

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 27th AUGUST, 1925

Vol. VI—No. 6

OFFICIAL REPORT



CONTENTS

Questions and Answers.

Statement of Business.

Statement laid on the Table.

The Carriage of Goods by Sea Bill—Motion for constitution of the Joint Committee adopted.

The Code of Criminal Procedure (Amendment) Bill—Introduced.

The Sikh Gurdwaras (Supplementary) Bill—Introduced.

The Legal Practitioners (Amendment) Bill—Introduced.

The Contempt of Courts Bill—Referred to Select Committee.

Filling of Vacancies on the External Capital Committee.

The Maternity Benefit Bill—Motion to refer to Select Committee negatived.

The Special Marriage (Amendment) Bill—Motion to refer to Select Committee negatived.

The Hindu Trusts (Validating) Bill—Motion to circulate negatived.

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GOVERNMENT OF INDIA PRESS

1925

Price Five Annas.

LEGISLATIVE ASSEMBLY.

Thursday, 27th August, 1925.

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

QUESTIONS AND ANSWERS.

UTILIZATION BY PROVINCIAL GOVERNMENTS OF REMISSIONS OF PROVINCIAL CONTRIBUTIONS FOR THE BENEFIT OF TRANSFERRED DEPARTMENTS.

130. *Mr. B. Venkatapatiraju : Will the Government be pleased to state how far the respective Provincial Governments carried out the recommendation of this Assembly in utilising the remissions granted from their contributions for the benefit of transferred departments ?

The Honourable Sir Basil Blackett : Detailed information is not available. The decision is essentially a matter for the Local Governments concerned. I have no doubt that they are complying to the utmost possible extent with the recommendation of this Legislature.

Mr. B. Venkatapatiraju : When the Assembly recommended that the amounts to be remitted are to be utilised for this purpose, is it not fair to the Assembly to know how far those recommendations are carried out by the Provincial Governments ?

The Honourable Sir Basil Blackett : That is a matter of opinion, Sir.

Mr. A. Rangaswami Iyengar : May I know, Sir, if the attention of the Finance Member has been drawn to the answers given by the Governments of Madras and the United Provinces in their respective Councils stating that they were unable to allot the sums remitted primarily for the transferred departments ?

The Honourable Sir Basil Blackett : I have seen various answers in various Councils and that is one of the reasons why I told that this is mainly a matter for the Provincial Governments. I do not think it is one in which the Government of India can interfere very seriously.

Mr. A. Rangaswami Iyengar : May I know, Sir, if the Government of India are prepared to ascertain why the intentions of this House which were declared at the instance of the Finance Member himself are not being carried out by the Provincial Governments ?

The Honourable Sir Basil Blackett : I have given as full an answer as is possible.

Mr. A. Rangaswami Iyengar : Am I to understand, Sir, that if the Provincial Governments do not in any sense carry out the Resolution of this House, the Finance Member will accept that position ?

The Honourable Sir Basil Blackett : I think the Honourable Member had better understand that in a sense the Finance Member does accept that position.

VISIT OF HIS MAJESTY THE KING-EMPEROR TO INDIA.

131. ***Mr. B. Venkatapatiraju** : Will the Government be pleased to state whether His Majesty the King-Emperor is visiting India next winter and whether the visit would synchronise with conferring self-government on India ?

The Honourable Sir Alexander Muddiman : Government have no information on the subject. I do not know whether my Honourable friend has. The second part of the question does not therefore arise.

Mr. B. Venkatapatiraju : Has the attention of the Government been drawn to the telegram that was published in the papers that His Majesty the King-Emperor would visit India in case there is co-operation on the part of the Swarajists ?

The Honourable Sir Alexander Muddiman : I am afraid we do not read the same newspapers.

Mr. Gaya Prasad Singh : Is it not a fact, Sir, that there can be no self-government in India so long as the people continue to pursue a policy of political mendicancy ?

The Honourable Sir Alexander Muddiman : Sir, that question does not arise.

PROMOTION OF THE GROWTH OF AN INDIAN MERCANTILE MARINE.

132. ***Mr. B. Venkatapatiraju** : Will the Government be pleased to state when they propose to introduce the Indian Merchant Marine Bill to promote the growth of an Indian Merchant Marine adequate to the industrial and commercial requirements of India ?

PROVISION OF A TRAINING SHIP.

294. ***Khan Bahadur Sarfaraz Hussain Khan** : With reference to Government reply to starred question No. 944 asked on 20th February 1925 that " the question of providing a training ship as recommended by the Committee is at present under consideration ", will Government please state :

(a) if they have arrived at any conclusion ?

(b) if not, by what time are they expected to come to a decision ?

RECOMMENDATIONS OF THE MERCANTILE MARINE COMMITTEE.

405. ***Khan Bahadur Sarfaraz Hussain Khan** : With reference to Government reply to starred questions Nos. 184, 207 and 444 asked in the last Delhi Session of the Assembly, regarding the " Recommendations of the Mercantile Marine Committee ", will the Government please state :

(a) if they have reached any definite decision ?

(b) If they have, will they please communicate the result to the House ?

REPORT OF THE MERCANTILE MARINE COMMITTEE.

470. ***Sardar V. N. Mutalik** : Will Government be pleased to state what action has been taken, or is intended to be taken, on the Report of the Mercantile Marine Committee ?

REPORT OF THE MERCANTILE MARINE COMMITTEE.

551. ***Seth Govind Das** : Will the Government be pleased to state what action they have taken or propose to take on the Report of the Indian Mercantile Marine Committee ?

The Honourable Sir Charles Innes : I shall take up questions Nos. 132, 294, 405, 470 and 551 together for the sake of convenience as they all relate to the same subject.

As stated by the Honourable Sir Alexander Muddiman in reply to question No. 17 in this list, the recommendations of the Indian Mercantile Marine Committee are still under consideration, but it has been decided to obtain from England the services of an expert to draw up a detailed scheme for the establishment of a training ship in Indian waters. It is hoped that the expert will come out towards the end of December.

STRIKE ON THE NORTH WESTERN RAILWAY.

133. ***Diwan Bahadur M. Ramachandra Rao** : (a) Will the Government be pleased to state (1) the causes of the strike on the North-Western Railway, (2) the date on which the strike began and the period for which it lasted, (3) the number of employees who went on strike, (4) the reasons for the undue prolongation of the strike, and (5) whether it is true that the Government of India declined the offer of the Trade Union Congress to mediate between the strikers and the railway administration ?

(b) Will the Government be pleased to state whether any attempts have been made to settle the strike by arbitration ?

The Honourable Sir Charles Innes : The Honourable Member's questions are answered in the statement issued by the Government of India to the Press on the 17th June 1925 to which the Honourable Member is referred. The strike began on 26th March 1925 and ended very soon after the above communiqué was issued. The number of men affected was about twenty thousand.

COLOUR BAR BILL IN SOUTH AFRICA AND THE NATAL BOROUGH'S ORDINANCE.

* 134. ***Diwan Bahadur M. Ramachandra Rao** : (a) Will the Government be pleased to state what action, if any, has been taken by the Government of India since March last in regard to the Colour Bar Bill and the Natal Borough's Ordinance ?

(b) Will the Government be pleased to place on the table copies of the correspondence between the Government of India and the Government of the South African Union regarding the above two Bills ?

Mr. J. W. Bhore : (a) Attention is invited to the reply† given by me to Mr. Muhammad Yakub's question No. 88. The Government of India are negotiating at present with the Union Government with a view to arrange a Conference to consider the Indian question in South Africa.

(b) I regret that it will not be in the public interest to comply with the Honourable Member's request.

† Answered on the 26th August, 1925.

Baba Ujagar Singh Bedi : Sir, is there any colour bar not in the House of Lords but in the house of God whereby white colour is permitted and black is spurned ? If not, is it not a blasphemy and sin to treat it as such ?

Mr. J. W. Bhore : I do not know whether the Honourable Member seriously wishes me to answer that question.

Mr. Harchandrai Vishindas : When the Honourable Member said that it will not be in the public interest to place this correspondence on the table, did he mean to say that some of the correspondence is of a confidential nature and therefore it will not be in the public interest to lay it on the table, or is there some other reason ?

Mr. J. W. Bhore : Sir, I meant exactly what I said.

Diwan Bahadur M. Ramachandra Rao : May I ask the Honourable Member when this Conference is likely to come off ?

Mr. J. W. Bhore : Sir, I wish I were endowed with the gift of prophecy, but I am not and therefore regret I am unable to say.

Diwan Bahadur M. Ramachandra Rao : May I take it that it will be in the near future or in the far distant future ?

Mr. J. W. Bhore : It is quite impossible for me to prophesy in this matter.

Mr. R. K. Shanmukham Chetty : Has the proposal for a round table conference emanated from the Government of India or from the Union Government ?

Mr. J. W. Bhore : The proposal emanated, Sir, from this Government.

Mr. R. K. Shanmukham Chetty : Have the Government of South Africa accepted the proposal ?

Mr. J. W. Bhore : I have been trying to convey to the House that this subject is still the subject of negotiation. I regret that I have not made myself clear.

AIR SERVICE TO INDIA.

135. ***Diwan Bahadur M. Ramachandra Rao :** Will the Government be pleased to state whether there are any proposals for an air service between England and Egypt and between Egypt and India and whether the Government of India are committed to any and what expenditure on the scheme ?

The Honourable Sir Bhupendra Nath Mitra : There are two proposals for air services to India, namely, for an airship service between England and India and for an aeroplane service between Egypt and India.

As regards the former, the Standing Finance Committee of the Legislative Assembly have agreed to the land required for the base at Karachi, which is estimated to cost about Rs. 90,000, being acquired by the Government of India and placed rent-free at the disposal of the Home Government. They have also approved of a grant-in-aid of rupees four

lakhs being made by the Government of India to the scheme on the understanding that import duties at the ordinary rates will be paid on all materials imported into India for the works. A supplementary demand for the funds necessary to meet this expenditure will be placed before the Assembly in due course. As regards the service from Egypt, the Government of India are not committed to any expenditure.

TREATMENT OF PILGRIMS AT KARACHI.

136. *Maulvi Muhammad Yakub : (a) Has the attention of the Government been drawn to a letter from one Abul Moarif Molana Mohammad Irfan published on the first page of the "Hamdam" of Lucknow, dated the 17th June 1925 ?

(b) Is it a fact that the intending pilgrims to Mecca from Karachi, including Maulvi Mohammad Shafi, M.L.A., were made to sit on the ground in rows in the quarantine station and that both their hands were stamped ?

(c) What steps, if any, do the Government propose to take against the officials who showed such discourtesy towards the intending pilgrims, particularly towards one Honourable Member of the Legislative Assembly ?

(d) Do the Government propose to issue general orders to the pilgrim officers at Bombay and Karachi to change this insulting arrangement for the medical inspection of the intending pilgrims and make some more appropriate arrangements for giving proper seats to them ?

Mr. J. W. Bhore : (a) No.

(b) In accordance with the usual practice the third class pilgrims from Karachi were arranged in rows for purposes of inspection in the disinfection shed and their hands were stamped in order to prevent uninspected persons from embarking. During the inspection the pilgrims either stood or sat on the floor according to inclination. My Honourable friend Maulvi Muhammad Shafi, who had purchased a first class ticket, was informed by the Protector of Pilgrims that there were special arrangements for gentlemen of his class but he preferred to undergo the medical inspection with third class passengers.

(c) The arrangement which I have already explained has been in vogue for years and Government have received no complaints with regard to it from pilgrims. In the circumstances the Government of India do not consider that the officials in question are to blame.

(d) The Local Government have asked the Commissioner in Sind to submit proposals for improving seating accommodation for third class passengers and these are now awaited. The question of improving the general embarkation arrangements for pilgrims at Bombay is also under investigation. As regards the practice of stamping the hands of pilgrims as a precaution against impersonation, the Government of Bombay consider that the substitution for this procedure of special passes which each pilgrim should be required to show before embarkation as proof of having been medically inspected is not likely to prove satisfactory. But the Government of India propose to investigate further whether a more satisfactory alternative cannot be found.

Maulvi Muhammad Yakub : Will it not be more sensible, Sir, if, instead of stamping the hands of the pilgrims like goats which are carried

to the slaughter house, their tickets are stamped, which will show that the pilgrims have been medically inspected ?

Mr. J. W. Bhore : My Honourable friend has not listened to the concluding portion of my reply. Allow me to repeat it :

“ The Government of India propose to investigate further whether a more satisfactory alternative cannot be found.”

ASSAULT ON INDIANS IN GLASGOW.

*137. ———†

TRANSFER TO THE GOVERNOR IN COUNCIL OF THE TRANSFERRED SUBJECTS IN BENGAL.

138. ***Diwan Bahadur M. Ramachandra Rao :** Will the Government be pleased to publish the correspondence between the Government of India and the Secretary of State in regard to the withdrawal of the transferred subjects in Bengal and their transfer to the Governor in Council ?

The Honourable Sir Alexander Muddiman : The reply is in the negative.

Mr. A. Rangaswami Iyengar : May I know why it is in the negative ?

The Honourable Sir Alexander Muddiman : Because all the information the House could require was contained in the Resolution of the Government of India when this change was made.

Mr. A. Rangaswami Iyengar : Are we not entitled to know why the rules were altered ; not why the transfer was effected, but why the rules were altered ?

The Honourable Sir Alexander Muddiman : That does not arise here. There is a question about it later.

REGISTRATION OF VOTERS IN THE INDIAN CONSTITUENCY IN CEYLON.

139. ***Sir Purshotamdas Thakurdas :** (a) Will Government be pleased to state if they are aware that a considerable number of Indians in Ceylon are excluded from being registered as voters in the electoral roll of the Indian constituency, because of the stipulation in the Ceylon (Legislative) Order in Council of 1923 that only those who can read and write English or Tamil or Sinhalese are eligible to become voters ?

(b) If the reply to the above be in the affirmative, will Government be pleased to state if they are aware of the dissatisfaction amongst the Indian mercantile community in Ceylon comprising of Borahs, Guzeratis and Cutchi Memmons against the above order, and whether they have taken any steps to represent such dissatisfaction to the Secretary of State for the Colonies suggesting that Indians conversant with any Indian vernacular may be registered as voters in the Indian constituency in Ceylon ?

Mr. J. W. Bhore : (a) Yes.

(b) The answer to the first part of the question is in the affirmative. The Government of India have made no representations in the matter

† Answered on the 25th August, 1925.

but it is understood, that the local Indian community has done so through its leaders and representative associations and that the Government of Ceylon are considering the advisability of amending the Ceylon Legislative Council Order in Council of 1923 in various points of detail, including the linguistic qualifications of voters for the Indian constituency.

An Honourable Member : May I know why the Government of India have made no representation on that subject ?

Mr. J. W. Bhore : For the simple reason that a representation has already been made by the local community and that representation is under the consideration of the Ceylon Government.

EXCLUSION OF INDIANS BORN IN CEYLON FROM REGISTRATION AS VOTERS IN THE INDIAN CONSTITUENCY.

140. *Sir Purshotamdas Thakurdas : (a) Are Government aware that a considerable number of Indians born in Ceylon are excluded from the Indian constituency on the score of their Ceylonese domicile ?

(b) If the reply to the above be in the affirmative, will Government be pleased to state the object of the Ceylon Government in thus excluding Indians from the Indian constituency ?

Mr. J. W. Bhore : (a) Yes.

(b) The Government of India understand that the question of defining the term " Indian " for election purposes is also engaging the attention of the Colonial Government who are in full possession of the views of the local Indian community.

Sir Purshotamdas Thakurdas : I take it the Government of India will keep themselves in touch with the various stages through which the consideration under the Colonial Office passes ?

Mr. J. W. Bhore : We shall certainly try and ascertain the decision.

INADEQUATE REPRESENTATION OF INDIANS IN THE CEYLON LEGISLATURE.

141. *Sir Purshotamdas Thakurdas : (a) Are Government aware that having regard to the numerical strength of the large commercial and labour interests of the Indian community, the provision of only two elected seats in the Ceylon Legislature for Indians in Ceylon is considered by the community concerned as utterly inadequate ?

(b) Are Government aware of any representation being made to the Secretary of State for the Colonies in connection with the above, and if so, will Government be pleased to state the same ?

Mr. J. W. Bhore : (a) Yes.

(b) No.

Mr. Devaki Prasad Sinha : Is there any representative of labour interests on the Ceylon Legislature ?

Mr. J. W. Bhore : I must have notice of that question.

Mr. Devaki Prasad Sinha : It is in the question itself. I refer to the first paragraph of question No. 141. My question is, is there any special representative of Indian labour ?

Mr. J. W. Bhore : I cannot say.

Mr. Devaki Prasad Sinha : Will Government make a representation to the Ceylon Government that of the two representatives of the Indian community selected for the Ceylon Legislature, one of them should be a representative of labour ?

Mr. Gaya Prasad Singh : And the other of the agriculturists. (Laughter.)

REMOVAL OF THE BAN ON INDIANS FROM ENTERING THE COLONIAL CIVIL SERVICE IN CEYLON, ETC.

142. ***Sir Purshotamdas Thakurdas :** Will Government be pleased to state :

- (a) whether, in view of the firm attitude of the Colonial Government in Ceylon as disclosed in Government's reply to the Honourable Mr. S. R. Mahomed Sultan's interpellation in the Ceylon Legislative Council on the 6th April last regarding the removal of the ban on Indians from entering the Colonial Civil Service of the Island, they are prepared to move the Secretary of State for the Colonies with a view to taking immediate steps to remove this unjust ban on Indians in view of their remarkable contribution to the revenues of the Colony and in view of there being no restriction on Ceylonese entering the Indian Civil Service ; and
- (b) whether the Government are prepared to move the Secretary of State for the Colonies with a view to removing similar restrictions on Indians from entering Government service in the various Government clerical services on account of the stipulation that only Ceylon born candidates could apply to sit for Government clerical posts, having regard to the fact that no such restrictions on the Ceylonese entering Government clerical service in India exist in this country ?

The Honourable Sir Alexander Muddiman : (a) The present position is that while Sinhalese along with other British subjects are eligible for admission to the Indian Civil Service competitive examination in London, candidates for admission to the Indian Civil Service competitive examination in India must be of Indian domicile. Only five Sinhalese have entered the Indian Civil Service during the last 35 years. Consequently the Government of India have not hitherto considered that the question has attained sufficient practical importance to require action on their part but they will now consider whether any action can suitably be taken.

(b) Government are not aware that Sinhalese are ordinarily admitted to clerical services in India. On the contrary they understand that such appointments are almost invariably filled up from residents of the province or locality concerned. For these reasons they do not consider that any practical advantage is to be derived from making a representation in the sense suggested by the Honourable Member.

Sir Purshotamdas Thakurdas : May I ask if my question has not indicated to Government that it is all a question of principle and not a

question of numbers ? The question is whether on the principle enunciated there, the Government of India think that they also should act.

The Honourable Sir Alexander Muddiman : Sir, Government act not merely on principle but on practical grounds. If the Honourable Member can give me any definite information that a large number of Sinhalese enter the clerical service I will take the matter up.

Sir Purshotamdas Thakurdas : Do I understand the Honourable Member will take the question up if, say, five from Ceylon pass the I. C. S. examination ?

The Honourable Sir Alexander Muddiman : The Honourable Member is mixing up my two answers. In regard to the I. C. S. I said I would look into the matter. As regards the clerical services, I do not think a large number enter the clerical services in India. If the Honourable Member can give me information that a large number of Sinhalese enter, I will take the matter up.

MINIMUM WAGE OF INDIAN LABOURERS IN CEYLON.

143. ***Sir Purshotamdas Thakurdas :** (a) Are Government aware of the Press Communiqué issued by the Ceylon Government, which names the minimum wage of the Indian labourer in Ceylon at 50 cents ?

(b) Are Government aware of the feeling amongst the Indian community in Ceylon regarding this figure of a minimum wage ?

Mr. J. W. Bhore : (a) Yes.

(b) Government understand that the figure is not regarded by the Indian community as altogether satisfactory.

MADRAS LAND REVENUE BILL.

144. ***Mr. A. Rangaswami Iyengar :** (a) Will the Government be pleased to state whether they have received any draft of a revised Land Revenue Bill from the Government of Madras and if so, whether and when they propose to permit its introduction in the Madras Legislative Council ?

(b) Will the Government be pleased to state whether they propose to lay down the principle or policy according to which the assessment and collection of Land Revenue will be placed within the "purview of the Legislature" in the several provinces of India, in pursuance of the recommendations of the Joint Parliamentary Committee ?

Mr. J. W. Bhore : (a) The draft of a revised Land Revenue Bill has been received from the Government of Madras and is now under the consideration of the Government of India.

(b) The Honourable Member's attention is invited to the answer given by me to part (c) of his question No. 1343 on the 6th June 1924. No further action is contemplated by the Government of India.

Mr. A. Rangaswami Iyengar : May I know when the Government of India expect to dispose of this matter ?

Mr. J. W. Bhore : I am afraid I cannot give him any definite information on that point ; I hope without any great delay.

ADMINISTRATION OF TRANSFERRED SUBJECTS IN BENGAL AND THE CENTRAL PROVINCES.

145. ***Mr. A. Rangaswami Iyengar** : (a) Will the Government be pleased to lay on the table the correspondence between the Secretary of State, the Government of India and the Government of Bengal in respect of the notifications leading to the revocation of the transfer of the transferred subjects in Bengal and the steps proposed to be taken in the Central Provinces in regard to the future administration of the transferred subjects ?

(b) Will the Government be pleased to state the grounds upon which the Government of India, with the previous approval of the Secretary of State altered the Devolution Rules settled in 1920 so as to extend the power of suspending the constitution to all transferred subjects ?

The Honourable Sir Alexander Muddiman : I have already answered (a).

(b) The object of the amendment of rule 6 of the Devolution Rules was more clarification. Government do not admit that it extended the power of suspending the transfer of subjects conferred by the rule as originally drafted ?

Mr. A. Rangaswami Iyengar : Am I to take it that this modification has been made *pro abundante cautela* and not on the ground that the original rule could not be applied to the case of Bengal ?

The Honourable Sir Alexander Muddiman : The Honourable Member has stated the case with his usual clarity.

Mr. A. Rangaswami Iyengar : May I know whether legal opinion was taken as to whether the opinion held by the Government of India was the correct opinion on the interpretation of the rule ?

The Honourable Sir Alexander Muddiman : I am not prepared to say whether legal opinion was taken ; legal advice was taken.

CONSULTATIONS BETWEEN THE VICEROY AND THE SECRETARY OF STATE FOR INDIA RELATING TO THE POLITICAL SITUATION IN INDIA.

146. ***Mr. A. Rangaswami Iyengar** : Will the Government be pleased to lay on the table the official papers connected with the consultations between the Viceroy and the Secretary of State which are not of a wholly personal and confidential nature relating to the political situation in India and other problems during the recent visit of His Excellency Lord Reading ?

The Honourable Sir Alexander Muddiman : There are no official papers on the subject.

TOTAL EXPENDITURE INCURRED IN CONNECTION WITH THE RECENT CONSULTATIONS BETWEEN THE VICEROY AND THE SECRETARY OF STATE FOR INDIA.

147. ***Mr. A. Rangaswami Iyengar** : (a) Will the Government be pleased to state what officers and heads of administration took part in the deliberations and consultations between the Viceroy and the Secretary of State ; what is the total expenditure involved with reference to these consultations including the expenses of travel of the Viceroy by special saloons and special trains, as well as of other servants of His Majesty and the Government of India and what part of them are charged to the

revenues of India and what part to the revenues of England or to the private personal account of His Excellency the Viceroy or the Governors or officers concerned ; how much of this expenditure is votable and how much non-votable by the Assembly ; and do the Government propose to bring up supplemental demands for this purpose in the present session of the Assembly ?

(b) Will the Government also state the total extra expenditure incurred in India by reason of the acting arrangements made in this country in consequence of the absence on leave of the Governor General and other officers, including travelling and tour charges, and also what part of the expenditure is votable and what part non-votable ?

The Honourable Sir Alexander Muddiman : (a) The Government of India have no information as to which officers took part in the discussions referred to by the Honourable Member. As regards the expenditure incurred on account of the visit of His Excellency the Viceroy to England, the additional expenditure from Indian revenues amounted as I stated the other day, to approximately Rs. 64,000. This includes the voyage expenses of two Aides-de-Camp who accompanied His Excellency. The expenditure on His Excellency's special trains and on the allowances in respect of travelling expenses sanctioned under section 86, sub-section (6), of the Government of India Act were met out of the annual voted grant for tour expenses of the Governor General. The expenditure of Rs. 24,000 on leave allowances is non-votable.

(b) The answer to this part of the question is contained in the information which I have just given. I am not clear what "other officers" the Honourable Member refers to : no officers were deputed to accompany His Excellency.

Mr. Harchandrai Vishindas : Did Government find out whether all this money was worth spending ?

The Honourable Sir Alexander Muddiman : In my opinion, Sir, the money was very well worth spending indeed.

Mr. A. Rangaswami Iyengar : Am I to take it that the Government of India and the Governor General's Council were kept uninformed of who took part in the conferences ?

The Honourable Sir Alexander Muddiman : The Government of India were not informed what officers took part.

Mr. A. Rangaswami Iyengar : May I ask what the Government of India were informed of during these discussions ?

The Honourable Sir Alexander Muddiman : No, the Honourable Member may not ask that question.

CONSTITUTION OF THE PROVINCIAL LOANS FUND.

148. ***Mr. A. Rangaswami Iyengar :** (a) Will the Government be pleased to lay on the table the papers connected with the conferences with Finance Members of Local Governments in connection with the constitution of the Provincial Loans Fund ?

(b) Will the Government be pleased to state why the approval of the Assembly was not taken to the constitution of this fund, especially when the amount needed annually for its maintenance has to be voted by this Assembly ?

(c) Will the Government be pleased to state whether there were any urgent circumstances that necessitated the promulgation of the notification constituting this fund on the day after the Assembly concluded its sitting ?

The Honourable Sir Basil Blackett : (a) These conferences are of an informal character and I regret that the papers asked for cannot be laid on the table.

(b) The proposal to establish a Provincial Loans Fund with effect from the beginning of the current year was announced to the Assembly in my speech of the 28th February last introducing the Budget. The object of the arrangement is to systematize the grant of advances by the Central Government to the Local Governments and the details were discussed with and approved by all the Local Governments. The amount required for these advances is subject to the vote of the House, as the Honourable Member has pointed out, and its powers are in no way affected by the improvement in the machinery now in question.

(c) The promulgation of the notification on the day mentioned was due to the accident that the detailed arrangements which had been under discussion with Local Governments were finally completed by that date.

Mr. A. Rangaswami Iyengar : May I know, Sir, whether the Government of India consider that it is far more advantageous to rely upon the attitude of the House when the votes actually come before it than to settle with the House the procedure by which these loan funds may be maintained.

The Honourable Sir Basil Blackett : I think it would be very disadvantageous both to the House and to Government if the detailed machinery of Government were frequently discussed in this House.

Mr. A. Rangaswami Iyengar : Is it not the case that the constitution of this Provincial Loan Fund was considered to be one of the most important financial questions to be considered and the leave of the House should be taken for the annual grants for this Fund ?

The Honourable Sir Basil Blackett : The answer to the first part of the question is in the affirmative ; the answer to the second part in the negative.

Mr. A. Rangaswami Iyengar : I do not quite follow the Honourable the Finance Member. May I take it that the Finance Member thinks that the amounts necessary for voting annually to the Provincial Loan Fund are not to be discussed by this House ?

The Honourable Sir Basil Blackett : If the Honourable Member had heard my answer I expressly stated they would be votable.

Mr. A. Rangaswami Iyengar : Therefore the Finance Member would not consider it advantageous that the principles upon which these votes might be annually carried should be discussed in the House.

The Honourable Sir Basil Blackett : I think it would be most advantageous. But that has nothing whatever to do with the case.

CONSTITUTION OF THE PUBLIC SERVICES COMMISSION.

149. *Mr. A. Rangaswami Iyengar : (a) Will the Government be pleased to state what steps have so far been taken in regard to the constitution of the Public Service Commission under section 96-C of the Government of India Act and to lay on the table of the House the correspondence between the Secretary of State, and the Government of India and all other material papers connected with this subject ?

(b) Will the Government be pleased to state the reasons for the delay in constituting the Commission which the Government of India Act of 1919 required to be appointed over five years ago ?

(c) Will the Government be pleased to state whether there is any proposal under consideration to alter, in regard to the constitution and functions of the said Public Service Commission, the principles which had been recommended by the Montagu-Chelmsford Report, the Government of India despatches thereon and the Lee Commission's Report ? If so, will the Government be pleased to state the circumstances under which such alterations have come to be considered ?

The Honourable Sir Alexander Muddiman : (a) I would refer the Honourable Member to the answers given by me to Mr. B. Das and Diwan Bahadur Ramachandra Rao on the 25th August 1925.

(b) The establishment of the Commission was postponed pending decisions in regard to the future composition and organization of the services, which have now been taken as a result of the recommendations of the Lee Commission.

(c) When the rules regulating the functions of the Commission are made public the Honourable Member will no doubt be able by a comparison of these rules with the documents mentioned in his question to decide the extent to which the rules follow the principles recommended in these documents.

Mr. A. Rangaswami Iyengar : May I know, Sir, if these rules are found on such examination to be at variance with the principles originally enunciated, whether this House will have an opportunity of discussing the matter ?

The Honourable Sir Alexander Muddiman : That is rather a hypothetical question. If that is the case I think we may take it the Honourable Member will bring it to my notice in some shape or other. (Laughter.)

FORMATION OF A HYDRO ELECTRIC SYNDICATE IN MADRAS.

150. *Mr. A. Rangaswami Iyengar : Will the Government be pleased to state whether they have received from the Madras Government any proposals for approval or sanction connected with the formation of a Hydro-Electric Syndicate, promoted for the purpose of utilising waterfalls in several parts of the Presidency for the generation of power for supply to the Government, the Railways and to other public and private concerns ? If so, will the Government lay the same before the Assembly with a view to afford it an opportunity for the discussion of the important questions affecting public interests involved in such proposals ?

The Honourable Sir Bhupendra Nath Mitra : No such proposals have been received.

NEW BRANCH LINE RAILWAY POLICY.

151. ***Mr. A. Rangaswami Iyengar :** (a) Will the Government be pleased to state what action has been taken in the province of Madras and in other provinces in pursuance of the new Branch Line Railway Policy announced in February last ?

(b) Will the Government be pleased to place on the table a statement showing the result of the Conferences held by the Financial Member with the Presidents of the Local Boards in Madras with reference to the District Board enterprise and the decisions if any reached thereat ?

Mr. G. G. Sim : (a) A statement is laid on the table showing by provinces the new projects sanctioned for construction since the 1st March 1925, and those which are likely to be taken up in the near future.

(b) A statement is laid upon the table showing the lines which it is proposed should be surveyed and, if possible, built from Government funds in the Madras Presidency.

Statement showing by provinces the new projects sanctioned for construction since the 1st March 1925, and those which are likely to be taken up in the near future.

Name of Project.	Length.	Gauge.
A.—PROJECTS SANCTIONED.		
<i>Madras.</i>		
1. Dindigul-Pollachi Railway	74½	Metre gauge.
2. Mayavaram Tranquebar Railway	18·36	Do.
3. Raipur-Parvatipur Railway (part of this line is in Bihar and Orissa and Central India).	260	5' 6".
<i>Burma.</i>		
4. Taungdwingyi-Kyaukpadaung Railway	71	Metre gauge.
5. Mandalay-Madaya Railway	16·8	Do.
<i>Bihar and Orissa.</i>		
6. Barkakhana-Chandil Railway (revised estimate) ..	76·07	5' 6".
<i>Assam.</i>		
7. Furkating-Badulipara-Jorhat Railway	42·07	Metre gauge. ¹ / ₂
B.—PROJECTS LIKELY TO BE TAKEN UP IN THE NEAR FUTURE.		
<i>Madras.</i>		
1. Nidadavolu-Narasapur Railway	47	Broad gauge;
2. Gudiwada-Bhimavaram Railway	40·90	Metre gauge;
3. Arantangi-Manamadura Railway	54	Do.
4. Trichinopoly-Karsikudi Railway	60	Do.
5. Madura-Bodinayakanur Railway	55	Do.

Name of Project.	Length.	Gauge.
B.—PROJECTS LIKELY TO BE TAKEN UP IN THE NEAR FUTURE—contd.		
<i>United Provinces.</i>		
6. Agra-Bah Railway	45	Light broad.
<i>Punjab.</i>		
7. Kangra Valley Railway .. .. .		..
<i>Bombay.</i>		
8. Jambusar Kavi Railway	17.87	2' 6".
9. Hotgi Sholapur Railway	9	..
<i>Burma.</i>		
10. Nyaunglebin-Pade Railway	12	Metre gauge.
<i>Assam.</i>		
11. Karimganj Longai Valley Railway	47.52	Do.

Statement showing the lines proposed to be surveyed and if possible built from Government funds.

South Indian Railway area :

- | | | |
|------------------------------------|---|----------------------------|
| (1) Shoranur-Nilambur | } | for construction, 1925-26. |
| (2) Villupuram-Trichinopoly | | |
| (3) Virudunagar-Tenkasi | | |
| (4) Dindigul-Pollachi | | |
| (5) Madras Electrification | | |
| (6) Mayavaram-Tranquebar | } | for construction, 1926-27. |
| (7) Arantangi-Manmadura | | |
| (8) Cuddalore-Vyalur | | |
| (9) Madura-Bodinayakanur | } | for construction, 1927-28. |
| (10) Pollachi-Palghat | | |
| (11) Shoranur-Ernakulam conversion | } | for construction, 1928-29. |
| (12) Trichinopoly-Karaikudi | | |
| (13) Salem-Attur-Vyalur | } | for construction, 1929-30. |
| (14) Manmadura-Virudunagar | | |
| (15) Salem-Namakkal-Trichinopoly | } | for construction, 1930-31. |
| (16) Tinnevely-Nagercoil | | |
| (17) Karaikudi-Melur-Madura | | |
| (18) Erode-Satyamangalam. | | |
| (19) Pudukottah-Tanjore. | | |
| (20) Mannargudi-Tirutturaipundi. | | |
| (21) Negapatam-Tirutturaipundi. | | |
| (22) Tanjore-Tiruvadi. | | |

Madras and Southern Mahratta Railway area :

Broad gauge—

1. Nidadavolu-Narasapur.
2. Cocanada-Kotipalle.

Metre Gauge—

3. Gudivada-Bhimavaram.
4. Guntur-Macherla.
5. Ollapalem-Singarayakonda-Kanigiri.
6. Yerragudipadu-Prodattur.
7. Mandyal-Koilkuntle.

TANJORE DISTRICT BOARD RAILWAYS.

152. ***Mr. A. Rangaswami Iyengar** : (a) Will the Government be pleased to state whether they have directed the Madras Government to ask the Tanjore District Board to hand over the railways which they have built up and are working at a profit, to the Government by claiming to exercise the powers of purchase stated to have been reserved to them at the time when that Local Government sold its share in the District Board line to the District Board in question ?

(b) Will the Government be pleased to state whether there is any definite and legally executed document between the railway company and the Local Government or the Government of India evidencing this right ; if not, will the Government be pleased to state under what powers, statutory or otherwise, they now call upon the District Board to surrender the said lines to them ?

(c) Will the Government be pleased to state the reasons, administrative or financial, for which they propose to take this step of appropriating for themselves, the properties and profits that legitimately belong to the Tanjore District Board and whether the proposal has been put before the Standing Railway Finance Committee, and the Central Railway Advisory Board for their approval in accordance with the convention laid down in the resolution of the Assembly in September last year ?

(d) Will the Government be pleased to afford the Assembly the opportunity of examining this proposal and giving its opinion thereon before any further action is taken on the said proposal, in accordance with the same convention ?

Mr. G. G. Sim : The answer to the first part of (a) of the Honourable Member's question is in the negative. As regards the rest of the Honourable Member's inquiries, I would explain that the whole question of the future position of the Tanjore District Board and other District Board railways in the Madras Presidency is under consideration of the Government of India and when they have reached a conclusion their proposals will be placed before the Standing Finance Committee for Railways, if any change in the existing status of the District Board's lines is decided upon. The points raised by the Honourable Member will be brought to the notice of the Standing Finance Committee for Railways if a reference to that body becomes necessary.

DISCONTINUANCE OF THE PRESENT ARRANGEMENTS FOR THE SALE OF FOOD-STUFFS TO THIRD CLASS PASSENGERS ON THE OUDH AND ROHILKHAND RAILWAY.

153. ***Raja Baghunandan Prasad Singh** : (a) Is it a fact that the existing provision for a compartment in certain passenger trains on the Oudh and Rohilkhand Railway for the sale of foodstuffs to third class passengers is going to be discontinued ?

(b) If the answer be in the affirmative, are the Government going to reconsider their decision ? Do the Government realise that the doing away with the existing arrangement will cause considerable inconvenience to and dissatisfaction among the public ?

(c) Has the attention of the Government been drawn to the *Indian Daily Telegraph* of Lucknow of the 7th July 1925 ?

Mr. G. G. Sim : (a), (b) and (c). Government have seen the article referred to. No decision in the matter has yet been arrived at. The existing arrangement is not considered to be satisfactory and the whole question is being specially examined by the Railway Administration.

THROUGH TRAIN FROM HOWRAH OR MOGHAL SARAI TO DELHI *via* MUTHRA JUNCTION AND AGRA CANTONMENT.

154. ***Raja Raghunandan Prasad Singh :** Do the Government propose to run a through train either from Howrah or from Moghal Serai to Delhi *via* Muthra Junction and Agra Cantonment with a view to provide facilities for trade as well as for pilgrimage to the important Hindu shrines lying along the route ?

Mr. G. G. Sim : A proposal to run a through train each way between Moghal Serai and Delhi *via* Agra Cantonment and Muttra is under investigation by the railways concerned.

CONVERSION INTO MAIL TRAINS OF CERTAIN PASSENGER TRAINS ON THE LOOP LINE OF THE EAST INDIAN RAILWAY.

155. ***Raja Raghunandan Prasad Singh :** Do the Government propose to convert the present " 9 Up Passenger to Mokameh *via* Loop Line " and " 10 Down Passenger from Mokameh *via* Loop Line " into corresponding Loop Mails running between Howrah and Patna Junction or Dinapur at least ? Are the Government aware that there is a crying need for an arrangement like this for the convenience of travellers along the Loop Line ?

Mr. G. G. Sim : The Honourable Member is referred to the answer given in this Assembly on 3rd February 1925 to his question No. 657.

CONSERVANCY ARRANGEMENTS IN THE SABATHU CANTONMENT.

156. ***Lala Duni Chand :** (a) Is it a fact that a house scavenging tax is assessed on the inhabitants of Sabathu Cantonment, Simla District, and realized from them ?

(b) Is it a fact that the Sabathu Cantonment Authority provides buckets for the temporary deposit of urine and filth for each bungalow which is taken to the nearest incinerator by the conservancy staff and makes other similar conservancy arrangements, while no such or similar arrangements are made for the bazar people and each individual is left to make his own arrangements for the removal of filth, rubbish, etc. ?

(c) Is it a fact that the absence of any conservancy arrangements for the bazar people besides contributing to the insanitation of the bazar causes a good deal of inconvenience to the people concerned ?

(d) If what has been stated above is wholly or partly correct, are the Government prepared to call upon the Sabathu Cantonment Authority either to make conservancy arrangements for the bazar people or to exempt them from the house scavenging tax ?

(e) Is it a fact that the Executive Officer of the Sabathu Cantonment while making no arrangements for the deposit and removal of filth, rubbish, etc., starts prosecutions against the bazar people for keeping their places in an insanitary condition and, if so, what action do the Government propose to take in the matter ?

Mr. E. Burdon : I am making inquiries into the matter and will let the Honourable Member know the result as soon as possible.

REMOVAL TO THE BRITISH MUSEUM, LONDON, OF THE SWORD BELONGING TO SHIVAJI.

157. ***Mr. D. V. Belvi :** (a) Has the attention of Government been drawn to the printed matter under the caption " Shri Bhavani Talwar " published in column 5, on page 5, of the issue of the *Bombay Chronicle*, dated the 8th May 1925 ?

(b) If so, is it true that the famous sword of Shivaji known as " Shri Bhavani Talwar " is now placed in the British Museum in London ?

(c) If so, when and under what circumstances was the sword removed to London ?

Mr. J. W. Bhore : (a) Yes.

(b) In 1915 the British Museum denied the existence of the " Shri Bhavani Talwar " in their collection.

(c) The question does not arise.

RECEIPTS FROM ADVERTISEMENTS ON INDIAN TELEGRAPH FORMS.

158. ***Mr. D. V. Belvi :** Will Government be pleased to state :

(a) the amount of money they realised from publishing advertisements on Indian telegram forms from 1st April 1924 to 1st April 1925 ;

(b) Were tenders invited for the advertisements ;

(c) Do Government know that the public is seriously inconvenienced by the absence of counterfoils in the new books of Indian telegram forms ?

Mr. G. P. Roy : (a) Rs. 21,155.

(b) No. The publication of advertisements on telegraph forms was in the nature of an experiment, and the business of collecting advertisements was entrusted to a firm which specialises in it.

(c) No. Telegraph books with counterfoils are being sold as usual at the principal telegraph offices.

REFRESHMENT ROOMS FOR ORTHODOX HINDU PASSENGERS AT CERTAIN SPECIFIED STATIONS.

159. ***Mr. D. V. Belvi :** Will Government be pleased to state the names of railway stations between Bombay and Simla, Bombay and Benares, Bombay and Calcutta, Bombay and Madras, and Bombay and Bangalore at which there are hotels for orthodox Hindu passengers where they can get strictly vegetarian meals ?

Mr. G. G. Sim : Government have no information beyond what is contained in the published Time-Tables and Guides of the Railways concerned, to which the Honourable Member is referred.

EXPENDITURE ON THE RECENT VISIT TO ENGLAND OF H. E. THE GOVERNOR GENERAL.

160. ***Mr. D. V. Belvi :** Will Government be pleased to state the exact amount of expenditure out of the Indian exchequer on the recent visit to England of His Excellency the Governor General of India ?

The Honourable Sir Alexander Muddiman : I have already answered this question on two occasions and I refer the Honourable Member to my answer.

COVENANTED MECHANICS ON INDIAN RAILWAYS.

161. ***Mr. D. V. Belvi :** Will Government be pleased to state :

- (a) the total number of "Covenanted Mechanics" employed on railway lines owned or guaranteed by the Secretary of State for India on the 1st July 1925 ;
- (b) the total number of Europeans, Anglo-Indians and other Indians among them on the aforesaid date ;
- (c) the date of the introduction into India of the system of "Covenanted Mechanics" ;
- (d) the provision, if any, made in India now for training such mechanics ; and
- (e) the total annual expenditure of money on Covenanted Mechanics during each of the last five years ?

Mr. G. G. Sim : (a) and (b). All available information regarding the North-Western and Eastern Bengal Railways and the late Oudh and Rohilkhand Railway will be found on pages 89—92 of the Classified List of the State Railway Establishment corrected up to 31st December 1924, a copy of which is in the Library. Government have not got the information regarding the East Indian and Great Indian Peninsula Railways or the Company-worked lines. Now that the former are under the State, information with regard to them will be compiled in subsequent issues of the Classified List.

(c) It is a practice of long standing and probably dates from the first introduction of Railways into India.

(d) In Bengal and the Punjab, the Local Governments have institutions for imparting training to apprentice mechanics, which is supplemented by a practical training in the shops of the Eastern Bengal and North-Western Railways at Kanchrapara and Lahore. The East Indian, Assam Bengal, Bengal Nagpur, Bengal and North-Western, Bombay, Baroda and Central India, Burma, Great Indian Peninsula, Madras and Southern Mahratta and South Indian Railways also provide facilities for the training of mechanics in their workshops supplemented by theoretical instruction. Mechanics for specialist purposes will continue to be recruited from England.

(e) Government do not consider that any useful purpose would be served commensurate with the labour and expense involved in compiling

the information required and they regret, therefore, that they cannot undertake to obtain it from the Railway Administrations.

DISTINCTIONS BETWEEN GENERAL SERVICE SIGNALLERS AND STATION SERVICE SIGNALLERS.

162. ***Mr. D. V. Belvi** : (a) Has the attention of Government been drawn to a leaderette published in the *Bombay Chronicle* of the 20th April 1925 under the heading "The Racial Bar" ?

(b) If so, are the allegations made regarding "the invidious distinction" between "general service signallers" and "station service signallers" correct ?

(c) If not, what are the facts according to Government ?

(d) What were the total numbers of "general service signallers" and "station service signallers" at the end of March 1925 and what was the percentage of Anglo-Indians to other Indians in each of the two classes ?

(e) What is the scale of pay in the two classes of signallers and what is the explanation of the difference, if any ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes.

(b) No.

(c) The station service was introduced in 1920 on the recommendation of a Committee on which all interests were represented. That Committee was of opinion that there was an opening for a new class of recruit who, unlike the general service signallers, would not be liable to transfer, and who would have the advantage of working in or near his home, or at the place where he elected for service. Station service signallers are given a lower scale of pay because unlike general service signallers, they are not liable to transfer. The question of increasing the proportion of station service telegraphists has been raised by the Posts and Telegraphs Department Committee, 1924-25, and is now being considered by Government.

(d) General service, 2,566, 73 per cent. of whom were on the 1st April 1925, Anglo-Indians, and 27 per cent. other Indians ; station service 531, of whom 14.3 per cent. were on the same date Anglo-Indians, and 85.7 per cent. were other Indians.

(e) General service Rs. 80—5—100—10—250 ; station service Rs. 60—5—150 and Rs. 70—5—160 according to locality. The reasons for the difference in pay have already been explained.

PROVISION OF A COMPARTMENT IN OUDH AND ROHILKHAND RAILWAY PASSENGER TRAINS FOR THE SUPPLY OF FOODSTUFFS TO THIRD CLASS PASSENGERS.

163. ***Lala Duni Chand** : (a) Has the attention of the Government been drawn to a note published in the issue of 7th July, 1925, of the *Indian Daily Telegraph* of Lucknow in which expression is given to an apprehension as to the discontinuance of the existing provision of a compartment in certain Oudh and Rohilkhand Railway passenger trains where foodstuffs are available for third class passengers, and will the Government be pleased to state if such a step is contemplated ?

(b) Will the Government in view of the great necessity of providing foodstuffs for third class passengers in the trains and particularly in the United Provinces in which there are several important places of pilgrimage, not only assure the public of the continuance of the existing arrangements but will also undertake to make further improvements in the existing arrangements ?

Mr. G. G. Sim : Government have seen the article referred to. No decision in the matter has yet been arrived at. The existing arrangement is not considered to be satisfactory and the whole question is being specially examined by the Railway Administration.

PROVISION OF FOODSTUFFS IN TRAINS FOR THIRD CLASS PASSENGERS.

164. ***Lala Duni Chand :** Will the Government be pleased to state on how many railway lines in India there exist arrangements for providing foodstuffs in the trains for third class passengers and will the Government take steps to extend similar arrangements on all those lines on which they do not exist at present ?

Mr. G. G. Sim : The Honourable Member is referred to the answer given in this Assembly on the 25th August 1925 to a similar question asked by Mr. B. Das.

TRANSFER BY THE EASTERN BENGAL RAILWAY OF THEIR TRAFFIC CENTRE FROM GOALUNDO TO KHULNA.

165. ***Mr. Kumar Sankar Ray :** Will the Government be pleased to state what recommendations, if any, the Eastern Bengal Railway authorities have made about the transfer of their traffic centre from Goalundo to Khulna ? If so, what are the details of such recommendations and what arrangements do they recommend should be maintained for the carriage of the passenger, jute and fish traffic by steamer and railway surrounding and near about Goalundo ?

Mr. G. G. Sim : Government are aware that this proposal is being considered by the Agent, Eastern Bengal Railway and his Advisory Committee, but detailed recommendations have not yet been put forward.

LEVY OF TOLL BY THE EASTERN BENGAL RAILWAY ON THE HARDINGE BRIDGE, SARA.

166. ***Mr. Kumar Sankar Ray :** Is it a fact that the railway authorities of the Eastern Bengal Railway levy tolls on all railway passengers and goods passing over the bridge at Sara ? If so, what is the nature of such toll and from when and for how long more is it being levied ?

Mr. G. G. Sim : Yes ; a pontage charge as for 18 miles is levied on all goods and coaching traffic passing over the Hardinge Bridge at Sara. The charge was sanctioned in 1915 and it is not proposed to withdraw it.

SALE OF FOODSTUFFS FOR THIRD CLASS PASSENGER TRAINS OF THE OUDH AND ROHILKHAND RAILWAY.

167. ***Mr. Kumar Sankar Ray :** Is it a fact that arrangements for the sale of foodstuffs for third class passengers in some of the passenger trains

of the Oudh and Rohilkhand Railway are going to be discontinued ? If so, why ?

Mr. G. G. Sim : The Honourable Member is referred to the answer given in this Assembly to a similar question, No. 163, asked by Lala Duni Chand.

RECOMMENDATIONS OF CERTAIN COMMITTEES AND APPOINTMENT OF THE PUBLIC SERVICE COMMISSION.

168. ***Mr. Kumar Sankar Ray :** Will the Government be pleased to state what action, if any, they are going to take about the recommendations of :

- (a) the Indian Mercantile Marine Committee ;
- (b) the Indian Territorial Force Committee ; and
- (c) the Lee Commission with regard to the Indianisation and provincialisation of services other than the Indian Civil and the Police Services and the appointment of the Public Service Commission ?

The Honourable Sir Alexander Muddiman : (a) I would refer the Honourable Member to the answer given by me to part (b) of Mr. Das' question No. 17 on the 25th August 1925, and completed by Sir Charles Innes this morning.

(b) The report of the Indian Auxiliary and Territorial Force Committee is under consideration. No decision has yet been reached as to what action will be taken on the recommendations.

(c) The Honourable Member is referred to the reply given to Khan Bahadur Ghulam Bari's unstarred question No. 4 on the 25th August 1925 so far as Indianization is concerned. The position in regard to provincialisation is that the Commission's recommendations have been accepted generally and the rules necessary to give effect to them are under consideration. I have already explained in reply to other recent questions the position in regard to the Public Services Commission.

BOOKSTALLS AT RAILWAY STATIONS ON THE EASTERN BENGAL RAILWAY AND THE OUDH AND ROHILKHAND RAILWAY.

169. ***Mr. Kumar Sankar Ray :** Will the Government be pleased to furnish a list of the proprietors of bookstalls to whom permission to open bookstalls at different railway stations has been given during the last five years on the Eastern Bengal Railway and the Oudh and Rohilkhand Railway and to state the conditions upon which such permissions have been given ?

Mr. G. G. Sim : So far as Government are aware Messrs. A. H. Wheeler and Company have held the bookstall contracts on the Eastern Bengal and Oudh and Rohilkhand Railways during the past five years. As regards the latter part of the question, this is a matter which is settled by the contractors and the Railway Administrations concerned.

REDRESS OF THE GRIEVANCES OF POLITICAL PRISONERS.

170. ***Mr. Kumar Sankar Ray :** Has the attention of the Government been drawn to an article in the *Forward*, dated the 12th July 1925, headed :

"Detained for safe custody" giving details of grievances of the political prisoners? If so, will the Government be pleased to state what steps they have taken or propose to take to redress those grievances?

The Honourable Sir Alexander Muddiman: I have seen the article referred to and have also ascertained and satisfied myself that the Local Government has paid all possible attention to every complaint preferred by or on behalf of these prisoners.

The Government of India propose to take no further action in regard to the matter.

PROVISION ON TRAINS OF DINING CARS FOR THIRD CLASS PASSENGERS.

171. ***Shaikh Mushir Hosain Kidwai:** (a) Will the Government be pleased to say if it is intended to discontinue to run the compartment in certain trains where foodstuffs for the third class passengers were available? If so, why?

(b) Are the Government prepared to have provided in each train in which a dining car is provided another car for the convenience of the third class passengers to take their meals?

Mr. G. G. Sim: The Honourable Member is referred to the answer given in this Assembly on 25th August 1925 to a similar question asked by Raja Raghunandan Prasad Singh.

GRIEVANCES OF THIRD CLASS PASSENGERS TRAVELLING BETWEEN LUCKNOW AND HARDOI.

172. ***Shaikh Mushir Hosain Kidwai:** Have the Government noticed in the Press the grievances of the railway passengers between Lucknow and Hardoi in Oudh in respect of the time-table of the trains and do they propose to instruct the railway authorities to keep in view, as far as possible, the conveniences and requirements of the third class passengers while fixing the time tables of the passenger trains between station and station of important towns and districts?

Mr. G. G. Sim: I do not know what particular complaint the Honourable Member refers to. I suggest that he should bring the case to the notice of the Agent.

RECRUITMENT OF INDIANS FOR THE ORDNANCE SERVICES.

173. ***Lala Duni Chand:** (a) Will the Government be pleased to state how far the scheme for the partial civilianization of Ordnance Services as promised in a letter No. 55662-Q.-9, dated 24th March 1924, from the D. E. O. S., Simla, to the C. O. O., all Arsenal, has materialized?

(b) Is the scheme working satisfactorily?

(c) How many Indians have been so far taken in pursuance of the above scheme and when is the proportion of one-third to the total strength likely to be reached?

(d) Have any satisfactory arrangements been made to give the new recruits the necessary technical and departmental training?

Mr. E. Burdon: (a)—(d). The scheme for the partial civilianization of certain establishments of the Indian Army Ordnance Corps is still in the stage of trial. Twenty civilians, of whom 13 are Indians and seven

Anglo-Indians, are at present undergoing a year's trial, which expires on the 1st November 1925, but an *interim* report called for on the abilities of these individuals is, I regret to say, not very promising. The men are receiving the same opportunities and training as the British non-Commissioned officers recruited from regiments.

The possibility of extending the period of probation is being considered.

REPORT OF THE DECK PASSENGERS COMMITTEE.

174. ***Diwan Bahadur M. Ramachandra Rao** : Will the Government be pleased to state :

- (a) whether it is a fact that the Report of the Deck Passengers Committee was submitted to the Government more than 4 years ago,
- (b) whether any and what steps have been taken to give effect to the recommendations of the Committee,
- (c) whether the Government of India have passed any orders on the said recommendations, and
- (d) whether the Government propose to bring the recommendations of the Committee for discussion and consideration in this House ?

The Honourable Sir Charles Innes : Effect has already been given to most of the recommendations of the Committee. The attention of the Honourable Member is drawn to the following notifications published in the Gazette of India :

- (i) No. 555-S., dated the 16th May 1925.
- (ii) No. 555-S., dated the 13th June 1925.
- (iii) No. 555-S., dated the 20th June 1925.
- (iv) No. 555-S., dated the 25th July 1925.

REVENUE AND EXPENDITURE UNDER RAILWAYS AND OTHER HEADS.

175. ***Diwan Bahadur M. Ramachandra Rao** : Will the Government be pleased to state the actual revenue and the expenditure of the Government of India for 1923-24 and 1924-25 (a) under the head Railways, (b) under all other heads ?

The Honourable Sir Basil Blackett : The figures of actual revenue and expenditure of the Government of India are given annually in accounts Nos. 5 and 6 of the Finance and Revenue Accounts. The Accounts for 1923-24 have already been published and those for 1924-25 will be published by about January next.

Diwan Bahadur M. Ramachandra Rao : Is the Honourable Member in a position to tell us exactly the position in regard to 1924-25 ?

The Honourable Sir Basil Blackett : I am afraid not ; the final accounts are not yet drawn up.

CAPITATION RATES PAYABLE TO THE WAR OFFICE IN RESPECT OF TROOPS IN INDIA.

176. ***Diwan Bahadur M. Ramachandra Rao** : (a) Will the Government be pleased to state whether any decision has been arrived at as regards the rates of capitation payable to the War Office in respect of troops in India ?

(b) Will the Government be pleased to state the pre-war capitation rate and the present capitation rate ?

Mr. E. Burdon : (a) No, the question is still under consideration.

(b) The pre-war capitation rate was £11-8-0, the present rate is £25 per head.

Diwan Bahadur M. Ramachandra Rao : Is there any prospect of solution in the near future of this question, seeing that the matter has been pending for at least four years ?

Mr. E. Burdon : I am unable, Sir, to say anything about the precise date. I have no information myself.

NUMBER OF STUDENTS IN TRAINING IN ANIMAL HUSBANDRY AND DAIRYING IN BANGALORE.

177. ***Diwan Bahadur M. Ramachandra Rao** : Will the Government be pleased to state the number of students in training in animal husbandry and dairying in Bangalore from January 1924 up to date ?

Mr. J. W. Bhore : The number of students in training in animal husbandry and dairying at Bangalore from January 1924 up to date is as follows :

Post graduate students	..	..	..	7
Diploma students	..		..	15
Short course students	..	..	..	14

GRIEVANCES OF THIRD CLASS PASSENGERS ON ITALIAN STEAMERS.

178. ***Maulvi Muhammad Yakub** : (a) Are the Government aware of the troubles and inconveniences under which the third class passengers labour on the Italian boats specially the S. S. "Pilsna" ?

(b) Is it a fact that on the S. S. "Pilsna" on a portion of the third class deck, covering about one-half of it, a swimming bath or tank has been constructed for the first class passengers and the overflow of water from the tank keeps the third class deck under water, where the poor passengers, including men, women and children live and sleep for the night and where they cook their food ?

(c) Do the Government propose to hold an inquiry into the conditions under which third class passengers are kept on these boats and take steps to improve their condition ?

The Honourable Sir Charles Innes : The Government of India have no knowledge of the correctness of the facts stated. If the passengers referred to experience discomfort the remedy would seem to lie in their booking passages by other lines.

PERCENTAGE OF MUHAMMADANS ON THE EAST INDIAN RAILWAY INCLUDING THE OUDH AND ROHILKHAND RAILWAY.

179. ***Maulvi Muhammad Yakub** : (a) What is the proportion of Mussalman employees on the East Indian Railway including the Oudh and Rohilkhand Railway ?

(b) Do the Government propose to instruct the East Indian Railway authorities to keep in view the announcement of the Government of India as regards the appointment of Mussalmans in the services ?

Mr. G. G. Sim : (a) and (b). The policy to be followed in this matter is expressed in the Resolution passed by the Assembly on March 10, 1923. The Agent of the East Indian Railway was asked to give effect to this policy and the Government do not doubt that he is doing so.

RESOLUTION *re* RUPEE TENDERS FOR STORES.

180. ***Diwan Bahadur M. Ramachandra Rao** : Will the Government be pleased to state whether they have come to any decision in regard to the Resolution moved by Mr. M. A. Jinnah on the 14th February 1924, regarding the purchase of stores in India and the calling of tenders in India and the institution of a system of rupee tender ?

The Honourable Sir Bhupendra Nath Mitra : The Honourable Member is referred to the reply given by me to question No. 56 by Mr. B. Das on the same subject.

RECOMMENDATIONS OF THE LEE COMMISSION.

181. ***Diwan Bahadur M. Ramachandra Rao** : In respect of the recommendations of the Royal Commission on the Superior Civil Services in India and summarised in chapter 15 of its report dated 27th March 1924, will the Government be pleased to place on the table a statement showing :

(a) the view taken by the Government of India in regard to each of the said recommendations, and

(b) the final orders of the Secretary of State for India in Council regarding each of them ?

The Honourable Sir Alexander Muddiman : (a) It is not in accordance with the recognised constitutional practice to give publicity to views expressed by the Government of India in correspondence with the Secretary of State in regard to matters the decision on which rests with the Secretary of State. I would refer my Honourable friend to the statement made by my predecessor on the 26th January 1923 and reported on page 1592 of the official Report of the Debates of this House, Volume III, No. 24.

(b) I regret that it is not possible within the scope of a reply to a question to supply all the information asked for. I must therefore refer the Honourable Member to the announcement made on 6th December 1924 by the Secretary of State, the communiqué issued by the Government of India on 17th December 1924, the Superior Civil Services (Revision of Pay and Pension) Rules, 1924, and the communiqué issued by the Government of India on 4th May 1925, from which information in regard to decisions so far reached on all the principal recommendations can be obtained. Copies of these papers will be found in the Library. I may add that rules for the

delegation of control over Central Services are at present under the consideration of the Government of India, rules for the delegation of control over Provincial Services are about to be drafted and considerable progress has been made in the matter of the establishment of a Public Service Commission. If the Honourable Member requires further information in regard to any special recommendation I shall be glad to give him such information as is available.

Mr. A. Rangaswami Iyengar : May I know, Sir, how many notifications per week appear in the Gazette of India in regard to these matters ?

The Honourable Sir Alexander Muddiman : I have no idea.

DISCHARGE OF WORKERS FROM THE TITAGHUR PAPER MILLS.

182. ***Lala Duni Chand :** (a) Are Government aware of the fact that many of the workers of the Titaghur Paper Mills Co., Ltd., have been thrown out of employment ?

(b) Is it true that a copy of the resolution passed at a special meeting of the Kankinara Labour Union held on Saturday, the 27th June 1925, to the effect that the unemployment was due to the Government not placing orders with Indian paper mills, was forwarded to the Honourable the Commerce Member ?

(c) Are the Government, instead of ordering for paper from abroad, prepared to place orders with Indian paper mills ?

The Honourable Sir Bhupendra Nath Mitra : (a) and (b). Government have received copies of a resolution passed by the Kankinara Labour Union, alleging that a large number of employees of the Titaghur Mills have been thrown out of employment as a result of orders being placed abroad.

(c) The orders for paper placed with Indian mills have amounted, for 1924-25, to 5,525 tons and for 1925-26 to 5,794½ tons so far, so that there has been no decrease, but a small increase in the amounts ordered this year. The Titaghur mills received a smaller share of the Indian contracts this year, while other Indian mills received a larger share. It may be possible to place further orders with the Indian mills, but not necessarily Titaghur before the year closes.

Mr. C. S. Ranga Iyer : Are the Government of India aware that heaps of employees have been thrown out in the Lucknow paper mills and that the Government are not giving orders for paper to these mills ?

The Honourable Sir Bhupendra Nath Mitra : Sir, I have already given an answer to that question, that the orders of Government this year are certainly not less than those of the previous year ; if employees have been thrown out, that is a different matter and I believe the causes have already been examined by the Tariff Board.

Mr. A. Rangaswami Iyengar : May I know, Sir, whether the Government propose to bring up before this House proposals for helping these paper mills in their difficulty, under the recommendations of the Tariff Board ?

The Honourable Sir Charles Innes : I can give no answer to that question.

Mr. N. M. Joshi : May I ask why this paper mill should be in private hands when Government have to guarantee the purchase of their paper ?

The Honourable Sir Bhupendra Nath Mitra : The answer, Sir, is simple : Government have never guaranteed the purchase of their paper.

Diwan Bahadur T. Rangacharier : Will Government recognise the urgency of the question ?

The Honourable Sir Charles Innes : The Government do, and are considering the matter at this moment.

GRANT OF COMMISSIONS IN THE INDIAN MEDICAL SERVICE TO GRADUATES OF INDIAN UNIVERSITIES.

183. ***Lala Duni Chand :** (a) Will the Government be pleased to state the number of permanent and temporary commissions granted to the graduates of Indian and English Universities respectively in 1924 and 1925 in the Indian Medical Service ?

(b) Are the graduates of English Universities preferred to the graduates of Indian Universities ? If so, why ?

(c) Is it true that the course of study in order to get a medical degree of an Indian University extends over 5 years and recently in the Punjab it has been increased from 5 years to 5½ years and including two years required to pass the F. Sc. Examination the period spent amounts to 7 years while in England after Matriculation one is required to spend only 5 years to get the medical degree ?

(d) Will the Government in future be prepared to treat the graduates of Indian Universities more liberally and grant more commissions to them in the Indian Medical Service ?

Mr. E. Burdon : (a) A statement giving the information desired by the Honourable Member is laid on the table.

(b) The selection of candidates rests with the Selection Board which, for good reasons, gives preference to the candidates with the highest qualifications.

(c) Yes. The course of study to obtain a medical degree of an Indian University is ordinarily five years. Students of the King Edward Medical College, Lahore, however, on completion of the five years' course are required to undertake a further special course in midwifery in Madras before appearing for the M. B. B. S. Examination, as facilities for courses of instruction in practical midwifery do not exist in Lahore.

(d) Until such time as the competitive examination is resumed, Government must continue to be guided in their policy of selection by the standard of the qualifications held by candidates.

Statement showing the number of permanent and temporary commissions granted in the Indian Medical Service to graduates of Indian and English Universities, respectively, during 1924 and 1925.

					Indian Universities.	English Universities.
<i>Permanent Commissions—</i>						
1924	..	..	..	..	<i>Nil</i>	9
1925	..	..	..	..	1	18
<i>Temporary Commissions—</i>						
1924	..	..	..	..	4	4
1925	..	..	..	..	5	3

Lala Duni Chand : Will the Honourable Member in charge be pleased to state the number of graduates of Indian and English Universities who have tried for Commissions in the Indian Medical Service in the years 1924 and 1925, respectively ?

Mr. E. Burdon : I should like to have notice of that question, Sir ; I cannot give the figures off-hand.

RECOMMENDATIONS OF THE LEE COMMISSION.

184. ***Diwan Bahadur M. Ramachandra Rao :** (a) Will the Government be pleased to place on the table statements, showing :

- (1) categorically each of the financial and other concessions granted to each of the Superior Civil Services in India since January 1924, up to date and the form or forms in which each of these concessions has been made ;
- (2) the total annual additional expenditure thrown on the revenues of India in consequence of these concessions ;
- (3) the extent and the manner in which the recommendations of the Royal Commission on the Public Services have been varied by the Government of India and the Secretary of State and the financial effect of such variations ;
- (4) the number, the race and the nationality of the superior officers benefitted by the above concessions (to be classified under the head British, Domiciled Anglo-Indians, Muslim, Parsee and Hindu) ; and
- (5) the concessions granted only to European officers and not granted to Indian officers ?

(b) Will the Government be pleased to publish all the correspondence between the Local Governments, the Government of India and the Home Government in regard to the questions covered by the recommendations of the Royal Commission ?

The Honourable Sir Alexander Muddiman : (a) (1). A statement giving the information has been laid on the table.

(2) The information is being collected and will be supplied in due course.

(3) A statement is laid on the table. Information showing the financial effect of the variations is being collected.

(4) The Honourable Member is referred to the Schedules to the Superior Civil Services (Revision of Pay and Pension) Rules, 1924 (a copy of which will be found in the Library). Government do not consider that any useful purpose would be served by analysing the membership of the Services affected in the way desired by the Honourable Member.

(5) I would refer the Honourable Member to the reply given to part (b) of Mr. B. Das' question No. 98 on the 26th August 1925.

(b) Government are not prepared to publish all the correspondence referred to.

List of Concessions so far granted under the Lee Commission recommendations to the Superior Civil Services.

- | | |
|---|--|
| 1. Increase in basic pay for the I. P. S. as recommended by the Royal Commission. | } Superior Civil Services (Revision of Pay and Pension) Rules, 1924. |
| 2. Increase in overseas pay as recommended by the Royal Commission. | |

3. Privilege of drawing overseas pay in sterling in England instead of in rupees in India.
4. Sterling overseas pay of £13-6-8 to officers holding administrative posts the pay of which does not exceed Rs. 3,000.
5. Same rates of pay and overseas pay to military officers in the Political Department as Indian Civil Service officers.
6. *Passage concessions.*—In addition to the Commission's recommendations the concession has been extended to families of Indian Civil Service officers of Asiatic domicile recommended for the concession.
7. Increase in pension to the Uncovenanted Services as recommended by the Commission.
8. Right to retire on proportionate pension of officers recruited in 1919, who, through no fault of their own, did not arrive in India before 1st January 1920.
9. Right of all future British recruits in the All-India Services to retire on proportionate pension if and when the field of service for which they have been recruited is transferred.
10. Right to retire on proportionate pension of existing officers of the All-India Services now operating in the reserved fields who do not make use of their privilege before action has been taken on the Report of the Statutory Commission of 1929 and of officers who joined the service since 1st January 1920, if and when the field in which their service operates is transferred.
11. *Commutation of Pension* as recommended by the Commission.

Superior Civil Services
(Revision of Pay and
Pension) Rules, 1924.

Press Communiqué of 4th
May 1925.

Ditto.

Ditto.

List of Variations in regard to the Lee Commission recommendations.

1. Officers holding lower administrative posts have been given sterling overseas pay of £13-6-8 in addition to existing incremental pay instead of a fixed pay of Rs. 2,150 as recommended by the Commission.
2. Sterling overseas pay of £13-6-8 has been given to officers holding administrative posts the pay of which does not exceed Rs. 3,000.
3. Sterling overseas pay has been given to officers of Asiatic domicile belonging to the Superior Telegraph Engineering Branch and Indian Railway Service of Engineers in the same circumstances as those of officers of Asiatic domicile in the All-India Services.
4. Passage benefits have been extended to families of certain Indian Civil Service officers of Asiatic domicile.
5. Enhanced rates of pension have not been granted to Indian Civil Service, Governors and Members of Council.
6. The recommendation that a Board be appointed to administer the Indian Civil Service Family Pension Fund has not been accepted.
7. The recommendation that the medical needs of both the British and Indian Armies in India should be provided for in future by a Royal Army Medical Corps (India) which should absorb the Indian Medical Service has not been accepted.

Superior Civil Services
(Revision of Pay and
Pension) Rules, 1924.

Announcement of 6th De-
cember 1924.

Secretary of State's des-
patch No. 4, dated the
9th July 1925. Pub-
lished in the Gazette of
India Extraordinary,
dated the 31st July
1925.

Correspondence on this
decision has not yet
been published and it
cannot be published at
this stage.

COST OF REVISION OF PAY AND CONCESSIONS GRANTED TO MILITARY OFFICERS.

185. ***Diwan Bahadur M. Ramachandra Rao** : With reference to the statement made by Mr. Burdon during the course of the general discussion on the General Budget on the 4th March 1925, will the Government be pleased :

- “(a) to place on the table a statement showing the number of officers married and unmarried who are drawing the differential rates of pay recently sanctioned ;
- (b) to state the nature of each of the miscellaneous concessions referred to by Mr. Burdon and the total annual additional cost of each of these concessions ; and
- (c) to state the total permanent recurring cost of the revision of pay and the concessions above mentioned ?

Mr. E. Burdon : (a) I will furnish the Honourable Member separately with a statement showing approximately the number of officers who are likely to be drawing the revised rates of pay. The Honourable Member will realize that it is not possible to furnish accurate figures readily since the numbers will vary from day to day as for example when unmarried officers pass under the category.

(b) and (c). The details asked for by the Honourable Member were given in my reply to starred question No. 1233 on the 23rd March last. The attention of the Honourable Member is invited in this connexion to Army Instruction (India) No. 1-S., dated the 7th March 1925, a copy of which will be found in the Library.

INCREASE IN THE PAY OF BRITISH AND INDIAN TROOPS.

186. **Diwan Bahadur M. Ramachandra Rao** : (a) Will the Government be pleased to state whether the pay and allowances of British and Indian soldiers were increased in any way since 1st January 1924, and to place a statement on the table showing the total additional recurring cost, if any, of these increases ?

(b) Will the Government be pleased to publish the correspondence between the Government of India and the Home Government in regard to the revision of pay and the grant of miscellaneous concessions to the Military Services referred to above ?

Mr. E. Burdon : (a) No general increase in the pay of British and Indian troops has been made since the 1st January 1924. Certain miscellaneous increases in pay, etc., have, however, been granted to certain arms of the Indian Army, and these are detailed in the statement which I lay on the table. The statement also shows the estimated cost of each measure. I would, in this connexion, invite the attention of the Honourable Member to part (b) of the reply which I gave on the 23rd March last to starred question No. 1233.

(b) There has been no correspondence with the Secretary of State in respect of any of the items mentioned in the statement which I lay on the table.

Statement showing the various concessions granted to Indian troops since the 1st January 1924, together with their estimated cost.

Authority.	Item.	Estimated cost. Rs.
A. I. (I.) No. 255 of 1924 ..	Grant of extra duty pay at Re. 1 per mensem for non-commissioned officers and men actually placed in charge of equipment mules of Pioneer battalions (and ponies in Indian infantry and Pioneer battalions, serving in the covering force)	4,136
A. I. (I.) No. 448 of 1924 ..	Pay of naiks of bullock troops permanently increased from Rs. 13 to Rs. 14 per mensem	396*
A. I. (I.) No. 976 of 1924 ..	Pay of lance-naiks and drivers of bullock troops (lower establishment) permanently fixed at Rs. 10 and Rs. 9 per mensem, respectively	6,350*
A. I. (I.) No. 312 of 1925 ..	All Indian drivers of Indian Signal Corps to be eligible to qualify for 3rd rate signal pay	5,735
A. I. (I.) No. 432 of 1925 ..	Pay of drivers, lance-naiks, and naiks of mule and Government camel transport units, including cavalry transport companies, increased by Re. 1 per mensem	1,61,695
A. I. (I.) No. 546 of 1925 ..	Indian combatant personnel of tractor drawn batteries, Medium Artillery, to receive the same rates of pay as are admissible to the corresponding ranks in other units of the medium artillery brigade	900
A. I. (I.) No. 552 of 1925 ..	Revised rates of engineer pay. Sappers and Miners	1,74,246
A. Ia. (I.) Nos. 585, 586 and 587 of 1924.	Grant of full rates of working pay, under certain conditions, in lieu of the lower rates previously authorised for Sappers and Miners, Signal and Pioneer units— Sappers and Miners Signals Pioneers	36,000 14,040 9,600
A. I. (I.) No. 677 of 1924 ..	Increased rates of pay for the Indian personnel of Cavalry Brigade Signal troops	3,650

* The Army Instructions quoted permanently sanctioned a provisional increase which was granted before the 1st January 1924.

RECRUITMENT TO THE SUBORDINATE ACCOUNTS SERVICE OF THE MILITARY ACCOUNTS DEPARTMENT.

187. *Mr. C. S. Ranga Iyer : Will the Government be pleased to state :

- (a) the procedure of recruitment to the Subordinate Accounts Service of the Military Accounts Department,
- (b) the essential and preferential qualifications of candidates for direct nomination, and
- (c) the number of candidates likely to be newly appointed this year by direct nomination and from departmental candidates ?

The Honourable Sir Basil Blackett : (a) Appointments to the Subordinate Accounts Service of the Military Accounts Department are made by the Military Accountant General either direct, or by promotion of qualified men from the clerical service.

(b) Direct nomination is made from graduates, or men with higher educational qualifications. No candidate is considered for such direct appointments who is not possessed of either B.A. (Hons.) or M.A. (Hons.) degree or special technical qualifications.

(c) As there are already many qualified clerks with excellent reports, awaiting promotion to the Subordinate Accounts Service, it is not likely that any direct appointments to that service will be made this year. The number of appointments to be made from departmental candidates during the year will be about 40.

DIRECT NOMINATION OF BACHELORS OF COMMERCE TO THE SUBORDINATE ACCOUNTS SERVICE OF THE MILITARY ACCOUNTS DEPARTMENT.

188. ***Mr. C. S. Ranga Iyer :** (a) Is it a fact that the examination for admission to the Subordinate Accounts of the Military Accounts Department includes such subjects as (a) Précis Writing and letter drafting, (b) Book-keeping by single and double entry ?

(b) If so, are the Government aware that B. Coms. (Bachelors of Commerce) are specially trained in both the above subjects ?

(c) If the answer to (b) is in the affirmative, do Government propose to provide special facilities or to give preference to B. Coms. for direct nomination to the Subordinate Accounts Service ?

The Honourable Sir Basil Blackett : The answers to parts (a) and (b) are in the affirmative.

(c) The rules for the admission of candidates to the Subordinate Account Service of the Military Accounts Department provide for the direct appointment to that service of graduates or men with higher educational qualifications. The claims of Bachelors of Commerce will receive consideration with those of other graduates, but the Government at present see no reason to give the former preference or special facilities.

RECRUITMENT TO THE SUBORDINATE ACCOUNTS SERVICE OF THE CIVIL ACCOUNTS DEPARTMENT

189. ***Mr. C. S. Ranga Iyer :** Will the Government be pleased to state :

(a) the procedure of recruitment to the Subordinate Accounts Service of the Civil Accounts Department,

(b) the essential and preferential qualifications of candidates,

(c) whether they propose to provide special facilities to B. Coms. ? (Are the Government aware that such facilities have been provided in regard to the recruitment of Divisional Accountants to those who have passed the Commercial Diploma Examination of the Allahabad University or its equivalent) ? and

- (d) the number of candidates to be appointed this year to the Subordinate Accounts Service ?

RECRUITMENT TO THE SUBORDINATE ACCOUNTS SERVICE IN THE POSTS AND TELEGRAPHS DEPARTMENT.

190. ***Mr. C. S. Ranga Iyer** : Will the Government be pleased to state :

- (a) the procedure of recruitment to the Subordinate Accounts Service in the Posts and Telegraphs Department,
- (b) the essential and preferential qualifications of candidates for direct nomination,
- (c) whether they propose to provide special facilities to the Bachelors of Commerce as they are specially trained in Accounting and Auditing for direct nomination,
- (d) how many candidates are likely to be newly appointed this year by direct nomination, and
- (e) how many, if any, applications have been received till now for direct nomination ?

The Honourable Sir Basil Blakett : (a) and (b). The procedure for recruitment to the Subordinate Accounts Service of the Civil Accounts Department is laid down in Article 48 and following of the Audit Code as modified by correction slip No. 292, a copy of which I place on the table for ready reference.

(c) The Commercial Diploma Examination of the Allahabad University or its equivalent comprises subjects which are akin to those prescribed for the Divisional Accountants' examination ; whereas the subjects of the Subordinate Accounts Service Examination are of a quite different nature. The Government do not therefore propose to give persons who have passed the Bachelor of Commerce Degree Examination preferential treatment.

(d) The number of appointments to be made depends entirely upon the number of vacancies that will occur during the year.

I might answer the next question also together with this.

(a) to (d). The procedure for recruitment to the Subordinate Accounts Service in the Posts and Telegraphs Accounts Department is practically the same as in the Civil Accounts Department and the reply that I have just given applies to it.

(e) None, so far as my information goes.

CORRECTION TO AUDIT CODE.

No. 292.

Page 12, Article 48.—

Reconstruct the last sentence of this article (it is very important.....may be so filled) as follows :—

“ It is important that direct appointments should be made occasionally, though on a very moderate scale, and the men so appointed should be young men with brilliant

University records and whenever possible men who have appeared for the competitive examination for admission to the Indian Audit and Accounts Service and have obtained high places on the list but not sufficiently high to obtain appointments. These men will not be counted against the sanctioned strength in the Subordinate Accounts Service for the first 18 months after their admission to the office. It is not necessary that there should be a vacancy in the Subordinate Accounts Service when the probationer is first appointed, but it is necessary that there shall be, at the date of such appointment, a reasonable probability that there will be at or before the end of 18 months from that date, such a vacancy."

RECRUITMENT OF ASSISTANT TRAFFIC SUPERINTENDENTS IN THE RAILWAYS.

191. *Mr. C. S. Ranga Iyer : (a) With reference to the answer to my unstarred question No. 35, dated the 22nd January 1925, will the Government be pleased to state whether the rules regarding the recruitment of A. T. Ss. in the Railways have been prepared ?

(b) If so, will they please lay a copy on the table ?

(c) If the answer is in the negative, do Government propose to expedite the formulation of the rules and to provide special facilities to the holders of the degree of B. Com. for qualifying themselves as A. T. Ss. ?

Mr. G. G. Sim : (a), (b) and (c). The rules have been drawn up provisionally and will be published as soon as possible after they have been approved. Government can give no further information at present.

RECRUITMENT OF ACCOUNTANTS TO RAILWAY ACCOUNTS OFFICES.

192.* Mr. C. S. Ranga Iyer : (a) Will the Government be pleased to state the rules regarding the recruitment of Accountants to Railway Account Offices ?

(b) Is it a fact that :

(i) direct appointment of Probationary Accountants is made on the result of the Part I Examination and only to 33 per cent. of the total vacancies, and

(ii) a candidate must have at least passed the B. A. Examination, if Indians, in order to be eligible for direct recruitment as probationary accountants ?

(c) Will the Government be pleased to state whether a B. Com. (Bachelor of Commerce) is eligible for direct appointment if he passes Part I of the Examination ?

(d) If not, are the Government prepared to consider the question of making them eligible for direct nomination if they pass Part I of the Examination ?

EXAMINATION FOR THE RECRUITMENT OF ACCOUNTANTS TO THE RAILWAY ACCOUNTS OFFICES.

193. *Mr. C. S. Ranga Iyer : (a) Is it a fact that Part I of the Examination qualifying as Accountants to the Railway Accounts offices includes only two subjects, viz., (1) Précis Writing and drafting, (2) Commercial Book-Keeping ?

(b) Are the Government aware that the Graduates of Commerce study these subjects (Précis Writing and Commercial Book-Keeping) in their Inter-Commerce and Bachelor of Commerce Course ?

(c) If the answers to (a) and (b) are in the affirmative, do Government propose to exempt B. Coms. from Part I of the examination and to appoint them direct as Probationary Accountants? If not, why not?

(d) Will the Government please to state whether the examination for the recruitment of Accountants to the Railway Accounts Offices will take place this year? If so, how many candidates are likely to be appointed (i) as Probationary Accountants, and (ii) from Departmental candidates separately?

The Honourable Sir Basil Blackett : I shall answer questions Nos. 192 and 193 together.

192. (a) and (b). The Railway Subordinate Accounts Service is recruited partly from members of the clerical service who have passed the Accountants' examination and partly by direct recruitment. Two-thirds of the vacancies are filled by promotion from the clerical service and one-third by direct recruitment. Direct recruitment is made by appointing nominated candidates who secure the highest places in Part I of the Accountants' examination according to the number of vacancies of the year. The standard required from Indian candidates for nomination is that of the B.A. or other equivalent degree of a University. Probationary Accountants on passing Part II of the Accountants' examination are eligible for confirmation as Accountants.

(c) and (d). Bachelors of Commerce are eligible.

193. (a) and (b). The reply is in the affirmative.

(c) The Government see no sufficient reason for exempting Bachelors of Commerce from the examination, which is a competitive one.

(d) An examination will be held this year. The number of appointments to be made depends on the number of vacancies that will occur during the year.

APPOINTMENT OF BACHELORS OF COMMERCE IN VARIOUS GOVERNMENT DEPARTMENTS.

194. ***Mr. C. S. Ranga Iyer :** (a) Has the attention of the Government been drawn to a letter contained in the *Tribune* of the 24th May 1925, regarding the grievances of Commerce Graduates with regard to Government service?

(b) If so, do Government propose to take steps to provide special facilities to the Commerce Graduates in the following Departments? If not, why not?

(i) Commerce, (ii) Industries, (iii) Finance (Indian Audit and Accounts Service), Customs, Salt, etc.

(c) If the answer to (b) is in the negative, do Government propose to give them preference provided other qualifications are equal? If not, why not?

(d) Are the Government aware that B. Coms. are specially trained in Public Finance, Banking and Currency, Accounting and Auditing, Statistics, and Commercial and Banking Law?

The Honourable Sir Basil Blackett : (a) and (d). The reply is in the affirmative.

(b) and (c). Appointments to the Indian Audit and Accounts Service are made on the results of a competitive examination, at which Bachelors of Commerce are eligible to appear. No special or preferential treatment can be accorded to them, the examination being a competitive one. With regard to the other Department I would refer the Honourable Member to the reply given to question No. 192 asked by Seth Govind Das on the 27th February 1925.

INCLUSION OF COMMERCIAL SUBJECTS IN THE INDIAN AUDIT AND ACCOUNTS SERVICE EXAMINATION.

195. *Mr. C. S. Ranga Iyer : (a) Has the attention of the Government been drawn to a letter in the *Tribune* of 28th April 1925, regarding the inclusion of some commercial subjects in the Indian Audit and Accounts Service Examination ?

(b) Is it a fact that no commercial subject is included in the above examination ?

(c) If the answer is in the affirmative, do Government propose to include the following subjects before the new rules are framed :

- (i) Accounting and Auditing, (ii) Advanced Banking and Currency, (iii) Business Organisation, (iv) Public Finance, and (v) Administration ?

The Honourable Sir Basil Blackett : (a) The reply is in the affirmative.

In regard to parts (b) and (c), I would refer the Honourable Member to the complete reply, which will be found in the Library, to question No. 191 asked in the Assembly on the 27th February 1925, by Seth Govind Das on the same subject.

APPOINTMENT OF BACHELORS OF COMMERCE IN THE IMPERIAL BANK OF INDIA.

196. *Mr. C. S. Ranga Iyer : Are the Government aware that Graduates in Commerce are specially trained in Advanced Banking and Currency as well as in Banking Law ?

If the answer is in the affirmative, are Government prepared to ask the Imperial Bank of India to recruit a certain number of Commerce Graduates to the Probationary Assistant's Grade every year ?

RECRUITMENT OF INDIANS TO POSTS IN THE IMPERIAL BANK OF INDIA.

197. *Mr. C. S. Ranga Iyer : (a) Has the attention of the Government been drawn to the leading article of the *Bombay Chronicle*, dated the 28th April 1925, regarding the recruitment of Indians in the Imperial Bank of India ?

(b) Do Government propose to take any action regarding the increase of Indians in the Bank ?

CREATION OF MORE LOCAL BOARDS OF THE IMPERIAL BANK OF INDIA.

198. *Mr. C. S. Ranga Iyer : (a) Has the attention of the Government been drawn to an article in the *Tribune* of the 12th June 1925, regarding the creation of more Local Boards of the Imperial Bank of India and

the providing of special facilities to the holders of the degree of Bachelor of Commerce ?

(b) If so, do Government propose to take any action ? If not, why not ?

The Honourable Sir Basil Blackett : I propose to answer 196, 197 and 198 together.

As the Honourable Member knows well, the question of recruitment to posts in the Imperial Bank of India is entirely the domestic concern of the Bank and not under Government's control. The Government are aware that it is the policy of the Central Board to employ Indians in increasing numbers as far as possible and as circumstances allow. They have seen the articles referred to by the Honourable Member.

The creation of Local Boards under section 25 of the Imperial Bank of India Act is primarily a matter for determination by the Central Board though, subject to the previous sanction of the Governor General in Council. The suggestion made by the Honourable Member for the creation of more Local Boards will be duly conveyed to the Central Board.

DISCHARGE OF WORKERS FROM THE TITAGHUR PAPER MILLS.

199. ***Sir Hari Singh Gour :** (a) Has the Government received any Resolution passed at a special meeting of the Kankinara Labour Union held on Saturday the 27th June, 1925, complaining that as a result of the Government placing orders for paper in foreign countries, workers in the Titaghur Paper Mills have been thrown out of employment ?

(b) If so, will the Government be pleased to state how many employees, educated and uneducated, employed in the paper mills in India have been thrown out as a result of the Government action of purchasing paper from foreign countries ?

(c) Will the Government be pleased to state the quantity of paper indented from foreign countries together with the price paid therefor, and the quantity and price of paper locally obtained ?

(d) Will the Government be pleased to state what action it proposes to take to resuscitate the dying paper industry in this country ?

The Honourable Sir Bhupendra Nath Mitra : (a) and (b). I would refer the Honourable Member to the answer which I have already given to Lala Duni Chand's question No. 182.

(c) The quantity of paper so far ordered in India for the current year amounts to 5,794½ tons, the price being Rs. 28,37,581. The quantity of paper ordered outside India was 1,988½ tons, the price, including cost, insurance, freight and tariff duty, being Rs. 8,94,611.

(d) The Honourable Member is apparently referring to action by Government on the Tariff Board's report. The question has been answered by my Honourable friend Sir Charles Innes several times in this House.

Sir Hari Singh Gour : Sir, I do not think the Honourable Member has answered part (b) of my question. The answer he gave just now was to Lala Duni Chand's question whether a certain representation made by the Kankinara Labour Unions as regards unemployment was or was not

correct. I want positive facts, and those facts, I think, must be within the knowledge of the Honourable Member.

The Honourable Sir Bhupendra Nath Mitra : Sir, the question was :

“ Will the Government be pleased to state how many employees, educated and uneducated, employed in the paper mills in India have been thrown out as a result of the Government action.”

In reply to Lala Duni Chand's question I said that Government this year, as a matter of fact, were buying more indigenous paper than they had bought in the proceeding year and therefore Government's action is in no way responsible for the throwing of people out of employment. Whatever was missing in my reply has been supplied by my friend Mr. Joshi.

Mr. N. M. Joshi : May I ask, Sir, who is the Secretary and President of this Kankinara Labour Union ?

The Honourable Sir Bhupendra Nath Mitra : I have no information, Sir.

Mr. N. M. Joshi : Will Government inquire ?

Mr. B. Das : May I ask the Honourable Member to inquire if Mr. Joshi is not connected with this Labour Union ?

EQUALISATION OF THE TRAVELLING AND HALTING ALLOWANCES OF MEMBERS OF THE COUNCIL OF STATE AND THE LEGISLATIVE ASSEMBLY.

200. ***Mr. Kamini Kumar Chanda :** (a) Is there any special reason for making a discrimination between the Members of the Council of State and of the Legislative Assembly respectively as regards, (i) travelling allowances, and (ii) number of days in addition to the actual time required for attending the meetings of the Indian Legislature for which halting charges are paid ?

(b) What will be the probable saving a year if the travelling and halting charges of the Members of the Council of State are equalised with those of Members of the Legislative Assembly both at Delhi and Simla ?

(c) Are the Government prepared to consider the propriety and expediency of immediately removing the above discrimination between the Members of the Council of State and the Legislative Assembly respectively ? If not, why ?

Mr. L. Graham : (a) For the origin of the distinction the Honourable Member is referred to the debate conducted in this Chamber on the 2nd March 1921 on the motion that the travelling and other allowances of the Members of the Council of State be placed on the same footing as those of the Members of the Legislative Assembly. The only surviving discrimination in the matter of travelling allowances is that non-official Members of the Council of State are allowed at their option to reserve a first class railway compartment for their personal use and to draw the actual cost of reserving the compartment in lieu of travelling allowance of $1\frac{1}{2}$ ths of a first class fare. The differentiation in regard to the number of days preceding and following a Session for which halting allowance may be drawn did not originally exist and was the result of the self-denying action taken by the Assembly itself during the voting of Demands for Grants in March 1923 in carrying a reduction on the motion of Rao

Bahadur T. Rangachariar with the express object of enabling this economy to be made. The question of similarly curtailing the period in the case of Members of the Council of State and of cancelling the right of reserving a first class compartment was placed before the Council on a Government Resolution. The Council decided against the proposal, and Government did not think fit to impose the change on the Members of the Council against their will.

(b) A saving of approximately Rs. 15,000 per annum might be anticipated.

(c) Government will consider the matter after the lifetime of the present Council of State expires.

Diwan Bahadur T. Rangachariar : May I ask how many Honourable Members of the Council of State avail themselves of the option of reserving a first class compartment ?

Mr. L. Graham : I am afraid, Sir, I cannot answer offhand. If the Honourable Member will kindly put that question down, I shall answer it.

Diwan Bahadur T. Rangachariar : May I ask whether the Government will again press upon the Honourable Members of the Council of State the desirability of a self-denying ordinance ?

Mr. L. Graham : I think in view of the very definite Resolution of the Council of State nothing will be gained by asking at this stage. It will not be coming up again, as I understand.

Diwan Bahadur T. Rangachariar : Will the Government support the proposal at the Budget time if the Assembly rejects this grant ?

Mr. L. Graham : I am not in a position to give an undertaking, Sir. I have already said that Government will consider the matter after the lifetime of the present Council of State expires.

Lala Duni Chand : Is not the discrimination due to the fact that the Members of the Council of State are more obliging and more accommodating than the Members of the Legislative Assembly ?

Mr. N. M. Joshi : May I ask, Sir, whether the Government will be prepared to place this question of the allowances of Members of the Legislature before a Committee of the Legislature instead of taking the responsibility themselves ?

Mr. A. Rangaswami Iyengar : May I know, Sir, whether it is the voice of the Council of State that ought to prevail or the voice of the tax-payer in this Assembly ?

Mr. L. Graham : The position as regards these allowances is that they were approved by Government before the legislative bodies came into being and Government have continued those allowances.

Mr. B. Das : Are the Government aware that in the opinion of this Assembly there is no necessity for the existence of the other House ?

APPOINTMENT OF THE PUBLIC SERVICE COMMISSION.

201. ***Mr. Kamini Kumar Chanda :** (a) Has it been decided to appoint a Public Service Commission as provided in section 96C of the Government of India Act ?

(b) What is the reason for such delay in making the appointment which the said Act directed five years ago ?

(c) Have any rules been made by the Secretary of State in Council as provided in the said Act regarding the qualifications for appointment as members of the Commission, the pay and pension, if any, attaching to the post of Chairman and member ; and functions of the Commission ?

(d) Has the personnel been selected ? What will be the number, emoluments, and functions of members ?

The Honourable Sir Alexander Muddiman : I have already answered several questions on this subject.

CENSORING AND DELAY OF TELEGRAMS RELATING TO JUDICIAL PROCEEDINGS CONCERNING EUROPEANS.

202. ***Mr. Kamini Kumar Chanda :** (a) Is it a fact that a telegram worded " Manager Wilson not arrested yet " sent from Maulavi Bazar to Babu Harendra Chandra Chaudhri at Sylhet on the 7th July 1925 was delayed in transmission and delivered with the following remark " sent to get censored by Deputy Commissioner before delivery " ?

(b) Is it the policy or intention of Government that a telegram like the above giving information about judicial proceedings should be censored or delayed if it concerns a European ?

(c) Why was it censored and thus delayed ?

(d) Will Government consider the expediency of taking steps to prevent the recurrence of such incidents ?

The Honourable Sir Bhupendra Nath Mitra : I am afraid if I answer the question in detail I might be rendering myself liable to imprisonment up to three years under section 26 of the Indian Telegraph Act, but I can assure the Honourable Member that it is neither the policy nor the intention of Government that there should be any racial discrimination in the application of rule 15 of the Statutory Telegraph Rules notified by the Governor General in Council under section 7 of the Telegraph Act which requires telegraph offices to refer to the civil authority any telegram which appears to be objectionable. I may add that I understand that the delay in the delivery of the telegram referred to by my friend Mr. Chanda was largely due to an interruption on the line.

Colonel J. D. Crawford : Are the Government of India aware that there has been an effort on racial grounds, both outside and inside the Press in the district, to persecute the accused person in this case, which is *sub judice*, and will they consider the desirability of taking steps to prevent the recurrence of action of this nature since this is against the public interest ?

The Honourable Sir Alexander Muddiman : My attention has not been previously drawn to the case. If the Honourable Member will put down a question, I will consider it. It is not a matter for my Honourable friend (the Honourable Sir Bhupendra Nath Mitra).

Mr. Kamini Kumar Chanda : If the telegram was sent to be censored, is it wrong for me to know why this was done ?

The Honourable Sir Bhupendra Nath Mitra : I have already said, Sir, that I cannot give any further details about this case, but I have also said that whatever action was taken was taken under a particular section of the Telegraph Act.

STATEMENT OF BUSINESS.

The Honourable Sir Alexander Muddiman (Home Member) : Sir,
the course of business for the week beginning with
12 Noon. . . the 31st of August, 1925, is, as far as I can see,

as follows :

On Monday the 31st August it is proposed to move for leave to introduce the following Bills :

- (1) The Provident Funds (Amendment) Bill : that is the small Bill which was referred to in the Provident Funds Bill debate.
- (2) The Opium (Amendment) Bill.
- (3) The Guardians and Wards (Amendment) Bill.

It is also proposed to move to take into consideration and to pass—if that motion is accepted—the following Bills which were introduced on the 25th August :

- (1) The Salt Amendment Bill.
- (2) The Code of Civil Procedure (Amendment) Bill (section 60).
- (3) The Indian Naturalization Bill.
- (4) The Indian Limitation (Amendment) Bill.
- (5) The Religious Endowments (Amendment) Bill.

On Tuesday it is proposed to move to take into consideration and to pass—if that motion is accepted :

- (1) The Indian Penal Code (Amendment) Bill (sections 375 and 376). That is the Age of Consent Bill.
- (2) The Legislative Members Exemption Bill.
- (3) The Code of Civil Procedure (Amendment) Bill (sections 102 and 103).

It is also proposed, if leave is granted to-day to introduce the Sikh Gurdwaras (Supplementary) Bill, to move that the Bill be taken into consideration and further, if that motion is accepted, to move that the Bill be passed.

Motions will also be made for the circulation of the following Bills :

- (1) The Insolvency (Amendment) Bill.
- (2) The Legal Practitioners (Amendment) Bill, subject to leave being granted to-day for its introduction.

On Thursday it is proposed to move to take into consideration, and if that motion is accepted, to pass the Coal Grading Bill if it is reported by the Select Committee, and the Carriage of Goods by Sea Bill if it is reported by the Joint Committee. It is also possible that other business, of which the House will be informed as soon as possible, will be brought forward on the same day.

On Friday it is proposed to move to take into consideration, and if that motion is accepted, to pass the following Bills :

- (1) The Legislative Bodies Corrupt Practices Bill.

- (2) The Code of Criminal Procedure (Amendment) Bill, subject to leave being granted to-day for its introduction.
- (3) The Opium (Amendment) Bill, subject to leave being granted on Monday for its introduction.
- (4) The Provident Funds (Amendment) Bill, subject to leave being granted on Monday for its introduction.
- (5) The Guardians and Wards (Amendment) Bill, subject to leave being granted on Monday for its introduction.

Mr. A. Rangaswami Iyengar : Wednesday is the non-official day for Resolutions ?

The Honourable Sir Alexander Muddiman : Yes.

Mr. Harchandrai Vishindas : When will the debate on the Muddiman Committee's Report take place ?

The Honourable Sir Alexander Muddiman : It will not take place next week as the Honourable Member will have gathered from my statement. I hope it will take place in the following week.

Mr. R. K. Shammukham Chetty : If the Muddiman Committee's Report is coming up for discussion in the following week, will the Government give sufficient notice to the House of the exact proposition which the Government propose to make in respect of that report ?

The Honourable Sir Alexander Muddiman : I will try to give notice at the earliest possible moment.

STATEMENT LAID ON THE TABLE.

The Honourable Sir Bhupendra Nath Mitra (Industries Member) : I beg to lay on the table a statement furnished by the High Commissioner for India showing all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India during the half year ending the 30th June 1925.

HIGH COMMISSIONER FOR INDIA.
INDIA STORE DEPARTMENT.

ABSTRACT OF CASES IN WHICH TENDERS, OTHER THAN THE LOWEST COMPLYING WITH THE TECHNICAL DESCRIPTION OF THE GOODS DEMANDED, WERE ACCEPTED ON THE GROUNDS OF SUPERIOR QUALITY, SUPERIOR TRUSTWORTHINESS OF THE FIRM TENDERING, GREATER FACILITY OF INSPECTION, QUICKER DELIVERY, ETC.

HALF YEAR ENDING 30TH JUNE, 1925.

PART A.—Cases in which lower foreign tenders including British tenders for foreign made goods, have been set aside wholly or partially in favour of British tenders.

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
			£ s. d.	£ s. d.	
Wheels & Axles	E. 301/7669/29-1-25	Owen & Dyson, Ltd.	3,562 10 0	3,487 10 0 (Czecho-Slovakian).	Allowing for the high cost of inspection in Czecho-Slovakia, the tenders of the Skoda Works and Messrs. Owen and Dyson, Ltd., might be regarded as practically equal; moreover, delivery from the Skoda Works could not be expected in time for shipment at the same time as the wagons (already ordered) for which the wheels are required.
Wheels & Axles	E. 848/808/10-3-25	Taylor Bros. & Co., Ltd.	11,875 0 0	11,625 0 0 (German)	The lowest acceptable tender was that of Messrs. Krupp with rather protracted delivery.

The next lowest tender, from Messrs. Taylor Bros. & Co., was £500 higher, but early delivery was offered. As a portion of the supply was required urgently, the order was divided equally between these two firms.

In this case the lowest British tender was most favourable, as the extra cost of inspection on the Continent would have exceeded the difference between the British and Continental quotations.

Messrs. Kershaw's sample represented better value for money. Moreover, if the lower tender had been accepted, the difference in price would have been greatly reduced by the extra cost of inspection in France.

The extra cost of inspection abroad would have been more than the difference between the lowest tender and that of the London Zinc Mills.

The amounts of the three lowest tenders for 20,000 tubes were:—Messrs. Banting (French) £6,333-6-8; Mr. J. O'Hara Murray (German) £7,166-13-4; Messrs. Tubes, Ltd., £9,487-10-0.

5,000 tubes were required to be shipped by 15th May and, as only Tubes, Ltd., offered delivery early enough to satisfy this requirement, their tender was accepted for 5,000.

The order for the remaining 15,000 tubes was placed with Messrs. Banting.

Copper Bars ..	E. 1239/1822/21-4-25	Allen Everitt & Sons, Ltd.	1,657 10 0	1,625 0 0 (French). 1,645 0 0 (German).	In this case the lowest British tender was most favourable, as the extra cost of inspection on the Continent would have exceeded the difference between the British and Continental quotations.
Binoculars ..	E. 1440/1857/6-5-25	A. Kershaw & Son..	202 10 0	175 4 0 (French).	Messrs. Kershaw's sample represented better value for money. Moreover, if the lower tender had been accepted, the difference in price would have been greatly reduced by the extra cost of inspection in France.
Zinc Sheet ..	E. 1453/1827/6-5-25	London Zinc Mills, Ltd.	17 2 0	15 4 0 (Belgian). 15 16 0 (Belgian).	The extra cost of inspection abroad would have been more than the difference between the lowest tender and that of the London Zinc Mills.
Steel Boiler Tubes.	E. 1510/2002/11-5-25	Tubes, Ltd.	2,371 17 6	1,583 6 8 (French).	The amounts of the three lowest tenders for 20,000 tubes were:—Messrs. Banting (French) £6,333-6-8; Mr. J. O'Hara Murray (German) £7,166-13-4; Messrs. Tubes, Ltd., £9,487-10-0.

5,000 tubes were required to be shipped by 15th May and, as only Tubes, Ltd., offered delivery early enough to satisfy this requirement, their tender was accepted for 5,000.

The order for the remaining 15,000 tubes was placed with Messrs. Banting.

PART A—*contd.*

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
			£ s. d.	£ s. d.	
Axles ..	E. 1752/2435/26-5-25	Glasgow Railway Engineering Co., Ltd.	4,343 15 0	4,262 10 0 (German).	The extra cost of inspection abroad, spread over the sixteen weeks delivery offered, would have absorbed any saving in first cost by accepting the lower tender.
Wheels & Axles	E. 1773/2446/26-5-25	Taylor Bros. & Co., Ltd.	7,290 0 0 for 300 pairs.	6,675 0 0 (German).	1,620 pairs in all were required; 600 by August, 600 by September, 400 by October and 20 during 1925-26. The Skoda Works were lowest for 640 pairs and Messrs. Krupp were lowest for the remainder, but supply from neither of these firms would reach India before September. As it appeared to be necessary to send out a small quantity to arrive in India in August, 300 pairs were ordered from the next lowest tenderer, Messrs. Taylor Bros. & Co. for shipment early in July. The remainder was ordered from the lowest tenderers as follows:—Skoda Works, 640 pairs (£14,080); Fried. Krupp, 680 pairs (£15,130).

Steel Tubes.	Boiler	E. 1957/2911/6-6-25	Tubes, Ltd.	1,608 15 0 for 5,000 tubes.	1,093 15 0 (German).	<p>The total demand was for 29,000 tubes. 10,000 were required to reach in India in July. The first instalment from the lowest tenderer (German) could not be expected to arrive before the end of August, whereas the lowest British tenderer offered delivery as required.</p> <p>In order to save possible loss, 5,000 tubes were ordered from Messrs. Tubes, Ltd., at an extra cost of £515 for delivery at English port by 27th June and the remaining 24,000 from the lowest tenderer.</p>
Carbon Decolorising.		E. 2006-6862/9-6-25	Sutcliffe, Speakman & Co., Ltd.	32 10 0	31 0 0 (Dutch)	<p>The lower tender was for carbon made in Amsterdam and delivered <i>f.o.b.</i> at that port, whereas the English firm offered carbon made in Lancashire. The latter was accepted having regard to the lower cost of inspection.</p>
Tyres, Engine.	Steel,	E. 2044/2912/11-6-25 E. 2045/2912/11-6-25	J. O'Hara Murray S. Fox & Co., Ltd.	1,095 10 0 (German) 505 12 6 (British).	1,396 10 0 (Czechoslovakian).	<p>The indent asked for immediate shipment and stated that 125 tyres were required in India in July and the balance in August 1925.</p> <p>The lowest tenderer for suitable stores required 3½ months for delivery at works in Slovakia and none of the German offers provided for delivery in July. It appeared necessary therefore, in order to avoid serious inconvenience, to order a small quantity—50 tyres—from the next lowest tenderer (British) who promised delivery in three weeks, thus ensuring arrival in India by the end of July.</p> <p>The remaining 140 tyres were ordered from the second lowest tenderer (German), whose tyres might be expected to reach India from the end of August to the end of September.</p>

PART A—*concd.*

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
Potassii Permanganas B. P.	E. 2234-3481-23-6-25	F. W. Berk & Co., Ltd.	£ s. d. 70 0 0	£ s. d. 68 12 0 (German).	The extra cost of inspection abroad, if the order had been placed with the lowest tenderer, would have exceeded the difference between the two quotations.

PART B.—Cases in which the discrimination is between British firms only.

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
Machine Guil- lotine.	E. 227/7956/23-1-25	John Haddon & Co.	£ s. d. 50 0 0	£ s. d. 48 0 0	The Indenting Officer viewed the machines offered by the two lowest tenderers and expressed preference for Haddon's machine.
Cable, Dry Core, Telephone.	E. 234/194/24-1-25	W. T. Henley's Tele- graph Works Co., Ltd.	1,875 0 0	1,868 10 0	The telegraphic demand for this cable asked for supply with the least possible delay as stock was exhausted.
					The lowest suitable tender at £1,868-10-0 offered delivery in ten weeks, while Messrs. Henley's offered at £1,875 for delivery in five weeks.
					In view of the urgency and the small extra cost the second lowest tender (Messrs. Henley's) was accepted.
Putties, knitted	E. 711/85/28-2-25 ..	Fox Bros. & Co., Ltd.	1,762 10 0 (for 9,000 pairs).	1,575 0 0	Accepted on account of the superior trustworthiness of the firm tendering. The demand was for 25,000 pairs and 16,000 pairs were ordered from the lowest suitable tenderer, but, in view of complaints received from India regarding a supply of similar putties made by this firm some years ago, it was considered undesirable to give them the whole order. Messrs. Fox Bros. tender was next lowest.

PART B—*contd.*

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
Flannel	E 794/591/6-3-25 —	Robert Schofield, Ltd.	£ 2,625 0 0 (10,000 yds.).	£ 10,521 13 4 (for 42,800 yds.)	If the whole quantity demanded had been ordered from the lowest tenderer delivery would have been delayed far beyond the time specified by the Indenting Officer. 50,000 yards—somewhat more than half the total—was therefore ordered from the lowest tenderer. The remainder was allocated between the two next lowest tenderers, 10,000 yards to R. Schofield, Ltd. (the total quantity offered by them) and 32,800 to Kelsall & Kemp. This division will secure regular instalments and completion by the end of August 1925, which will not be very much beyond the Indenting Officer's limit.
	E. 795/591/6-3-25 ..	Kelsall & Kemp, Ltd.	£ 8,750 15 8 (32,800 yds.).		
Mosquito netting	E. 862/595/10-3-25	Boden & Co., Ltd.	10,672 16 3	10,463 10 0	In order to comply, as far as possible, with delivery requirements as stated in the Indent, it was necessary to employ at least three manufacturers. Messrs. Boden, who are one of the principal makers of Mosquito Netting, were given a portion of the requirements at a slight extra cost ($\frac{1}{4}$ per yard) over that of the other accepted tenders which were the lowest offering suitable netting.

Press Trimming	E. 1000/1066/21-3-25	B. & S. Massey, Ltd.	290 0 0	287 0 0	B. & S. Massey quoted at £290 and another firm offered a machine similar in all essentials at £287. The Indent specified a Massey machine and it was known that two such presses were already installed. The tenders were therefore communicated by telegraph to the Indenting Officer, who, in reply, indicated preference for a Massey press. The price in the tender passed over was only ten shillings lower than that of the accepted tender. If the former had been accepted much more than 10s. would have been spent in inspection at the works of several sub-contractors. Therefore the accepted tender was the lowest considering inspection costs.
Mild Steel Sheet	E. 1122/902/4-4-25	Dorman Long & Co., Ltd.	230 0 0	229 10 4	The indent asked for a crane "as made by Stothert & Pitt" and similar to one supplied by them in 1911. In competition with the firm named, two lower tenders were obtained for cranes which the Consulting Engineers reported would, so far as they could judge, do the duty specified. On reference to the Indenting Officer he selected Messrs. Stothert and Pitt's crane. The deliveries offered were: lowest tender 6 months, next tender 8 weeks, Stothert and Pitt 17 weeks.
Steam Crane ..	E. 1128/121/4-4-25	Stothert & Pitt, Ltd.	1,615 0 0	1,360 0 0	The extra cost of inspection, if the order had been placed with the lowest tenderer, would have exceeded the difference between the two quotations.
Steel, mild ..	E. 1282/7238/23-4-25	The Steel Co. of Scotland, Ltd.	40 12 2	38 15 4	

B.—*concd.*

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
Pillar water Cranes.	E. 1541/2072/13-5-25	William Abbott Ltd.	£ s. d. 1,170 0 0	£ s. d. 1,162 10 0	Accepted on account of the quicker delivery offered. The delivery promised by the lowest tenderer would not meet the requirements regarding delivery as stated in the indent.
beets, mild steel	E. 1585/184/15-5-25	F. Braby & Co., Ltd.	156 12 1	155 17 2	The extra cost was small. The price in the tender passed over was only fifteen shillings lower than that in the accepted tender. If the former had been accepted more than 15/ would have been spent in inspection at the works of several sub-contractors.
Lamps, brazing	E. 1785/2320/27-5-25	W. Parkinson & Co.	92 6 6	91 17 6	Therefore the accepted tender was the lowest considering inspection costs. The order was for two sizes of lamp. Messrs. Parkinson were lower for one size, and the superiority of their sample for the other was worth more than the small difference in price.
Tyres, covers, outer.	E. 2222/3237/22-6-25	Dunlop Rubber Co., Ltd.	375 0 0 (for 100 covers.)	364 3 4	400 covers were demanded for delivery in India by 1st July 1925, if possible. The lowest tenderer required 6/7 weeks for delivery in this country, and it was considered desirable, therefore, to order 100 covers from the Dunlop Co., who offered to supply within 2 weeks. The balance of the item was ordered from the lowest tenderer.

Part C.—Cases in which the discrimination is between foreign firms only.

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
Locomotives ..	E. 1098/203/1-4-25	J. O Hara Murray 5 ordered by India Stores Department for E. B. R. @ £23,500. 8 recommended to be ordered by M. & S. M. Railway @ £31,200.	£. s. d. 54,700 0 0 (German).	£. s. d. 53,950 0 0 (Austrian).	The lowest tender was from an Austrian firm which has never yet built engines for India. The Consulting Engineers were doubtful about their capacity or their ability to meet the specification and to give the required standard of workmanship. The German tenderer is already building engines for India and the Consulting Engineers have an Inspector stationed at their works. These works are less remote than those of the Austrian firm. Consequently inspection at the German works will be much cheaper and more effective. Further the delivery offered by the German firm was better and they were considered more likely to adhere to it.
Microscopes ..	E. 1105/1087/2-4-25	J. W. Atha & Co. ..	697 0 0 (for German stores)	599 10 0 (for German stores).	Various tenders for technically equivalent instruments were cabled to the Indenting Officer who selected J. W. Atha & Co.'s quotation (the second lowest) for Zeiss microscopes.

Part C.—contd.

Stores ordered.	Contract number.	Name of contractor.	Amount of Contract.	Lowest Tender not accepted.	Reason for acceptance.
Screwspikes & dogspikes.	E. 1289/S. 2234/23-4. 25.	A. de Bary	£ s. d. 1,985 19 2 (Belgium).	£ s. d. 1,986 19 3 (Belgium).	<p>De Bary was lowest for the dogspikes £341-1-1.</p> <p>For the screwspikes another Belgian firm was lowest at £1,615-10-10 de Bary's price—the next lowest—being £1,644-18-1 but the latter firm offered the quicker delivery.</p> <p>The quotations were referred to India and the Indenting Officer confirmed what had already been stated in the indent, that supply was required as early as possible. The order was therefore given to de Bary.</p>

THE CARRIAGE OF GOODS BY SEA BILL.

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

“ That the following Members of the Legislative Assembly be nominated to serve on the Joint Committee to consider and report on the Bill to amend the law with respect to the carriage of goods by sea, namely :

Sir Purshotamdas Thakurdas ;

Mr. Jamnadas M. Mehta ;

Mr. Harchandrai Vishindas ;

Mr. E. G. Fleming ;

Mr. A. Rangaswami Iyengar ;

Dr. S. K. Datta, and

Myself.”

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898.

This motion was on the paper of the previous meeting, but, as the Bill was not ready then, I was not able to move it and with your permission I move it to-day.

Mr. President : The question is :

“ That leave be given to introduce a Bill further to amend the Code of Criminal Procedure, 1898.”

The Honourable Sir Alexander Muddiman : Will you permit me, Sir, to explain very briefly the objects of this Bill ?

Mr. President : It is not necessary unless the motion is opposed.

The Honourable Sir Alexander Muddiman : I beg you to reconsider that decision. I submit that a Member making the motion has a right to explain the objects of the Bill.

Mr. President : I invite the attention of the Honourable Member and the House to Standing Order 37 which says :

“ If a motion for leave to introduce a Bill is opposed, the President after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate put the question.”

There is no speech that needs to be made at the time of moving for leave to introduce a Bill. As soon as a formal motion is made, I will ask the House if any Member objects and if I find that it is opposed, then I will

[Mr. President.]

allow a brief explanatory statement to be made both by the mover and the opposer.

The Honourable Sir Alexander Muddiman : I submit very respectfully that that is not the practice which has been previously followed. I quite admit that it is usual to restrict the debate on introduction to two speeches but I think the Member who makes the motion should be allowed to make a brief explanatory statement of the objects of the Bill and has always been so allowed.

Mr. President : I may say this that if the Honourable Member says that he has got a right to make a speech I beg to differ from him. If he refers me to the practice I quite agree with him that the practice has been that the mover in the initial stage does make a short speech and I am perfectly willing to follow that practice if the House desires me to do so. In order to save time I thought that it would be better if the mover in moving for leave to introduce a Bill does not make a speech but allows me to ascertain whether there is any opposition. If there is any opposition, then I will ask the mover to make a brief explanatory statement, and also the opposer. I am entirely in the hands of the House. If the House wants me to follow the usual practice, I have no objection. But there is no right on the part of the mover to make a speech when making the motion asking for leave to introduce a Bill, because the Standing Order is perfectly clear that only when the motion is opposed, then it is that the President will ask the mover and the opposer each to make a brief explanatory statement. That is the position.

Diwan Bahadur T. Rangachariar : I do not know what this Bill is. I therefore formally object to the motion so that I may get an explanation from the Honourable the Mover.

Sir Hari Singh Gour : May I point out that ever since the commencement of the Legislative Assembly it has been the invariable practice followed by the first and the second Assembly that the author of the Bill—

Mr. President : Order, order. I have already made it clear that that is the practice. But it is put on the ground of right—the Honourable the Home Member puts it on the ground of right—that every mover has got a right to address the Chair in making his motion. He has not got the right. If the House wants me to follow the usual practice I am perfectly willing, but I thought it would save time if I were allowed first to ascertain whether there is any opposition and then allow both the mover and the opposer to make a short explanatory statement.

Sir Hari Singh Gour : May I point out why the practice should be followed by the House? When the mover of a Bill wishes for leave to introduce it, the reasons which he gives are intended to appeal not only to the Members of this House but also to persons outside in case that motion is followed by a subsequent motion for elucidating public opinion, and in many cases it happens that without a formal motion of that kind the Government circulate the Bill to the public for the purpose of eliciting their opinions. I submit, Sir, therefore that the practice is a salutary one and I do not think it contravenes the rule and therefore I ask you,

Sir, that the House should agree with you in establishing this practice which is, I submit, the invariable practice followed by the two Assemblies.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadian) : As you have appealed to the House to express their sense on this question I think I will be within my rights in formally moving that the practice be continued and then, Sir, you can take the sense of the House on that point. You said just now that you will place yourself entirely in the hands of the House on this question, and I formally move that the practice be continued.

The Honourable Sir Alexander Muddiman : Mr. President, I should like to draw your attention to Standing Order 30. You will observe that it says :

“ A matter requiring the decision of the Assembly shall be brought forward by means of a question put by the President on a motion proposed by a member.”

On the following page you will observe that Standing Order 32 begins with the words “ After the Member who moves has spoken ”. It seems to me quite clear that the motion for leave to introduce, which is, a matter, I submit, for the decision of the House, must be made on a motion and on that motion a Member is entitled to speak. I submit the matter entirely to your ruling, and I must ask you to take time before you arrive at a considered decision on the point.

Mr. President : I do not agree with the Honourable the Home Member that the mover has got the right to speak. It is clearly laid down in the rules which I have just pointed out that if the motion for leave to introduce is opposed, in that case the mover and the opposer may be called upon to make brief explanatory statements by the Chair. That Standing Order is perfectly clear, but I am perfectly willing to follow the practice and I will follow the practice.

The Honourable Sir Alexander Muddiman : The Bill which I ask for leave to introduce is an omnibus Bill which seeks to amend certain sections of the Criminal Procedure Code which have given rise to administrative inconvenience.

Mr. Devaki Prasad Sinha : We on this side cannot hear one word of what the Honourable Member is saying.

The Honourable Sir Alexander Muddiman : I do not know why the Honourable Member cannot hear me unless he is not listening. I am speaking quite loudly. There is no common bond or connection between the amendments and I shall therefore speak on each individually. Clause 2 of the Bill makes the first amendment and has the effect of restoring the discretion that was taken away by the amendment in regard to the award of simple or rigorous imprisonment under section 109. The second amendment makes a slight modification in section 170, sub-section (4), in regard to the provision requiring witnesses to be bound to appear before a magistrate on the day the accused is expected to arrive at the court. Clause 4 requires that the Presidency Magistrate should record the examination in writing even if there is no complaint in writing. Clause 5 deals with a difficulty in regard to section 202 of the Code which has

[Sir Alexander Muddiman.]

been brought to notice by the Bombay High Court and on which we have consulted High Courts and Local Governments. Clause 6 is concerned with section 203 of the Code and the necessity for the amendment which is fully explained in the Statement of Objects and Reasons arises out of the recent decision of the Calcutta High Court. Clause 7 is an amendment which has been suggested by the Judges of the Lahore High Court with the object of rendering it unnecessary personally to sign all complaints under section 476. These, as I say, are all unconnected amendments of the Code brought together in this Bill. Sir, I ask for leave to introduce.

The motion was adopted.

The Honourable Sir Alexander Muddiman : Sir, I introduce the Bill.

THE SIKH GURDWARAS (SUPPLEMENTARY) BILL.

The Honourable Sir Alexander Muddiman (Home Member): Sir, I move for leave to introduce a Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925.

This is a validating Bill which gives effect to the provisions of the Sikh Gurdwaras Act, 1925, which were *ultra vires* of the local Council in which that Bill was passed. I do not think I need go into the details of these provisions or to explain in detail why validation is required but as one example of a provision which in our judgment is *ultra vires* of the local Council and therefore requires the sanction of this Legislature, I would refer to section 34 which gives an appeal from the Tribunal constituted under the Act to the High Court and this jurisdiction, we hold, can only be conferred by an Act of the Indian Legislature. Sir, I move for leave to introduce.

Baba Ujagar Singh Bedi (Punjab Landholders): May I request the Honourable Member to get the original Bill circulated among the Members, so that we may be able to go through the Bill and form our opinions on it?

The Honourable Sir Alexander Muddiman : I will endeavour to obtain it from the Punjab Government, but I am not in possession of the papers at present.

Mr. President: The question is:

“ That leave be given to introduce a Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925.”

The motion was adopted.

The Honourable Sir Alexander Muddiman : I introduce the Bill.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

The Honourable Sir Alexander Muddiman (Home Member): I ask for leave to introduce a Bill further to amend the Legal Practitioners Act, 1879.

This is a Bill which deals with a subject which has been frequently under the consideration of the Government of India and the Local Governments for the last 20 years. It deals with the question of touts. The difficulty has been always to devise means to deal with them. The evil is undoubted but the remedy is more doubtful.

The Bar Committee considered the evil was prevalent, and they also considered that the existing law was deficient. They however did not make any specific recommendations. The question again came under consideration before the Civil Justice Committee, a body of experienced men who, as you know, have been considering the general course of our civil justice throughout India. They, on the other hand, while recognizing the evil, had a very definite panacea to offer for its remedy. Now it appeared to us to be desirable that their proposals should be brought before this House, and the most convenient way of doing so appeared to me to be to embody them in a Bill and they have been so embodied in the Bill, and it is this Bill that I ask leave to introduce.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): May I ask the Honourable Home Member whether this is all the legislation that the Government are going to bring forward in connection with the recommendations of the Indian Bar Committee?

The Honourable Sir Alexander Muddiman: I have already introduced several measures dealing with the Civil Justice Report. I hope to introduce more. Proposals are being circulated to Local Governments. This is certainly not the only proposal.

Mr. President: The question is:

“That leave be given to introduce a Bill further to amend the Legal Practitioners Act, 1879.”

The motion was adopted.

The Honourable Sir Alexander Muddiman: Sir, I introduce the Bill.

THE CONTEMPT OF COURTS BILL.

The Honourable Sir Alexander Muddiman (Home Member): Sir, I move:

“That the Bill to define and limit the powers of certain Courts in punishing contempt of courts be referred to a Select Committee consisting of Mr. H. Tonkinson, Mr. L. Graham, Sir P. S. Sivaswamy Aiyer, Khan Bahadur Maulvi Ghulam Bari, Colonel Sir Henry Stanyon, Diwan Bahadur T. Rangachariar, Mr. A. Rangaswami Iyengar, Mr. K. C. Neogy, Mr. N. M. Dumasia, Sir Hari Singh Gour, Mr. S. C. Ghose and myself, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.”

Sardar V. N. Mutalik (Gujarat and Deccan Sardars and Inamdars: Landholders): May I suggest the addition of the name of Mr. N. C. Kelkar? Sir.

The Honourable Sir Alexander Muddiman: Certainly, I have no objection.

Sir, I introduced at the last Session of this House a Bill the object of which was to deal with the question of contempt of court. Now that

[Sir Alexander Muddiman.]

Bill has been circulated to Local Governments and the opinions received are before the House. I would preface my remarks by saying that these opinions undoubtedly criticise with considerable cogency certain details of the Bill; but I think I am justified in claiming that the majority of them support the main principles of the Bill; and this being a motion for reference to a Select Committee, all that I am concerned to defend at this present moment are the principles of the Bill. I ask the House to affirm those principles. The question therefore arises, what are in effect the principles laid down by the Bill? They are three.

In the first place the Bill confers certain powers on the Courts specified in the Schedule, and you will observe that those Courts are the highest Courts in the local areas concerned, they are the High Courts where there are High Courts and they are the Courts of the Judicial Commissioners where there are no High Courts. Those powers, I wish to emphasize at this stage, are conferred on the highest Courts of the local areas concerned. The powers which we desire to confer, to put it very briefly and in no technical language, are the powers possessed by the High Court in England in respect of contempt. They are powers which undoubtedly exist in the case of the chartered High Courts, and they are powers which we think ought to exist in the case of those Courts which are not chartered High Courts. The second principle of the Bill is that it enables those Courts specified in the Schedule to protect the Courts subordinate to them. The third point of principle is that the Bill restricts, not the jurisdiction of the High Court in contempt, or at least it is not the intention of the Bill that it should so restrict the jurisdiction of the High Court in contempt, but the penalty which may be imposed by the High Court in case of contempt. It limits the High Court's power in that direction, but it was not the intention of the framers of the Bill to limit the jurisdiction of the High Court. I mention that rather important point to-day because there has been opposition in certain quarters based I think on a misapprehension. We do not desire to clip the wings of the High Court's jurisdiction. What we do wish is to limit the penalty which the High Court may impose in a case of contempt. Now those I think can fairly be said to be the main principles of the Bill which I am asking you to refer to a Select Committee to-day. The details of the Bill have, I am free to admit, been criticised in several directions by authorities whose opinions are in my judgment very well worthy of consideration.

I will now refer to one or two of the more important criticisms of the Bill because they may affect the view of the House on the measure as a whole. Now one of the principal criticisms has been directed at the definition of "contempt of court". I must say on reading those criticisms and giving them such consideration as I have been able to do, that it does seem to me that possibly amendments are required there. I must make it quite clear to the House that we do not desire in any way to do more than confer on the Courts the same powers as the High Courts in England exercise at the present moment. We have no desire to revive obsolete powers or to widen the scope of the Bill unnecessarily. There has been some criticism of the Bill on the ground that these powers are obsolete or obsolescent. That is not a fact. They are used in England, but they are not used frequently I think, the reason being that they are not frequently needed to be used. The powers are just as real as they have ever been, however, and they are used where it is necessary to exercise them. That

powers of this nature must always be exercised with great discretion and caution is of course obvious. That point is met by the fact that they are conferred on the highest Courts of the country and only in respect of the Courts themselves and the protection of Courts subordinate to them. We do not allow application to be made by individuals for the exercise of these powers. The Bill provides that they shall be exercised either at the instance of the Crown or by the Court. Individuals will not be able to gratify personal animosities by using the Bill.

Another criticism which seems to me of some weight which has been made on the Bill is that rigorous imprisonment is a penalty allowed thereunder. There I think we went too far. I think the imprisonment should be merely simple, and I agree myself with the criticisms which have been directed against the Bill in so far as they deal with that question. Another important point on which the Bill has been criticised is the fact that no procedure has been laid down in the Bill. Well, that is perfectly true. Clause 4 does not lay down a procedure, and I think there again what the critics of the Bill say is worthy of consideration. It is perfectly open to the Select Committee, if the House accepts this proposal, to insert a procedure. They could do that either referentially or, if they thought fit, by actually stating the procedure. Those are the main points which seem to me to deserve attention in the opinions which we have received.

There is one other point that I should like to mention at this stage, because it may save time if I do so. I observe that one of the Judges of the Patna Court apparently doubts the power of this Legislature to restrict the power of the High Court in contempt. I think the House will agree that there is no real foundation for such a contention. The High Courts are established under section 106 of the Government of India Act. They are Courts of record in virtue of that section. If Honourable Members will refer to section 106 and will then turn to the 5th Schedule to the Government of India Act, they will see that that Schedule specified the provisions of the Act which may be repealed or altered by the Indian Legislature and they will find that the second entry in that Schedule refers to section 106. So I do not think, should the House so desire, there can be any doubt as to the legal power of the House to make such a restriction on the powers of the High Court. It might be wise to insert in the Bill some saving clause providing that the existing jurisdiction of the High Court in contempt should not be affected by the Bill. I think several of the High Courts have taken that point and it is certainly very well worthy of the consideration of the Select Committee, if the Bill ever goes to that body. I think I am justified in saying that this Bill is a serious attempt to deal with an admitted need in a rather novel fashion, namely, by making the High Courts the guardians themselves of the subordinate Courts. I trust the House will give the Bill and my motion very careful consideration. I think I am justified in claiming that the bulk of the opinions we have received from authoritative sources support the main principles of the Bill and though I admit—and admit quite freely—that the Bill will require considerable amendment in Select Committee, I submit to the House that it will be well advised to allow that reference.

Sir, I move that the Bill be referred to the Select Committee.

Mr. Rangaswami Iyengar (Tanjore *cum* Trichinopoly : Non-Muhamadan Rural) : Sir, when this Bill was introduced into this House, the situation at that time in connection with the budget was such and the general ideas which the Party to which I have the honour to belong accepted at that time were such, that we decided not to oppose the mere motion for leave. That did not by any means imply, Sir, that we either accepted the principle or the necessity for this Bill and therefore when we had the opportunity to peruse the contents of this Bill, we found, Sir, that the Bill was absolutely objectionable and therefore this Bill ought to be rejected by this House. The motion now made, Sir, gives us the opportunity to do so and also at the same time, fortunately, the opportunity to know the opinions which have been expressed on this Bill by the country as well as by the Courts which have been affected by this Bill. My Honourable friend the Home Member very properly admitted that the opinions that have been received contained criticisms in detail and in profusion, if I may say so, on the several provisions of the Bill but he said that the main principle of the Bill has been generally accepted. Although I agree that many Governments have said in general terms that a Bill of this kind may be useful, I think if you examine the criticisms that have been made, you will find, Sir, that there is not one single provision of this Bill which may be considered to have been generally accepted. There are Governments and High Courts which have taken exception to section 2, there are Governments and High Courts which have taken exception to sections 3 and 4, with the result that there is nothing left in the Bill upon which you can say that these Courts and these Governments are unanimous. At the same time, Sir, you will have noticed that among the representations made by the public, by the Bar Associations and by the Press, which is vitally interested in this matter, there has been a unanimous chorus of utter disapproval of the provisions of this Bill and the strongest objection to allowing this Assembly to legislate on a matter which is more or less obsolete.

Sir, the jurisdiction in contempt of High Courts in England from which the jurisdiction in contempt of High Courts in this country has been derived, is one which arose during the days of the Star Chamber in England. That jurisdiction, Sir, pertained to the Courts in England and it survived notwithstanding the attempts to place the administration of justice on a thoroughly impartial footing. The nature of this jurisdiction, Sir, you will notice, is one which gives the person accusing the power to try the accused and to punish him summarily without the usual form of judicial procedure or a full trial. That is a power, Sir, which was considered to be inherent in the King and in the King's Courts which derived their jurisdiction from the King. Whatever might be the historical value of that position, Sir, so far as modern notions of judicial administration and jurisprudence are concerned, such a power is totally repugnant to all ideas of justice and fair trial. Sir, among the opinions that have been received will be found opinions which point out that the state of things in America is much better in this respect than even in England. In America, Sir, the idea that a man can be punished for contempts of Courts committed by making observations upon judges or trials after they have terminated, the power claimed to try and punish him by way of contempt, is a right which is opposed to the Declaration of Independence and is therefore a power which has been considered to be beyond the jurisdiction of those Courts. Therefore, Sir, I put it to the House that it should summarily reject any proposal which provides for the denial to the meanest

subject in this country of the right of a full and fair trial upon evidence duly recorded under the ordinary forms of procedure.

Sir, I do not mean to say that the law of contempt has absolutely no place in this country. The law of contempt has three aspects. There is first the law of contempt which is intended to protect the due and impartial administration of justice. So far as this is concerned, there are two ways in which this is dealt with. In the first place, people should not be permitted to introduce an atmosphere of prejudice, to prejudice the decision of points in dispute or adjudication before Courts, by making comments during the actual pendency of trials or causes and thereby of attempting to pervert the mind of the jury or the judge as the case may be, and interfering with the even and impartial administration of justice. Secondly, Sir, people should not commit contempts in respect of orders made by courts upon clients or witnesses. Disobedience of these is technically called contempt, but is really a violation of the law. So far as that is concerned, Sir, so far as the protection needed for securing the due administration of justice in particular cases under trial in Courts is concerned, that law is left unaffected by this Bill and I need not make any observations thereon. But, Sir, when we come to the question of so-called contempts in its other two aspects that which is sought to be imposed on comments on judges or Courts when the trial is over and on comments in respect of Courts or Judges personally or in respect of matters not necessarily under adjudication, the words of this section are sweeping :

“Whoever, by words either spoken or written or by signs or by visible representation or otherwise, interferes with or obstructs or attempts to interfere with or obstruct the administration of justice in, or brings or attempts to bring into contempt, or lowers or attempts to lower the authority of, a Court specified in the Schedule or a Court subordinate thereto ”

and the offender is punishable with rigorous imprisonment, etc.

Sir, it has been the accepted principle followed by Judges in England, whatever might be the antiquity of this jurisdiction, that once a case is decided, the Judge who decided it is given over to criticism and criticisms, however severe or unjust, passed upon such Judges are not liable to the jurisdiction in contempt of those Judges. That is what the established decisions prove. In the next place, Sir, if comments are made which are of the nature of a libel, the Judge concerned has his ordinary remedy by way of proceeding for misdemeanour under the common law or under our own procedure in this country. There is no reason why a Judge who has been libelled should be placed in an exceptional position from that of other dignitaries or even the meanest citizen of the land. He has got his remedies in the ordinary course. Why should that right be taken away from the accused and why should he be summarily tried without the ordinary forms and the protection of tribunals. Therefore, Sir, this proposition has been well established in England and I submit that this Bill in purporting to reintroduce the same principle into this country is in reality creating an entirely new offence, an offence, which so far as High Courts are concerned, has never been exercised in England or in India in recent times.

Thirdly, Sir, the question arises as regards the rights of the High Courts to punish people for contempt of courts subordinate to these High

[Mr. Rangaswami Iyengar.]

Courts. We have been told that there has been a conflict of decisions in this matter. I submit, Sir, that I am not going to enter into the question of this conflict of case-law. So far as that is concerned, the Government may or may not have other ways of dealing with it. But I can confidently say that this Bill is not the way of doing it. If that is all that is required, the duty of the Government is to withdraw this Bill altogether and frame another Bill merely to declare the law in respect of the jurisdiction of High Courts. But, Sir, I take a different ground altogether. I submit that the jurisdiction of the High Courts to punish by summary process contempts of subordinate courts for comments not *pendente lite* is obsolete in England and is not recognised in other civilized countries. So far as the subordinate courts are concerned, I submit that if a subordinate court feels scandalized or libelled it should follow the procedure which is pursued by every other man who has been libelled or maligned. I do not think that it can have any higher rights than the other people possess. All the rights that a Judge can and need possess are the rights which are necessary to secure that in the cases actually before him the trial is not prejudiced by any wrongful act on the part of those outside the trial. So far as that is concerned, the present law has been amply sufficient and it has not been contended that that law requires amendment.

Sir, I do not wish to take up the time of the House. The last thing that I desire to urge is that not only are libels or other offences which actually come within sections of the Indian Penal Code made punishable by this summary process, but also new offences are created by section 2 which are of the most dangerous character. I will again read the section and I would ask the House whether it is right that the pettiest officer, who may be called a judicial officer in this country, should take it upon himself immediately there is anything upon which he feels his dignity wounded or his prestige affected, to set these contempt proceedings in motion against people who may have made *bona fide*.

Mr. H. Tonkinson (Home Department : Nominated Official) : May I ask the Honourable Member in what manner under this Bill these courts are enabled to set this law in motion as has been just stated by my Honourable friend.

Mr. A. Rangaswami Iyengar : The definition of contempt under section 2 is :

“Whoever, by words either spoken or written or by signs or by visible representation or otherwise, interferes with or obstructs or attempts to interfere with or obstruct the administration of justice in, or brings or attempts to bring into contempt, or lowers or attempts to lower the authority of, a Court specified in the Schedule or a Court subordinate thereto, is said to commit contempt of court.”

And the person may be punished by imprisonment or fine, and for that offence proceedings have to be commenced by the High Court on complaint of this man---

The Honourable Sir Alexander Muddiman : *Suo motu* ?

Mr. A. Rangaswami Iyengar : I shall modify it—that the Magistrate should move the Crown and immediately set the summary law in motion. That is purely technical. (Laughter.) Sir, this authority and prestige has been one of the worst evils which we subjects of His Majesty in India have to face. We know that this authority of the Government and of its officials in this country is the one thing that stands in the way of the realisation of our aspirations. If magistrates and subordinate officers are

going to say that their authority is lowered by comments or statements made by litigants or press people, and if the law is to be set in motion for that purpose, and if that is to be made an offence punishable with rigorous imprisonment and fine of such a high amount as Rs. 1,000, and if people are going to be punished in that way, I say, Sir, the liberties of the subject are in great peril. I object therefore to this Bill because it seriously interferes with our rights of freedom of speech and of freedom to comment upon public proceedings. The right of free speech and public comment are the most effective protection in this country where we have no self-government, where we have no responsible government through which we can attempt to rectify these things. They are the only remaining remedies in our hands to see that the fountains of justice are not polluted and that magistrates do not take upon themselves autocratic powers, that the magistrates do not constitute themselves big Nawabs who may feel wounded on the slightest pretext. We do not want this right to be interfered with in this country, and it is most perilous that subordinate courts, as they are called, should be able to move the Crown to take proceedings against people whenever they feel that their authority or dignity is touched, and that they should come down upon these honest people with condign punishment. Sir, this is a most objectionable Bill, and I oppose it.

Mr. E. H. Ashworth (United Provinces : Nominated Official) : Sir, I am afraid I have not entirely understood the speech of the last speaker. It appears to me that he contended this Bill is going to make punishable criticisms of the conduct of cases and decisions after they are complete and over. I can find nothing whatever to show that this Bill will lead to any such result. I think the Home Member will agree that this Bill will not in any way alter the power of newspapers to criticise a case when it is complete. The object of this Bill is to define the powers of the Courts. That is one object. There has been some doubt whether the chartered Courts have the power to look into cases of contempt against their subordinate courts. The matter is rather an academic one, but briefly the position is this. The chartered High Courts have got the powers of a Court of Record in England. One Court of Record called the King's Bench has this power—

Sir Hari Singh Gour : Not as a court of record.

Mr. E. H. Ashworth : There are two views, but I will not go into this matter as it is a somewhat difficult one, and I think this House will agree that the power of the chartered Courts should be declared, and it has been declared by this Bill.

There is a still more important point. This House will scarcely agree that chartered High Courts should have those powers and not other High Courts. If they are necessary in the case of chartered High Courts I think everybody will agree they are necessary in the case of the High Courts established by this Legislature and not by charter. It is absolutely necessary unless you do away with the powers of the chartered High Courts which they have had from the earliest days of their existence and which I find no one has proposed to do away with—it is absolutely necessary that the other High Courts should have those powers. How are you going to do it ? This Bill proposes a way to do it and the way the Bill proposes to do it is as far as possible to reproduce for the non-chartered High Courts the powers that the chartered High Courts claim to have.

I come now to the method of procedure. The alternative method of procedure would be apparently that some indictment or prosecution should

[Mr. E. H. Ashworth.]

be laid in a magistrate's court. On that any editor of a newspaper might be called up before the magistrate's court. Then there would be an appeal and the case would ultimately come before the High Court. I may say that if you took the opinion of journalists in England they would tell you that they infinitely prefer the method which obtains of the matter coming straight up before the High Court. I appeal to the opinion, I heard only a few days ago and which I asked permission to cite, of a former President of the Institute of Journalists in England. He assured me the journalists at Home would be very loath that that procedure should be changed to the ordinary method of indictment. They preferred the High Court taking up the matter *suo motu* and summarily (*brevi manu*). In the great majority of cases I think a warning will be given before any action is taken by the High Court; but it is absolutely necessary that there should be a power to control improper action, not only by newspapers but by individuals. I notice that in England the cases are grouped under four categories. They are—scandalous attacks upon Judges, causing obstruction in the hearing of a case,—misrepresentation of proceedings,—prejudicing the public for and against the parties. That is a very important matter. We have heard this morning a case cited in which the local Press created an atmosphere of prejudice against a certain accused person. I do not think this House will deny that it is absolutely necessary that there should be a power to put a stop to such proceedings. Lastly come improper comments on the proceedings in a pending case. In this connection I would point out that there seems to be a tendency in this country to increase the number of cases which may be tried by jurors and the number of districts in which the jury system is to prevail. I certainly hope that any such tendency will have no success until the jury system has shown that it operates towards the suppression of crime in a more satisfactory manner than it does. But if there is any such tendency, I would point out that it makes it all the more necessary to have some such measure as this Bill. Are you to allow the jurors in a case to have their minds prejudiced by what they see in their local papers? It is quite impossible to expect a juror not to read an article. He takes his paper and he sees something in which he is going to be highly interested. It is more than human nature to expect that he will not read it, and yet reading that article may prevent him being of any real use to justice in the administration of the case.

There is no truth in the suggestion that this power of punishing a man is obsolete in England. Cases have constantly arisen in the last few years; I have seen many cases myself and I may mention the case of R. V. Mahon. I am sure that other members could mention other cases. The courts are not slow to call to account any newspaper which they consider has published any improper article during the pendency of the case. The objections of the last speaker, it seems to me, could be met by an assurance that it is not the intention of the Bill to prevent criticism of cases which are finally concluded.

Another objection raised is that it is only in very serious cases that any action is taken in England. This objection is really the same as the one that the law is obsolete. If the law were to be correctly stated, it is this: for a long time the powers of the court have been very wide; but the courts do not usually take notice of any comment, however improper,

which really does not seem likely to have a serious effect on the decision of cases ; that is the only sense in which you can say that the law is obsolete. The power has been there, but it has not been exercised.

I notice in the opinions that some journalistic society says that the non-chartered Courts might very well wait until they become chartered High Courts in the process of time. These Courts will never become High Courts in small areas because a certain number of Judges—I believe I am right in saying at least seven—are needed to constitute a High Court. As for the Court with which I have been most connected—the Judicial Commissioner's Court at Lucknow, which it is rumoured will become the Chief Court of Oudh—that Court is unlikely ever to become a High Court, because, unless the boundaries within its jurisdiction are enlarged, it will be improbable that there can be more than five Judges for whom work can be found. Are we then to wait indefinitely for this necessary power ?

It has also been said that the matter of punishing improper comments on proceedings might well be left to public opinion. Well, that argument appears to me to be capable of indefinite application. You might say of any crime that it should be left to public opinion. That would be small satisfaction to the party affected. The question to see is whether there is a real danger which has to be met by legislation, and I consider that there is a real danger here. When I was acting as Judicial Commissioner of Oudh, I often had objections by the Courts to improper comments on proceedings, calling into question their fairness. As a matter of fact it was not within my power to do anything. If this Bill had been passed I do not suppose there would have been a single person committed ; but the case would have been met by calling the attention of editors and individuals to the fact that they were laying themselves open to proceedings and that they would do well to be more wary in their comments.

Mr. R. K. Shanmukhan Chetty (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Sir, I also oppose this motion that has been made by the Honourable the Home Member. In the Statement of Objects and Reasons appended to this Bill are given the circumstances which have necessitated the introduction of this measure by Government. These reasons are that, firstly, there has been a conflict of opinion in the various High Courts established in India as to their jurisdiction over the contempts of Courts subordinate to them and, secondly, that the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sindh have not got these powers. Now, in support of the first contention, the Statement of Objects and Reasons contains the decisions which are supposed to be conflicting. But an examination of these cases shows that the statements made in these cases are more or less in the nature of *obiter dicta*, and that no definite case has definitely arisen which necessitates the enactment of a measure of this nature.

1 P.M.

Sir, the provisions of this Bill go far beyond the limited purpose mentioned in the Statement of Objects and Reasons. It has been pointed out in some of the opinions received and in the speech of my Honourable friend Mr. Rangaswami Iyengar, that this Bill seeks to revive a jurisdiction which is obsolete in England. I do not entirely endorse that view. The jurisdiction for the contempt of court is not obsolete in England. It exists even

[Mr. R. K. Shanmukhan Chetty.]

to this day. But in clause 2 of the Bill the definition seeks to revive one aspect of this jurisdiction which has now become obsolete in England. The definition of "contempt of court" falls into two categories as mentioned in clause 2, that is those relating to interference with or obstruction of the administration of justice in the courts, and secondly, those which bring or attempt to bring into contempt, or lower or attempt to lower, the authority of His Majesty's Courts or any Court subordinate thereto. This latter jurisdiction has now become obsolete in England. It has been observed in one of the decisions by Lord Chief Justice Bevan that the object of the discipline enforced by the Court in case of contempt of court is not to vindicate the dignity of the Court or the person of the Judge, but to prevent undue interference with the administration of justice. That has become a well-established principle now in England, and the jurisdiction of the court in cases which were known as scandalising the courts has now become obsolete, and the Bill seeks to revive that obsolete jurisdiction. After an analysis of the English case-law on this point the following observation is made by a writer :

"It has to be observed that there is not one decision to the effect that conduct unaccompanied by circumstances showing an interference with the administration of the law in an actual case pending in the court can be punished as contempt. Not only is there a lack of authority for any such conclusion, but it will be seen that in recent times the authorities to the contrary are both numerous and overwhelming."

That, Sir, is, to my mind, the most serious objection to the provision in this Bill. If the Bill is enacted as it is, and if the definition of "contempt of court" as embodied in section 2 is to stand, then the liberties of the subject are in very serious danger indeed. It is not, therefore, possible for this House to allow the Executive to enlarge this definition and thereby imperil the liberties of the subject. After all, it has been recognised that the jurisdiction for contempt of court is a very delicate proceeding which ought to be left entirely to the dignity and good sense of the Judges of the High Court, and I am confident that the High Courts in India as at present constituted can be safely trusted to administer the law with that dignity and delicacy, and it will be an unwarranted interference with the liberties of the subject to enact a measure of this nature, and therefore, Sir, I oppose the motion.

Mr. N. C. Kelkar (Bombay Central Division : Non-Muhammadan Rural) : Sir, I just want to contribute a few points to the discussion of this Bill. My first remark would be that this is an instance of the legislative fury which has been exhibited by the Legislative Department during the present Session. That accounts, in my opinion, for the motley crowd of Bills that are now before this Assembly this Session.

Mr. L. Graham (Secretary, Legislative Department) : May I point out to the Honourable Member that the Legislative Department does not initiate Bills ?

Mr. N. C. Kelkar : My Honourable friend is aware that one Department of Government may share its responsibility with another.

Coming to the Bill itself, my first point is that the Preamble and the Statement of Objects and Reasons are entirely misleading,—not perhaps the Preamble so much as the Statement of Objects and Reasons. If Government really wanted to do all that they want to do, they should

have expressly said so in the Statement of Objects and Reasons, which, however, they have not done. If you look at the Preamble you will find it therein stated :

“Whereas doubts have arisen as to the power of a High Court of Judicature to punish contempts of subordinate Courts ;

And whereas it is expedient to resolve these doubts and to define and limit the powers exercisable by a High Court and other superior Courts in punishing contempts of Courts ; It is hereby enacted as follows.”

What is in the forefront of the Preamble is a desire or anxiety to reconcile certain conflicting judgments in the matter of contempt of court. But if you go into the details of the Bill you will find that much more has been imported into the body of the Bill than is vouched for by the Preamble. The more objectionable features of the Bill appear to have been introduced, incidentally or, as it were, without any set or definite purpose. The matters introduced are certainly in excess of the objects which the Bill is intended to serve, judging by the Preamble and the Statement of Objects and Reasons. If there was really any doubt as to the powers of certain superior courts to take cognizance of and punish contempts of court in subordinate court, the Bill should have been confined only to that purpose, in which case, a Bill of that character could not have been objected to by any side of this House. But even that was perhaps unnecessary, because, at present, *ex hypothesi*, the chartered High Courts have got that power. They have got full power in this matter. Whatever view one High Court may express as against another, every High Court has got complete power to do what it likes, and contempt of court not being a statutory matter in its essential stage, the High Courts may go on doing what they like. One High Court may take cognizance of contempts committed in lower courts, while another High Court may not, but the conflict would not be so serious as to necessitate a Bill of this character. As I have said, if the Bill were, however, restricted only to a reconciliation of the conflict between the judgments of the different High Courts, I for one would not have objected to it. The Bill, however, seeks to do three more things, and those are matters which, as I have said, are being imported into the Bill, and which are not vouched for by the Preamble or the Statement of Objects and Reasons. First of all there is the definition of “contempt of court”. Of course, if you introduce a Bill to deal with these things, you might very well say that you cannot do without a definition. But there are definitions and definitions, and as I shall later on point out, the definition, to my mind, is very objectionable. Secondly, there is an attempt to extend artificial and unjust protection to inferior tribunals, and the third matter that is introduced is the revival by enactment of an obsolete jurisdiction and the elevation of what was an exception into a regular rule. Mr. Ashworth has pointed out a slight inaccuracy in the statement made by Mr. Rangaswami Iyengar that the contempt of court jurisdiction has become obsolete in England. Mr. Chetty also has rightly pointed out that that is not wholly the case. It is true to a certain extent, but only in so far as one aspect of the case is concerned. Mr. Ashworth, however, contended himself, as must have been observed, with only a reference to proceedings pending before a court. I too admit that in England that jurisdiction has not yet become obsolete, and courts very often and most vigorously and actively exercise the power of punishing contempts of court, whenever

[Mr. N. C. Kelkar.]

they amount to an active obstruction in the administration of justice itself. But the real point of Mr. Rangaswami Iyengar, when he said that jurisdiction was obsolete, was that courts in England very rarely took cognisance of what is called the scandalising of courts, that is to say, offering criticisms, free criticisms, even offensive criticisms upon cases that have passed out of the hands of the court. The need of statutory reconciliation of conflicting case law, it will thus be seen, has been disingenuously exploited as a pretext for widening the scope of the substantive penal law as well as its jurisdiction. All courts, inferior as well as superior, have at present quite ample powers to deal with contempts in the nature of actual obstruction to the administration of justice in pending cases, **mark the words**, "in pending cases." The Penal Code provides for the punishment by inferior courts of contempts of court committed while the proceedings are going on. And supposing that there were omissions or defects in the provisions on the subject it would have been quite fair and right for Government to amplify the law specifically on the particular point, and there would have been, in my opinion, no objection whatever to thus amplifying the provisions that are already there for that particular purpose. But our real objection is to giving protection to courts after the cases before the courts are decided, for, then, here as in England, they must be left and handed over to general public opinion for criticism. Now, it may be said that even after cases have been decided by courts, and when critics come forward to criticise judgments of courts, the critics may be so unfair as to commit slander or defamation of the judicial officers concerned. Perhaps that is true. But, for malicious defamation and undue scandalisation of judicial officers there is, I think, redress even now under the civil and criminal law of defamation. There is absolutely nothing to prevent a judicial officer from resorting to a civil court or to a criminal court and filing a suit or a criminal complaint, as the case may be, for vindicating his own honour. These officers, I take it, know full well their own rights and they are also exercising them. If you look around the provinces you will find that Government have recently initiated a very vigorous policy of encouraging judicial and other officers to lodge complaints and civil suits against newspaper critics. In many cases, as perhaps the Home Member is aware, Government have been financing these officers to defend their honour and to vindicate their character and even legal assistance is amply given to the judicial officers. If that is the case, if that cannot be denied, I do not see what necessity there is for giving these officers extraordinary and artificial protection of the character which is contemplated by the present Bill. My point against giving this extraordinary protection to judicial officers is that if you do that you take away, in my opinion, the last trace of control in the form of wholesome criticism of the Press and the public upon their judicial decisions. The definition of contempt is too wide as it is worded. It includes matters of contempt and ridicule, even inherent or natural defects in the persons acting as judicial officers. The wording is :

"Anybody who either says certain words or does certain things with the intention of bringing a judicial officer into contempt or the probable consequence of which is to bring the officer into contempt."

There it is contempt of court. But here you will see that sometimes the real responsibility for the feelings of contempt and ridicule may rest

rather subjectively with the officer himself than with the critic. However, in cases where judicial officers have been unfairly, in their opinion, criticised by critics they can certainly resort to both the civil and the criminal law for vindicating their honour. The Bombay High Court has already held in one case that the law of defamation and slander almost approximates to the law of contempt of court. Now, judicial officers have under the present law one more thing in their favour and it is this. In cases of contempt, the defendant does not get the benefit of matters of privilege which in the case of private suits or complaints are available to the defendant or the accused. If judicial officers take proceedings under this law then the accused would not, I contend, get the benefit of privilege which he would ordinarily get if it were a mere case of defamation or slander in a civil or a criminal court. I would say, further, that after all both parties to this affair are human. The Judges are human, the critics are human. Now, if the critics are not to forget themselves, should it not be provided that the Judges also should not forget themselves? And equally, by parity of reasoning, if the Judges forget themselves, the critics may also be allowed to forget themselves for a while. The Press of course is the "fourth estate." The Judges form part of one estate of the realm, the Press forms part of another; and I suppose the rights and obligations of one part of the realm may fairly be balanced against the rights and privileges of another constituent of the realm. And therefore my contention is that Government ought not to be so severe against the public press in the matter of criticising judgments in cases where the proceedings are not pending but have been finished.

Now on this point—of scandalizing judicial officers after trials before them are finished, I will just refer this House to one or two instances in point. Of course they are English instances and not Indian instances. They will show, however, that Judges sometimes forget themselves in England also. Take the case of Mr. Justice McCardie. The House perhaps is well acquainted with that case. In respect of this judicial performance of Mr. Justice McCardie, Mr. Massingham, writing in the *Daily Herald*, has criticised the implied censure of the State Secretary for India, indulged in by Mr. Justice McCardie, as "a quite gratuitous political opinion pronounced without evidence" and "a judicial offence". I would repeat those words and ask the House to say whether the High Court Judges here also may not forget themselves when performing judicial duties. Mr. Bernard Houghton writing in the same paper says that "Mr. Justice McCardie has stated the common opinion of the ruling classes in Britain and India which was of course a non-judicial act"; and Mr. H. G. Wells writing in the *Westminster Gazette* says that "Mr. Justice McCardie pronounced an extra-judicial opinion on the Dyer case and that this pronouncement was a lawless outbreak on the part of the Court". I again repeat the words that this pronouncement was a "lawless outbreak on the part of the court". And yet the High Court in England has not thought it fit to stand up for the dignity of the court and to summon any of these critics for contempt of court. My point therefore is that the dignity of a judicial court ought not to be overstressed or overstretched where the proceedings have already come to a finish.

Now many Members of this House are familiar with the conduct of Judges when they sit on the Bench. Judges often behave in a way

[Mr. N. C. Kelkar.]

as if they were not amenable to any law, as if they are the incarnations of the King who is supposed to do no wrong. Judges abuse their authority and privileged position in three ways at least. They slander and abuse the parties, the court officers, the sometimes even pleaders and counsel, all of whom have practically no protection against the Judges. This is an abuse of their powers. Secondly, they themselves in their personal remarks provoke contempt or ridicule, and are then angry if their critics indulge in a little bit of ridicule in return. Thirdly, Judges are often guilty of non-judicial conduct on the Bench, about which I have already read out to you one or two passages. I just came across something about Justice Darling also, another great Judge of the London High Court, and the criticism that I am now going to read to you is from another Judge of a High Court, Mr. Justice Keaman. In a recent issue of the Bombay Law Journal I find this :

"The decline of the English courts may be said to have dated from the plebiscite appointment of Lord Darling as the inimitable Court jester. It is true that this unenviable notoriety went largely beyond the unfortunate recipient's merits. For, notwithstanding the storm of public criticism with which his elevation to the Bench was greeted, Lord Darling was, I believe, a very good judge, but early having obtained the reputation of a wit, it clung malignantly to him throughout his long judicial career. In earlier days this would not much have mattered. But that career synchronised, unfortunately, with the rapid development of the sensational press. The public only know Mr. Justice Darling, as reported for their delectation in the inferior papers. Thus mirrored, posterity, were there no other record, might be pardoned for thinking him a great jester rather than a great judge. No judge can be constantly witty, even facetious, for year after year, and while some of Lord Darling's *mots* were pretty enough, the endless strain of being obliged to furnish the eager reporters and the admiring public with an inexhaustible supply, wore the quality so completely out of them that the reports with the stereotyped (laughter), (loud laughter), simply became boring."

This is the criticism passed by an eminent Judge of the Bombay High Court upon an eminent Judge of the London High Court and the criticisms appeared in a responsible law journal of Bombay. All that shows, as I have contended, that Judges may forget themselves. They may not know how to behave upon the Bench. They may abuse their powers enormously. I think therefore that the Press, which is the fourth estate, should be allowed to forget itself in return now and then. As has already been pointed out by my friend, it has been held by the highest authorities in England that commitment for contempt should not be sought merely for vindicating the dignity or saving personal scandalisation of Judges. I do not want to read some extracts to prove that. I think it will be accepted as a correct statement of the case that after the case is over and proceedings are finished, the Judge and the conduct of the case are practically left to the public to do whatever they like with them. There is, however, one point which in fairness to the Bill I can honestly say is a good point, and that is making the sentence definite for contempt of court. That is, in my opinion, the only redeeming feature of the Bill, the definiteness about punishment to be awarded even by High Courts when they take cognisance. Because as things stand at present if the High Courts take cognisance of contempts of court, there is absolutely no limit to the punishment which may be inflicted upon the offender. In the absence of such provision High Courts could superadd fine and imprisonment and compulsory apology without which no contempt was regarded as purged. This Bill puts an end to it, as it defines and limits punishment. That,

I say, is a good point about the Bill. For instance, I want severely to criticise a Judge. I can say to myself "Here is six months' imprisonment and Rs. 1,000 fine."

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan) : Where is Rs. 1,000 ? It is unlimited.

Mr. N. C. Kelkar : I accept the correction ; the fine is unlimited, but the imprisonment at any rate is limited. What is the state of things as at present ? You criticise a Judge. You think you are right. The court says "No, we hold you guilty." What is the consequence ? I may be prepared to suffer a definite penalty and say I am quits with the Judge. But I cannot. But certainly it should be in my power to say that, if the opinion I hold about the Judge's conduct is right. If I were bold enough, if I were public-spirited enough, I would say I would accept jail rather than undergo humiliation. But under the existing state of things the High Court would not let me out of jail though I undergo a definite sentence unless I am prepared to make an apology to the court which in some cases would be a hypocritical and an insincere apology. I do not know what benefit the High Court would receive from an apology like that. But it is in the power of the High Court at present to compel a man to submit an apology. Therefore I say that there is one good point about the present Bill which I certainly like.

Mr. M. S. Aney : Which you have learnt at your own cost, I believe.

Mr. N. C. Kelkar : I am not going to indulge in personalities. But my point is this, that this small redeeming feature of the Bill cannot outweigh the other grave defects in the Bill and therefore I am opposing it. The Bill seems to put a judicial officer on a par with the Government themselves for artificial protection, judging by the similarity of wording of the penalties attached to section 124A of the Indian Penal Code. In the case of such trials before High Courts, the trial is by jury. This is the case at least in the metropolitan cities and also in certain other places. But in trials of contempt of courts the intervention of "12 men of ideal commonsense" would be lacking, and the accused will be face to face with a High Court without the assistance of a jury. My point, therefore, is that from all these points of view the Bill is objectionable.

I have only one more remark to make. It is this, that by bringing the judicial officers on a level with Government and defining contempt of court almost on the lines of section 124A, Government are giving individually to each judicial officer the whole of the artificial protection which they claim for themselves as a corporate body. I can understand Government claiming that protection under section 124A. for themselves, but I cannot understand that excessive protection being given to a judicial officer as if he were an integral part of the sovereignty itself. That is my objection to the Bill. I have been fair enough to state what I think is a good point in the Bill. That, however, is a single point and it cannot outweigh the other, and many disadvantages which are patent in the Bill.

Several Honourable Members : I move that the question be now put.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, in addressing this Honourable House on this Bill, I wish at the outset to make it clear that I do not commit myself to any opinion on the merits of any one single clause of the Bill. Reading the proposed measure cursorily, it seems to me that there is room for drastic alterations, as has been pointed out by the Calcutta High Court and other high authorities. One detail which I may mention is that the Bill does not contain a very usual power in cases of contempt, namely, a power to drop proceedings upon apology or proper reparation being made. But, this is not the time to consider or go into any details of the Bill. I confine myself entirely to the principle of the Bill. That is the only matter now before the House. Either this House will commit itself to the principle of the Bill or, if it refuses the motion now before it, it will commit itself to another principle, which I shall presently mention. The main principle of this Bill, as I understand it, is to define and restrict the powers of provincial High Courts to punish by summary procedure contempts (a) of themselves and (b) of courts subordinate to them. The words in the Preamble "High Court and other superior Courts" are, I think, misleading. Every court of a Judicial Commissioner mentioned in the Schedule attached to the Bill is a High Court within the meaning of the General Clauses Act. The attitude of this Honourable House towards the principle underlying this Bill ought not to be prejudiced or fogged by any reference to details or by any imaginary pictures as to what a court might do if such and such powers were to be given to it. The High Court in each province, if I understand its position rightly, is the repository of the liberties of the people of that province. That is a trust created by the public, and it seems to me, with all respect for those who may differ from me, that it is a public duty of the first order to maintain the authority of these High Courts in every reasonable way, and to accord to such courts that public confidence to which, by their position, they are entitled. Now the Bill before the House does not aim, in principle, to create any new jurisdiction. It is stated to be a Bill to clear doubts with regard to the scope and incidence of a jurisdiction already existing. I join issue on the statement that this jurisdiction to punish for contempt is obsolete in England. Only last year, just about twelve months ago, two leading newspapers were summarily dealt with for contempt and heavily fined by reason of having made improper remarks concerning a somewhat notorious criminal trial that was then in progress. One of those papers was the *Evening Standard*; I forget the name of the other, and I think the fine imposed in one case was something like £2,000. Now I submit the following questions for the consideration of Honourable Members. Does this House think that the High Court should have power to protect itself from attempts to interfere with or obstruct the due administration of justice before itself? Next, if so, does this House consider that such power should be limited to the chartered High Courts only and that the Central Provinces, Oudh and Sind should be without those powers in their respective High Courts? Next, is it or is it not desirable that each High Court should have power, upon similar principles, to afford similar protection to the courts subordinate to it? Finally, has this House any cause to doubt that the High Court in every province can be trusted to use powers to punish contempt summarily with the same careful discretion, restriction to exceptional

cases, and impartiality with which the chartered High Courts have hitherto exercised such powers, and with which other High Courts have exercised powers conferred on them by the Code of Criminal Procedure? Now if this House is of opinion that it is responsible to maintain the authority of its High Courts, and to define and clear up and restrict their summary powers to punish for contempt, and if this House has confidence in its High Courts that they will not abuse these powers, then my submission is that the House should accept this proposal to submit the Bill to a Select Committee. The House will have plenty of opportunity to keep the enactment down to its proper limits when the Bill, as amended by the Committee, comes up for consideration. The law of contempt in India is at present in an uncertain and nebulous state, and requires examination and definition in this Central Legislature so far as that Legislature is competent to do so. The best way of carrying out this examination and definition is by a detailed analysis of such a Bill as that now before the House. This should be done after the Select Committee has dealt with the Bill. I therefore support this motion. I ask the House not to allow its sober judgment of the simple question before it to be led away by any enlargements or exaggerations of the details of the Bill. The Bill will require careful examination and probably very drastic alteration; but the principle which we are up against is this—are we going to support the authority of our High Courts? Remember our High Courts are not an executive irresponsible to this House; they are the trustees of public liberty. Are we going to support the authority of these High Courts and give them the power to keep themselves above contempt in matters where the administration of justice would be obstructed notoriously in any pre-judgment by the Press of a case *sub judice*—that is a usual form of offence? Or are we going to commit ourselves to this view, that Judges do not always behave themselves judicially on the Bench, or the High Courts are not to be trusted, or to an exaggerated opinion which I have read, that every petty Judge and Magistrate will be able to repress the liberty of criticism and speech? These are all exaggerations. I ask the House not to pay any attention to them but to choose between two principles. Are we going to authorise and support our High Courts in their prestige, or are we going to deny them that support upon the ground that we cannot trust them? Which will be the better choice for the country? I strongly support the motion; and I recommend, if that motion commends itself to this Honourable House, that the name of Khan Bahadur Wali Muhammad Hussanally be added to the Select Committee.

Mr. Harchandrai Vishindas and other Honourable Members: I move that the question be now put.

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

The Assembly reassembled at a Quarter to Three of the Clock, Mr. President in the Chair.

Mr. President: The House will now resume discussion on the motion:

“That the Bill to define and limit the powers of certain Courts in punishing contempt of courts be referred to a Select Committee consisting of Mr. H. Tonkinson,

[Mr. President.]

Mr. L. Graham, Sir P. S. Sivaswamy Aiyer, Khan Bahadur Maulvi Ghulam Bari, Colonel Sir Henry Stanyon, Diwan Bahadur T. Rangachariar, Mr. A. Rangaswami Iyengar, Mr. K. C. Neogy, Mr. N. M. Dumasia, Sir Hari Singh Gour, Mr. S. C. Ghose, Mr. N. C. Kelkar, and the Honourable Sir Alexander Muddiman, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six."

Sir P. S. Sivaswamy Aiyer (Madras : Nominated Non-Official) : Sir, I rise to support the motion which has been made by the Honourable the Home Member. The two questions which the House has to consider now are, first, whether there is any necessity for any legislation in the matter of contempt of court; and secondly, if there is any necessity for legislation, is the Bill which has been introduced by the Government so radically vicious that it is impossible to cure it of its defects? It has not been claimed by the Honourable the Home Member that the Bill is free from defects or is a model of perfection of drafting. On the other hand I think there is a great deal of room for improvement in the Bill. Much of the criticism which has been levelled against the Bill this morning is perfectly legitimate and perfectly sound. What we have to consider first is whether there is need for some legislation upon this subject. It is admitted that there has been a conflict of decisions with regard to the question whether the High Courts could take cognisance of contempts of subordinate courts. Some of my lay friends have attempted to deny the existence of this conflict by saying that some of the observations in the conflicting cases are in the nature of *obiter dicta*. I do not propose now to enter into a controversy as to whether they are *obiter dicta* or whether they are really binding decisions. My own impression is that there is a real conflict of decisions. I must confess that I have not looked up the decisions now after the introduction of the Bill. Now, in view of this conflict of views between the different High Courts, it must be admitted that it is desirable that that conflict should be removed authoritatively and that there should be a legislative declaration as regards the power of the High Courts to take notice of contempts of courts subordinate to them.

Then again, Sir, while much argument has been addressed upon the question whether certain forms of contempt have now become obsolete in the English courts or not, nobody has ventured to suggest that attempts to interfere with the administration of justice by passing comments on matters which are *sub judice* and by similar means would constitute a contempt of court. One can easily conceive of cases of trials before the subordinate courts where a party is seriously prejudiced by comments in the newspapers or elsewhere upon matters which are pending before the court. No Member who has spoken against the Bill has attempted to plead that such comments should be immune from liability to punishment. If it is granted that there are some forms of contempt which interfere with the administration of justice and which at present the subordinate courts have no power to take notice of, and if it is also granted that there is a conflict of decisions as to the power of the High Court to interfere, it follows that legislation to remove that conflict and to provide a means of punishing contempts of the authority of the subordinate courts is absolutely necessary. Then the

only question that remains is whether this Bill is so radically bad as to be incapable of improvement or whether by committing ourselves to this motion to refer it to a Select Committee, we shall be precluded from expressing our opinion upon the objectionable parts of the Bill or even from rejecting the Bill altogether at a later stage. I for one do not consider myself bound to swallow the whole Bill. I consider myself at liberty to make such alterations and propose such amendments as may appear to be reasonable, and I believe the Honourable the Home Member will be the last person to deny that right to the Members of the Select Committee. I believe that it is quite possible to improve the Bill and to cure it of all the defects which have given rise to so much criticism this morning. If in spite of all the attempts of the Select Committee we are not satisfied with the Bill as it emerges from the Select Committee, we still have the opportunity to reject it at the final stage when the motion is brought forward to pass the Bill. We do not now by consenting to this motion to refer the Bill to the Select Committee forego our right to express our disapproval of the Bill if it still fails to meet the wishes of the House.

Now, Sir, there is one other point which, as admitted by the Honourable Mr. Kelkar, is a redeeming feature in the Bill, and that is the attempt to define and limit the powers of the High Court. But though Mr. Kelkar has given his own personal testimony in favour of this redeeming feature, there are other authorities, including the various High Courts in India, who seem to be opposed to this provision. Bureaucrats are not the only persons who are unwilling to part with power and it is my experience that the incumbents of offices, however high they may be, not excluding the Judges of the High Court, are quite as unwilling as bureaucrats to part with the powers which they possess. The power of the High Court to deal with matters of contempt is a very vague, undefined and unlimited power. The High Courts like to hold this vast and ill-defined power *in terrorem* over the heads of all persons, litigants and the public, representatives of the Press as well as others. Whether that vague, undefined and dreadful power in the hands of the High Court is a desirable thing or not, it is for the House to consider. There may be some who think it desirable to vest the High Court Judges with such undefined powers. I for one am one of those who wish to see the powers of all persons curtailed, whether they are High Court Judges or members of the Executive Government. I am at one with my Honourable friend Mr. Kelkar in holding that it is a most desirable thing to define the powers of punishment, at least, of the High Courts, even if you cannot attempt any satisfactory definition of what constitutes contempt. In so far as the Bill limits the power of punishment of the High Court to six months' imprisonment, I think it is a most desirable rule. In view of the fact that the Bill possesses at least one redeeming feature in the eyes of one of its severest critics, and in view of the fact that the subordinate courts do not now possess the power to punish contempts of court aiming at interference with the administration of justice by creating prejudice against parties, I think it is our duty now to agree to this motion for a reference to a Select Committee, reserving our final opinion upon the Bill till it emerges from the Select Committee and till the motion is made for passing the Bill. For these reasons, Sir, I support the motion which has been made by the Honourable the Home Member.

Mr. M. V. Abhyankar (Nagpur Division : Non-Muhammadan) : Sir, the Statement of Objects and Reasons attached to this Bill gives two objects mainly ; and one of them is to empower the High Courts to punish contempts of courts subordinate to them. It is a patent fact that public criticism in any country, and particularly in this country, generally is about the criminal judgments or criminal courts. Now, barring perhaps the Sessions Judges court, in the first place I should like to know if there are any subordinate courts as such in this country. I will not call the first class, second class or third class or even the District Magistrates' Courts such. What are they ? They are simply executive officers invested with judicial powers. Let us have courts as such before we can think of contempts of them. It is no good talking of

3 P.M.

contempts of courts so long as you have no courts. What provision I should like to ask the Honourable the Home Member has he made against the undue pressure that can be brought and is brought on these courts by executive officials ? They are appointed by executive officials. Their promotion depends upon the good-will and good grace of the executive officials, and their dismissal is in the hands of executive officials. And these persons are called Judges and the rooms where they preside are called court houses ! So, let us, in the first place, have courts in the proper sense of the term and then we can think of contempts of those courts. Some gentlemen talk of English law and of England and try to give analogies from that law and that country. I say it is not only useless but wrong to do so. Have we Judges and courts in this country in the sense and in the manner in which they have them in England ? Even my Honourable friend Sir Sivaswamy Aiyer has admitted that the Judges of the High Courts too are after all bureaucrats, and if that is so, we should receive with great caution, with particular caution, this Bill. A gallant member of this House, I mean Colonel Sir Henry Stanyon, used certain phrases known to forensic gentlemen. He said that High Courts are the trustees in whom the trust of the people is deposited, that they are the repositories of public trust. Is that so in this country ? Has that trust in the courts that we have in this country been reposed by the people of this country ? It is no good placing the cart before the horse. Let us first have courts in whom the trust of the people will be reposed and I am sure that the people without any law on the subject will take care of their Judges.

The second object that this Bill tries to achieve is to give the Judicial Commissioners of certain Provinces powers which the High Courts possess. I should have liked to see the Honourable the Home Member keen on investing them with powers which the chartered High Courts possess and which go to help the people rather than curtail their liberties. My Honourable friend, the Home Member, has not taken any care until now to bring these courts on a par with the chartered High Courts as regards the special powers which those chartered High Courts possess of protecting the people against the irresponsible executive. And unless and until you do that, it is no use your talking of these measures of contempts of court.

Then I should have thought that after a judgment is delivered it is only right that the judge should be delivered to the public for criticism and it should be the impartiality of the judgment, its robust nature and the strength of public opinion that ought to guard him. Unfortunately,

my Honourable friend the Home Member appears to suspect that perhaps there will not be any such thing present to protect him and therefore he feels the necessity of this Contempt of Courts Bill. My Honourable friend over there, I mean Mr. Ashworth, said that there were scandalous attacks in this country, scandalous attacks in the newspapers of this country on the Judges and the Judiciary. Let me show him the other side of the picture. It is no secret that many a judgment in this country, and particularly many a criminal judgment in cases in which the Government or a Government official was a party, has been a scandalous one. If judgments have been scandalous it is not surprising that the criticism of those judgments should be scandalous.

Then my Honourable friend the Home Member said that the law is there in England—the law which he wants to import into this country ; and he says the people need not be afraid because there have been very few prosecutions in England, very few commitments for contempt of court. I agree. I admit that there have been few prosecutions in England. But the whole thing is different ; the whole aspect is different. The Judge there is a different person and the public there is a different personality from the Judge and the public in this country.

One thing more and I have done, because I think all the legal aspects of this Bill have been touched on by my friend Mr. Shanmukham Chetty and my friend Mr. Rangaswami Aiyangar. It is most unfair to allow the prosecutor to be the judge. Judge he may be but he is a human being after all and unless you want us to suppose that Judges and particularly those in this country are super-human beings, it is very much to the detriment of the accused person when the prosecutor and the judge are combined in one. Sections 499 and other applicable sections of the Indian Penal Code afford quite sufficient protection to the Judges and there is no necessity for these additional powers. Let there be an indictment, let there be a trial by a court which is outside this scuffle between the Judge and the person who is to be arraigned as an accused in the dock. This in itself ought, I think, to be sufficient to throw out this Bill.

Sir Chimanlal Setalvad (Bombay : Nominated Non-Official) : Mr. President, I cannot but regret that during the course of this debate observations have been made calculated to lower the dignity and authority of our courts. I venture to think, Sir, that this Assembly should be very jealous of the reputation, the independence and the authority of the judicial courts in this country and as democratic institutions and representative and popular government advance, it is all the more necessary that the courts should be independent and should be respected by the general public. And from that point of view, as I have said, I cannot but regret the observations that have been made to-day which are calculated in the mind of the public to lower the dignity and the authority of our courts.

Now, Mr. President, even those who have opposed this Bill to-day have been compelled to acknowledge that it is absolutely necessary for the free and independent administration of justice that, while a case is *sub judice*, no discussion and criticism of that case either in newspapers or otherwise should be allowed. If that principle is once conceded, Mr. President, you will see what the Bill proposes to effect. At present the High Courts have the power to deal with contempts of this character,

[Sir Chimanlal Setalvad.]

namely, the interference with the administration of justice while a case is *sub judice* before it by criticisms, for instance, in the public press. How equally necessary, Mr. President, it is that similar interference with justice while a trial is taking place in a mofussil town should not be allowed. For instance, take a criminal trial taking place in the Bombay High Court Sessions. While that trial is going on, no newspaper can offer any criticism likely to interfere with the administration of justice; but supposing that very trial or similar trial were held in Ahmedabad or Poona, then, as the law at present stands, it is doubtful whether the High Court can deal with a contempt of that character. Is it not therefore, Mr. President, necessary and advisable that the law should be put beyond all doubt and that power should be vested if necessary in the High Court to deal not only with cases of contempt with regard to trials before it but with regard to trials in courts subordinate to the High Court.

Mr. President, while I am of the view that it is necessary to legislate in order to remove all doubt as to the present powers of the High Courts in this matter, I confess that the Bill as drafted is a very badly drafted Bill indeed. All that was necessary to my mind was to have enacted a section or two merely saying that the High Courts shall be deemed to have always had the power of punishing contempts of subordinate courts without attempting to define "contempt", leaving it to the High Courts to decide what was contempt according to the established traditions and practices of the High Courts. In that case you would have avoided all the controversy that has taken place to-day. If you had merely said that the High Courts shall be deemed to have had with regard to the subordinate courts the same powers that they have as regards themselves in this matter, thereby removing doubts at present thrown upon their powers to deal with contempts of subordinate courts, there would have been no trouble and you would not have had to define the extent of their powers. They are there; and you merely remove the doubts. Then, secondly, if you wanted to place the Judicial Commissioners' Courts and some other Courts on the same footing as the chartered High Courts, you could have done it, by a section. Mr. President, I venture to say therefore that this Bill if drafted as is suggested above would have contained only two sections, and that would have excited much less controversy than it has done to-day. I cannot help thinking, with all deference to the draftsman of the Bill, whatever the department concerned is, either the Legislative Department or the Home Department, that the Bill is very badly drafted indeed; and I do hope that when the matter goes to the Select Committee the Bill will be transformed. As I have said, the Bill, though trying to carry out a principle of which I approve, tries to carry it out in a form which is certainly not acceptable to me. But I do think that the matter is one which requires legislation. The matter is one which requires to go to the Select Committee where the Bill may be put into proper form, and that it would not be advisable for this Assembly to throw out the Bill at this stage when it has been conceded practically on all sides that the evil requires legislative remedy. The only question is the proper form in which to do it, and that is a matter which, I submit, Sir, can be threshed out in Select Committee.

Mr. N. M. Dumasia (Bombay City : Non-Muhammadan Urban) : Mr. President, I do not oppose the motion at this stage but I object to the

Bill as it stands. In its present form it is not suited to the genius of the age or the present conditions prevailing in India. In order to make it acceptable to the Assembly and the public, it will have to undergo drastic changes in the Select Committee. The first and most important canon of journalism in India or in any other country is not to interfere with or obstruct the administration of justice, and that canon is rigidly observed by the English as well as the vernacular press of India. The tradition of maintaining impartiality of justice is rigidly observed by all journals of repute throughout India, and the tradition has been so firmly established and has grown up so harmoniously with the ever-growing civilized conditions of the country that whether there is any Bill of this sort brought forward or not, all decent journals and independent journals will continue to discharge their duties without bringing themselves under the operation of the law. Sir, so far as the object of this measure is to prevent interference and obstruction with justice, no honest man can have a quarrel with it. It does not interfere with the liberty of the Press. But, Sir, when the Bill proceeds further and gives the same powers of protection to the Benches as are given to the Government, then I say it treads upon a delicate and disputed ground which requires to be most carefully examined in the Select Committee. Sir, the other day the Vice-Chancellor of the Bombay University advocated the establishment of a school for journalism and pleaded for that training, that character and that culture which will bring Indian journalism on a higher level. Sir, that is a most desirable object and when it is brought into existence it will be a step in the right direction. But, Sir, without all that school of journalism, without the training and culture on which the Vice-Chancellor of the Bombay University laid emphasis, the press of India on the whole has discharged its duties and obligations to the Government and the public in a satisfactory manner. I hope, Sir, that the Bill will undergo necessary changes in the Select Committee and, Sir, if there is any obnoxious clause, as a member of the press I would strongly oppose any such interference with the liberty of the press. Sir, the liberty of the individual as of the press is sacred to us and as far as the object is to preserve the dignity and authority of the Courts and to keep the administration of justice unsullied without interference with the press, that measure will have my support. Sir, no journalist, no public man, endorses the idea of trial by newspapers and that should be discouraged. But, if this Bill seeks to bring the law in this country into harmony with the prevailing law, as it touches the High Courts of India and extends protection also to the lower Courts from contempt, I think there will be no objection. I support the motion.

Pandit Motilal Nehru (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, I rise to make a humble effort to pour oil over troubled waters. It seems to me that while speeches have been made from opposite standpoints, the object of the speakers is one and the same. I will not trouble the House by a speech on the merits of the Bill generally, but I shall simply make an offer based upon the suggestion which my friend the Honourable Sir Chimanlal Setalvad has made. The view that he has taken of the drafting of the Bill and of the provisions of it is the view that I also take of the Bill. I do believe that it is very badly drafted. Now, although the Preamble to the Bill and the Statement of Objects and Reasons deal with one aspect of the Bill, we find, when we read the Bill, that there is another aspect also. In fact it is impossible

[Pandit Motilal Nehru.]

to say which of the two constitutes the principle of the Bill. We find that section 2 has a definition of contempt and provides a punishment for the offence which is substantive legislation. Then, we find provisions as to how to deal with cases of contempt. Now, Sir Chimanlal Setalvad has suggested that the only object aimed at is what is disclosed by the Preamble and the Statement of Objects and Reasons, namely, that the High Courts of Judicature in India which are established by Royal Charter should have jurisdiction to take cognizance of cases of contempt when committed against their subordinate Courts and that superior Courts of final appeal which to all intents and purposes exercise the jurisdiction of the High Courts in the various provinces in which they are established but were not constituted by Letters Patent, should also have the same power to deal with cases of contempt whether committed in respect of these superior Courts or Courts subordinate to them. If that was the only object, then, as pointed out by Sir Chimanlal Setalvad, it could be attained by just two simple sections : The first removing the doubts which exist as to the jurisdiction of the High Courts established by Royal Charter and the second section giving the same powers to courts which are not so established, for instance, the Judicial Commissioner's Court in Sind and other provinces. That is declared to be the only object of the Bill ; at any rate should be the chief object if not the only object of the Bill. But the attempt to achieve the impossible, namely, to define contempt of court, which has not yet been defined in any part of the world, is, I think, a fruitless attempt. This new definition cannot be allowed to stand or to be accepted by the House even at this stage of the Bill, because, as I have said, it is very difficult to accept the principle contained in clauses 3 and 4 which lay down that the High Courts shall have the same jurisdiction in respect of subordinate courts as they have in respect of contempts of their own authority if it is to be taken with the new definition. I therefore make this offer that, if my Honourable friend the Member in charge of the Bill will agree to eliminate the new offence which he has created by clause 2 and agree to take the Bill to the Select Committee in order to secure the two principal objects which are mentioned in the Preamble and the Statement of Objects and Reasons, I would beg the House not to oppose the Bill at this stage. If however my friend the Member in charge has any objection to that course and if he thinks that clause 2 contains the principle of the Bill as much as any other clause, then in that case I shall be bound to oppose the motion.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I should like to make my position perfectly clear as I think I made it in my first speech. I there laid down three questions of principle involved in the Bill. One was that doubts should be resolved. The second principle was that the courts, not now empowered, which are in the same position as High Courts, should get the powers of a court of record. And the third principle was that the power of punishment of the High Court should be restricted to six months. I made it clear that I did not desire to restrict the jurisdiction. Those are the only three points of principle in the Bill and those, I understand, are the points on which my Honourable friend is willing to meet me. But he must listen for one moment if he will be so good and bear with me on one point. A fierce attack has been made on the drafting of the Bill. I should like to know what kind of

attack would have been made on it if we had produced a Bill and circulated it and said that we would leave vague what contempt of court means. I can imagine the outcry. Vague—doubtful—ambiguous—no guide to the Courts—I can hear it all. I am delighted to find that the House is willing to do without this definition. But this is not the view we should have got if we had not tried to define contempt of court. I am perfectly prepared to leave it as proposed. Nothing would have given me greater pleasure than to have done so from the beginning. I do not think the House has done less than justice to the draftsman, but we need not be at loggerheads on questions of principles. While recognising how great would have been the criticism if I had brought in a Bill containing no definition of contempt of court, I welcome the decision of the House that none is necessary and I accept the decision of the House that we should not define it.

Before I conclude, however, I must make one observation. In the course of the debate on the Bill one Honourable Member has thought fit to cast aspersions on the whole body of Magistrates in this country. He has observed that they are appointed by the Executive Government and are mere agents of that body. He has denied them the right to be called Courts. Now, I would like to know in what country in the world Magistrates are not appointed by the Executive Government? I assert that he has done a great injustice to a devoted body of men and to a large body of his own countrymen who carry out magisterial functions with honesty, care and discretion. Sir, I am sorry if I become heated on this matter. It is not right, it is not just, to attack the public officials who discharge their public duties on the whole admirably in India in the magisterial courts. I cannot pass over such an attack in silence. To return to the matter before us. Sir, I welcome the suggestion of my Honourable friend the Pandit that he will not object to the main principles. I therefore hope the House will allow the reference to the Select Committee to be carried, and I will only say I have been asked to add to that Committee, if the House approves, the name of Khan Bahadur W. M. Hussanally.

Mr. N. M. Dumasia : May I suggest the name of Sir Chimanlal Setalvad?

Mr. R. K. Shanmukham Chetty : May I suggest the name of Pandit Motilal Nehru?

Sir Chimanlal Setalvad : If the Home Member will put in Pandit Motilal Nehru's name and spare me I shall be grateful.

The Honourable Sir Alexander Muddiman : I shall be very glad to add Pandit Motilal Nehru's name. I understand the names to be added are Khan Bahadur W. M. Hussanally and Pandit Motilal Nehru.

Mr. President : The question is that the names of Pandit Motilal Nehru and Khan Bahadur Wali Muhammad Hussanally be added to the Select Committee.

The motion was adopted.

Mr. President : The question I is :

“That the Bill to define and limit the powers of certain Courts in punishing contempt of courts be referred to a Select Committee, consisting of Mr. H. Tonkinson, Mr. L. Graham, Sir P. S. Sivaswamy Aiyer, Khan Bahadur Maulvi Ghulam Bari,

[Mr. President.]

Colonel Sir Henry Stanyon, Diwan Bahadur T. Rangachariar, Mr. A. Rangaswami Iyengar, Mr. K. C. Neogy, Mr. N. M. Dumasia, Sir Hari Singh Gour, Mr. S. C. Ghose, Mr. N. C. Kelkar, Pandit Motilal Nehru, Khan Bahadur W. M. Hussanally, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six."

The Assembly divided.

AYES—82.

Abdul Mumin, Khan Bahadur Muhammad.	Kazim Ali, Shaikh-e-Chatgam Maulvi
Abdul Qaiyum, Nawab Sir Sahibzada.	Muhammad.
Abul Kasem, Maulvi.	Langley, Mr. A.
Aiyer, Sir P. S. Sivaswamy.	Lindsay, Sir Darcy.
Ajab Khan, Captain.	Lloyd, Mr. A. H.
Akram Hussain, Prince A. M. M.	Macphail, Rev. Dr. E. M.
Ashworth, Mr. E. H.	Maguire, Mr. L. T.
Ayyar, Mr. C. V. Krishnaswami.	Makan, Mr. M. E.
Badruz-Zaman, Maulvi.	Mehta, Mr. Jammadas M.
Bajpai, Mr. B. S.	Misra, Pandit Harkaran Nath.
Belvi, Mr. D. V.	Mitra, The Honourable Sir Bhupendra
Bhore, Mr. J. W.	Nath.
Blackett, The Honourable Sir Basil.	Muddiman, The Honourable Sir Alexander.
Bray, Sir Denys.	Muhammad Ismail, Khan Bahadur Saiyid.
Burdou, Mr. E.	Murtuza Sahib Bahadur, Maulvi Sayad.
Carey, Sir Willoughby.	Mutalik, Sardar V. N.
Chalmers, Mr. T. A.	Nehru, Dr. Kishenlal.
Chanda, Mr. Kamini Kumar.	Nehru, Pandit Motilal.
Chartres, Mr. C. B.	Nehru, Pandit Shamlal.
Chetty, Mr. R. K. Shanmukham.	Neogy, Mr. K. C.
Clow, Mr. A. G.	Panduranga Rao, Mr. V.
Cocke, Mr. H. G.	Purshotunddas Thakurdas, Sir.
Cosgrave, Mr. W. A.	Raj Narain, Rai Bahadur.
Crawford, Colonel J. D.	Ramachandra Rao, Diwan Bahadur M.
Dalal, Sardar B. A.	Rangachariar, Diwan Bahadur T.
Dumasia, Mr. N. M.	Ray, Mr. Kumar Sankar.
Fleming, Mr. E. G.	Reddi, Mr. K. Venkataramana.
Ghose, Mr. S. C.	Roy, Mr. G. P.
Ghulam Bari, Khan Bahadur.	Sarfarnaz Hussain Khan, Khan Bahadur.
Gordon, Mr. E.	Setalvad, Sir Chimanlal.
Gordon, Mr. B. G.	Sim, Mr. G. G.
Goswami, Mr. T. C.	Singh, Mr. Gaya Prasad.
Govind Das, Seth.	Singh, Rai Bahadur S. N.
Graham, Mr. L.	Sinha, Mr. Ambika Prasad.
Gulab Singh, Sardar.	Sinha, Kumar Gangnand.
Guerner, Mr. C. W.	Stanyon, Colonel Sir Henry.
Hira Singh Brar, Sardar Bahadur Captain.	Sykes, Mr. E. F.
Hussanally, Khan Bahadur W. M.	Tonkinson, Mr. H.
Innes, The Honourable Sir Charles.	Vijayaraghavacharyar, Diwan Bahadur T.
Iyengar, Mr. A. Rangaswami.	Vishindas, Mr. Harchandrai.
Jeehani, Haji S. A. K.	Webb, Mr. M.
Kasturbhai Lalbhai, Mr.	Yakub, Maulvi Muhammad.

NOES—8.

Abhyankar, Mr. M. V.	Kelkar, Mr. N. C.
Aney, Mr. M. S.	Lohokare, Dr. K. G.
Duni Chand, Lala.	Ranga Iyer, Mr. C. S.
Dutt, Mr. Amar Nath.	Saminullah Khan, Mr. M.

The motion was adopted.

FILLING OF VACANCIES ON THE EXTERNAL CAPITAL COMMITTEE.

Mr. President : I have to announce that two nomination papers have been received for the filling of the vacancies on the External Capital Committee. Of these papers, one in favour of Mr. Chartres is in order,

and the other in favour of Maulvi Muhammad Yakub is not in order by reason of the fact that it has not been seconded. I accordingly declare Mr. Chartres elected, and I direct that nominations to fill the remaining vacancy signed by proposer and seconder should be lodged in the Notice Office not later than 12 noon on Saturday, the 29th August.

THE MATERNITY BENEFIT BILL—*contd.*

Mr. President : The House will now resume consideration of the motion :

“ That the Bill to regulate the employment of women in factories and mines and on those estates to which the Assam Labour and Emigration Act, 1901, applies some time before and some time after confinement, and to make provision for the payment of maternity benefit, be referred to a Select Committee consisting of Mr. L. G. Gahan, Mr. A. G. Clow, Sir Purshotamdas Thakurdas, Seth Kasturbhai Lalbhai, Mr. Devaki Prasad Sinha, Sir Darcy Lindsay, Dr. S. K. Datta, Mr. M. A. Jinnah, Khan Bahadur Sarfaraz Hussain Khan, Mr. Jaminadas M. Mehta, Dr. K. G. Lohokare, Mr. K. C. Neogy, Mr. Chaman Lal, Mr. B. Das, Sardar Gulab Singh, Mr. T. A. Chalmers, Mr. M. K. Acharya, Mr. Mahmood Schammad Sahib Bahadur, Mr. Chartres, Mr. Ranga Iyer and the mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.”

Mr. C. B. Chartres (Associated Chambers of Commerce : Nominated Non-Official) : Sir, I should like to preface my remarks on this Bill by clearing up a point mentioned by my predecessor, Mr. Willson, with regard to the attitude towards this Bill of the interests which I now have the honour to represent in this House. Mr. Willson stated that, while he sympathised with the objects, he objected to the principle of the Bill, and Mr. Joshi subsequently contended that the objects and the principle were practically the same and he could not understand how any one who sympathised with the objects could object to the principle. I should like to give a little explanation of this conflict of opinion. First as to the objects :—The objects are to allow a woman a period of leave before confinement, to prohibit her from being employed for a period after confinement, and to give her sufficient money to maintain herself and her child during the period when she is not at work. Mr. Willson fully sympathised with these objects, and so do I. What, then, is the principle to which we both object ? It is this. The principle of the Bill is to form a fund contributed entirely by employers and administered entirely by the Local Governments for carrying out the objects of the Bill. This introduces the principle of Government servants coming between an employer and his work-people in the payment of wages, and in my opinion this principle is very objectionable.

During recent years a considerable change has come over the relations between employers and employees. Welfare work is now a very important side of the organization of any large industrial concern, and it was the recognition of the mutual benefits from better working conditions accruing to both employers and employees that was one of the main springs of the historic International Labour Conference at Washington in 1919. This Conference drew up several Conventions concerning labour, some of which have already been given effect to in this country, and in particular it drew up a Convention concerning the employment of women before and after child-birth. Mr. Joshi has embodied Article III of this Convention in his Bill, but it is significant that he has not adhered to Article I of this Convention. Article I expressly excludes agricultural labour, but Mr. Joshi has included this class of labour when employed on estates. On the other hand, Article I includes not only the labour in mines, quarries and factories as provided in the Bill now under consideration, but this

[Mr. C. B. Chartres.]

Convention also applied to women employed on the building construction and maintenance of buildings, railways, docks, roads, etc., and also to women employed in the transport of passengers or goods. But both of these two classes of labour have been entirely omitted from the Bill. Sir, it is difficult to understand why the framers has omitted this very large class of labour from the Bill if he considers that the benefits of the Bill are so necessary for women workers in India.

Mr. N. M. Joshi : I am quite prepared to include them.

Mr. C. B. Chartres : Surely he cannot contend that a woman doing work on an estate is more in need of help than a woman employed in building work, carrying heavy loads of earth or bricks on her head the whole day long. To my mind the position is entirely the reverse. I suspect that the real reason why Mr. Joshi omitted this class of labour from the Bill was that he foresaw great difficulties in getting the employers of such labour to contribute to the fund which he seems to think necessary for the administration of his Bill. This fund is really the crux of the whole Bill. Mr. Joshi estimates that the imposition on employers will be small and that only 10 per cent of the women employed will qualify for maternity benefits in any one year. But we heard yesterday from the Honourable Member for Government, who quoted statistics showing that the number of women who might qualify for the benefits in any one year would be more, probably 20 per cent. of the women employees. If that is the case, the payment of benefits on the scale laid down in the Bill would raise the average wage of all women employees by 5 per cent., and that is a matter of considerable concern at a time like the present when competition is very keen in all classes of business in this country. But that 5 per cent. only applies to the actual benefits being paid to women. If a fund is to be established as laid down in the Bill and administered by Government instead of benefits being paid direct by the employer, there will be a huge staff of distributors of these benefits to be maintained, and if the Local Governments do not maintain that staff at their own expense but try to make the fund entirely self-supporting, then even in provinces like Bombay and Bengal I should imagine that the cost of administration will be fully equal to the benefits distributed. This would mean that the cost to employers would be an increase of 10 per cent. on the present wages paid to all women workers. In a province like Madras, where the labour is more scattered than it is in Bengal and Bombay, I should expect the cost of administration to be still higher, and unless the Local Government were prepared to find the cost of administration out of their own funds, the imposition on employers would be even higher than 10 per cent.

The question of cost, therefore, cannot be lightly dismissed, although I understand that Mr. Joshi has since conceded that he will be prepared to allow employers to distribute the benefits as they are now doing, but that is not the provision in the Bill. In fact, it rather seems to me that Mr. Joshi in putting forward his Bill is really endeavouring to get the subject thoroughly ventilated rather than to force legislation on the country in the exact terms in which he has put forward his Bill. Other speakers have already touched on the difficulties of administering the fund. I will, therefore, just mention two other anomalies in the present Bill. Money

is to be collected from each factory as a cess on output whether the factory employs a large proportion of women labour, a small proportion, or even none at all. Where is the equity in such a proposal? Supposing that each Member who attends this House were required to subscribe to a paternity fund for rickshawallas and supposing one Member does not use a rickshaw but walks to the House, would he think it fair to be asked to subscribe to that fund? But that is what this Bill is asking the factories to do.

The second anomaly is that, whereas the employer is liable to punishment for failure to comply with the Act, there is nothing binding the woman to keep her side of the undertaking and to refrain from working during the period while she is in receipt of maternity benefit; nor is there any specified period for which she must work before qualifying for the benefit.

While I fully sympathise with the object of Mr. Joshi, I think his Bill is impracticable in its present form and that the organisation proposed is really dangerous and far too costly to the country at the present moment. I would like to explore other avenues of achieving the same object in a more economical manner, and after the statement of the Honourable Member for Government yesterday forecasting inquiries with the object of gathering information to enable Government to consider the production of a contributory insurance scheme, I think that Mr. Joshi would be well advised to withdraw his Bill at the present time.

I can understand that he will reply that this inquiry will take time. But that time, Sir, will not be wasted. It will enable many more maternity benefit and welfare schemes to be started under the ægis of private employers who in their respective districts can devise the type of scheme that will best suit the type of labour that they employ and the industries in which they are interested; and the evidence of the working of these schemes will be available for the inquiry which Government seem to consider necessary to carry out. Another reason why I strongly oppose this motion is that industries have had rather a surfeit of labour legislation in the last year or two, and I think that if the House would give us 2 or 3 years' rest it would be very helpful and would give our labour time to settle down and enable them to understand the many new rules and regulations with which they are still unfamiliar.

I am not a believer in taking away a man's responsibility for the maintenance of his wife and child, but if this Bill goes forward I would prefer to see the benefits, instead of being paid wholly in cash, distributed in kind, at least partly if not wholly so. I feel confident that if Local Governments will take up the matter with the employers in their districts on the lines of urging private maternity benefit schemes in each industry, and these Governments will circulate, say every two or three years the experience gained by these schemes, a very great advance will be made and it will be more economical to the country than it will be possible under the Bill now under consideration.

Sir, legislation of this nature is not entirely to the benefit of any one interest. The woman herself probably benefits most. The employer is supposed to benefit to a certain amount, but, Sir, the benefit of these two is also shared very largely by the State and the Washington Conference where the original Convention was drafted recognised that the State was

[Mr. C. B. Chartres.]

really the final interest responsible for maternity benefit schemes of this nature, and in that convention, which Mr. Joshi has copied, it was laid down that these benefits should be paid either by the State or by means of a contributory insurance scheme. There was nothing about putting the whole of the imposition on the employer as is done in this Bill, and I consider that Mr. Joshi's Bill, in the terms in which it has been drawn up, is not only unfair to the employers but impracticable in its administration, and I strongly recommend that the Bill be rejected.

Mr. A. G. Clow (Industries Department : Nominated Official) : I shall endeavour, Sir, to deal very briefly with Mr. Joshi's Bill. I am afraid that Mr. Joshi has left a somewhat misleading impression on the House. What he has said in effect is this : Just let this little Bill go to the Select Committee and you can alter every provision in it out of all recognition. It would ill-become me to cast any doubts on the ability of this particular Select Committee which he has collected, but there are limits to what a Select Committee can do. I would like to put just one question to my Honourable friend. Is it possible that after this Bill goes to Select Committee it should re-emerge in a form which would provide for contributions by the workman ? (*Mr. Joshi* : "Yes.") Mr. Joshi says, "Yes". If that is so, he is reducing legislation to a farce. There must be some recognised principles and a Select Committee cannot start with one Bill and produce an entirely different Bill. I have heard the argument used : "What is the harm accepting the principle and letting it go to the Select Committee ? We shall then be able to see what can be done." There are two dangers that I apprehend from that course. The first, which has already been discussed, is the danger that employers will withdraw the schemes that they have already in operation. Mr. Joshi says that he has got a better belief in human nature. I must ask the House to judge. Is it reasonable to expect that an employer, who has a voluntary scheme in existence, when he is told that he must pay much larger fees to the State and get much smaller benefits for his women in return, will continue to keep up a voluntary system in addition to the State scheme ? That is a minor point but there is a much more serious danger. In legislation, and especially, in labour legislation, you must make beginnings on right lines. If you start in an important question of this kind on however small a scale in the wrong direction it may take you years to undo the harm that has been done. You want to consider this question at very much greater length before you refer the Bill to the Select Committee.

Kumar Ganganand Sinha : I move that the question be now put.

Mr. President : The question is that the question be now put.

The motion was adopted.

Mr. N. M. Joshi (Nominated Labour Interests) : I do not wish to take up much time of the House. I know that the House is very anxious to proceed to more important Bills. But, Sir, I feel it necessary that I should take up a few minutes of this House in replying to some of the criticisms that have been levelled against the principle of my Bill. As a matter of fact there is very little criticism levelled against the principle. I again state that whatever criticism has been made has been made against the details. The Honourable Member in charge of the Department expressed his great sympathy with the object of the Bill. Let me tell him very

frankly that instead of tons of sympathy I would prefer to have an ounce of action in this direction. People in this country know very well that the Government of India sympathise with several things, but their sympathy is very seldom carried into effect. We do not want sympathy,

4 P.M.

we want action. As regards the criticisms, let me make it quite clear that it was not my intention to secure the ratification of the Washington Convention by bringing forward this Bill. Had it been my intention to secure the ratification of the Washington Convention, I should have included in the Bill all the provisions of the Washington Convention. I have not included several things which the Washington Convention includes. The Washington Convention provides for medical treatment ; it provides that women workers should get spare time to nurse their children, and other such things. I have omitted them. It is not therefore my intention to secure the ratification of the Washington Convention at all. Of course some people accuse me of copying the wording of a section of the Washington Convention. Sir, I am not ashamed of doing it, I am not ashamed of copying a good model. If the Government of India and their followers in this Assembly think they are the fountain-heads of originality, let them be content with that feeling ; let them produce their original ideas in an original Bill. But I was quite content to follow the good model of the Washington Convention. (*An Honourable Member* : " Why not copy it all.")

Then, Sir, the Honourable Member in charge of the Department stated that the Bill is unnecessary, that there is no need for it. I do not know how he can say that. In India at present in the industries covered by my Bill there are about 500,000 women employed, and if these women are employed in these industries, they require rest during the time of confinement, and during the period of rest they and their children have to be fed. It is absolutely necessary, therefore, that there must be some provision of this kind. There is need for it. Unfortunately, Sir, the need is not felt in the case of human beings several times, on account of the fact that a human being does not die very quickly. If we reduce the wages of working class people, they will still live, and the Honourable Member in charge of the Department will come forward and say, " There was no need for higher wages because the men are living. Have they died ? " Unfortunately they have not died, they are human beings ; that is the trouble. There is the need, but you cannot show that women have died on account of this provision not having existed. That is the trouble with the humanity of these women. Now, Sir, if the Government really want to act if there is need—and it is the Bombay Government that have stated that there is no need—I shall ask them to read the report of Dr. Barnes, a lady doctor, sent, under the auspices of some organization which is really controlled by the members of the Government of India, to study that question, and that report will tell you how the women workers in Bombay live. I shall only quote one small paragraph from her report to show how they live :

" In one room on the second floor of a Chawl measuring some 15' x 12' I have found six families living, six separate ovens on the floor. On inquiry it was ascertained that the actual number living in this room, adults and the children, was 30. Bamboos were hanging from the ceiling over which clothes were being dried, and a sacking per unit helped to partition each family allotment. Three women of these six who lived in this room were shortly expecting to be delivered."

There were three women of these six who were shortly expecting to be delivered in this room ! That is the condition of women workers in India, and they certainly require some help ; if you provide them with

[Mr. N. M. Joshi.]

money, certainly they will not live in these conditions. Therefore, Sir, there is the need. The need has been shown by investigators in whom you have confidence. You need not have confidence in me ; but you should have confidence in that lady doctor, Dr. Barnes.

Then, Sir, it was said that my Bill goes beyond the Convention. Nobody has shown how it goes beyond the Convention. It is said that the Convention provides that the contributions should be paid out of public funds. Certainly that is absolutely necessary. There is some little danger in allowing maternity benefits to be paid out of private funds, the danger of the exclusion of women from industries. Therefore the Convention takes care that the maternity benefit fund should be paid out of public funds. The public funds may come out of contributions from the industry or out of the contributions from some other industries or from other people but the Convention insists that the maternity benefit will not be paid out of private funds ; it must be paid out of public funds. That is the main intention of the Convention, because there is absolutely a danger of the women being excluded, of women being dismissed from the service, when they become eligible for maternity benefit ; and therefore the Convention safeguards these women by saying that the maternity benefit must be paid out of public funds. It also provides that the maternity benefit may be paid by insurance. In my Bill there is nothing against this principle. I have provided that the maternity benefit should be paid out of public funds managed by Government. In my opinion the soundest principle in such a case is to make the industry pay : the industry must bear the burden of all the incidental charges of that industry.

Pandit Sham Lal Nehru (Meerut Division : Non-Muhammadan Rural) : May I inquire if it will be possible say for the mill-owners of Bombay to pay all the money in connection with the expenditure on maternity schemes and at the same time keep their concerns going at a profit ?

Mr. N. M. Joshi : There will not be much difficulty.

Khan Bahadur W. M. Hussanally (Sind : Muhammadan Rural) : May I inquire whether there will not be difficulty at the present juncture ?

Mr. N. M. Joshi : When there is so much depression of industry in England, they have brought forward Bills for widows' pensions. Therefore the present juncture is not really an argument. If you have an argument that it is wrong to give maternity benefit, bring it forward. Therefore, Sir, in my Bill I have provided that the money should come out of the industry and that is quite a right principle. The burden of maintaining the working classes engaged in an industry should be borne by that industry. It is a very sound principle, and I think that is the one principle which this Government should follow. Arguments have been used here that in an industry some factories may employ women, and some may not employ women. But, Sir, if you take industries, you will find that generally in those industries all factories employ women. Take the textile industry. There will hardly be a textile factory where women are not employed. Take mining. There will hardly be a mine where women are not engaged. Take tea estates. There will hardly be a tea estate where women are not engaged. There may be some groups of factories, some industries, where women will not be engaged. Certainly the Local Government will not touch that

industry, so that there will be no burden upon that industry. But there are industries which employ women and there will hardly be a factory in that industry which does not employ women and even if there is one factory, still it is not really a great injustice if that one factory owner is asked to pay as a part of the whole industry. That is the principle which industrialists themselves have accepted that, whenever the welfare of the people in the industry is concerned or wherever the welfare of that industry is concerned, that industry should be considered as a whole. To-day we are discussing the question of the textile industry and every one of them asks for some relief. There are some mills which are even to-day making profits, but we still find even those mill-owners join in the deputations and ask for relief. Why? Because the industry as a whole wants to stand together. They do not want to be considered separately. That is the right principle and I have made use of that principle. When you take an industry, take the welfare of the whole industry together. Do not try to separate this factory and that factory. There may be some little injustice to some factories. One factory may not be employing women, but the industry as a whole employs women. Therefore, there is no injustice in taxing one factory which does not employ women. As a matter of fact, let us consider the taxation system of the Government of India. You will find that the Government of India have levied taxes for the benefit of one community upon another community altogether. Why do you not object to that? We levy taxes on the general tax-payer of India in order to protect the rights of the few shareholders of a company. Where is the justice of the principle of levying taxation on the whole country in order to protect the interests of shareholders of a company? Is that just? Only two days ago the Government of India brought forward a Bill in which, in order to provide coal cheap to people outside India, we are going to levy taxation on the people in India. Where is the justice of that? Why do not you object to that? Take the cotton cess levied in Bombay. The cotton growers in India or the cotton merchants of India are taxed for the development of Bombay City. Where is the justice of that? Why do not you object to that? Therefore, Sir, if under my Bill an employer, who does not employ women, although the industry in which he is engaged generally employs women, may have to pay a tax, there is not so much injustice as there is in the several cases which I have mentioned just now.

Khan Bahadur W. M. Hussanally : May I inquire from Mr. Joshi if the mill industry of Bombay and Ahmedabad will appreciate this measure at this juncture when they have reduced the wages of their employees and are closing down their mills?

Mr. N. M. Joshi : Sir, unfortunately that is a very large question and I do not think the House would like me to go into that question. But I can say this that the mill-owners are reducing the wages by $11\frac{1}{2}$ per cent. The burden of my Bill will not be more than $2\frac{1}{2}$ per cent., not of the whole total wages bill but of the wages paid to the women and if you take the whole total bill of these mills the burden will not be even half a per cent. They have already reduced the wages by $11\frac{1}{2}$ per cent.

Khan Bahadur W. M. Hussanally : Mr. Chalmers has just now shown it to be 10 per cent.

Mr. N. M. Joshi : His estimates are absolutely wrong. I will show you how. I am quoting figures from experience. There are figures

[Mr. N. M. Joshi.]

collected by people who have got maternity benefit schemes and their experience is that about 10 per cent. of the women will be eligible in a year for maternity benefit. (*The Honourable Sir Bhupendra Nath Mitra* : "Question.") The Honourable Member says "Question".

The Honourable Sir Bhupendra Nath Mitra : I gave my reasons yesterday.

Mr. N. M. Joshi : You gave your reasons and I have my reasons. Besides I have got my experience.

The Honourable Sir Bhupendra Nath Mitra : Your dogma !

Mr. N. M. Joshi : I have got not only my experience but the experience of people who have got maternity benefit schemes. But I am quite willing to take his figure of 20 per cent. If 20 per cent. of the women get maternity benefits and if they get the highest maternity benefit allowed by my Bill for three months, then the burden of this Bill will be about one-twentieth of the total bill of wages for women, which means only 5 per cent. That is to say, there will be a rise of wages for women by 5 per cent. if you have provision for maternity benefit according to my Bill. Now we employ about one-fourth of the women out of the total, so that the total wages bill will rise by $1\frac{1}{4}$ per cent. And they have already reduced the wages by $11\frac{1}{2}$ per cent., so that there will not be any great injustice caused to the mill-owners of Bombay.

The Honourable Sir Bhupendra Nath Mitra : What about the cost of administration ?

Mr. N. M. Joshi : I am quite willing to add another 1 per cent. in order to make it $2\frac{1}{4}$ per cent. The wages in the Bombay mill industry are reduced by $11\frac{1}{2}$ per cent. and the cost at the maximum, as we have now conceded, will not be more than $2\frac{1}{4}$ per cent.

Khan Bahadur W. M. Hussanally : Are the mill-owners of Bombay willing to pay the $2\frac{1}{4}$ per cent. ?

Mr. N. M. Joshi : They are certainly not willing. Are there any employers in the world who are willing to pay good wages to their employees ? They are not willing ; they have to be compelled. Why did you pass all the other legislation about workmen's compensation and the Factory Act ? As Sir Sivaswamy Aiyer said it is too late in the day now to talk of voluntary efforts on the part of employers. It is too late in the day now.

Pandit Shamlal Nehru : May I inquire whether Mr. Joshi pays compensation to his maid-servants when they are confined ?

Mr. N. M. Joshi : Now, Sir, my friend from Bengal says why should I not have included some other industries. Just to reduce the volume of opposition to my Bill, that is my reason in short, not that I am unwilling to give maternity benefit to every woman.

Diwan Bahadur T. Rangachariar : May I ask whether my Honourable friend intends to extend it to agricultural labour ?

Mr. N. M. Joshi : My Bill does not extend it to agricultural labour.

Diwan Bahadur T. Rangachariar : Will you press for it ?

Mr. N. M. Joshi : In time I shall.

Pandit Shamlal Nehru : Why not bring it in in a wholesale manner ?

Mr. President : The Honourable Member need not give way unless he wishes to.

Mr. N. M. Joshi : You cannot make it a defect in my Bill that I have not included other industries. If you are willing to vote for my Bill, I am quite willing to add others. If you are not willing to vote for my Bill, it is not right for you to say I have not included some other industries. As a matter of fact, Sir, the principle that only the organised industries should be included in these benefits is recognised by Government. The Government of India's Factory Act does not apply to all the factories, it applies to the bigger factories. They have excluded the small factories from their Factory Act. And if there is any Factory Act, it is more necessary for the smaller factories. Still the smaller factories are excluded. Why ? For the sake of convenience. In the same way the Government of India have passed the Workmen's Compensation Act. Does it extend to all the industries ? It does not. In a small factory if an accident takes place there is no compensation given because the Government of India find that, for the sake of convenience, you cannot include the smaller factories in that Act. If you find fault with me for not including certain industries, you must find fault with the Government of India. They have themselves accepted this principle that, for the sake of convenience in such Bills, you must include only the organised industries, and I have done that.

Lastly, I would only say one word. Most of the speakers have tried to raise dust by criticising the details of my Bill, but I appeal to the Assembly not to be blinded by the dust. Let the details be considered by the Select Committee if you approve of my principle. That principle is a very simple one, that during the critical period of confinement, for some time at least, you must prohibit the employment of women in the industries covered by my Bill. Secondly, for this prohibited period you must give them maternity benefit. I think, Sir, it is the privilege of the mover of a Bill to say what is the principle of his Bill. I have stated my principle.

My friend Mr. Clow said it is wrong for this Assembly to refer the Bill to a Select Committee and then to change it. Only a few minutes ago what did we do ? The details of a measure were not agreed to ; the Honourable the Leader of the Opposition said that he agreed to the principle, and if the Government were willing to agree to the principle, let the Bill be referred to a Select Committee and let the details be changed. Sir, that is what I am asking. And was not a similar thing done in regard to other Bills ? I ask the Honourable Member in charge of the Department to state what was done with the Workmen's Compensation Bill. That Bill also included a very important principle of the employers' liability. That large part of the Bill was cut out by the Select Committee. Did the Select Committee find it impossible to cut out one half of the Bill, the chief principle of the employers' liability ?

The Honourable Sir Bhanendra Nath Mitra : " Did they cut out the employers' liability ? "

Mr. N. M. Joshi : We cut out the employers' liability. That is a fact. I was a member of the Select Committee and there are several

[Mr. N. M. Joshi.]

others here who were also members. Mr. Rangachariar was a Member; ask him? The whole principle of the employer's liability was cut out of the Bill and only half the principle was left. If the Select Committee there could make such a huge change in that Bill, why should there be any trouble about the Select Committee changing the detail about contributions? If the Select Committee wants the contribution also paid by the employees there is absolutely no difficulty. I could give several other instances of Bills changed in this way in Select Committee. I have just pointed out the case of workmen's compensation and employers' liability, and I do not wish to take up the time of the House unnecessarily. I feel sure the Assembly is going to accept the principle of my Bill and support my motion.

The Honourable Sir Bhupendra Nath Mitra (Industries Member) : Sir, I shall be very brief. I placed my full case before this House yesterday. I brought to its notice certain mis-statements made by my Honourable friend Mr. Joshi. I was anxious to hear Mr. Joshi's replies to my charges against him. I have not got any reply. I shall deal now with certain other mis-statements made by him. He does not now wish to use the Washington Convention of 1919 as a peg to hang his Bill on.

Mr. N. M. Joshi : That is a misrepresentation of my attitude.

The Honourable Sir Bhupendra Nath Mitra : That is not a misrepresentation. I yesterday quoted from Mr. Joshi's Statement of Objects and Reasons. A Statement of Objects and Reasons is intended, among other things, to place before the House the genesis of a Bill, and there he quotes the Washington Convention. I shall not say anything more on the subject.

Yesterday I pointed out that certain investigations made by the Bombay Labour Office indicated that 85 per cent. of the women did not attend work one month before child-birth, 95 per cent. of them did not attend work one month after child-birth, and 91 per cent. of them did not attend work for more than 2 months after child-birth. Mr. Joshi, who probably never accepts the accuracy of official statistics, insinuated that this result was produced by including women to whom maternity benefits in cash were being given on a voluntary basis. Well, Sir, I could only tell him then that it was difficult for me to believe that. However, the facts I gave yesterday disprove Mr. Joshi's insinuation. No voluntary scheme pays maternity benefits to women six weeks after child-birth. If 91 per cent. of the women stay away for 2 months or more after child-birth, is not that a sufficient refutation of Mr. Joshi's insinuation?

Mr. Joshi quoted from some report by Dr. Barnes, for whom I have certainly the highest regard, and what did he produce? The tenement accommodation for labouring classes in Bombay is wretched. I admitted that yesterday. I said in fact that it was a main cause of unhealthiness among labourers in Bombay. Does Mr. Joshi's Bill meet or remedy that defect? What do you do under it? You make a lump sum payment of say Rs. 40 to the woman. Is it possible for her to

change her tenement accommodation permanently with the help of that money ? Mr. Joshi has again failed to prove his case.

I do not still understand how a cash maternity benefit, without benefits in kind, will be of real help to these unfortunate women. I referred to the matter yesterday, and I quoted the opinion of a high authority in England and the practice in certain other countries. Mr. Joshi has said to-day that his Bill provides for maternity benefits in cash, and does not provide for medical treatment, because he does not want too closely to follow the Washington Convention. Is that his real reason ? Is not the true reason this : that the provision of medical treatment is a transferred subject under the control of Ministers, in which this House cannot interfere ? Mr. Joshi, therefore, wanted to get clear of it. In England a cash benefit of 40s. is paid ; but ordinarily there is no provision for any additional benefit in kind in the shape of medical attendance, etc.

Further, as I said yesterday and I reiterate it again, my trouble with Mr. Joshi's Bill is that if you pursue this legislation, and if you force the industry to pay this cess, the employers will probably reduce wages, or else they will reduce the benefits in kind which they are conferring on these women in the shape of maternity homes, etc., or they may adopt both of these courses. Of course, Mr. Joshi in his usual dogmatic way will say : No, the employers will be good boys ; they will do nothing of the kind. Well, Sir, that will be only Mr. Joshi's dogmatic assertion and I cannot find anything more substantial on which to accept such a statement.

I shall not touch Mr. Joshi's estimates any further. I said yesterday that any accurate estimate was impossible under present conditions ; and I wholly agree with my friend, Sir Sivaswamy Aiyer, that detailed investigations extending over a long period is necessary before any accurate estimates are possible. Nor shall I travel with Mr. Joshi over the whole and thorny field of taxation which is being investigated by another Committee and on which this House some day will probably have its say. I thought I had some knowledge of Indian finance under present conditions ; but I must say I am absolutely befogged as to what Mr. Joshi wants. Does he want that a cess should be levied by the Central Government on, say, industries in the Punjab, and if there are no women labourers in the Punjab, or just a few of them who would get the benefit, the money should be transferred to Bombay to pay for maternity benefits there ? I doubt very much whether that is in the power of this House to legislate on ; and I doubt very much whether the Members from the provinces, with their ideas of provincial autonomy, will ever encourage such a proposal.

Mr. Joshi said that the fundamental principle of his Bill was maternity benefit and nothing else. To that I cannot agree, and I gave this House yesterday my reasons for not accepting that view. His fundamental principles, as I make out from his Statement of Objects and Reasons, are three. I mentioned them yesterday. But I consider the provision of finance as the most important principle of all ; and as I said yesterday, we would simply be adopting the procedure of a rake's progress if we accepted the principle of maternity benefit without at all trying to find out how the funds are to be provided. We may as well pass a Bill introducing total prohibition in

[Sir Bhupendra Nath Mitra.]

India without even trying to think out how that large loss of revenue is going to be met.

In conclusion, I wish to make a practical observation which has struck me in the last few minutes. Suppose you send this Bill to Select Committee. It has already been admitted by various people that it would be very difficult for the Select Committee to deal with this Bill. Suppose the Select Committee makes its report six months hence—some time in March. It is pretty certain that the Bill will be so altered that it will have to be sent into circulation again. By the time it comes back from circulation, this House will cease to exist. It all means a waste of time. I was willing to agree to a compromise but Mr. Joshi would not accept it. Mr. Joshi's insistence on his Bill means this, that a whole year will be wasted and no work of any sort will be done. I shall not, Sir, waste the time of the House further.

Mr. President : The question is :

“ That the Bill to regulate the employment of women in factories and mines and on those estates to which the Assam Labour and Emigration Act, 1901, applies some time before and some time after confinement, and to make provision for the payment of maternity benefit, be referred to a Select Committee consisting of Mr. L. Graham, Mr. A. G. Clow, Sir Purshotamdas Thakurdas, Seth Kasturbhai Lalbhai, Mr. Devaki Prasad Sinha, Sir Darcy Lindsay, Dr. S. K. Datta, Mr. M. A. Jinnah, Khan Bahadur Sarfaraz Hussain Khan, Mr. Jammadas M. Mehta, Dr. K. G. Lohokare, Mr. K. C. Neogy, Mr. Chaman Lal, Mr. B. Das, Sardar Gulab Singh, Mr. T. A. Chalmers, Mr. C. B. Charters, Mr. C. S. Ranga Iyer, Mr. Mahmood Schamnad Sahib Bahadur, Mr. M. K. Acharya and the mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six.”

The Assembly divided :

AYES—47.

Abhyankar, Mr. M. V.
Abul Kasem, Maulvi.
Acharya, Mr. M. K.
Aiyangar, Mr. C. Duraiswami.
Aiyangar, Mr. K. Rama.
Alyer, Sir P. S. Sivaswamy.
Aney, Mr. M. S.
Belvi, Mr. D. V.
Chand, Mr. Kamini Kumar.
Chetty, Mr. R. K. Sharmukham.
Das, Mr. B.
Datta, Dr. S. K.
Dunj Chand, Lala.
Dutt, Mr. Amar Nath.
Ghazanfar Ali Khan, Raja.
Ghulam Bari, Khan Bahadur.
Goswami, Mr. T. C.
Govind Das, Seth.
Gulab Singh, Sardar.
Hans Raj, Lala.
Ismail Khan, Mr.
Jyengar, Mr. A. Rangaswami.
Jeelani, Haji S. A. K.
Joshi, Mr. N. M.

Kazim Ali, Shaikh-e-Chatgam Maulvi
Muhammad.
Kelkar, Mr. N. C.
Lohokare, Dr. K. G.
Mahmood Schamnad Sahib Bahadur, Mr.
Misra, Pandit Shambhu Dayal.
Misra, Pandit Harkaran Nath.
Murtuza Sahib Bahadur, Maulvi Sayad.
Nehru, Dr. Kishenlal.
Neogy, Mr. K. C.
Phookun, Mr. Tarun Ram.
Ramachandra Rao, Diwan Bahadur M.
Ranga Iyer, Mr. C. S.
Ray, Mr. Kumar Sankar.
Sadiq Hashan, Mr. S.
Sarfaraz Hussain Khan, Khan Bahadur.
Shafiee, Maulvi Mohammad.
Singh, Mr. Gaya Prasad.
Sinha, Mr. Ambika Prasad.
Sinha, Kumar Gangasand.
Syamascharan, Mr.
Tok Kyi, Maung.
Venkatapatiraju, Mr. B.
Vishindas, Mr. Harchandral.

NOES—51.

Abdul Mumin, Khan Bahadur Muhammad.	Hira Singh Brar, Sardar Bahadur Captain.
Abdul Qaiyum, Nawab Sir Sahibzada.	Hussanally, Khan Bahadur W. M.
Ajab Khun, Captain.	Innes, The Honourable Sir Charles.
Akram Hussain, Prince A. M. M.	Kasturbhai Lalbhai, Mr.
Ashworth, Mr. E. H.	Langley, Mr. A.
Ayyar, Mr. C. V. Krishnaswami.	Lindsay, Sir Darcy.
Bajpai, Mr. R. S.	Lloyd, Mr. A. H.
Bhore, Mr. J. W.	Macphail, Rev. Dr. E. M.
Blackett, The Honourable Sir Basil.	Maguire, Mr. L. T.
Bray, Sir Denys.	Mitra, The Honourable Sir Bhupendra
Burdon, Mr. E.	Nath.
Carey, Sir Willoughby.	Muddiman, The Honourable Sir Alexander.
Chalmers, Mr. T. A.	Muhammad Ismail, Khan Bahadur Saiyid.
Chartres, Mr. C. B.	Mutalik, Sardar V. N.
Clow, Mr. A. G.	Panduranga Rao, Mr. V.
Cocke, Mr. H. G.	Purshotamdas Thakurdas, Sir.
Cosgrave, Mr. W. A.	Raj Narain, Rai Bahadur.
Crawford, Colonel J. D.	Roy, Mr. G. P.
Dalal, Sardar B. A.	Setalvad, Sir Chimanlal.
Dumasia, Mr. N. M.	Sim, Mr. G. G.
Fleming, Mr. E. G.	Singh, Rai Bahadur S. N.
Gordon, Mr. E.	Stanyon, Colonel Sir Henry.
Gordon, Mr. R. G.	Sykes, Mr. E. F.
Gour, Sir Hari Singh.	Tonkinson, Mr. H.
Graham, Mr. L.	Vijayaraghavacharyar, Diwan Bahadur T.
Gurner, Mr. C. W.	Webb, Mr. M.

The motion was negatived.

THE SPECIAL MARRIAGE (AMENDMENT) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

“ That the Bill further to amend the Special Marriage Act, 1872, be referred to a Select Committee consisting of the following gentlemen, namely :

The Honourable the Home Member

Mr. M. A. Jinnah,

Pandit Madan Mohan Malaviya,

Pandit Motilal Nehru,

Sir Darcy Lindsay,

Rai Sahib M. Harbilas Sarda,

Dr. Datta,

Mr. Joshi, and

Myself,

and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.”

I do not wish, Sir, at this stage to detain the Members of the House a minute longer than is absolutely necessary for the purpose of my own case. Honourable Members will remember that this Bill really involves no principle but was drafted to remove an anomaly which exists in the Act of 1872. At the time of introduction I pointed out to this House that when this Act was enacted there was no statutory law of majority in this country, and consequently the law of majority adopted was the English law, which fixed the age of majority at 21 years and the framers of that Act, consequently, enacted that all persons below the age of 21 should obtain the permission of their guardians before they got married under that Act. Now, Sir, three years later came

[Sir Hari Singh Gour.]

the Indian Majority Act which fixed the age of majority in normal cases at 18, with the result that if a person between the age of 18 and 21 wished to avail himself of the provisions of the Special Marriage Act and had no father alive he could not marry at all for the very simple reason that if he went to the court and asked that court to appoint a guardian the court would say that as he was *sui juris* under the Indian Majority Act the court had no jurisdiction to assign him a guardian. Taking the view which I then enunciated this House gave me leave to introduce the Bill and Honourable Members will find that it has been circulated for the purpose of eliciting opinions thereon.

Now, Sir, I have gone through these opinions and I wish very briefly to recapitulate what they amount to. All the associations and persons concerned admit that the anomaly I complain of exists, but some of them say that though this anomaly exists it should not be removed, while others say that the removal should be in cases where the person between the age of 18 and 21 has no father or other guardian alive. The Rangoon High Court has suggested a draft which the Government of Burma have commended for acceptance. The Government of Madras have reported that the majority of persons and associations consulted were in favour of the Bill. Bengal has advised the Government of India to remain neutral and Bihar and Burma suggest a compromise upon the lines I have indicated. It is therefore clear that so far as the public are concerned the anomaly is recognised, and in fact it cannot be denied, and the only objections that have been taken to my Bill are the objections which the orthodox community have taken to the very enactment which I seek to amend. It has been said—it was so said on the last occasion by a pillar of orthodoxy in this House—that whatever may be the age of majority no man should marry who had not attained the age of 21. Well, Sir, if a man is able to dispose of the whole of his property, if he is competent to execute a marriage settlement, if he is *sui juris* for all purposes, I beg to ask why place him in this special disability and prevent him from contracting a marriage after his attaining the age of majority. Another objection that was taken in this House, I hope it was not taken very seriously, was that the Indian Majority Act of 1875 exempts from the operation of that Act matters relating to marriage, dower, adoption and divorce. Well, Sir, if the Indian Majority Act does not apply, the case for my amendment is stronger and not weaker because under the personal law of both the Hindus and Muhammadans the age of majority is only 15 or 16, and in that case the person becomes *sui juris*. Under the personal law he is able to contract marriage independently of the Indian Majority Act. I therefore submit that there is nothing in that argument.

Then it has been said that this is a matter of social reform and the Government must remain neutral. Now, I ask why this is a matter of social reform. I submit, Sir, it is a case of plain and simple arithmetic. If the Indian Majority Act has settled for once that the age of majority applicable to India is 18 years and on the completion of that age a man becomes *sui juris*, able and competent to make a contract, I cannot understand how he can be disqualified to enter into a contract of marriage under the Special Marriage Act. It has been said by some

gentlemen in their opinions that if my amending Bill is passed it will relax parental control. Well, Sir, this House is now too well familiar with such expressions as marital control and parental control,—the rights of the father and the rights of the husband—but this House seems to be all too oblivious of the rights of the son and of the wife. I hope, Sir, these arguments will not prevail with this House and I feel confident therefore that the motion I have moved will receive the acceptance of this House. Sir, I move it.

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muham-madan Rural) : Sir, with your permission I beg to enter an emphatic protest against the manner, the grievous manner in which, the precious time of this House is sought to be frittered away on matters so very insignificant if not puerile as the motion before us, which asks us in all seriousness to lay aside all our engrossing problems and try to accommodate the law to suit the hare-brained fancies of a few odd boys and girls between the ages of 18 and 21 who want to marry in some form other than that in common use in their communities. Here we are in this august Assembly ; on that side are responsible administrators of the complex concerns of a vast continent, and on this side of the House sturdy soldiers struggling to scale the heights of constitutional freedom : and we are asked, I say, to lay aside all the serious problems to which we stand committed and to investigate how many boys, how many girls between the ages of 18 and 21, unwilling to follow the established practices of their community, want to come at once under the special marriage law, yes, this august House is asked to waste its time upon such flimsy legislation. I do hope, Sir, that the House would rise to a sense of proportion. Surely, my Honourable friend, Sir Hari Singh Gour, can find some better objects upon which to employ his unquestioned talents. I do not know how many times this Bill has come upon the agenda, blocking up so many other truly serious things ! I do not know how much printing, ink and paper, how much time and energy and money have been wasted on this business. I am perfectly indifferent myself as to whether this Bill is passed or not. I do not believe that the passing of this Bill is going to bring in the millenium ; it cannot put one small morsel of food even into the mouths of the hungry ; nor do I believe that the non-passing of the Bill would bring about any catastrophe. I do not see that there is anything orthodox or unorthodox in the view I take. What I say is that the Bill is an absolutely paltry thing, made up of sixteen lines altogether, including the Preamble and the Title and everything, and all that these sixteen lines seek to do is to get some eight words substituted by some fifteen other words. And for this formidable work we are asked to appoint a Select Committee consisting of four valiant Knights and four veteran squires : this Select Committee is to cogitate, sit and deliberate on the very complex question of the substitution of 8 words by 15. Surely I do believe that there must be some purpose and meaning in the rules which regulate the reference of Bills to Select Committees,—namely that the Bills must be sufficiently important or intricate to deserve such reference. In this case I can understand a motion to accept or reject the paltry substitution proposed ; but a motion to refer this most complicated and formidable measure to a Select Committee I surely cannot comprehend. What has the Select Committee got to do upon this most formidable Bill ? Sir, we have wasted enough time on this ; let us waste no more. Let us be done with it one way or another. Be done with this Bill, I repeat ; reject

[r. M. K. Acharya.]

it, consign it to the place it deserves. Let us pass on to more serious business ; for God's sake let us pass on.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, when the Special Marriage (Amendment) Act was passed two years ago (*Voices* : " Louder please ") the age of 21 years was very wisely left as it was fixed in the Act of 1872. A special marriage is a special marriage permitted under special circumstances. It involves a departure from the rules and the custom which have come down from a long long time. The responsibility of entering upon such a marriage is a very serious responsibility. It involves serious consequences, and a young man should not be allowed to undertake that responsibility upon himself at an immature age. I think the Legislature was very wise when it fixed the age limit at 21 years, and I think it will be very regrettable if the Assembly will sanction the proposal to reduce that limit. I am entirely opposed to the Bill, and therefore if the measure is to be referred to a Select Committee, I request that my name may be taken out from the proposed Committee. It was put in without my consent.

Mr. M. S. Aney (Berar Representative) : Sir, the motion which has been placed for consideration before this House by Sir Hari Singh Gour has been mainly argued by him as a question of the removal of an anomaly, but the real object of the Bill is not so much to remove that anomaly as to lower the age limit of love-marriages. He would not put the question on that simple and understandable basis, for it will at once open up questions that will rouse the country and rouse opposition against him which he may not be able to withstand. The simple question is this. By removing this anomaly he is attempting to bring down the age limit under the Special Marriage Act to 18. Now, the question is this. Are we present here willing to allow our adolescents to take upon themselves the responsibility of entering into special marriages and thus breaking away from the traditions of our culture at the age of 18, or do we think that 21 at least is a safe limit beyond which they can act as they like ? That is the whole question before the House. The entire Hindu marriage system is based upon marriage by consent of the father or guardian. It is not a Hindu marriage if it is without the consent of the father or the guardian, Hindu marriage is a *Kanniyadana* and not a material contract. Special marriage is a marriage which dispenses with such consent altogether. So I appeal to the Members of this House and even to those Members who do not belong to the Hindu culture to see that they do not willingly give their vote to a measure which is nothing more than asking this House to permit the adolescents to break away from their tradition at a tender age. Now, my friend Sir Hari Singh Gour says 18 years has been fixed as the age for every person to enter upon any other transaction he likes and why should it come in the way of marriage only under this Act ? But is not the age of 21 years regarded in certain other cases as the only age at which a person can undertake certain responsibilities ? Are the franchise and other matters not governed by this age limit and do we think that a social change which the special marriage is likely to bring about in the case of a man is of a less responsible character ? Taking this simple fact into consideration, I believe the House will see that it would not be proper for them to allow the motion which is placed for their consideration to be carried. I could have argued the question at length and

shown that Sir Hari Singh Gour is not only lowering the age on the side of love-marriages but he is creating difficulties in the way of fathers and guardians in contracting marriages of their wards at the proper age. By forcing the limit to 14 or even 16 on the one side for various reasons and lowering it down to 18 for love-marriages he is practically annihilating the system of Hindu marriage. And yet he does not desire that this measure should go out as a social reform Bill, yet he would not like to be called a social reformer. It is a question of simple arithmetic according to him. Is he not a very reactionary social reformer I ask? That is what I want to tell you to consider. I oppose this Bill. I am sure the House will reject this obnoxious Bill.

Mr. C. V. Krishnaswami Ayyar (Legislative Department : Nominated Official) : Sir, I rise to oppose this Bill. In doing so, I crave the indulgence of this Honourable House for a few minutes, an indulgence which it always generously shows to those who attempt to address it for the first time. Sir, before I state the reasons for my opposition to this Bill, may I, with your permission, Sir, pay a tribute of reverence and admiration to a great man who took special interest in marriages under the "Special Marriage Act" and in all matters connected with social reform in this country? I refer to Sir Rama Krishna Gopal Bhandarkar, whose death was announced in yesterday's newspapers. To those like me who looked up to him as to a Master, in matters like that embodied in this Bill, the loss is irreparable. I am sure every Member of this House regrets, as I do, that no longer his great learning, his spirituality, and his sage counsel will be available to his countrymen in the discussion of affairs like this. Sir, I wish to assure my friend,

5 P.M.

Sir Hari Singh Gour that I am not opposing this Bill on the grounds on which the last speaker opposed it, for I have great faith in the movement for the expansion of the bounds of social freedom to which my friend has dedicated his great energy and talents, in this House, for some time. I oppose it on a different ground. I do not believe, Sir, in rubbing my opponent in the wrong way too often. I know that there is a certain amount of prejudice against social legislation, and, if I can avoid it, I would not start any legislation here, which is not absolutely necessary. In an Assembly like this, composed of persons of various nationalities, I believe social legislation ought to be introduced only for one or the other of two prominent reasons, namely, that the present state of the personal law of the community to be affected is an excrescence on its culture, and that it is desirable that that legal excrescence should be removed and the old law should be restored to its pristine purity, or that the old law is very bad indeed and it is necessary to introduce legislation to bring it into line with modern conditions. Judged by either of these two tests, I am afraid, Sir Hari Singh Gour's present Bill cannot be allowed to proceed further. I do not believe, Sir, that the old Hindu law, although it permitted marriage outside one's caste, was very anxious to encourage young men below twenty-one entering into the kind of marriage contemplated by the Special Marriage Act. Those who have read the Code of Manu know that marriage of boys under 24 years of age is not encouraged by him; and even 21 is in my opinion a little too low. I would, Sir, raise the age of boys to 24 instead of bringing it down to 18, as my friend wants to do. Apart from that, Sir, I think it is very undesirable, as my Honourable friend, Pandit Madan Mohan Malaviya put it, that young persons between 18 and 21 should be permitted to enter into

[Mr. C. V. Krishnaswami Ayyar.]

marriages of this sort. The period between 18 and 21 years is a particularly impressionable period of one's life. It is no doubt true that during that period we imbibe those enthusiasms and that devotion to higher ideals which unfortunately, as we grow older, we shed unceremoniously in the name of practical good sense. But it is also the period when we are obsessed by a sense of infallibility and being so obsessed, we are likely to make very many mistakes. I am sure, Sir, if there is any age at all when young men should not be allowed to marry in haste, it is the age between 18 and 21 years. Sir, it has been said that all marriages are mistakes. (Laughter.) Though one may not agree to that, I am sure marriage is a matter in which one is very likely to make a mistake, a mistake which may have very serious consequences. (Laughter.) I do not want young men and women between 18 and 21 to have any opportunity for making a choice at a time when they are very likely to make mistakes. Sir, my Honourable friend thinks that parental consent should not be held to be necessary and that parents may sometimes stand in the way of a very romantic couple coming together between the ages of 18 and 21. I am not sure that parents in this country are quite so unreasonable. It may be that there are some people who came together at places like Greta Green, forgetting their past, become prudes and begin to control their children in their afterlife. But most parents are very reasonable, and if there is any good in a marriage being made between 18 and 21, they generally do agree to it. My Honourable friend has however in his Statement of Objects and Reasons conjured up the vision of a person who has no father or mother and therefore can have no opportunity of marrying with their consent. I am afraid, Sir, such cases must be very few indeed, and I do not think this Legislature need spend any time in legislating for them. Apart from that, I would say, that if there are any such young persons, there is all the more reason why the Legislature should not allow them to make a mistake, when there is no one to guide them. If there are any such persons, I offer them a bit of legal advice. I know legal advice given without fees is not valued very much, but I would still offer them the advice for what it is worth. The law as it stands does not prevent them from entering into engagements after they complete their 18 years of age. They can enter into engagements and wait till they are 21 years old to get married. They would not be the worse for this waiting, for I am credibly informed that the best period of married life, if I may use an Irishism, is the one before you are actually married. Apart from all this, Sir, I want to look at the Bill as a practical man. What is the necessity for this legislation at present? My Honourable friend, Sir Hari Singh Gour, with his usual ingenuity, has found out a legal anomaly. I shall admit that there is one. Not that I cannot argue the other way, but there is no need for taking up your time in doing that. We will assume that there is the legal anomaly that he points out. I was not here when the Act of 1923 came up for discussion, but the Legislature, I think very advisedly, has not approved of any lowering of the age and I think it did that for very good reasons. If you read the Act of 1923 you will find in it a number of safeguards. It has prevented a marriage under this Act having all the usual consequences of marriage. It is no wonder it was not willing to permit a person to enter into such a marriage with all these unusual incidents before he or she was 21. Dr. Gour has asked us to say that because a person attains his majority at 18 and thus

obtains the right to alienate his property, therefore he should be allowed to do all other things, like this one of marrying outside his or her caste, community or religion. I am sure, great lawyer as he is, he knows that though a man may technically attain his majority, the law still extends its protective wings over him in several ways. He has surely heard of the law relating to "Expectant heirs" in England, and in India there are cases in which the court will shift the burden of proof in his favour, as where a young man who has just attained majority enters into a transaction with a moneylender. The moneylender has in such cases to prove against him how much he lent or that he lent anything at all, even though the young man had executed a document admitting the loan. Therefore this restriction on marriage without parents' consent even after majority is not a thing which is against the spirit of the law of this country or of England. Sir, I have got only one more observation to make. Sir Hari Singh Gour is making a point in his Objects and Reasons of a circumstance which I do not know is really in his favour. He says that recently the Legislature of this country has enlarged the scope of the Special Marriage Act and that therefore more cases have arisen in which men and women between 18 and 21 years want to marry under this Act. I say, Sir, that that is the very reason why I wish to oppose this Bill. If this Bill is to apply only to those persons for whom the Act of 1872 was originally intended, namely, to the great Brahma community—in fact among lawyers the Act of 1872 which the Bill is to amend is known as the Brahma Marriage Act—if this Bill had been confined to them, there would be less reason to entertain any fear of evil consequences, for in that advanced community girls and young men reach, by 18, a standard of education by reason of which you can trust them to make a proper choice. But after the amending Act of 1923, any Hindu, Buddhist or Jaina is enabled to marry under this Act, outside his caste, community and religion. Whether that change was right or wrong is a question which we need not consider. It is, however, clear that the alteration is fraught with great possibilities, and I do not know that we need embark upon legislation giving very young persons of these communities who are not likely to have very much of education an opportunity of marrying outside their accustomed circles. Therefore, Sir, I oppose this Bill, and as one who in his province and in his time has taken some part in the great struggle for social freedom, I would appeal to my friend to withdraw this Bill and not to give an occasion for the Orthodox to vote against it, and to say: "You, social reformers, are bringing in all sorts of chimerical Bills and are not dealing with us properly." I am sure, Sir, unless he is going to withdraw the Bill, this House will tell Sir Hari Singh Gour, by recording an adverse vote, "much as we admire the motive behind the Bill, this is not a practical or an urgent proposition with which we shall agree."

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : Sir, I promise to be very brief. I rise to oppose the motion for the reference of this Bill to Select Committee, for the very simple reason that the Select Committee has very little indeed to do as far as this Bill is concerned. It is for this House to decide whether they will change the age from 21 to 18. I believe that however advanced a Hindu may be in his ideas, when he says that a young man who may marry outside the usual customs of his family and his caste should be allowed to marry at the raw age of 18 in preference to the more ripe age of 21, to my mind, with all deference to Sir Hari Singh Gour, I say,

[Sir Purshotamdas Thakurdas.]

that person has ceased to have any claim to be considered a reformer in Hindu society. This Bill is fraught with the greatest of dangers and of all legislation we may have in this House from non-official hands I am very anxious that nothing should be done which will put back progress among Hindu reformers on the right lines by legislation of this nature which appears not only to lead nowhere but, Sir, exposes our young men to the gravest of dangers. I strongly appeal to this House to throw out this Bill at this juncture.

Maulvi Muhammad Yakub (Rohilkhand and Kumaon Divisions : Muhammadan Rural) : Sir, I also rise to oppose the motion. I do not think there is an anomaly in the law, which the Bill introduced by my friend Sir Hari Singh Gour intends to remove. It was on account of the special nature of the marriages to be contracted under the Act that the Legislature, wisely, fixed the age at 21. To enter into a contract of sale or mortgage is not the same thing as to enter into a contract of marriage. Special marriages are mostly contracted on account of love and passion, a state of mind in which a man can seldom form a mature judgment about the woman who is going to influence all his future life.

" All Shabab-o-Shobaton Minal Janun "

says an Arabic proverb, which means that youth is a branch of insanity ; and I am sure that in cases of love marriages certainly a raw youth becomes something like insane. It is therefore not only right but necessary that in cases of special marriages the age should not be less than 21. On the other hand I am inclined to agree with my Honourable friend who said that the age should be raised to 24.

For these reasons I oppose the motion to refer the question to a Select Committee.

Several Honourable Members : I move that the question be now put.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I had no desire to intervene in this debate but as my Honourable friend Mr. Ayyar suggested that he would be prepared to accept this proposal if it were confined to Brahmos, I should like to say a few words. It is no doubt true that the Brahmos are the only community who are interested in the Special Marriage Act as a community, and I rise to point out that this measure has not the support even of the Brahmo community. Dr. Gour, with his usual optimism, has assumed that this Bill is opposed only by the orthodox community. Sir, I can assure you I am not a pillar of orthodoxy nor am I a Brahmo. Still, coming as I do from Bengal, I feel bound to state that the Brahmos have pointed out in the opinions that have been circulated to us that this measure is not wanted by them. Sir, before I come to the opinions I would just like to observe that the Brahmos in Bengal number over half the total number of Brahmos throughout India. Now, Sir, I come to the opinion of Mr. S. C. Mukherji, I.C.S., District Magistrate, a well-known Brahmo. He says :

" I am strongly of opinion that under the pretext of curing an apparent anomaly free license should not be given to persons below the age of 21 to marry without the consent of their parents and guardians. Even if the age of 18 is sufficient as the age of majority for other purposes, it is certainly not sufficient for this purpose. "

Then mark this sentence :

"No complaint has been made by Brahmoe and other communities on this subject and the age of liability should not be reduced as much as three years by raising this side issue."

Then, Sir, I come to another prominent member of the Brahmo community in Bengal, Mr. J. N. Roy, who is at present Commissioner of Chittagong Division. He says :

"My own experience is that marriages under the Special Marriage Act, 1872, are contracted either between parties who are Brahmoe or between persons who belong to the Hindu religion but wish to marry outside their own community or, in some cases, outside their own castes. In the former case the amendment is not necessary as Brahmoe generally are in favour of enhancing the age of marriage rather than lowering it. In the latter case there should be some restraint, as Diwan Bahadur T. Rangachariar points out, to prevent impulsive people from contracting unhappy connections or rather connections which may turn out to be unhappy in future so that they may have time to think before they invoke the special form of marriage."

I suppose no more emphatic denunciation of this measure could proceed even from a pillar of orthodoxy.

Then, Sir, I come to a public body with which I am associated and on which Brahmo opinion in Bengal is very influentially represented, I mean the Indian Association. They pronounce the following very cautious and significant opinion on this measure. This is what they say :

"The Indian Association has no objection to the amendment provided it is limited to the case of those who have no natural guardians or parents living, but it would object to the lowering of the age in the case of those who have natural guardians or parents alive."

Now, Sir, the Honourable Mover has assumed that this disparity between the ages as laid down in the Majority Act and the Special Marriage Act is an anomaly. But I desire to point out that we have got a personal testimony to the contrary from a personage of very high standing and repute, a very prominent member of Nagpur, who himself is another valiant Knight, Sir, I refer to Sir Bipin Krishna Bose. This is what he says :

"As regards the principle of the Bill, I may be excused for importing into the discussion a personal matter. I happen to know something of the circumstances under which the present law was enacted in 1872. I was at the time Secretary of a body called the 'Radical League'. Its contribution to the public discussion of the Bill as originally introduced and the form it should take, whether it should be more Brahmo Marriage Act applying to a very limited class of the community or a Civil Marriage Act of general applicability, will be found referred to by the Law Member, Sir James Stephen, during the debate in Council. I well remember, although it is a long time since, that one of the provisions which disarmed adverse criticism and opposition was the very provision which it is now sought to be modified and relaxed by the Bill."

Thus it was a deliberate act on the part of the Legislature to have fixed this age at 21. It cannot therefore with any justification be described as an anomaly.

Sir, I might as well conclude by giving another quotation, and that is from an opinion from Bihar and Orissa : It says :

"Dr. Gour probably forgets the age when 'a young man's fancy lightly turns to thoughts of love', for if he had remembered it he should not have committed this mistake."

An Honourable Member : I move that the question be now put.

The motion was adopted.

Sir Hari Singh Gour : Sir, (*Cries of "Withdraw"*) my motion may be rejected, but I am not going to withdraw it, because I feel that my motion and my Bill are righteous, and if the Honourable Members of this House turn them down the blood will be on their own heads.

Well, Sir, we have been told by three or four pillars of orthodoxy in this House that the lowering of the age from 21 to 18 is dangerous. I am not considering the question, as I have said, of raising or lowering of the age, because I was dealing with the question from an altogether different standpoint. I did not ask this House to commit itself to any definite age. I wanted this House to commit itself to the dictates of common sense, and the result of the voting of this day will proclaim how far this House is possessed of that attribute. (Laughter).

My Bill, Sir, is a very simple one ; I submit it is even simpler than most people can imagine. I pointed out that when this Act was enacted in 1872, the English law of majority was accepted by the Indian Legislature as a guiding principle for fixing that age, and consequently, the age of 21 was fixed in the Bill. I refer those who wish to study this question to the discussions in the late Imperial Legislative Council initiated by that distinguished Law Member, Sir Henry Maine. Well, Sir, three years later, the Imperial Legislative Council had to fix the statutory age of majority, and for the reasons which have been often and often stated in this House and will be reiterated in connection with another Bill of mine, that in a tropical country boys and girls are precocious and attain maturity of understanding and judgment so as to be able to contract marriages at the age of 13. Taking into consideration that alleged precocity of people in a tropical climate the Legislators of 1875 fixed the age of discretion at 18. Now, Sir, that being the age of majority, it was necessary, I submit, to bring the rest of the Statute-law in line with the Act of 1875. It has not been done, and I am only trying to bring the Act of 1872 in line with the Act of 1875. I am doing absolutely nothing more. Now, Sir, taking advantage of this amendment, we have once more those numerous objections trotted out from the various corners of this House. My Honourable friend Mr. Neogy says that he is not a pillar of orthodoxy ; but he is worse. He is personally convinced of the righteousness of this Bill, but he is afraid of his constituents and his influential supporters, and that is why he is voting against my Bill.

Then, Sir, my honest but benighted critic, from Madras comes up and says " Let us not relax the parental control ".....

Diwan Bahadur T. Rangachariar (Madras City : Non-Muhammadian Urban) : May I ask, Sir, if it is proper to use the word " benighted " with reference to an Honourable Member of this House ?

Sir Hari Singh Gour : Well, Sir, I should have expected my Honourable friend to read the speech which I made on the last occasion, and from which I quoted to-day, namely, that this amendment is only intended to affect those who have no guardian and cannot legally have a guardian. That brings me, Sir, to the question raised by my Honourable friend Mr. Acharya, who says, what is the purpose of taking this Bill to the Select Committee ?

Is it not the business of this House to say once for all whether the age shall be 18 or 21 ? May I point out to him and to the other Honourable

Members of this House that I had a purpose in view in selecting the motion which I have asked this House to carry. The Governments of Bihar and Burma have suggested a compromise on the lines indicated by the Rangoon High Court. The Rangoon High Court have stated that this Bill might be amended by inserting the following proviso in clause 3 of section 2, namely :

" Each party must, if he or she has not completed the age of 21 years, have obtained the consent of his or her father or guardian to the marriage ; *provided that* the absence of such consent shall be no bar to the marriage of a person whose father is dead and who is not a minor within the meaning of section 3 of the Indian Majority Act, 1875."

Now, Sir, it will be for the Select Committee to consider this alternate proposal made by the Rangoon High Court and concurred in by the Governments of Bihar and Orissa and of Burma. It is for that purpose that I have made the motion which I ask this House to concur in. I hope, Sir, Honourable Members will not be carried away by their prejudices or their sentiments. Let them as legislators—and legislators of the great Indian Empire—consider their heavy responsibilities in this matter. It is their duty, I submit, as it is their right, to sit in judgment on matters of this kind, and let them, I submit, not betray themselves into an erroneous judgment by the appeals that have been made by interested quarters upon the ground, ill-disguised and thinly masked, that this is one more attempt at social reform. Sir, if this were a case of social reform, I should have certainly informed this House about it. I appeal to my learned friends to say—there are so many lawyers in this House—what reply they can give to the anomaly that I have suggested which undoubtedly exists on the Statute-book. For these reasons, Sir, I feel confident that in spite of the objections raised by Honourable Members in this House, the good sense of the Honourable Members will carry this Bill to the Select Committee.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I do not desire to detain the House for more than a moment at this late hour, nor do I desire to intervene in this very thorny subject. I myself am far beyond the age at which I can possibly be affected by this Bill. I would merely observe that in the event—in the somewhat unlikely event, I fear,—of this Bill going to a Select Committee, I must not be considered as committing the Government to the method of amendment proposed.

Mr. President : Before I put the question I should like to point out to the Honourable Mover that he should not have included the name of Pandit Madan Mohan Malaviya without his consent and that it is not right for any Member to include on a Committee the name of any other Member without his previous consent. I shall therefore omit the name of Pandit Madan Mohan Malaviya.

Pandit Motilal Nehru : May I point out, Sir, that my name has also been included without my consent ?

Mr. President : I shall omit your name also.

The question I have to put is :

" That the Bill further to amend the Special Marriage Act, 1872, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. Jinnah, Sir Darcy Lindsay, Rai Sahib Harbilas Sardar, Mr. Joshi, Dr. Datta and the mover."

The Noes have it. Sir Hari Singh Gour.

Sir Hari Singh Gour : I call for a division, Sir.

Mr. President : The Honourable Member did not call for a division.

Sir Hari Singh Gour : I called for a division on the last motion, Sir.

Mr. President : The Chair says that you did not call for a division. I have said "the Noes have it." **Sir Hari Singh Gour**—next motion.

THE HINDU TRUSTS (VALIDATING) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : I beg to move :

"That the Bill to declare the rights of Hindus to make settlements of property by way of trust in favour of their families, children and descendants, be circulated for the purpose of eliciting opinions thereon."

I do not wish to detain the House at this stage by restating the facts which I have sufficiently set out in my Statement of Objects and Reasons. As the House will not stand committed to the principle of the Bill if it merely accedes to the motion I have made, I trust that it will permit me to collect the opinions of the provinces, which the Government can do if this motion is accepted.

Sir Chimanlal Setalvad (Bombay : Nominated Non-Official) : I rise to oppose the motion and I consider it my duty to do so because the proposal contained in the Bill I regard as of a very mischievous character indeed. When all progressive societies have discarded perpetuity, **Sir Hari Singh Gour** in 1925 asks this House to force it upon the Hindu community. A few minutes ago, **Sir Hari Singh Gour** sneered at the orthodox Members of this House with regard to the last Bill. Here **Sir Hari Singh Gour** is orthodox with a vengeance. He wants to go back to the old antediluvian days, wants property to be tied up for ever on some illusory trust in favour of some deity or some temple at the end of 500 years. I submit, Sir, that to enact a law of this character is against the best interests of any community. **Sir Hari Singh Gour** says the Muhammadans accepted perpetuity by the Wakf Act. I do not want to go into the merits of the Wakf Act, but those of us who were here at that time, I think I was one, thought that the Muhammadan community were committing a mistake, but it was their concern. But I certainly do not want **Sir Hari Singh Gour** to meddle with the Hindu community in the manner he wants to do. We do not want by this legislation to produce a class of idlers which must be produced if you tie up property in this manner. What this country suffers from is want of initiative, want of enterprise and want of hard sustained work, and **Sir Hari Singh Gour** by tying up property wants to remove such little incentive as there is in this country to initiative and resource. I do consider, Sir, that this Assembly will be acting in the best interests of the Hindu community if without any further loss of time it rejected this Bill at this stage. **Sir Hari Singh Gour** says that nothing will be lost by accepting this position. "Let me go" he says, "to the country and invite opinions." What is the use of going to the country with such a wrong lead? What is the use of inviting opinions on a measure so radically wrong and mischievous. It will be a sheer waste of time and energy on

the part of the departments concerned to get these opinions, to get them printed and to circulate them. It will be a sheer waste of time to ask the country to devote attention to this wretched measure. I say that I have never seen brought up in the Indian Legislature a piece of legislation more mischievous in character than the one now before us. I do beseech Honourable Members to reject it at once without any further loss of time. It does not require any more condemnation at my hands.

Mr. C. Duraiswami Aiyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I am very sorry that I have also to oppose this Bill. I express reluctance for the reason that for the past one hour Sir Hari Singh Gour has been subjected to a series of ruthless attacks. It is however my painful duty to oppose this Bill. Sir Hari Singh Gour has such an unquenchable thirst for legislation that he places before us Bills the *raison d'être* of which we are oftentimes unable to comprehend. In the Statement of Objects and Reasons he treats the Hindu law and the Muhammadan law as twin sisters, one of whom has risen to the fullest stature by Act VI of 1913 and the other has a stunted growth. He admits in the course of his Objects and Reasons that the Bill which he is now bringing forward is opposed to all decisions of the Privy Council relating to Hindu law and usage. If Sir Hari Singh Gour wants to bring about Hindu-Muslim unity my sympathy will go with him as far as he is prepared to go. But this is not the sphere for it. In the Title of his Bill he says it relates to Hindu Trusts Bill, but it is really a Hindu Breach of Trusts Bill. He defines the word "trust" properly in the definition clause, but when he comes to the substantive portion he makes a complete breach of trust. He tries to cheat God, the poor and the King by this kind of tying up of property in a family and its descendants for ever. Take a concrete case of a Hindu having four sons and four daughters. For how many generations, for how many *yugas*, does he expect to tie up this property, when the descendants of all these sons and daughters will be branching and branching. Couple with this the practice of adoption prevalent among Hindus, then the descent will go on *ad infinitum*. Is it an Impartible Estates Act or an Inalienable Estates Act that he is bringing forward by means of a legislation like this ? That, Sir, I am unable to understand. Whatever this Bill is, it is certainly not the Hindu Trusts Act. Sir, I wholeheartedly, fully and without any reluctance oppose this Bill.

Mr. H. Tonkinson (Home Department : Nominated Official) : I rise to oppose this Bill on grounds that have already been urged, namely, that it is absolutely opposed to public policy and against the interests of the Hindu community.

The Bill, Sir, seeks to set aside the rule against perpetuities. Now in its original sense a perpetuity is an inalienable and indestructible interest, but in English law it is the secondary sense, denoting an interest which will not vest till a future remote period which is of greater importance. The rule against perpetuities which is sought to be avoided by this Bill is therefore a rule against remoteness. Now that, Sir, is a rule which has been enforced in England in the interests of public policy. For example, Jarman says :

"The active circulation of property which is one of the springs as well as the consequences of commerce would be obstructed, * * *, the capital of the country gradually withdrawn from trade, and the incentives to exertion in every branch of industry diminished. Such a state of things will be utterly inconsistent with the national prosperity and those restrictions which were intended by the donors to

[Mr. H. Tonkinson.]

guard the objects of their bounty against the effects of their improvidence will be baneful to all."

That, Sir, is the principle upon which the rule against perpetuities is based. As was stated by my Honourable friend, Sir Chimanlal Setalvad, the rule is now imposed in all advanced communities. There are very definite provisions in the French Code and in the law of the United States of America ; indeed in some of the State constitutions it is actually included as one of the provisions of the constitutions themselves. For example, in the constitution of North Carolina it is provided that perpetuities and monopolies are contrary to the genius of a free State and ought not to be allowed. My Honourable friend, Sir, has referred in his Statement of Objects and Reasons to the Wakf Bill which was introduced in the old Council by Mr. Jinnah and suggests that the Hindu and Muhammadan laws had originally certain things in common, etc. Well, Sir, that is certainly not the idea one would derive if one perused the discussions which took place on that occasion. I might, at least quote from Mr. Bhupendra Nath Basu's statement in the Legislative Council at that time. He said :

" A wakf or trust imposed on a family extending over many generations and over an indefinite period would appeal to the modern sense as untenable, but we have got to deal with a law promulgated nearly 1,200 years ago."

That is to say, so far as the Muhammadan law was concerned, it was decided that it was desirable to continue provisions which were 1,200 years in age. That is not the case, Sir, in regard to the Hindu law. The Hindu law contains no provisions allowing perpetuities such as my Honourable friend seeks to legislate for in this Bill. Sir, I oppose the Bill.

Sir Hari Singh Gour : I was asking my Honourable friend, Sir, to quote the Hindu law, which, he said, did not allow perpetuities. I deny that statement.

Mr. C. Duraiswami Aiyangar : May I ask the Honourable Member to quote where it allows this ?

Mr. H. Tonkinson : I will quote Sir Hari Singh Gour himself. In regard to the rule against perpetuities, he says :

" Neither the Hindu Disposition of Property Act nor anything contained in Hindu Law legalizes a grant of land to be selected by the grantee in future. Such grant is obnoxious to the rule against perpetuities because the interest does not vest *in praesenti* and may not vest at all till the expiration of an indefinite time which might extend beyond the expiration of the period allowed by law."

Sir Hari Singh Gour : Sir, as I said at the commencement of my speech, I did not want this House to commit itself to the principle of the Bill. I merely wanted this House formally to sanction circulation for the purpose of eliciting public opinion thereon. But, as my friend Sir Chimanlal Setalvad and the Honourable Mr. Tonkinson have joined forces in opposing this innocuous motion, I feel constrained to defend it against such strenuous odds. With all the respect due to my friend Sir Chimanlal Setalvad, he says this Bill is a mischievous one. My friend later on said that this is a Bill intended to create impartible and inalienable estates. Both of my friends adverted to the peculiar constitution of Hindu society. Under English law in England property is owned by individuals and those individuals are free to alienate by an Act *inter vivos* or by will property at their own

discretion. But such is not the position of a Hindu family. Partitions take place and after 3 or 4 generations considerable properties are divided and subdivided till in the hands of the descendants they almost entirely disappear. The creation of impartible and inalienable estates in this country is no longer a matter open to controversy. Such estates exist in almost every province and the Honourable Mr. Aiyangar who speaks of the creation of impartible and inalienable estates cannot forget all the impartible and inalienable estates which exist in his own province.

Sir Chimanlal Setalvad : What there is in this way is bad enough ; we do not want to extend the mischief.

Sir Hari Singh Gour : And which are safeguarded by the statutory provisions of the Madras Impartible Estates Act. My friend Sir Chimanlal interjects a remark that it is enough and we do not want any more. Well, whether it is enough or whether it is not enough, the question is whether the country thinks with Sir Chimanlal Setalvad or thinks with me, and it is for that purpose that this motion should be carried. I do not wish to overstate my case. When I informed this House that there are opinions on both sides, a great deal can be said in favour of the free circulation of property. An Englishman born under the shadow of Lord Thelusson's Act will naturally say that it is against public policy that any restrictions should be statutorily enforced against the free and unfettered circulation and transfer of property. A Hindu with his opinions of joint family and collective responsibility may think otherwise. That out of our fellow-countrymen the Muhammadans think otherwise is now beyond cavil or doubt, because the Muhammadan Wakf Act safeguards the creation of such *wakfs* in their case. The only question is whether the reasons which have led to the enactment of the Act in favour of Muhammadans do not equally apply to the case of the Hindus. I submit they apply *a fortiori* by reason of the peculiar constitution of Hindu society. I do not wish, Sir, to labour that point. I only wish to point out that these are various points of view which it will be for the High Court Judges and the Local Governments to examine and report on. I therefore, Sir, press my motion.

Mr. President : The question is :

"That the Bill to declare the rights of Hindus to make settlements of property by way of trust in favour of their families, children and descendants, be circulated for the purpose of eliciting opinions thereon."

Mr. President : The "Noes" have it.

Sir Hari Singh Gour : The "Ayes" have it.

Mr. President : Those Members who say "Aye" will please rise in their seats.

(Some Honourable Members rose.)

Mr. President : The "Noes" have it.

Sir Hari Singh Gour : Sir, I just want to point out that I would very much like to have a division on this Bill.

Mr. President : I am afraid I must follow the precedent laid down by my predecessor who, in the case of a small minority of votes on one side, always decided by asking the Members to stand up in their seats.

Sir Hari Singh Gour : Sir, your predecessor is still here and I may point out that he very often mentioned to me and to many other Members of the House.

Mr. President : Order, order.

Sir P. S. Sivaswamy Aiyer (Madras : Nominated Non-Official) : I beg to move, Sir, that the House be now adjourned.

Mr. President : I am entirely in the hands of the House. If the non-official Members do not want to sit late, I am not prepared to sit and inconvenience myself.

Sir Hari Singh Gour : May I ask, Sir, if the Honourable the Home Member will be able to give us a few hours on the next Government day for disposing of the pending business ?

Mr. President : May I take it that Sir Sivaswamy Aiyer is pressing his motion ?

The Honourable Sir Alexander Muddiman : I would like to point out one thing, Sir, to the House and that is that we will require considerable time in order to deal with all these Bills. There are many important Bills on the agenda and I personally do not feel that I shall be in a position to do justice to the business of the House at this late hour. If you, Sir, decide to sit on, that is a matter for your own discretion, but I do not think the business of the House will suffer.

Diwan Bahadur M. Ramachandra Rao (Godavari *cum* Kistna : Non-Muhammadan Rural) : May I ask if the Honourable Member will be able to give us a few hours on some other Government day as there are so many important non-official Bills which are still pending introduction ?

The Honourable Sir Alexander Muddiman : The House is aware that I always do my best to meet its wishes in these matters. May I however point out that by sitting late to-day the House has had something like 4 hours more than it would ordinarily have had. A day means a day ; it does not mean two days.

Mr. Jamnadas M. Mehta (Bombay Northern Division : Non-Muhammadan Rural) : Most of the Bills are for introduction only. I think one or two hours will be quite enough for that purpose.

Sir Hari Singh Gour : Sir, two of my Bills are supported by the Civil Justice Committee.

The Honourable Sir Alexander Muddiman : I shall be in a position to give a definite answer at a subsequent meeting. I am not really prepared to say what I can do. We have much Government business next week. As far as I can see, Government business next week will probably take the whole time. If however a portion of the time on a Government day is available later on we will consider the question raised.

Mr. President : The Honourable the Home Member says that he will try and see if the remaining non-official business could not be put down on some other official day.

The Honourable Sir Alexander Muddiman : I make no promise, Sir. I do not wish to mislead the House, but I will consider it.

The Assembly then adjourned till Eleven of the Clock on Monday, the 31st August, 1925.