrived at some understanding as to the particular amendments which should be accepted by Government but I had also given my word in favour of a fresh amendment which I found my Islamic brethren were rather keen upon. I refer, Sir, to the amendment which wanted to provide in the new Bill that a date should be fixed for the sailing of the ships and that if after a particular period therefrom, for reasons over which the shipping company had no control, the ship did not sail, there should be provided a detention allowance for those who had purchased the tickets already. We accepted this amendment, but, Sir, you ruled it out of order and we had to bow to your decision. I may, however, repeat before this House that I stand committed to the word which I have passed already and that steps will be taken at the earliest possible moment to introduce another amendment into this Bill to carry that promise into effect. (Hear, hear). Let me assure my Islamic brethren once more with all the fervour and enthusiasm that I can command that I shall certainly be the last person, claiming as I do to be one of them, to forge a law which would be inimical to, or against the interests of, Islam. (Loud applause).

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): \*After the speech of the Honourable Member in charge on behalf of the Government

\*Not corrected by the Honourable Member.

[Mr. M. A. Jinnah.]

there is very little to be said and if I may venture to congratulate him for putting the case in the clearest possible manner, I hope he will allow me that privilege. Sir, Maulvi Muhammad Yakub said that some Members were trembling in their places or in their shoes, I did not catch the exact word. (*A Voice*: "In their hearts.") Sir, I am one of those men who does not mind vilification or misrepresentation. Any man who enters into public life takes it as in the day's work that you are vilified and you are misrepresented. But that is not going to prevent us on the floor of this House from doing our duty according to our convictions. Now, Sir, as the Honourable Sir Muhammad Habibullah has said, if I thought that this measure was against the tenets of our religion, I certainly would not have been a consenting party to it. Then, if we are satisfied that it is not against Islam or the interests of Islam or the community, what is the next question that we have got to consider in this House? On the merits is this Bill a beneficial Bill or is it not? That is the next question. Now, Sir, when this Bill was introduced I did not know anything about it. I did not even take a keen interest in this Bill when it was referred to a Select Committee. As a matter of fact, I had not the honour to serve on that Select Committee. I am told I was on the Select Committee, but I did not even attend the meetings of the Select Committee. But when I found there was a certain amount of trouble, I thought it my duty to apply my mind to the best of my abilities to the merits of this Bill. And, Sir, we the non-official Members, the Muhammadan Members, sat together for days. We went through this Bill clause by clause, and then the courtesy was extended to us by the Honourable Member in charge who was good enough to call us in a private conference, and we sat again for hours, and we did our best and we modified this Bill in the best possible manner we could. Well, Sir, I am satisfied that it is for the benefit of my community, and therefore I have no hesitation in giving my assent to this Bill.

**Mr. S. Sadiq Hasan** (East Central Punjab: Muhammadan): Sir, I oppose this Bill. Last time when it was discussed, I was not here and to tell you the truth I had not definitely made up my mind. No doubt, Sir, this Bill is in many ways beneficial to the God-fearing Hajjis who go to perform pilgrimage because in any case it ensures them a safe passage home. These poor Hajjis, as every one knows, are fleeced over there by Bedouins and Muelims. Sir, public opinion in this country has been incited to think that Messrs. Turner Morrison will eventually get a monopoly and will increase the fares, but I do not agree with it, which I think is absolutely misleading. Had it not been really beneficial for the Muslims I do not think a highly conscientious person like Mr. Jinnah would favour this Bill.

But, Sir, there is another point of view which is the spiritual point of view. The Jamiat-ul-Ulema, which is a recognised body of Mussalman divines, has pronounced that this Bill infringes religious liberty.

**Maulvi Muhammad Yakub**: They have not said anything about it. Show me the authority of the Jamiat-ul-Ulema.

**Maulvi Mohammad Shafee**: I have got it in writing.

**Maulvi Muhammad Yakub**: Will you read it?

**Maulvi Mohammad Shafee**: Yes. "*Is qānoon ke sarie ek āham Islāmi ibādāt ki addegi men ek qisim ki rokawat paida hoti hai jo Musalmano-ki mazhabi azādi ke mundfi hai.*"

(" On account of this law a kind of obstacle is placed in the way of the performance of an important religious Islamic ceremony, which negatives the religious liberty of the Muhammadans.")

**Maulvi Muhammad Yakub:** It does not say it infringes and it is not a religious injunction of the Ulemas; it is only a statement.

**Maulvi Sayad Murtuza Sahib Bahadur:** It is a resolution passed by the working committee of the Ulemas.

**Mr. S. Sadiq Hasan:** So in these circumstances I was not definitely able to make up my mind, and went to the chief of the divines, he who happens to be the President of the Jamiat-ul-Ulema, and after a great deal of discussion, I found he had been misinformed about certain points. He had been informed that Government intended to give a contract to Turner Morrison and Company. In all matters I think one should keep truth before himself and I do think that no untruthful statement should be made by any one in order to gain his point. So I explained everything to him fully, and he definitely replied that there are a number of poor pilgrims who have not got enough money for the return fare, but they leave India in order to perform Haj, and although it is not an incumbent duty upon them, yet it is an act of piety. These people intend to earn money for their return fare. (*Maulvi Muhammad Yakub:* "That is what we want to avoid.") And that is allowed by their religion. (*Maulvi Muhammad Yakub:* "Certainly not; by stealing or begging.") If this Bill was passed into law this class of people would be deprived of the power of performing this act of piety. Hence this Bill would interfere with religious liberty.

**Maulvi Muhammad Yakub:** May I ask the Honourable Member whether he quoted any authority; did he name any book?

**Maulvi Mohammad Shafee:** Can my friend understand the books? I do not think he can.

**Maulvi Muhammad Yakub:** I can and I do. I tell you once I was a student in an Arabic school.

**Mr. S. Sadiq Hasan:** Well, Sir, the Haj is not an incumbent duty on those who have not got sufficient funds, but certainly it is an act of piety and in our traditions those poor people who suffered the tortures of the heat and sand, who journeyed without any money to the holy city of Mecca in order to perform the pilgrimage there are held in great veneration.

**Maulvi Muhammad Yakub:** This Bill does not prevent them even now.

**Mr. S. Sadiq Hasan:** This Bill will prevent them because, as I have said, if a man has the fare for one way only, if this Bill is passed, he will not be able to go there.

**Maulvi Muhammad Yakub:** They can go on foot even now without a passport or the return passage money.

**Mr. S. Sadiq Hasan:** If this Bill is not passed, these people can go and perform the Haj ceremony and they can earn their livelihood and come back. This idea may appear quite medieval to many here but certainly such people are held in great veneration by the Muhammadan public. Government as a matter of fact are not ignorant of the religious zeal of my community. They know that a few years ago, whether rightly or wrongly, when the people thought it was their duty to go on Hijrat, how many thousands of people left everything and went on Hijrat at a great loss to

[Mr. S. Sadiq Hasan.]

themselves. I do not defend this action, but what I do say is this. Is there any necessity for the Government to embitter the feelings of the community at this stage? I think the feelings are becoming normal, and by doing this the Government will be doing nothing but embittering the relations between themselves and the Muhammadans. We already hear that a number of meetings have been held in the country. A meeting was held at Amritsar where about 10,000 people were present. A meeting was held at Shahjehanpore and at other places. It would mean that, if this Bill is passed into law, the Government will stir up a lot of bad feeling without doing any great amount of good. (Maulvi Muhammad Yakub: "Not the Government but those who are getting up these meetings.") (Maulvi Mohammad Shafee: "May I appeal to the President to keep Maulvi Muhammad Yakub within his limits.") Now, Sir, there is no doubt that Hajis suffered in times past in the days of the treacherous ex-Shereef Hussain; but he is no longer there. He has left with all the money he fleeced from the poor pilgrims. I do not doubt the *bona fides* of Government, but what I do say is, if the Government are in right earnest to do something for the benefit of the Hajis, they get so much money from the country, over 130 crores, and out of this if they spend a small amount for the good of the Hajis, and also for Hindu pilgrims, I dare say even the Hindus will be grateful. When the Government are spending over 30 lakhs on the Ecclesiastical Department. Sir, is it a very great thing if I ask that Rs. 200,000 may be spent for the benefit of Hindus and Muhammadans? I say, Sir, that if the Government spend a small amount of money, they will earn the good-will of all and there will be no bitter feeling in the country.

**Mr. J. W. Bhore:** I move that the question be now put.

**Maulvi Abul Kasem** (Bengal: Nominated Non-Official): Sir, after the speech of the Honourable Sir Muhammad Habibullah and Mr. Jinnah I thought the last word on this question had been said, but I find that my young friend from Amritsar has risen to support our Honourable friend Maulvi Mohammad Shafee, and as I want to share, in however small a measure it may be, in the volume of vilification that will be showered on my Honourable friend to my left, I want to add a few words in support of the motion.

I am afraid, Sir, we have been so far arguing in a circle. It has been said that this question has to be approached from a religious, a spiritual and a legal point of view. I am neither a lawyer nor a theologian and I approach it from a common sense point of view. We have been told that this is an interference with a religious duty of the Mussalmans and a good deal of ingenuity has been spent on expounding the theory as for whom the Haj is compulsory and for whom it is a meritorious act. I do not like or desire to enter into that question. The only thing that strikes me is this, that nobody prevents or obstructs either the performance of a duty or a meritorious act. This Bill only lays down that those who want to board a steamer for being conveyed to Jeddah on a mission of pilgrimage and who get the lowest class of passages, are asked to deposit their return journey fare or to take a return ticket. And why is this done? To prevent a large number of destitute pilgrims at Jeddah who die not only in their hundreds but in their thousands. My Honourable friend Maulana Mohammad Shafee referred to the Honourable Mr. Hudson's speech and said that the system of deposits was very popular, and when

it was popular, why enforce it by legislation, why not leave it to the people? My reply to him is that it was popular with *bona fide* and genuine Hajis and not popular with those who, as I said on the last occasion, go to Mecca neither for a meritorious act nor for the purpose of performing a religious duty but in order to get a stamp on their skin so that when they come back they may flourish in their profession, it may be in the witness-box of a judicial court or for the purpose of becoming glorified beggars. (Maulvi Mohammad Shafee: "Nobody objects to the deposit.") If it is not objected to, why not deposit the money? Again it has been said, why force them to do it? If a man wants to avoid that, the only thing he has to do is to swear an affidavit to the effect that he is not coming back for 3 years. So this Bill provides for all sorts of people. Either you take a return ticket or deposit the money or make a declaration. My friend the Honourable Member from Amritsar has suggested that if you spend a large amount of money on ecclesiastical establishment, why not spend some for the religious observances of Hindus and Muhammadans? I am at one with him on that. I think it is no business in these days of materialism for any Government to keep up an Ecclesiastical Department, specially for a Government where the Christian population is very small. But I would as strongly object to any public funds being utilised for the purpose of repatriation of either Hajis from Jeddah or Hindu pilgrims from Dwarka. The reason is this, that it may induce a large number of these professional beggars, as they have been described, to proceed to those places on the certain assurance that they will be brought back home comfortably at the expense of the State. Then if money is to be spent for religious purposes, there are a thousand and one ways of spending it in this country instead of throwing it away on these adventurers. Sir, this Bill was passed clause by clause at the last meeting and if the formal motion for its adoption as law was not moved on that occasion it was simply because on the last occasion several amendments were passed and the official draftsman had to look over them before asking the House to put their stamp on it. Now, Sir, I want the House to understand what will be the position if, which is not very likely, my Honourable friend Maulvi Mohammad Shafee's motion to throw out the Bill is passed. Where will intending Hajis be? Under the present system they may go by one ticket or on a return ticket without deposit; but they may be stranded at Bombay for a month, two months or three months; there is nothing to prevent that; they will be at the mercy of the shipping companies. Or they may be stranded at Jeddah, and at Jeddah they may be stranded for two or three months, and pilgrims who cannot afford to pay for their return journey in advance when starting from Bombay will have to maintain themselves and feed themselves at Jeddah for two or three months. Will that not be a hardship? With what result? If a man goes on the pilgrimage either he is affluent himself or he goes by begging. When he leaves his home he is naturally provided with sufficient money for his return passage. What is the harm if you deposit the return fare at the port of embarkation instead of carrying it with you and run the danger of being robbed?

Sir, I join with my Honourable friend Maulvi Muhammad Yakub in strongly protesting against the methods employed by certain of my co-religionists in trying to infuse enthusiasm and fanaticism among my community on false issues. As has just been mentioned by my Honourable friend from Amritsar, the name of Turner Morrison & Co. has been

[Maulvi Abul Kasem.]

used by these Muhammadan gentlemen to agitate Muhammadans. Supposing the Government enters into a contract with Turner Morrison's or Mackinnon Mackenzie's or any steamship company, how does it interfere with a religious institution or the religious beliefs of Muhammadans? In this case there has been no such agreement; but this has been done purposely, deliberately and I say mischievously, simply to irritate the Muhammadans and to bring them round under their flagging and their waning influence, and that is the root cause of it. I can well understand Maulvi Mohammed Shafee coming into this House and opposing every measure proposed by Government, good, bad or indifferent. That I can well understand; but what I object to is himself and his friends trying to exploit the unfortunate innocent members of my community who have been duped more than once; I appeal to them not to dupe them again and again and I hope he will not do so. They are too poor and too innocent and too confiding to be continually and systematically duped and exploited by people who claim to be leaders of the community and to have made heavy sacrifices in their cause, but if we examine these sacrifices, we will find that they are more or less material benefits.

**Mr. President:** The question is:

"That the Bill to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as amended, be passed."

The Assembly divided:

AYES—59.

Abdul Mumin, Khan Bahadur  
Muhammad.  
Abdul Qaiyum, Nawab Sir Sahib-  
zada.  
Abul Kasem, Maulvi.  
Ahmad Ali Khan, Mr.  
Aiyer, Sir P. S. Sivaswamy.  
Alimuzzaman Chowdhry, Mr.  
Ashworth, Mr. E. H.  
Bhore, Mr. J. W.  
Bray, Mr. Denys.  
Burdon, Mr. E.  
Chetty, Mr. R. K. Shanmukham.  
Clarke, Sir Geoffrey.  
Clow, Mr. A. G.  
Cosgrave, Mr. W. A.  
Crawford, Colonel J. D.  
Dalal, Sardar B. A.  
Datta, Dr. S. K.  
Fleming, Mr. E. G.  
Fraser, Sir Gordon.  
Ghose, Mr. S. C.  
Gour, Sir Hari Singh.  
Graham, Mr. L.  
Hira Singh Brar, Sardar Bahadur  
Captain.  
Hudson, Mr. W. F.  
Hussanally, Khan Bahadur W. M.  
Hyder, Dr. L. K.  
Innes, The Honourable Sir Charles.  
Jeelani, Haji S. A. K.  
Jannah, Mr. M. A.  
Joshi, Mr. N. M.  
Kasturbhai Lalbhai, Mr.

Makan, Mr. M. E.  
Marr, Mr. A.  
McCallum, Mr. J. L.  
Mitra, The Honourable Sir  
Bhupendra Nath.  
Moir, Mr. T. E.  
Muddiman, The Honourable Sir  
Alexander.  
Muhammad Ismail, Khan Bahadur  
Saiyid.  
Naidu, Mr. M. C.  
Purshotamdas Thakurdas, Sir.  
Raj Narain, Rai Bahadur.  
Ramachandra Rao, Diwan Bahadur  
M.  
Rangachariar, Diwan Bahadur T.  
Rau, Mr. P. R.  
Reddi, Mr. K. Venkataramana.  
Rhodes, Sir Campbell.  
Rushbrook-Williams, Prof. L. F.  
Samiullah Khan, Mr. M.  
Sarda, Rai Sahib M. Harbilas.  
Sastri, Diwan Bahadur C. V.  
Visvanatha.  
Setalvad, Sir Chimanlal.  
Stanyon, Colonel Sir Henry.  
Sykes, Mr. E. F.  
Tonkinson, Mr. H.  
Wajihuddin, Haji.  
Webb, Mr. M.  
Willson, Mr. W. S. J.  
Wilson, Mr. R. A.  
Yakub, Maulvi Muhammad.

NOES—13.

Acharya, Mr. M. K.  
Badi-uz-Zaman, Maulvi.  
Dutt, Mr. Amar Nath.  
Hari Prasad Lal, Rai.  
Kazim Ali, Shaikh-e-Chatgam Maulvi  
Muhammad.  
Mehta, Mr. Jamnadas M.

Murtuza Sahib Bahadur, Maulvi  
Sayad.  
Ray, Mr. Kumar Sankar.  
Sadiq Hasan, Mr. S.  
Shafee, Maulvi Mohammad.  
Sinha, Mr. Ambika Prasad.  
Sinha, Mr. Devaki Prasad.  
Syamacharan, Mr.

The motion was adopted :

THE CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) BILL.

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

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

As I stated on a previous occasion, Sir, the Bill is of a purely formal and consequential character and I think the House recognise that the measure is one which does not call for explanation or discussion.

**Mr. President:** The question is :

"That the Bill to amend the Cantonments (House-Accommodation) Act, 1923, 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.

**Mr. E. Burdon:** Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN PORTS (AMENDMENT) BILL.

**The Honourable Sir Charles Innes** (Commerce Member): Sir, I beg to move :

"That the Bill further to amend the Indian Ports Act, 1908, as passed by the Council of State, be taken into consideration."

I do not think, Sir, that I need detain the House very long over this little Bill. The fact of the matter is this. The use of liquid fuel is coming more and more into vogue in our steamers. At Bombay some of these vessels when they call at that port have to be oiled from barges, and it is very necessary to frame rules to regulate the use of these barges in order to provide for the safety of the port and the shipping at the port. But though the Port Trust Commissioners framed these rules in consultation with the Chief Inspector of Explosives and the Fire Insurance Companies, we find that under the Indian Ports Act, as it stands at present, we have no power to give the rules statutory force. That is the object of my Bill.

**Mr. President:** The question is :

"That the Bill further to amend the Indian Ports Act, 1908, as passed by the Council of State, be taken into consideration."

[Mr. President.]

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**The Honourable Sir Charles Innes:** I move, Sir, that the Bill be passed.

The motion was adopted

## THE COTTON GINNING AND PRESSING FACTORIES BILL.

**The Honourable Sir Charles Innes** (Commerce Member): Sir, I beg to move:

"That the Bill to provide for the better regulation of cotton ginning and cotton pressing factories, as reported by the Select Committee, be taken into consideration."

This Bill, Sir, has been so often before this House that I do not think that I need say very much at this stage. It was very carefully considered in the Select Committee for two days, and we did our best to meet, as far as we could, the views of two Members who took rather a different view from what the rest of the Committee did.

We have altered clause 5 so as to clear up the position in regard to returns. We have amended clause 7 so as to provide for the case of an owner leasing his factory for the transfer of the registers at the end of the lease. We have also made an important change in clause 9 which has the effect of exempting small ginning factories in which roller gins are used and which contain not more than 4 of such gins, from the structural requirements of that clause. These small ginneries will be exempted from the operation of clause 9. We have made another amendment in that clause which gives the owner of a ginning factory time to carry out any structural alterations that may be necessary to conform to the provisions of this Bill. We have also altered clause 11 regarding the power of sanctioning prosecutions. We have limited it to Magistrates of the first class. These are the more important changes which we have made in the Bill, and I move, Sir, that the Bill be taken into consideration.

**Mr. Narain Dass** (Agra Division: Non-Muhammadan Rural): If I may be in order, Sir, I crave your indulgence to oppose this Bill altogether. I do not see any utility whatsoever of this legislation. I think the Bill has been framed at the instance of certain gentlemen whose experience is confined to big cities only where clean cotton goes and where little of ginning is done. Sir, although it is not expressly provided in so many words in this Bill, I think the idea underlying this Bill is to improve the quality of the cotton bales. But I fail to see, in spite of my very close study of the whole Bill, how this enactment will improve the quality of the bales or baled cotton. I should submit that it is physically impossible for any manager or owner of a ginning factory to improve the quality of the ginned bale. So far as my experience of many ginning factories goes, I am of opinion that as the ginning season advances, the quality of the baled cotton also changes. For instance, the raw cotton produced in any district is not of the same quality throughout the season. There is a very great difference between the first pickings and the subsequent pickings carried on in the season, more particularly at the end of

the season. It does not depend at all on the discretion, however well the owner of the ginning factory may exercise it, to improve the quality of the baled cotton. What he generally does is to keep the raw cotton carts that come from the villages stocked in the premises in one big heap; he keeps the raw cotton which comes in cartloads quite separate from the ginned cotton. No admixture whatever is made in that cotton. Carts come from the villages, and the cotton is paid for according to its quality. Of course, as I have already submitted, the whole of the raw cotton produced in a district is not of the same quality. That can never be, because cotton is a product which can never be threshed out like wheat or other grain. It is collected over a period extending over two months. Of course, owners of the factories or other merchants purchase the raw cotton that comes by carts, collect all the cotton into heaps, and out of those heaps the daily ginning is carried on. I fail to see, Sir, in what respect, even with the exercise of the best of discretion by the owner or by the manager of a factory, this Bill will enable the quality of the baled cotton to be improved at all. And when I come to the restrictions or rather the punishment prescribed in the case of owners or managers who fail to put in a prescribed mark or a prescribed number on a bale, I am simply taken aghast. What offence will he commit if he does not put any particular mark, I fail to understand. I fail to see how the mere act of putting a particular mark will improve the quality of the baled cotton, I mean the quality of the ginned cotton. Well, Sir, when any legislation fails to show in clear terms its utility, I think it is superfluous to carry it through. From

1 P.M. the conditions that I have seen prevailing in so many other provinces, I am certainly of opinion that this Bill should be rejected altogether. I may add that most of the Native Indian territories are covered with ginning and press factories. How would my friends carry out this so-called improvement there?

Clauses 2 and 3 were added to the Bill.

**Mr. President:** Clause 4.

**Mr. M. V. Abhyankar** (Nagpur Division: Non-Muhammadian): Sir, the amendment which I am moving to clause 4, will, I think, be accepted by the Government. The clause as it stands runs thus:

"4 (2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees."

The clause evidently did not intend to make the pressing factory owner punishable for acts of other persons, acts for which he may be in no way responsible. The word used is only "removed." The clause does not say that the factory owner commits an offence if he removes the bale. The amendment I move is:

"In clause 4 (2):

- (i) after the word 'removed' the words 'or allowed to be removed' be inserted;
- (ii) before the words 'the owner' the word 'by' be inserted;
- (iii) before the words 'shall be' the word 'he' be inserted."

The clause when amended will read thus:

"If any bale is removed or allowed to be removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1) by the owner of the factory, he shall be punished with fine which may extend to fifty rupees."

[Mr. M. V. Abhyankar.]

It is only right, Sir, that the owner should be punished only when he either removes the bale or allows it to be removed. He cannot under any circumstances be made guilty for the act when he has no hand in the matter.

**The Honourable Sir Charles Innes:** Sir, I hope that the House will not accept this amendment which has been proposed by my friend Mr. Abhyankar. The amendment strikes at what is after all one of the main principles of the Bill. One of the main principles of this Bill is that we propose to regard the owner of the press factory as responsible for the factory. We place upon him a very small but a very definite obligation. Now, if this amendment were carried, it means we could only punish the owner if it can be proved that he himself removed that bale or that he himself had allowed that bale to be removed; that is to say, you give him a loophole; you relieve him of the responsibility and you would not put the responsibility on to anybody else. I think, Sir, that the House, if it is going to accept this Bill at all, will be well advised to accept that main principle, namely, that the owner of a press should be held responsible for what goes on in his press. The marking of the bales is the central feature of the Bill, and it is by this obligation that bales should be marked in this way that we hope that the trade will be enabled to protect itself against the abuses which, I am afraid, go on in presses.

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

“ In clause 4 (2) :

- (i) after the word ‘ removed ’ the words ‘ or allowed to be removed ’ be inserted;
- (ii) before the words ‘ the owner ’ the word ‘ by ’ be inserted;
- (iii) before the words ‘ shall be ’ the word ‘ he ’ be inserted.”

The amendment was negatived.

Clause 4 was added to the Bill.

Clauses 5, 6, 7, 8, 9, 10, 11 and 12 were added to the Bill.

**Mr. M. V. Abhyankar:** Sir, the amendment that I propose to clause 13 is rather an important amendment and I hope the House will give it due consideration. The amendment that I propose is to add a proviso at the end of clause 13. Clause 13 reads thus:

“ The Local Government may, by notification in the local official Gazette, make rules consistent with this Act to provide for all or any of the following matters, namely :

- (a) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers;
- (b) the appointment of the authority to whom and the time within which the returns required by section 5 shall be made;
- (c) the weights and scales to be used in cotton ginning and cotton pressing factories in any district in the province, and the inspection of the same;”

Now, this is very important.

- “ (d) the appointment of authorities for the purposes of sections 7, 8 and 9;
- (e) the manner of service of orders made under section 9;
- (f) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the Local Government;”

Then comes (g), which is a very wide clause indeed.

- “ (g) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.”

Now, let us see clause 3. We find that it requires registers to be maintained; and we also find in clause 4 that if registers are not maintained, the ginning and pressing factory owner is liable to punishment. So, power has been given to the Local Governments to make rules under clauses of this Bill which are penal, and if anybody infringes those rules he will be committing an offence. The rules have always to be so framed as to meet the circumstances of the locality which is to be governed by them. Then, the power given in sub-clause (g) is so wide that it authorises the Government to make rules which if improper will work very great hardship on the ginning and the pressing factory owners. The amendment I propose is that this rule-making power of the Local Government should be subject to the approval of the Legislature. My amendment says:

"To clause 13 the following proviso be added, namely:

'Provided that no notification under this section shall be issued by the Local Government unless the rules have been approved by the Legislative Council of the province by a Resolution.'

It was brought to the notice of this House and it was said during the last debate on this question by my friend Mr. Aney that the subject of this Bill really is a provincial subject and that the Central Legislature is encroaching upon a provincial subject. The House evidently paid no heed to it then, but now at least I hope this House will give the power to the local Legislature at least to make the rules under this Act. I know one argument will be advanced against me, namely, that no such power is ever given to the Legislature. It will be said that there is no Act of any Indian Legislature which gives such power. In reply to that, I would only refer firstly to section 129-A of the Government of India Act. Now, England is a country where they have full responsible government, and even there the rule-making power of the executive has been subjected to the approval or disapproval, as the case may be, of the Legislature. And secondly, Sir, in India particularly, where the executives are in no way responsible and are ready on every occasion to thwart the wishes of the Legislatures, they ought not to be given this power. I hope the House will accept my amendment.

**Mr. President:** Amendment moved:

"That to clause 13 the following proviso be added, namely:

'Provided that no notification under this section shall be issued by the Local Government unless the rules have been approved by the Legislative Council of the province by a Resolution.'

**The Honourable Sir Charles Innes:** Sir, it is perfectly true, as Mr. Abhyankar has said, that Mr. Aney did raise a constitutional point about this Bill. But I think the mere fact that the House referred the Bill to the Select Committee shows that the House did not accept Mr. Aney's opinion. The view I take in regard to this Bill is this. If we are going to have this Bill at all, it must undoubtedly be a Bill applicable to all India. Whatever legislation we have in regard to the marking of bales or the regulation in regard to gineries must be uniform for all India. If the House accepts such a view and passes the main features of this Bill, then I do not think that we should give any power to a local Legislature to defeat the intentions of the Indian Legislature. Now, if the local Legislature is charged with the duty of approving any rules that may be issued under clause 13 before they are given effect to, it will be open to the local Legislature to refuse to approve any such rules at all. This means that the Bill

[Sir Charles Innes.]

would become entirely inoperative. It also means that the Bill, if it is passed, would not apply to that particular province. Now, I will ask the House to consider what effect that would have upon the cultivators of that province? Under clause 14 of this Bill cotton cannot be tendered unless the provisions of this Bill are complied with. Supposing a local Legislature says; "No, we will not have any rules in regard to this in our province." That means that the Bill would become entirely inoperative in that province. That means that the trade in Bombay and elsewhere will regard cotton coming from that province as suspect. That means that all cotton coming from that province will lose its reputation in the Bombay market and will go down in price and the person who will thus suffer is the cultivator. Our practice always has been in regard to our Statute-book to lay down in the main Act the general principles which the Legislature is in favour of and to leave minor rule-making matters in regard to machinery and so on to Local Governments, and that is what we are doing in this matter. Practically all the sub-clauses of clause 13 deal with machinery and matters of no importance at all, the sort of things that you would not bring before a local Legislature. The time of the local Legislature should not be taken up with minor matters of that kind. For these reasons I hope that the House will not accept this amendment of Mr. Abhyankar which might in some provinces defeat the whole intention of this Bill.

**Mr. V. J. Patel** (Bombay City: Non-Muhammadan Urban): Sir, I rise to support the amendment moved by my friend Mr. Abhyankar, if not for any other reason, at least for the reason of his excellent speech on the Budget. (Laughter.) To be serious, however, Sir, this amendment involves a question of constitutional importance. The question is whether the Legislature should give rule-making powers to an irresponsible Executive? That is the question which my Honourable friend Mr. Abhyankar has raised. My own opinion is that in the present development of the self-governing institutions in this country it would be ridiculous to invest the Executive with rule-making powers. These rules will have the force of law as soon as they are made by the Executive Government. Now, if these rules do not find favour with the Legislature, what is the remedy for the Legislature? The Legislature cannot pass any Resolution which would have the effect of dismissing the Executive. That being so, it would be absolutely suicidal on the part of the Legislature to invest such an Executive with such a rule-making power. My friend Sir Charles Innes says that the procedure in regard to this Act should be uniform throughout British India, and that is the reason why this power is reserved to Local Governments and not to the Provincial Legislatures. I am afraid my friend Sir Charles Innes forgets that different Local Governments might promulgate different kinds of rules, and where would be the uniformity in that case? I can quite understand the Central Government retaining the powers on behalf of all the provinces. But when you propose to give power to each Local Government to frame its own rules, there is bound to be a want of uniformity all round. So, that argument does not hold good. We merely say: "Give power to Local Governments, but each Local Government will have to come up to its Legislature and put before it those rules in the form of a draft Resolution. If the Resolution is approved, let the notification be issued by the Local Governments". And I am opposed to the present irresponsible Government being vested

with any authority of rule-making power. If the Executives were responsible to us, we might next day say: "We trust you or we do not trust you." We might say: "Very well, you go on making the rules. You are responsible to us. If we will not like your rules, we shall dismiss you next day." But here we have no remedy and the amendment proposed is the only safeguard for the people. My friend Mr. Abhyankar is quite right in saying that the irresponsible Executive should not be vested with the power of rule-making.

The second point is this. We have noticed in the course of the discussion on this Bill that different provinces have different views on this Bill. My friend Sir Purshotandas Thakurdas representing Bombay holds one view. My friends Messrs. Abhyankar and Aney representing the Central Provinces have a different view on the merits of this Bill. So, it is necessary even from that point of view that the Provincial Legislatures should be invested with the power of rule-making, so that whichever province wants this legislation may utilise it and the province that does not want it may not do so.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): May I ask a question of the Honourable Sir Charles Innes? Is it not a fact that this subject is a transferred subject in the provinces and is it not also a fact that the rules will have to be framed by the Local Government in consultation with the Ministry? In other words, by the Ministers responsible to the Legislature.

**The Honourable Sir Charles Innes:** The Honourable Member is correct, Sir.

**Mr. M. V. Abhyankar:** The Ministers, under the Government of India Act, are not responsible to the Legislature.

**Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber: Indian Commerce): Sir, I rise to oppose my Honourable friend Mr. Abhyankar's amendment. My friend Mr. Patel assured the House that if he rose to support his amendment it was principally because of his admiration for Mr. Abhyankar's speech on the Budget. Let me, Sir, in order to avoid being misunderstood, assure my Honourable friend that my opposition to his amendment has nothing to do with his speech on the Budget. My view about that has already been communicated to my Honourable friend. I oppose this amendment, Sir, on its merits irrespective of his views as expressed in the speech on the Budget.

Mr. Abhyankar very frankly reminded the House that this amendment was in keeping with the plea advanced by Mr. Aney from the Central Provinces that in his opinion the subject-matter of this Bill was a fit subject for legislation in the Provincial Council. This House in referring this Bill to a Select Committee, I am afraid, disapproved of or rather disagreed with that plea of Mr. Aney and Mr. Abhyankar. Therefore, I submit that in the very first place this amendment seeks to take us back to the same point of view, namely, that Provincial Councils should have some say and, if this amendment is passed, a very substantial say, in the working of this Bill when it is passed into law. The Honourable Member in charge, Sir, has dealt very fully with the practical difficulties that would arise if this amendment were embodied in the Bill. I do not think I need say anything more on that score except that if this amendment were embodied in the Bill the result will be that a province, which may choose to stand out or

[Sir Purshotamdas Thakurdas.]

which may delay the passing of the necessary rules, would simply hold up the introduction of the very salutary provisions of this Bill in practice not by a few months but by a year each time.

**Mr. V. J. Patel:** May I ask the Honourable Member whether the Local Government would not do that if so inclined?

**Sir Purshotamdas Thakurdas:** I am coming to it if the Honourable Member will have a little patience. Sir, this Bill, when it is passed into law, could be put into practical effect only at the beginning of each cotton season, namely, at the beginning of every October in each year. Once the new cotton season begins you have got to wait for a full year before you could put up into practice the Bill when it has passed into law. Therefore I say any machinery that may be suggested for the purpose of rule-making, which is likely to cause delay, (and the Legislative Council is likely to cause much more delay than the Executive Government of a province), should be avoided. My Honourable friend on my right asked me the question whether the Local Governments were not likely to have such delays. I feel, Sir, that the Local Government is put down in the draft Bill as the body which should consider and pass rules as the agents of the Central Government, who are the executive authority for this Assembly. I, Sir, claim that I am as jealous as my Honourable friend on my right of the constitutional progress that we want towards eliminating irresponsible and irremovable Governments as executive authority, but as far as this Bill, when it is passed by this House goes, our executive authority is the Government of India. Now the Government of India appoint the Local Governments as their agents, and the effect of Mr. Abhyankar's amendment would be that the Government of India would be asked to appoint as their agents for the purpose of making rules, another legislative body who are not their agents in any sense of the word, and the result would be that here and there it may very likely lead to a clash between this Assembly and a local Council because Legislative Councils may delay passing rules which are necessary in order to work this Bill effectively. Local Governments have to carry out orders in accordance with certain principles laid down in the Bill, and there has been no case which my Honourable friend can cite where a Local Government has differed from the Government of India and said, "We will not carry out the principles laid down in a Bill passed by the Central Legislature," I therefore feel that in our anxiety for constitutional advance, either direct or indirect, nothing should be done which would give rise to a clash between this Assembly and a local Legislative Council. I will say this; if Mr. Abhyankar will permit me to do so, that the direction in which he seeks advance is likely to lead to mischief. Let us say, we do not want the Central Legislature to consider this Bill and throw it out on that score, or let us decide we want the Central Legislature to carry on this and then appoint executive authorities who will carry out the necessary details as are required under the Bill. Let us not go about it in any indirect manner and try and upset the whole thing just when it reaches the final stage. I therefore say that, having accepted the principle that the subject-matter of this Bill is for the Central Legislature, the House must appoint Local Governments, who are the agents of the Central Government, the executive authority of this House for the purpose of working this Bill when passed into law. I oppose the amendment.

**The Honourable Sir Charles Innes** (Commerce Member): May I get up to correct a statement made just now. Sir Hari Singh Gour asked me if this Bill was a reserved or a transferred subject. The Bill concerns cotton

ginning and pressing factories, and under the rules factories are a reserved subject, subject to legislation by the Indian Legislature. But I think some of the matters dealt with by this Bill are transferred subjects.

**Sir Purshotamdas Thakurdas:** If I may add a few words in reply to the correction made by my Honourable friend, I submit that makes no difference at all. The point is who are the agents of the Government of India who are the executive authority of this Assembly for the purpose of carrying through the policy laid down in legislation by the Assembly?

**Dr. K. G. Lohokare** (Bombay Central Division: Non-Muhammadan Rural): Sir, leaving that point aside, I think there are other reasons as well for placing the powers in the hands of the local Legislature for framing these rules because the conditions of the trade differ in many provinces. In the Punjab, as I was informed in this House, it is the ginning factory owners who mix up inferior cotton with the good cotton. They buy it on their own account, while in other Presidencies the ginning factory owners have practically nothing do with this mixing or buying of cotton. My trader friends know that they send their own agents down to the agriculturists' villages, and buy their own cotton and it is they themselves who get it ginned, at least in some parts of the Bombay Presidency. In the constituency I come from the gin-owners do not buy cotton on their own account. It is the cotton buyers, these so-called offices who send their representatives down to the villages and buy cotton on their own account, mix one variety with another as they choose . . . .

**Mr. President:** We are only concerned here with the question whether these rules shall be issued with or without the approval of the Legislative Council.

**Dr. K. G. Lohokare:** Yes, Sir. I may point out that the conditions differ in other provinces and that is the argument I have been following. In order that the provinces may have their own separate rules I pointed out that the conditions differ in each province.

**Mr. President:** That is provided for in clause 18. The only point is whether the Local Government shall issue the notification with or without the assent of the local Legislature. That is the narrow issue to which the debate is confined.

**Dr. K. G. Lohokare:** In this case if my friends of the East India Cotton Association had thought it easy for them to get their Bill through the Bombay Council, I think they would have gladly taken that step, but finding it was impossible because there was opposition in the Bombay Council, they chose to put it down here.

**Sir Purshotamdas Thakurdas:** Just for my Honourable friend's information may I say the opposition he refers to was regarding the Cotton Transport Act and whether the Surat district should be divided into three or two zones. It had nothing to do with this Bill, which was not before the Bombay Council. I am afraid my friend is too premature in thinking they would have thrown it out.

**Dr. K. G. Lohokare:** Because that was his experience in regard to the Cotton Transport Act, therefore he did not risk this Bill there. That is why they introduced the Bill here, and now he comes in with the plea that the other Provincial Legislatures should not have anything to do with the measure. He wants to put the Provincial Legislatures aside and get his rules through the executive passed at the instance of the India Cotton Committee. That is the whole crux of these rule-making powers.

**Sir Purshotamdas Thakurdas:** I am sorry to interrupt the Honourable Member again, but I may tell him that the East India Cotton Association did not express a single opinion as to whether this Bill should be introduced in the local Council or in the Legislative Assembly. All through it has been the Indian Central Cotton Committee that has been concerned in this Bill.

**Dr. K. G. Lohokare:** Well it was one of the two sister committees and it does not matter which. Among them are members who sit both here and there at the same time. They are interested in the same trade and it is for the sake of the trade that they want this. They say that they are going to benefit the agriculturists; but it is not the agriculturists who will be benefited by this at all.

**Mr. President:** The question of agriculturists does not arise under this amendment. The Honourable Member must keep in order, the question which is in order being whether these rules should be submitted to the local Councils or not.

**Dr. K. G. Lohokare:** The point that I have been dealing with, Sir, is that the difficulty that has been created in the case of this Bill being taken to the local Legislatures is that they could not convince the agriculturist class that the Bill was in their interests, and that is why they want these things to be put down here so as to do away with the powers of the local Legislature in order that they may frame rules directly from this place. That is my argument in this place, Sir, and I therefore say, if I may refer to what a paper in East Kandesh named *Atmodhar* has distinctly said, it was a very clever move on the part of the capitalist merchants themselves, it was a clever move not in the interests of agriculturists but on their own account. That opinion appeared in a non-Brahmin paper, representing the interests of the agricultural classes.

**Sir Purshotamdas Thakurdas:** Bring them all in—non-Brahmin and Brahmin, capital and labour; let us have them all brought into this question!

**Dr. K. G. Lohokare:** Well my Honourable friend will still hear something else about it in some other places too. The whole trouble about the Bill in short is that because the various Cotton Committees could not succeed to get the thing through in the Provincial Legislatures this Bill has been put forth here in order that the Provincial Legislatures and the agriculturists may not have their say on these things at all. I therefore appeal to the House that if they want to consult the agriculturists' interests it must be in the Provincial Legislatures that must have a say, and not only a say but a decision on these rules, and consequently it must be left in their hands whether to say "Yes" or "No" to the various rules that will be framed under this Bill.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I should not have thought of intervening in this debate because it deals with a subject with which I am not familiar—cotton. It appears to create a good deal of heat in this House whenever we talk about cotton. But how the clause now under consideration can in any way be regarded by any person, whether connected with cotton or not connected with cotton

as a plot to deprive the local Legislatures of their powers passes my comprehension. In the intervals of the debate I have glanced at the actual provisions of clause 13. They are of the most trifling kind,—prescription of forms, appointment of authorities, prescription of the kinds of weights and scales and that kind of thing. Is the House really seriously going to consider the advisability (*Mr. V. J. Patel*: “Are not the branches of these rules made penal?”); is the House seriously going to consider the question of laying down that the affirmative sanction—mark you, it is not even the negative sanction—the affirmative sanction of a local Legislature is necessary for trivial matters of this kind? I merely speak as one who has had to deal with the preparation of Rules and Acts, and I ask the House to consider seriously whether you require subsidiary legislation—that is what it amounts to—subsidiary legislation of an affirmative character with regard to matters of detail. If you go in for that kind of legislation you will render the making of laws exceedingly difficult. The business of a Statute is to lay down principles of real importance, and in every country and in every system of drafting you will find that these petty subsidiary details are relegated to rules. The amendment under consideration makes those rules in effect subject to affirmative legislation by the local Legislature. I therefore oppose the amendment.

**Mr. President:** The original question was :

“That clause 13 as amended by the Select Committee stand part of the Bill.”

Since which an amendment has been moved :

“That to clause 13 the following proviso be added, namely :

‘Provided that no notification under this section shall be issued by the Local Government unless the rules have been approved by the Legislative Council of the province by a Resolution.’”

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

The Assembly divided :

**Mr. President:** (While Division was proceeding) If Honourable Members will record their own votes instead of trying to get others to record theirs, we shall get through the business quicker.

AYES—34.

Abhyankar, Mr. M. V.  
Acharya, Mr. M. K.  
Belvi, Mr. D. V.  
Chanda, Mr. Kamini Kumar.  
Dutt, Mr. Amar Nath.  
Govind Das, Seth.  
Hans Raj, Lala.  
Hari Prasad Lal, Rai.  
Iyengar, Mr. A. Rangaswami.  
Jeelani, Haji S. A. K.  
Kazim Ali, Shaikh-e-Chatgan Maulvi  
Muhammad.  
Kelkar, Mr. N. C.  
Kidwai, Shaikh Mushir Hosain.  
Lohokare, Dr. K. G.  
Mehta, Mr. Jamnadas M.  
Misra, Pandit Shambhu Dayal.  
Misra, Pandit Harkaran Nath.

Murtuza Sahib Bahadur, Maulvi  
Sayad.  
Mutalik, Sardar V. N.  
Narsin Dass, Mr.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Patel, Mr. V. J.  
Ranga Iyer, Mr. C. S.  
Ray, Mr. Kumar Sankar.  
Roy, Mr. Bhabendra Chandra.  
Samiullah Khan, Mr. M.  
Sarfaraz Hussain Khan, Khan  
Bahadur.  
Shafee, Maulvi Mohammad.  
Sinha, Mr. Ambika Prasad.  
Sinha, Mr. Devaki Prasad.  
Sinha, Kumar Ganganand.  
Syamacharan, Mr.  
Tok Kyi, Maung.

## NOES—61.

Abdul Mumin, Khan Bahadur Muhammad.	Kasturbhai Lalbhai, Mr.
Abdul Qaiyum, Nawab Sir Sahibzada.	Makan, Mr. M. E.
Abul Kasem, Maulvi.	Marr, Mr. A.
Aiyer, Sir P. S. Sivaswamy.	McCallum, Mr. J. L.
Akram Hussain, Prince A. M. M.	Mitra, The Honourable Sir Bhupendra Nath.
Alimuzzaman Chowdhry, Mr.	Moir, Mr. T. E.
Ashworth, Mr. E. H.	Muddiman, The Honourable Sir Alexander.
Badi-uz-Zaman, Maulvi.	Muhammad Ismail, Khan Bahadur Saiyid.
Bhore, Mr. J. W.	Neogy, Mr. K. C.
Bray, Mr. Denys.	Pal, Mr. Bipin Chandra.
Burdon, Mr. E.	Purshotamdas Thakurdas, Sir
Chetty, Mr. R. K. Shanmukham.	Raj Narain, Rai Bahadur.
Clarke, Sir Geoffrey.	Ramachandra Rao, Diwan Bahadur M.
Clow, Mr. A. G.	Rangachariar, Diwan Bahadur T.
Cosgrave, Mr. W. A.	Rau, Mr. P. R.
Crawford, Colonel J. D.	Reddi, Mr. K. Venkataramana.
Dalal, Sardar B. A.	Rhodes, Sir Campbell.
Das, Mr. B.	Rushbrook Williams, Professor L. F.
Datta, Dr. S. K.	Sadiq Hasan, Mr. S.
Fleming, Mr. E. G.	Sarda, Rai Sahib M. Harbilas.
Ghose, Mr. S. C.	Sastri, Diwan Bahadur C. V. Visvanatha.
Ghulam Abbas, Sayyad.	Setalvad, Sir Chimanlal.
Gour, Sir Hari Singh.	Singh, Rai Bahadur S. N.
Graham, Mr. L.	Sykes, Mr. E. F.
Hira Singh Brar, Sardar Bahadur Captain.	Tonkinson, Mr. H.
Hudson, Mr. W. F.	Venkatapatiraju, Mr. B.
Hussanally, Khan Bahadur M. W.	Webb, Mr. M.
Hyder, Dr. L. K.	Willson, Mr. W. S. J.
Innes, The Honourable Sir Charles.	Wilson, Mr. R. A.
Jinnah, Mr. M. A.	Yakub, Maulvi Muhammad.
Joshi, Mr. N. M.	

The motion was negatived.

Clause 13 was added to the Bill.

Clauses 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 Sir Charles Innes:** Sir, I move that the Bill be passed.

**Mr. President:** The question is:

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

The motion was adopted.

## RESOLUTION *RE* REPRESENTATION OF THE LEGISLATIVE ASSEMBLY ON THE GOVERNING BODY OF THE LADY HARDINGE MEDICAL COLLEGE.

**Mr. J. W. Bhore** (Secretary, Department of Education, Health and Lands): Sir, I shall explain my Resolution in a very few words. The Lady Hardinge Medical College came into existence as the result of munificent generosity of private persons and its management is vested in a corporation formed under Act XXI of 1860. The Government however contribute largely every year to its upkeep and their contributions have

no doubt led this House to evince a very special interest in the management of this institution. The Governing Body have welcomed this interest. They consider that the presence of representatives of this House upon the Governing Body will be of real value to the management and they have therefore come forward with this very definite request, namely, that Government should nominate two representatives to be selected from a panel of six Members elected by this House, and that request is embodied in the Resolution which I now beg to move.

**Mr. President:** Resolution moved:

"That this Assembly recommends to the Governor General in Council that he may be pleased to take steps to secure the appointment to the Governing Body of the Lady Hardinge Medical College, Delhi, of two Members of this House to be nominated by him from a panel of six Members to be elected by this House."

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): Sir, I acknowledge the great compliment paid to this House by the Government in asking them to elect a panel from which they propose to take two Members for the Governing Body of this institution—and a very good institution it is in my opinion. Sir, it appears to me that we are being asked to go down rather than upwards. It seems to me a highly doubtful matter whether under the terms of the Statute under which this Assembly is constituted we can delegate people to manage institutions all over the land. We are making contributions not only to the Lady Hardinge Medical College but to hundreds of institutions from the central funds if not hundreds at least tens. Now, the question is, are we going to set a precedent, an inconvenient precedent like this of electing representatives to go and sit on the managing board of every one of these institutions? It may vary from a dispensary to a college; it may vary in character. We as Members of the Assembly have come here to assist in legislation and in the administration of the Government of India. When we are asking for advancement upwards, that we should take part in the government of the country, we are here asked, Sir, very graciously indeed by the Government to take part in the management of an institution. I suppose this is the reform which is coming. I do think it is a matter which the House should consider very deeply indeed before it commits itself to a position of this sort. I do not think, Sir, the Parliament in England does so—we are called the Indian Parliament—(*An Honourable Member*: "A mock Parliament!") Do not make it more of a mock Parliament—do not make it a really mock Parliament. Therefore, Sir, I do not think this is a matter which we should encourage. I think our aim should be high, and, till our aims are reached we shall not lend ourselves to this sort of downward movement as I consider it. Sir, I oppose the motion.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I have listened to my Honourable friend, Diwan Bahadur Rangachariar with my usual interest and I think I must admit at once that he made a very considerable point. I do think it is a question of some constitutional importance whether this House should elect Members to serve on the governing body of an institution of this kind; I personally do not feel quite sure where it would stop. I must, however, make it quite plain that the reason why this Government brought forward this Resolution was that it was requested by the Governing Body to do so and I merely ask the House to come to a

[Sir Alexander Muddiman.]

decision on that definite request. If it considers—and I think as I said before that my Honourable friend has indicated very good reasons for his point of view—that it should not accede to the request, it will express itself to that effect. We merely desired that the motion should actually be put to the House in order that the House may express a definite “ Yea ” or “ Nay ” on the situation that has been created by this request. In my own view I think that representation on bodies of this kind should be by individual members if at all and not by representatives of this House. I believe one of the reasons that the Governing Body were anxious to obtain the direct representation of the House was the very great interest that has been taken in the actions of the Governing Body by individual Members of this House. Sir, I hope that the question may now be put to the House for a definite “ Yea ” or “ Nay ”.

**Dr. S. K. Datta** (Nominated: Indian Christians): Sir, I agree with Mr. Rangachariar in his opposition to the Resolution. We will land ourselves in a hopeless mess. Whenever a body wants money to be voted by the Assembly they will send an invitation and ask us to appoint representatives to their governing body. In the second place, Sir, some years ago, Mr. Ramachandra Rao and myself had an opportunity of examining the constitutions of the governing bodies of various educational institutions in England. And the thing I think that left the deepest impression on my mind was that they were absolutely independent of political influence. Sir, I feel that our educational bodies in this country should be completely safeguarded from those influences. With these words I oppose the Resolution moved by my Honourable friend Mr. Bhole.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I was somewhat surprised to hear my Honourable friend Diwan Bahadur Rangachariar opposing this motion of the Honourable Mr. Bhole for the representation of this House on the Governing Body of the Lady Hardinge Medical College, because I have a vivid recollection of the active part which the Diwan Bahadur took in the representation of this House on another learned institution, namely, the Delhi University, and I do not think, Sir. . . . .

**Diwan Bahadur T. Rangachariar**: It is provided for by the Statute itself.

**Sir Hari Singh Gour**: And I do not think, Sir, that there was a single discordant note struck at the time when the Bill was passing through this House. And so this House is represented on the Senate of the Delhi University. If that be the right principle, I fail to understand why this Resolution enunciates a wrong principle. But there are no doubt weighty objections to the course proposed by Mr. Bhole. As the Honourable Members of this House are aware, the affairs of the Lady Hardinge Medical College have been before this House for a considerable time, and the question before this House is not whether those affairs can be mended by reinforcing the Governing Body, and whether they do not call for a more drastic remedy. I think this peace-offering on the part of the Governing Body is merely a palliative, and the Governing Body will very soon find that if that institution is to fulfil the function for which it was opened and in fact to become even a more useful public institution (*Mr. N. M. Joshi*: “ Affiliate it to the Delhi University ”) than it is at present, then I think

it requires a complete reorganization and its co-relation with the educational institutions within the geographical limits of which it is situate (*Mr. A. Rangaswami Iyengar*: "Namely the Delhi University"). I therefore submit, Sir, that the proposal which the Honourable Mr. Bhore has made must not be regarded as a solution of the question.

Then my friend Dr. Datta and I think Diwan Bahadur Rangachariar both said that merely because this House makes an annual grant to the Lady Hardinge Medical College, is that any reason why this House should be represented on that body? Well, I think, Sir, both of these Honourable Members are aware of the fact that this House is a jealous guardian of the public purse, and it is represented not merely upon those institutions to which the funds of the public are devoted, but it has a right to be represented upon all institutions which draw their nourishment from the central funds of the Government of India. I therefore submit that there is nothing radically wrong in principle that this House should be represented on the governing body of an institution which is mainly supported by funds voted by the Legislature. I therefore submit, Sir, that so far as the principle is concerned, it is right. But I have my doubts as to whether the solution proposed by the Governing Body and their mouthpiece in this House is the right solution.

**An Honourable Member:** I move that the question may now be put, Sir.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): May I formally move, Sir, that this proposition be not proceeded with?

**Mr. President:** Amendment moved:

"That this proposition be not proceeded with."

The question is that this Resolution be not proceeded with.

The motion was adopted.

**Mr. President:** This House now stands adjourned till to-morrow at Eleven O' Clock in the morning. But before Honourable Members disperse, I may remind them that a photograph is to be taken at half past ten to-morrow morning, and I hope that there will be a large gathering.

The Assembly then adjourned till Eleven of the Clock on Friday, the 6th March, 1925.

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