

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 27th JANUARY, 1926

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OFFICIAL REPORT



CONTENTS

Questions and Answers.

The Indian Trade Unions Bill—*contd.*

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LEGISLATIVE ASSEMBLY.

Wednesday, 27th January, 1926.

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

QUESTIONS AND ANSWERS.

THE SPAHLINGER TREATMENT FOR TUBERCULOSIS.

288. ***Mr. Chaman Lall:** (1) Are Government aware of the immense possibilities of the Spahlinger treatment for tuberculosis?

(2) Are Government intending to make arrangements for the provision of this treatment for patients in India?

Mr. J. W. Bhore: (1) The Government of India are watching closely the reports published in scientific journals and literature regarding the results of the Spahlinger treatment. Such inquiries as have been practicable in the absence of a supply of M. Spahlinger's preparation for scientific investigation have been made by the Health authorities. The results of these inquiries do not so far justify a pronouncement of opinion as to the efficiency of the treatment.

(2) The matter is one for decision by Local Governments.

Mr. Chaman Lall: Are Government aware that there was a very favourable report made by certain medical members of the House of Commons regarding this treatment?

Mr. J. W. Bhore: I am aware of that.

Mr. A. Rangaswami Iyengar: May I know whether it is not possible for the Government of India to advise the Local Governments to get this particular serum, or whatever it is called, in order to try it in this country?

Mr. J. W. Bhore: I have tried to explain in my reply that we have not yet been able to get a quantity sufficient even for experimental purposes. But the Honourable gentleman may rest assured that we will pursue investigations into the efficiency of this form of treatment.

REFUSAL OF A PASSPORT TO MR. SABHERWAL TO RETURN TO INDIA.

284. ***Mr. Chaman Lall:** (a) Is it a fact that one Sabherwal was denied his passport when he applied for one at Tokyo to the British Embassy?

(b) Is it a fact that he was told he could take a certificate which would enable him to get to India?

(c) Is it a fact that he was warned that he would return to India at his own risk and that he may be liable to prosecution?

(d) Will Government state the charges against Mr. Sabherwal?

Sir Denys Bray: (a) and (b). The Honourable Member is referred to the answer given on the 22nd January, 1925, to a similar question No. 87 on the same subject by Lala Duni Chand.

(c) Government understand that this is so.

(d) Government are not prepared to make any statement on the subject.

Mr. Chaman Lall: May I know what that reply was? It is very difficult for me to ask any supplementary questions without having the reply before me.

Mr. Devaki Prasad Sinha: What is the difficulty that Government feel in stating the charges against this man, Mr. Sabherwal?

Sir Denys Bray: I am not sure that Government feel any difficulty. They simply state that they are not prepared to make a statement.

Mr. Chaman Lall: Are Government prepared to carry out the pledge given by the Honourable the Home Member yesterday that no difficulty would be placed in the way of foreign exiles coming into this country in the shape of refusal of passports, etc.?

Sir Denys Bray: May I point out to the Honourable Member that the question asks, "Is it a fact that he was told he could take a certificate which would enable him to get to India", and I reply, "It is a fact". He could get a certificate which would enable him to get to India.

Mr. A. Rangaswami Iyengar: May I know whether it is open to the Government to say in reply to a question that they are not prepared to answer the question?

Sir Denys Bray: I think so, Sir.

RECRUITMENT OF INDIAN LABOUREES FOR MALAYA.

285. ***Mr. Gaya Prasad Singh:** Will the Government be pleased to state if immigration of Indian labourers into Malaya still continues; and if so, what is the system of recruitment?

Mr. J. W. Bhore: Yes, on the terms and conditions specified in the Government of India, Department of Revenue and Agriculture, Notification No. 187-Emi., dated the 17th February, 1923, which was issued with the approval of the Legislative Assembly and Council of State. The system of recruitment is detailed in the Indian Emigration Rules, 1923, made by the Governor General in Council, under section 24 of the Indian Emigration Act, 1922 (VII of 1922). A copy of the notification and the rules has been placed in the Library of the House.

RECRUITMENT OF INDIAN LABOUR FOR THE SINGAPORE NAVAL BASE.

286. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to a London cable published in the *Statesman* of the 19th December, 1925, in which it is said that the Under Secretary for the Admiralty stated in the House of Commons that the most suitable labour for the Singapore Naval Base was to be recruited from the Northern and not the Southern Provinces of India?

(b) Have the Government received any communication on this subject from any authority; and if so, will the Government be pleased to lay a copy of it on the table?

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

(b) No.

CONSCRIPTION OF INDIAN LABOUR FOR THE SINGAPORE NAVAL BASE.

287. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to the following report published in the *Singapore Free Press*, dated the 8th July, and reproduced in the *Indians Abroad* of Madras of September, 1925, under heading "Indian Labour in Malaya"? "Six Indians were produced in the Police Court yesterday and charged with attempting to leave Singapore on board a steamer bound for Dutch territory, without having passports. They were detained on board the steamer "Senang" by Boarding Officer S. Lazaroo when the vessel was about to sail for Palambang. Mr. Handy, Controller of Labour, was present in court to prosecute the accused men, who however withdrew their plea of not guilty and admitted the charge. Mr. Handy said that he wished to press the case, as quite a number of these men, who were immigrants, were attempting to leave the colony by unlawful means. They were going to the Dutch Indies and the authorities were particularly unwilling to let them go because they were wanted for the work on the Naval Base here. They wished to put a stop to these men leaving the Colony, if it was possible. It is said that the accused are Malabarites and that they are workmen who are more suitable for the Naval Base work than coolies from other parts of India".

(b) Is Indian labour for the Singapore Naval Base conscripted, and have not the Indian labourers for Malaya a full right to go to places where in their opinion conditions of labour are sufficiently attractive?

(c) Do Government propose to make an inquiry into the matter and see that passport facilities are easily given to those who want to leave Singapore?

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

(b) and (c). It has not been suggested that Indian labour for the Singapore base is conscripted and it may be assumed that it is not. The arrest and prosecution of the men referred to in part (a) was in accordance with the Straits Settlements Labour Ordinance which prohibits the departure of an immigrant from any settlement in the Colony except to a country to which Indian emigration is authorised by the Governor with the consent of the Government of India. Emigration to the Dutch Indies, to which the immigrants in question endeavoured to proceed, has not been declared lawful by the Governor General in Council under the provisions of section 10 of the Indian Emigration Act VII of 1922. Further inquiries in the matter are not therefore called for.

TOTAL NUMBER OF INDIAN LABOURERS EMPLOYED ON THE SINGAPORE NAVAL BASE.

288. ***Mr. Gaya Prasad Singh:** Will the Government be pleased to state the total number of skilled and unskilled Indian labourers employed on the Singapore Naval Base, and the rates of wages paid to them?

Mr. J. W. Bhore: Inquiries are being made and the information required will be furnished to the Honourable Member in due course.

CREMATION OF DEAD BODIES BY HINDUS IN BRITISH GUIANA.

289. ***Mr. Gaya Prasad Singh:** With reference to my starred question No. 575 of the 2nd February, 1925, and the reply of the Government that inquiry will be made whether effect has been given to the assurance given by the British Guiana Deputation for allowing the Hindus in British Guiana to cremate their dead bodies, will the Government kindly state if such an inquiry has been made, and the Hindus are freely allowed to cremate their dead bodies?

Mr. J. W. Bhore: Kunwar Maharaj Singh, who has recently visited British Guiana, reports that, as in Mauritius and Trinidad, Indian customs undergo considerable changes in the Colonies. The practice of Hindus in British Guiana is to bury their dead instead of cremating them; he received no complaint from Hindus on the subject of the lack of facilities for burning their dead. The Town Council of Georgetown is empowered to establish a crematorium, but has received no application from Hindus on the subject. He has no doubt that Government would make the necessary arrangements, if a demand is made by responsible Indian opinion in the Colony. The Government of India have inquired what action the Colonial Government are taking to remove such obstacles as may still exist in the way of Indians cremating their dead; and are awaiting a reply.

RECOMMENDATIONS MADE BY KUNWAR MAHARAJ SINGH IN CONNECTION WITH HIS DEPUTATION TO MAURITIUS.

290. ***Mr. Gaya Prasad Singh:** Will the Government kindly state what conclusions they have arrived at regarding the recommendations contained in the report of Kunwar Maharaj Singh of Mauritius, and when do they intend to give effect to the same?

Mr. J. W. Bhore: The attention of the Honourable Member is invited to the reply given by me to Khan Bahadur Sarfaraz Hussain Khan's question No. 52 on the same subject.

Mr. Gaya Prasad Singh: May I know, Sir, whether the Government have decided to give an opportunity to this House to express its opinion before final conclusions are reached with regard to Mauritius?

Mr. J. W. Bhore: I can assure the Honourable Member that we shall take into our confidence the Standing Emigration Committee of this House.

TRAGIC DEATH OF AN INDIAN IN MOMBASA.

291. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to a report published in the *African Comrade*, Dar-es-Salam, dated the 28th November, 1925, headed "A ghastly Mombassa tragedy"?

(b) Will the Government be pleased to say if any inquiry has been made or will be made into the circumstances resulting in the tragic death of an Indian, and the possible death of another?

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

(b) An inquiry has been made.

Mr. Gaya Prasad Singh: What is the result of the inquiry to which the Honourable Member refers?

Mr. J. W. Bhore: We have not yet had a reply to the inquiry.

REFUSAL OF PERMISSION TO DR. MANILAL TO RESIDE IN THE STRAITS SETTLEMENTS.

292. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to a letter of Mr. Chakradhar Sharan under heading "Dr. Manilal, Bar.-at-law", and published in the *Hindi* of Jacobs, Natal, South Africa, on 14th and 21st of August, 1925?

(b) Is it a fact that Dr. Manilal, Bar.-at-law, was interned and subsequently deported after the Fiji strike, and that no charge was either brought against him or proved in the open court?

(c) Is it a fact that when he went to New Zealand and applied for permission to practise there, he was not allowed to do so in spite of the fact that Mr. Bartram and Mr. M. C. Combs (both members of the New Zealand Parliament) stated that they made independent inquiries on the spot from European and Indian sources, and came to the conclusion that the applicant was "not the cause of the strike, riots and disturbances in any sense, principal, subordinate or auxiliary"?

(d) Is it a fact that at the time of deportation he was not allowed time even to arrange for the sale of his properties and other belongings?

(e) Is it a fact that when he wanted to go to Penang he was warned by the Government through the District Magistrate of Gaya that there is every likelihood that the Penang authorities may not allow him to land there on the ground of his being an "undesirable immigrant"?

(f) If so, will the Government be pleased to state the reasons which have led the Government to give such a warning to him?

(g) Is it a fact that his correspondence is censored? If so, why?

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

(b) Information regarding the part taken by Mr. Manilal in the disturbances in Fiji and his internment from certain Districts by the Government of the Colony is contained in the correspondence published with the Resolutions of the Government of India in the Department of Commerce, No. 4085, dated the 18th July, 1920, and No. 4918, dated the 5th August, 1920. He was not interned in Fiji nor subsequently deported therefrom but, as he himself has publicly stated, left the Islands of his own free will and accord.

(c) Government understand that Mr. Manilal was not enrolled or allowed to practise as a lawyer by the Supreme Court of New Zealand: they have no information beyond this.

(d) Does not arise.

(e) and (f). In 1921 Mr. Manilal was informed by the Straits Settlements Government that permission would not be granted to him to reside in Singapore. In December, 1924; at the instance of that Government the Government of India caused Mr. Manilal to be informed through the local civil authorities concerned that his presence in the Straits Settlements was not desired. This warning was conveyed to Mr. Manilal personally by the District Magistrate, Gaya, but the terms in which he did so are not known.

(g) So far as the Government of India are aware, Mr. Manilal's correspondence is not being censored.

**INSULTING CONDUCT OF THREE NON-COMMISSIONED BRITISH OFFICERS TO
MR. NAROTTAMDAS MURARJEE.**

293. *Mr. Gaya Prasad Singh: (a) Has the attention of the Government been drawn to a report published in the *Hindustan Times*, dated the 18th December, 1925, about the annoyance and insult to Mr. Narottamdas Murarjee, by three non-commissioned officers of the British Army in a first class compartment, while travelling from Poona to Bombay?

(b) What are the facts of the case, and the names of the officers concerned?

(c) What punishment has been inflicted on the offenders?

Mr. E. Burdon: (a) Government have seen a copy of the article referred to by the Honourable Member.

(b) and (c). An inquiry has been made from the local military authorities, whose report is awaited. Meanwhile an account of the proceedings of the Court-Martial which tried and sentenced these men has appeared in the Press between the 8th and 14th January. The sentences, which were severe, are reported to have been confirmed by the General Officer Commanding, Poona District. If the official report reveals anything further, I will communicate the substance of it to the Honourable Member.

Mr. Gaya Prasad Singh: What were the sentences, Sir.

Mr. E. Burdon: I cannot remember the particulars, but I will find out and let the Honourable Member know. The information has appeared in the papers.

APPOINTMENT OF A ROYAL COMMISSION ON AGRICULTURE.

294. *Mr. Gaya Prasad Singh: (a) Is it in contemplation to appoint shortly a Royal Commission to investigate and report on the agricultural conditions in India, and that the views of the Local Governments have been invited?

(b) If so, will the Government be pleased to lay on the table a copy of any correspondence, which may have passed between them and the Secretary of State for India, and the Local Governments?

Mr. J. W. Bhore: (a) and (b). The Honourable Member is referred to the reply given by me to Kumar Ganganand Sinha's question on this subject. The purport of the correspondence that has passed on the subject of the Royal Commission on Agriculture between the Government of India and the Secretary of State has been stated in His Excellency's speech opening the Session. The question of publishing this correspondence will be considered.

Mr. K. Ahmed: Do the Government of India propose to do their level best to select the best persons, as Members of the Commission, from all the provinces in India representing the agriculturists, who are 95 per cent. of the population of the whole of India?

Mr. J. W. Bhore: I think, Sir, that that question contains the somewhat improper suggestion that the Government of India will not select the best persons, and I am sure the Honourable Member has no right to make that suggestion.

Mr. K. Ahmed: Do I understand, Sir, that the intention of the Government is so bad (laughter) that 95 per cent. of the population of India will not gain their share in the selection of the best persons in the matter of a Commission which involves a good deal of expenditure which comes from the pockets of the people. . . .

Mr. J. W. Bhore: Sir, I regret that it seems impossible to make the Honourable Member understand. . . .

Mr. K. Ahmed: Is it impossible for the Honourable Member to enlighten the House that, for the benefit of the people of this country, he will accept the suggestion that there should be represented on the Agricultural Commission the best persons, the true representatives of the people; and not of the Government?

Mr. J. W. Bhore: I think, Sir, that the House is already enlightened on that point.

Mr. Gaya Prasad Singh: Is not agriculture a provincial and transferred subject, and were the views of Ministers of the Provinces taken before this Royal Commission on Agriculture was appointed?

Mr. J. W. Bhore: My Honourable friend has perhaps not listened to the reply that I gave the other day to another question in this House. I have placed the replies of all the Local Governments who were consulted in regard to this Royal Commission in the Library of the House, and he will see that there is practically unanimous approval of this Commission.

Mr. Devaki Prasad Sinha: By what time is this Agricultural Commission expected to start work?

Mr. J. W. Bhore: I regret I am not in a position to give the Honourable Member any details as to dates.

Mr. K. Ahmed: In view of the fact that my Honourable friend, the Secretary in the Department of Agriculture, has answered in this House that Government have no intention of selecting persons who are representatives of the people of this country, do I understand, Sir, that there is an admission on his part that the Government are going to nominate persons according to their own desire and not that of the people of this country and the masses?

Mr. President: The Honourable Member may draw his own inference.

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

295. ***Mr. Gaya Prasad Singh:** (a) With reference to question No. 14 of the 30th January, 1924, asked in the Council of State, regarding the separation of judicial from executive functions, will the Government be pleased to say if they have received the final views of all Local Governments consulted on the subject? And will the Government kindly say which Government has not yet given their reply?

(b) Do Government propose to place all proposals on the subject before this House; and if so, by what time?

Mr. H. Tonkinson: I am unable to add any appreciable information to that which has been given from time to time on this subject. I may say, however, that the Government of India consulted no Local Government on the subject, but certain Local Governments have submitted schemes of separation for consideration. Some of those schemes are only tentative.

TOTAL NUMBER OF ELECTORS FOR THE COUNCIL OF STATE.

296. ***Mr. Gaya Prasad Singh:** Will the Government be pleased to give a statement showing, Province by Province, the total number of electors of the Council of State, the actual number of votes polled, and the percentage of votes polled, separately in the last two elections of the Council of State?

Mr. H. Tonkinson: The information regarding the first general election to the Council of State is contained in the Return presented to Parliament in 1921 (Command Paper 1261) a copy of which is in the Library of this House. A similar Return is now under preparation as regards the second general election to the Council of State, and a copy of it will be placed in the Library in due course.

GRANT OF AN EMERGENCY CERTIFICATE TO DR. SUDHINDRA BOSE OF THE STATE UNIVERSITY OF IOWA TO RETURN TO INDIA.

297. ***Mr. Gaya Prasad Singh:** (a) With reference to starred questions No. 85 of the 25th August, and No. 878 of the 1st September, 1925, regarding the grant of a passport to Dr. Sudhindra Bose, M.A., Ph.D., of the Iowa State University, has the attention of the Government been drawn to a letter from Dr. Bose, published in the *Amrita Bazar Patrika*, dated the 24th November, 1925?

(b) With reference to the reply given by Government on the 1st September, 1925, that in 1924 "the British Ambassador at Washington was informed in May of that year that Dr. Bose might be granted an emergency certificate to permit him to return direct to India but should not be given a passport" are Government aware that Dr. Bose did apply for such an emergency certificate, and the British Consul in Chicago, Mr. Lomax, wrote to him that his "application for direct journey to India has already been telegraphed to the authorities, and as yet no reply has been received"?

(c) Are Government aware that even up to 21st October, 1925, Dr. Bose did not get the necessary permit?

(d) Will Government kindly state why it was decided that Dr. Bose should not be given a passport; and who is the authority responsible for this decision?

(e) Has any inquiry been made, or will any inquiry be made as to why the emergency certificate has not yet been given to Dr. Bose to visit India?

Mr. H. Tonkinson: (a) Yes.

(b), (c), (d) and (e). I have no information in the matter beyond that given in the reply which was given to the questions asked in this House on the 1st September 1925. I have caused further inquiries to be made and shall inform the Honourable Member of the result in due course.

ALTERATIONS TO THE "D" TYPE OF INDIAN QUARTERS AT RAISINA.

298. *Khan Bahadur Sarfaraz Hussain Khan: (a) With reference to Government reply to starred question No. 662 (a), asked in the meeting of the Legislative Assembly held on 3rd September, 1925, will Government please state if they have arrived at a decision on the question?

(b) If so, will they please communicate their decision to the House?

The Honourable Sir Bhupendra Nath Mitra: No decision has yet been reached.

Khan Bahadur Sarfaraz Hussain Khan: May I have an idea of the time?

The Honourable Sir Bhupendra Nath Mitra: I cannot give a definite answer to that question, Sir, but we are trying to expedite the decision as far as possible.

SUCCESSFUL CANDIDATES IN THE I. C. S. EXAMINATIONS HELD IN INDIA.

299. *Khan Bahadur Sarfaraz Hussain Khan: With reference to the statement laid on the table in reply to my starred question No. 444 (a) asked in the Legislative Assembly on the 2nd September, 1925, showing that the number of candidates that came out successful at the Indian Civil Service examination held in India in the years 1922, 1923, 1924, 1925 was one from Bihar and Orissa, and nil from Burma and Assam, will Government please state whether it was only one candidate who sat for the examination from Bihar and Orissa and none from Burma and Assam or whether it was that more candidates sat for the examination and only one passed from Bihar and Orissa and none from Burma and Assam?

Mr. H. Tonkinson: I have laid on the table a statement showing the number of candidates from Burma, Bihar and Orissa and Assam, who sat for the Indian Civil Service examinations held in India in those years and who with one exception were unsuccessful.

Statement showing the number of candidates from Burma, Bihar and Orissa and Assam who sat for the Indian Civil Service examinations held in India.

Province.	NUMBER OF CANDIDATES WHO SAT IN			
	1922.	1923.	1924.	1925.
Burma	1	...	2	1
Bihar and Orissa	6	10	6	4
Assam	4	3	3	2

PAY OF THE INDIAN ARMY SERVICE CORPS CLERKS.

800. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to starred question No. 477 (b) asked in the meeting of the Legislative Assembly held on 2nd September, 1925, will Government please state if they have considered the subject and arrived at a decision?

(b) If so, will they please communicate their decision to the House?

Mr. E. Burdon: (a) and (b). The proposals are still under consideration and it is hoped that a final decision will be reached shortly.

WEIGHING MACHINE AT EGMORE STATION.

301. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) Has the attention of Government been drawn to the paragraph published in the issue of the *Indian Railway Magazine* of October, 1925, page 1, under the heading "Notes and Comments"?

(b) If so, will they please state if the statements of facts made therein regarding the weighing machine at Egmore station, are correct?

Mr. G. G. Sim: (a) and (b). The Government have no information on the point raised. They have however sent a copy of the paragraph to the Agent for such action as he may consider necessary. I may mention that the adequacy of arrangements for the weighing of passengers' luggage is one of the points inquired into by the Senior Government Inspector of Railways.

PREVENTION OF PERSONS TRAVELLING WITHOUT TICKETS ON RAILWAYS.

302. ***Khan Bahadur Sarfaraz Hussain Khan:** (1) Will Government please state:

(a) if they intend to introduce a Bill amending the Railways Act so as to make the law dealing with passengers travelling without tickets more stringent?

(b) if it is a fact that more than 200,000 persons travel every year without tickets?

(2) If the figure quoted is not approximately correct, will they please give correct figures?

Mr. G. G. Sim: (a) The matter is under consideration.

(b) and (c). During the year 1924, 2,347,819 passengers were found travelling without tickets on Class I, Railways (Laughter) and for the first-half of 1925 the number was 1,080,785. (Laughter.)

Mr. Devaki Prasad Sinha: From how many of these millions of persons who travelled without tickets were the railway fares due to railway companies recovered?

Mr. G. G. Sim: If the Honourable Member will put down a question, I will try to get the information for him. To the best of my recollection, in only a percentage of the cases were the fares recovered.

PREVENTION OF VENEREAL DISEASES AND PROSTITUTION IN INDIA.

808. ***Khan Bahadur Sarfaraz Hussain Khan:** Will Government please state:

- (1) if it is a fact that Parliament passed a Venereal Diseases Act in 1917?
- (2) if there is any Venereal Diseases Act in force in India?
- (3) if it is a fact that the National Council for combating Venereal Diseases of England organised a Social Hygiene Congress at Wembley in May 1924?
- (4) if there is any branch of the Social Hygiene Congress in India?
- (5) if it is a fact that England does not recognise prostitution?
- (6) if they consider the desirability of introducing legislation penalising prostitution in India?
- (7) if the answer to (6) be in the negative, will Government please give reasons?

Mr. J. W. Bhore: (1) Yes.

(2) No.

(8) Yes.

(4) No.

(5) I do not quite follow what the Honourable Member means by the recognition of prostitution and I am not in a position to state with accuracy the attitude of Government in England towards this subject.

(6) and (7). The Government of India do not propose to introduce legislation on this subject in the Central Legislature. They consider it essentially a matter which should be dealt with by provincial legislation.

PROPOSED DEPUTATION FROM THE INDIAN TRADE UNION CONGRESS TO SOUTH AFRICA.

304. ***Mr. Chaman Lal:** (a) Will Government lay on the table an interim report of the deputation recently sent to South Africa by the Government of India?

(b) Are Government prepared to afford the necessary facilities for a deputation on behalf of the Indian Trade Union Congress to proceed to South Africa in pursuance of the Resolution passed by the Empire Labour Conference in this behalf?

Mr. J. W. Bhore: (a) The Government of India have received a telegraphic summary of the provisional conclusions of their deputation as the result of their tour in Natal. These findings have been brought to the notice of the Union Government and certain suggestions have been made. But until the deputation are in a position to communicate their final conclusions on the points referred to them, Government are not prepared to consider the question of publication.

(b) Government have not seen the resolution passed by the Empire Labour Conference and have not been approached by the Indian Trade Union Congress for facilities for sending a deputation to South Africa.

Mr. Devaki Prasad Sinha: Sir, will the Government of India give an assurance that, if they are approached by the Indian Trade Union Congress, they will consider the suggestion?

Mr. J. W. Bhore: We shall certainly consider the question—I can give that assurance.

REDUCTION OF BRITISH TROOPS IN INDIA.

305. ***Sir Hari Singh Gour:** (a) With reference to my starred question No. 168 and the Government's reply thereto, dated the 5th February, 1924, will the Government be pleased to state what action they have taken regarding the reduction of British troops in India in consequence of the recommendations of the Inchcape Committee?

(b) Is it a fact that the British Army in India is maintained as a part of the British Reserve? If the answer is in the affirmative, are the Government prepared to press upon the British Treasury the desirability of assuming the burden of such maintenance *pro tanto*?

Mr. E. Burdon: (a) The attention of the Honourable Member is invited to the replies given on the 1st February, 1924, to starred question No. 40 and on the 24th February, 1925, to starred question No. 1008.

(b) The answer to the first part of this question is in the negative, as I stated in reply to a question previously asked by the Honourable Member on the same subject on the 5th February, 1924.

The second part does not arise.

Mr. K. Ahmed: Sir, in view of the fact that the British Army in India is maintained as a part of the British Reserve, why should they not share the expenses?

Mr. E. Burdon: I have just stated that the Honourable Member's premise is incorrect.

CASE OF MR. TEK CHAND, POSTAL INSPECTOR, MULTAN DIVISION.

306. ***Mr. Ohaman Lall:** (1). (a) Is it a fact that according to the rules of the special rules and circulars issued under the authority of the Postmaster General, Punjab, an anonymous complaint received by the Department should be filed?

(b) Is it a fact that during the month of April, 1923, an anonymous complaint about the receipt of illegal gratifications against Inspector Tek Chand of the Multan Division was received in the Postmaster General's office and sent on to the Superintendent, Posts, Multan Division, for disposal, who in his turn filed it on account of its anonymity?

(c) Is it a fact that Mr. Niaz Qutab, Deputy Postmaster General, on his visit to Multan asked the Superintendent, Multan, if there was anything on record against the said Inspector?

(d) Is it a fact that Superintendent, Khalifa Fazal Rasul, made over to the Deputy Postmaster General the anonymous complaint lying in his office which had already been filed by him?

(e) Is it a fact that Mr. Niaz Qutab induced the Postmaster General, Mr. Booth, to allow him to start an inquiry against Mr. Tek Chand and obtained his permission to do so?

(f) Is it a fact that Inspector Tek Chand was placed under suspension during all this period of inquiry?

(g) Is it a fact that 15 charges of corruption were laid against the Inspector by the Deputy Postmaster General, 12 out of which fell through on account of lack of evidence against him, and is it a fact that only four out of twenty-five witnesses named by the Inspector were called for by the Deputy Postmaster General?

(2) Are the Government aware that on the report of the Deputy Postmaster General, Mr. Booth, the Postmaster General, Punjab, removed Mr. Tek Chand from the Inspector's line to the general line for the whole of his life making him a clerk in the Lahore Head Post Office?

The Honourable Sir Bhupendra Nath Mitra: (1). (a) Government understand that there is a rule warning officials of the Department that anonymous or pseudonymous letters sent by them will receive no attention.

(1) (b) to (g) and (2). Government have no information. If the individual referred to has any grievance, he is at liberty to appeal in the usual manner.

Mr. Ohaman Lall: There are definite allegations made in this question. Have Government no reply to these allegations?

The Honourable Sir Bhupendra Nath Mitra: I have already replied to the question, Sir, as it stands. The information asked for has been given to the Honourable Member.

Mr. Ohaman Lall: Is it not a fact, Sir, that this is a matter of great public interest?

The Honourable Sir Bhupendra Nath Mitra: That is a matter of opinion, Sir.

Mr. Ohaman Lall: Is it not up to the Honourable Member to answer questions put to him in this House?

Mr. Devaki Prasad Sinha: Have Government made any inquiries with reference to the statements contained in the question?

The Honourable Sir Bhupendra Nath Mitra: Certain Honourable Members are making certain allegations. The normal appeal rules are open to the person who is said to be aggrieved. Until he makes the appeal I can definitely tell my Honourable friends opposite that I am not going to take any action in the matter.

Mr. Devaki Prasad Sinha: Is it the decided policy of the Government not to make any inquiry on the basis of allegations contained in questions put in this House?

The Honourable Sir Bhupendra Nath Mitra: I was not asked to make any inquiries. This relates to a certain aggrieved official of Government and I cannot possibly go against the appeal rules as laid down by Government.

Mr. Devaki Prasad Sinha: Is there anything to prevent Government from making an inquiry into the circumstances set forth in this question?

The Honourable Sir Bhupendra Nath Mitra: There is nothing to prevent the Government, if Government come to the conclusion that such an investigation is required.

Mr. Devaki Prasad Sinha: What is the reason for the Government in this case deciding not to make any inquiry with reference to the charges referred to in this question?

The Honourable Sir Bhupendra Nath Mitra: The reply to this is contained in my original answer to the question.

Mr. Chaman Lall: May I know if the Honourable Member is aware that the allegations contained in this question are correct?

The Honourable Sir Bhupendra Nath Mitra: I have no information on the subject. I have said that the person who considers himself to be aggrieved has the right to send an appeal to Government and, when that appeal is received, I shall be perfectly willing to go into the allegations, but not until that stage is reached.

GRANT OF COMPENSATION TO THE DEPENDENTS OF MURDERED POSTAL RUNNERS.

307. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to my starred question No. 508 asked in the meeting of the Legislative Assembly held on 2nd September, 1925, regarding compensation to the dependants of murdered postal runners, will Government please state if they have received the papers from the Accountant-General, Posts and Telegraphs?

(b) If so, have they arrived at a decision in the case referred to?

(c) If they have, will they please communicate their decision to the House?

Mr. G. P. Roy: (a), (b) and (c). A pension of Rs. 6 a month was granted to the widow of the deceased runner with effect from the 24th September, 1924.

REFUSAL TO COUNT TEMPORARY SERVICE RENDERED BY ABDUL KADIR, SORTER, AMBALA RAILWAY MAIL SERVICE, TOWARDS HIS PAY IN THE TIME-SCALE.

308. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to starred question No. 523 asked in the meeting of the Legislative Assembly held on 2nd September, 1925, will Government please state whether they have considered the matter?

(b) If so, will they please communicate their decision to the House?

Mr. G. P. Roy: The matter was referred to the audit authorities, and a report from them is awaited.

DELAY IN THE PAYMENT OF A VALUE PAYABLE MONEY ORDER.

309. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to starred question No. 559 asked in the meeting of the Legislative Assembly held on 2nd September, 1925, regarding the delay in the payment of a value payable money order, will Government please state if the investigation has been completed?

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

Mr. G. P. Roy: (a) Yes.

(b) The incorrect preparation of the value payable money order was due to the short realisation of the amount recoverable from the addressee of the value payable article by Rs. 10-2-0. The clerk of the Khagaul Post Office responsible for the mistake has been charged with this and other irregularities committed by him, and he will be dealt with suitably on receipt of his explanation.

INDIAN PILGRIMS TO THE HEDJAZ.

310. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to my last supplementary question to my starred question No. 330 (b) and (c) asked in the meeting of the Legislative Assembly held on 1st September, 1925, regarding Indian pilgrims to the Hedjaz, will Government please state if they have received the reports?

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

Mr. J. W. Bhore: The report of the Indian Pilgrimage officer, which has been received, shows that the pilgrimage, which was of course exceptionally small in volume, was performed quite smoothly.

RELEASE OF BENGAL INTERNEES.

311. ***Mr. Ohaman Lall:** (a) Will Government inform the House whether they have now any intention of releasing the gentlemen arrested under the Bengal Ordinance?

(b) If not, will Government be pleased to place a statement before the House giving the name, occupation, present place of detention, present state of health and the reasons for detention of each one of the internees?

Mr. H. Tonkinson: (a) I invite the Honourable Member's attention to the reply given to question No. 89 on the 26th August, 1925.

(b) The Bengal Ordinance has been replaced by the Bengal Criminal Law Amendment Act, 1925. That Act is administered by the Government of Bengal. The Government of India are consequently not in possession of the information asked for.

Mr. Ohaman Lall: May I ask whether the Honourable Member would not consider it a matter of ordinary courtesy to inform the Honourable Member, who is asking the question, what the reply to the question previously asked was?

Mr. H. Tonkinson: No.

Mr. Ohaman Lall: Will the Honourable Member consider it a matter within his jurisdiction to answer the question, considering that it is a matter of law and order?

Mr. H. Tonkinson: No.

Mr. Ohaman Lall: Has the Honourable Member no other reply to give but the monosyllable "No"?

Mr. K. Ahmed: In view of the fact that the Government gave a certain answer in August last, and that five or six months have now elapsed, is there any change of attitude on the part of the Government to be expected in the matter at present? The Government might as well answer that the world is progressing, Sir?

Mr. Ohaman Lall: May I ask the Honourable Member, Sir, whether he will not consider it incumbent upon him to answer this question, considering that it has been admitted.

Mr. H. Tonkinson: Sir, I have already answered the question.

Mr. Ohaman Lall: May I ask the Honourable Member, Sir, whether he is prepared to give this House the information asked for in part (b) of this question?

Mr. H. Tonkinson: I have already informed the Honourable Member, Sir, that the Government of India are not in possession of the information asked for.

Mr. O. S. Ranga Iyer: Will the Government of India try to get the information asked for?

Mr. H. Tonkinson: No.

Mr. O. S. Ranga Iyer: Why should they not try?

Mr. H. Tonkinson: It is a matter of opinion.

Mr. Ohaman Lall: May I ask whether the Honourable Member will not reconsider his decision to give this House the information? It is a matter of grave public interest?

Mr. H. Tonkinson: The answer is in the negative.

Mr. A. Rangaswami Iyengar: May I know, Sir, whether, as a matter of fact there are any reasons why the Government do not want to send for the information asked for?

Mr. H. Tonkinson: No. The matter is primarily the concern of the Government of Bengal, and in these circumstances the Government of India do not propose to give any information which they have not got.

Sir Hari Singh Gour: Is it not a fact that the Government of Bengal is subject to the direction, supervision and control of the Government of India and is it not a fact that, if there is lawlessness in Bengal, the Government of India may be requisitioned for military aid? Is it not further a fact that it is the duty of the Government of India to see that they are primarily concerned with the maintenance of law and order throughout British India irrespective of the jurisdiction of the Local Governments?

Mr. H. Tonkinson: If the Honourable Member will divide his question into parts, Sir, I shall be prepared to answer. The answer is different to different parts.

Sir Hari Singh Gour: I did not realise, Sir, that the Honourable Member was suffering from such a short memory. I will sub-divide my questions. First, is it not a fact that under the Government of India Act, the Governor General in Council possesses the power of direction, supervision and control over all Local Governments including the Government of Bengal?

Mr. H. Tonkinson: In certain respects, Sir.

Sir Hari Singh Gour: In what respects, Sir?

Mr. H. Tonkinson: I should have thought that the answer was obvious to the Honourable Member. The answer is in the case of reserved subjects.

Sir Hari Singh Gour: Is not the maintenance of law and order and the apprehension of people without any judicial form a matter within the cognisance of the Government of India calling for the exercise of their power of direction, supervision and control?

Mr. H. Tonkinson: That, Sir, is a matter of opinion.

Mr. Chaman Lall: May we take it, Sir, that the Honourable Member is ashamed to give this answer to this House?

Mr. President: Order, order.

Mr. K. Ahmed: Is it not a fact, Sir, that last year, in 1924, I moved a Resolution, which was passed unanimously, to the effect that the Government must answer questions put in this House, though they are important provincial questions, when questions of this character are answered in the House of Commons in England across the sea?

Mr. President: It is high time that the Chair should intervene now. There is a strong feeling in the House that the information asked for should be supplied by Government and they would be well advised if they consider the desirability of supplying that information. (Applause.)

THE SOUTH AFRICAN CLASS AREAS BILL.

312. ***Mr. C. Duraiswami Aiyangar:** (a) Has the attention of the Government been drawn to an article in *Young India*, dated 24th December, 1925, by Mahatma Gandhi under the caption "The South African Puzzle"?

(b) Is it a fact that the Class Areas Bill now on the Legislative anvil in South Africa is opposed to the Gandhi-Smuts agreement of 1914?

(c) Is it a fact that the South African Government treats the Gandhi-Smuts agreement as a mere scrap of paper not entitled to observance?

(d) Will the Government be pleased to state what steps the Government of India intend taking to safeguard the rights and privileges of the Indian settlers in South Africa?

(e) In the event of the South African Union passing the Bill into law, do the Government of India propose to take any retaliatory measures and, if so, what are they?

Mr. J. W. Bhoré: (a) Yes.

(b) and (c). It will be seen from Sir Benjamin Robertson's statement before the Asiatic Inquiry Commission, which is available in the Library of the House, that the Government of India interpreted the Gandhi-Smuts agreement as implying that no new law would be passed imposing fresh restrictions on Indians. This interpretation was not accepted by the Asiatic Inquiry Commission, whose report is also in the Library of the House. The view held by the Commission was that from Mr. Gandhi's own definition of "vested rights", as given in his letter of the 7th July, 1914, it would appear that no more was intended than that the vested rights of those Indians who were then living and trading in townships, whether in contravention of law or not, should be respected. It is understood

that the present Union Government claim that the Gandhi-Smuts agreement, as interpreted by the Asiatic Inquiry Commission, has been fulfilled in the spirit as well as the letter inasmuch as the vested rights of Indians have been safeguarded in all laws which have been enacted by that Government in the past and also in the provisions of the Areas Reservation and Immigration and Registration (Further Provision) Bill which has been recently introduced.

(d) The attention of the Honourable Member is invited to the statement on the subject made in the speech of His Excellency the Viceroy at the opening of the present Session of the Legislative Assembly on the 20th January.

(e) Government are not prepared now to make any statement regarding the action which they may deem it advisable to take in the event of the Asiatic Bill becoming law.

Mr. Devaki Prasad Sinha: Finding that there was a difference in the interpretation of the Gandhi-Smuts agreement between the Government of India and the Government of South Africa, did the Government of India take any step to convince the South African Government that their interpretation was right, or to understand in what way the South African Government interpreted the Gandhi-Smuts agreement as they did?

Mr. J. W. Bhore: I would suggest to the Honourable Member that, as this is a subject which needs some consideration, and as we are likely to have a debate shortly on it, he should leave it over till the debate.

THE PATTUKOTTAI TRAIN TRAGEDY.

313. ***Mr. O. Duraiswami Aiyangar:** (a) Has the attention of the Government been drawn to the discussion in the Madras Legislative Council regarding the Pattukottai train tragedy?

(b) Do the Government intend to appoint a committee of non-official gentlemen to inquire into and report regarding the causes of that tragedy?

(c) Will the Government be pleased to state the number of casualties and the value of property lost?

(d) Will the Government be pleased to state if any claims for compensation have been made by the heirs of the killed or by the wounded passengers against the railway company?

The Honourable Sir Charles Innes: (a) No.

(b) In view of the fact that the cause of the accident was fully inquired into by a committee of railway officers in the presence of the Senior Government Inspector of Railways, Madras, and the Sub-Divisional Magistrate, Pattukottai, and that the Collector and District Magistrate, Tanjore, also held a magisterial inquiry, Government do not propose to appoint the committee suggested.

(c) 9 passengers were killed and 20 injured. Government have no information regarding the value of the property lost.

(d) Government have no information.

Mr. A. Rangaswami Iyengar: May I know whether Government have received any report from the Senior Government Inspector of Railways, Madras, as to the state of construction of this line; whether the line has been properly constructed with the necessary culverts, and whether there has been neglect?

The Honourable Sir Charles Innes: I think the Honourable Member has put a question on that very subject, and I will reply to it in due course.

Mr. B. Das: May I inquire whether the railway companies ever pay damages for lives lost?

The Honourable Sir Charles Innes: Very much so, as the Honourable Member will see from the Supplementary Demands.

VOTERS FOR LEGISLATIVE BODIES IN INDIA.

314. ***Dr. S. K. Datta:** 1. Will Government lay on the table a statement showing, according to districts in India, the total number of voters for:

- (a) The Council of State;
- (b) The Legislative Assembly; and
- (c) The Provincial Legislative Councils?

2. Of these numbers under each head how many are?

- (a) Hindus;
- (b) Muhammadans;
- (c) Indian Christians;
- (d) Europeans; and
- (e) Anglo-Indians?

Mr. H. Tonkinson: Government are unable to furnish the information asked for by the Honourable Member. In this connection he is referred to the Return showing the results of election in India, 1923 (Command Paper No. 2154), a copy of which is in the Library of this House.

Mr. K. Ahmed: Are Government aware that the European community has an unusually large number of seats allotted to it in Bengal in comparison with Muhammadans and Hindus, and that this is a hopeless shame?

Dr. K. G. Lohokare: Will it be possible for Government to arrange to supply this information at the next election?

Mr. H. Tonkinson: If the Honourable Member will refer to the Return showing the results of election in 1923, he will see that it is exceedingly detailed. I do not see that any purpose will be served by adding to these details.

OPIMUM INQUIRY COMMITTEE.

315. ***Dr. S. K. Datta:** Will Government state what steps have been taken to appoint a Committee of Inquiry into the production, manufacture and sale of opium in British India?

The Honourable Sir Basil Blackett: The replies of Local Governments to the reference from the Government of India regarding consumption of opium in India have been received and are now under careful examination. I am not in a position to make any further statement at present.

SMUGGLING OF CHINESE OPIUM INTO BRITISH INDIA.

816. ***Dr. S. K. Datta:** (1) Will Government state whether during the years 1924 and 1925 attempts were made to smuggle Chinese opium by sea into British India? If so, at what ports were seizures made, and what was the number and quantity of such seizures?

(2) During 1924 and 1925 was smuggling of Indian opium into Burma detected? If so, what was the number and quantity of such seizures in each year?

(3) Has smuggling by land of Chinese opium into Burma increased? If so, what was the number and quantity of seizures by the Excise authorities during the years 1924 and 1925?

The Honourable Sir Basil Blackett: (1) Yes. Seizures were effected at the ports of Calcutta and Rangoon. The number was 1 and 5 during 1924 and 1925, and the quantity seized amounted to 10,820 in 1924 and 9,586 tolas in 1925. These figures refer only to opium definitely known to have been of Chinese origin and are not necessarily complete.

(2) The Customs Department effected 60 seizures amounting to 1,833½ lbs. in 1923-24 and 50 seizures amounting to 996 lbs. in 1924-25. The seizures made by the Excise Department during these two years amounted to 268,410 and 274,872 tolas respectively. It is not known definitely how much of this captured opium was of Indian origin, but it is stated in the Burma Excise Report for 1924-25 that Indian opium seized in Rangoon amounted to 110,948 tolas. The Preventive Department at Calcutta also made 18 seizures of opium weighing 3½ maunds in 1923-24 and 9 seizures weighing 2½ maunds in 1924-25, attempted to be smuggled out of that port, and it is believed that a part of this opium was meant for surreptitious entry into Burma.

(3) The Government of India have no definite information in regard to the first part of this question. As regards the second part, all the information available is given in my reply to (2) above.

Dr. S. K. Datta: Will the Honourable Member inform the House whether the smuggling of Chinese opium has led to any reduction in the smuggling of Indian opium.

The Honourable Sir Basil Blackett: If the Honourable Member will read the figures, he will see that I have given him all the information I possess.

SALES OF OPIUM BY AUCTION IN 1924 AND 1925.

817. ***Dr. S. K. Datta:** (a) Will Government lay on the table of the House a statement showing for the period covering the years of 1922, 1923, 1924 and 1925 and for each month in each year, the number of chests of opium offered for sale by auction and the number actually purchased?

(b) Will Government state what firms and individuals purchased opium during the auction sales in 1924 and 1925?

The Honourable Sir Basil Blackett: (a) and (b). A statement giving the requisite information is laid on the table.

(a) Statement showing auction sales of opium during the years 1922-25 and the names of firms and individuals who purchased opium during auction sales in 1924 and 1925.

	NUMBER OF GUNTS PUT TO AUCTION.												NUMBER OF GUNTS ACTUALLY SOLD.													
	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.	Total.	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.	Total.
1922	100	100	250	300	300	300	300	290	200	200	200	240	2,790	100	10	250	300	300	300	300	175	200	125	200	240	2,500
1923	250	250	250	250	300	250	250	240	250	250	250	350	3,150	250	280	250	240	300	250	250	250	200	200	350	3,000	
1924	250	250	250	250	250	340	250	220	240	240	250	250	3,000	200	250	250	240	250	250	280	250	200	15	10	15	2,240
1925	250	250	250	240	250	240	250	250	250	240	250	250	3,000	70	Nil	250	250	250	250	250	180	5	5	10	55	1,535

(b) Messrs. Sailal Chamria, M. A. Sassoon and Sons, Ltd., M. K. Shivazi & Co., Durga Dutt Jalan, Rampratab, Srilal Chamria, Hurdotroy Chamria & Sons, E. D. Sassoon & Co., Rampratab Nemanee, Madan Lall Sheiksharia, Ganeshdas Jamnadar, Hanumanbux Nemanee, Goolab Rai Sarwaji, Lakshmi Chand Modi, Moti Lall Dhandhaini and B. A. Basil.

REDUCTION OF COAL FREIGHTS.

318. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to starred question No. 359 asked in the meeting of the Legislative Assembly held on 1st September, 1925, regarding the reduction of coal freights, will Government please state if they have received the report of the President?

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

The Honourable Sir Charles Innes: (a) and (b). I am not prepared to lay a copy of the correspondence on the table. It was purely demi-official. As regards the point of substance raised by the Honourable Member, namely, the reduction of coal freights, I am not prepared to make any statement at this stage.

ANNUAL CLASSIFICATION OF THE PIECE-WORK ESTABLISHMENT OF THE GOVERNMENT OF INDIA PRINTING, CALCUTTA.

319. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to my starred question No. 402 (c) asked in the meeting of the Legislative Assembly held on 1st September, 1925, regarding the annual classification of the piece-work establishment of the Government of India Printing, Calcutta, will Government please state if they have received the proposals from the Controller of Printing, Stationery and Stamps?

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

The Honourable Sir Bhupendra Nath Mitra: (a) No.

(b) Does not arise.

INDIAN FOREST SERVICE EDUCATIONAL STAFF AT THE FOREST RESEARCH INSTITUTE AND COLLEGE, DEHRA DUN.

320. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to supplementary question to my starred question No. 284 (a) asked in the meeting of the Legislative Assembly held on 31st August, 1925, regarding the Indian Forest Service educational staff at the Forest Research Institute and College, Dehra Dun, will Government please state if they have considered the question?

(b) If so, will they please communicate their decision to the House?

Mr. J. W. Bhore: The question is still under consideration and a definite decision will be arrived at as soon as the proposals for the future training of probationers for the Indian Forest Service at Dehra Dun have been approved.

PRINTING OF STAMPS IN INDIA.

321. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) With reference to Government reply to starred question No. 240, asked in the meeting of the Legislative Assembly held on 31st August, 1925, regarding printing of stamps in India, will Government please state if the printing that was expected to commence in November, 1925, has actually commenced?

(b) If the answer to (a) is in the negative, will Government please state the reason for the delay?

The Honourable Sir Basil Blackett: (a) Yes.

(b) Does not arise.

PROVINCIAL AGRICULTURAL COLLEGES.

822. ***Khan Bahadur Sarfaraz Hussain Khan:** (a) Will Government please state if all the provinces of British India have got provincial agricultural colleges?

(b) If not, will they please state the provinces which have got them, and the provinces which have not?

Mr. J. W. Bhore: (a) and (b). There are agricultural colleges in Bombay, Madras, the Punjab, United Provinces, Central Provinces, and Burma, but not in Assam, Bengal and Bihar and Orissa. The Imperial Agricultural Research Institute at Pusa is however situated in the last named province.

Mr. K. Ahmed: Are Government aware that while in Bengal 95 per cent. of the population are agriculturists, there is not a single agricultural college there, which entails great suffering on the people. Do Government propose to establish an agricultural college in Bengal?

Mr. J. W. Bhore: The Honourable Member must realise that agriculture is a transferred subject, and that any representations in regard to this matter should be made to the Local Government.

Mr. K. Ahmed: Would it not then be better in the interests of the tax-payers of this country that the Department to which the Honourable Member belongs should be abolished?

The Honourable Sir Basil Blackett: I cannot think that it is for the benefit of the tax-payers of this country that these long supplementary questions should be printed.

REPORT OF THE INDIAN ECONOMIC INQUIRY COMMITTEE.

†823*.

SHIFTING OF THE RAILWAY STATION AT RAMESWARAM TO SOME OTHER SITE.

824. ***Mr. M. K. Acharya:** Will the Government be pleased to state:-

- (a) whether there is any proposal to shift the present railway station at Rameswaram;
- (b) for what reasons the change is being proposed;
- (c) whether any representation has been made by the residents of Rameswaram suggesting any alternative proposals; and
- (d) before sanctioning the proposed change, whether Government will afford sufficient opportunity to those who may be affected by the change to make their representations duly to the Railway concerned and to Government?

†Answered on 21st January, 1926, along with question No. 4.

Mr. G. G. Sim: (a) About 9 miles of the main line of the South Indian Railway between Pamban and Dhanskodi is being realigned and this involves the shifting of Rameswaram Station about $2\frac{1}{2}$ miles from the town.

(b) Ever since it was constructed this portion of the line has been seriously menaced by sand dunes that have been advancing on the line in a north easterly direction. Continuous removal of sand at great expense has been necessary, and at intervals when the encroachment has been rapid the line had to be diverted ahead of the advancing dunes. By 1924 the line had been shifted to the last place it could occupy in this direction. The position was then serious if communication was to be maintained at all, and in the interests of economy and safety of working it was necessary that the line should be diverted at an early date behind the dunes.

(c) The Government have no information.

(d) After a thorough investigation the Railway Board agreed with the Railway Administration that the only feasible way of dealing with the difficulty short of abandoning the route to Dhanaskodi was the diversion of the line behind the sand dunes, and this proposal was sanctioned in March 1924.

POLITICAL DÉTÉNUS IN BENGAL.

325. ***Mr. M. K. Acharya:** Will the Government be pleased to furnish:

- (a) a list of the Bengal political détenus;
- (b) the status of each before arrest;
- (c) the nature of the restraint now placed on them;
- (d) the period for which each has now been under restraint;
- (e) the places of custody where each is now kept;
- (f) the differentiation, if any, between them and ordinary criminals;
- (g) the offence of which each is suspected; and,
- (h) whether there is any likelihood of any of them being placed upon open trial in the near future?

Mr. H. Tonkinson: (a) and (d). I lay on the table a list containing the names of persons detained under Regulation III of 1818 and the dates on which their detention began.

The Bengal Criminal Law Amendment Act, 1925, is administered by the Government of Bengal and any question regarding persons detained under its provisions should be addressed to that Government.

(b) I am not in possession of information in regard to the status of all these persons.

(c), (e) and (f). The persons I have mentioned are all detained in jails, the names of which I am not prepared to give, but they are subject to an entirely different code of rules from persons convicted under the ordinary criminal law and enjoy special concessions in the matter of food, clothing, interviews, letters, literature, recreation, etc.

(g) I am not prepared to give any information other than that which has already been given in the course of debate or otherwise, in regard to the grounds on which action was taken against them.

(h) I would refer the Honourable Member to the answer given to question No. 296 on 26th August, 1925, which applies equally to the cases of persons detained under Regulation III of 1818.

List of Bengal Revolutionaries detained under Regulation III of 1818.

Serial No.	Name.	Date of detention.
1	Man Mohan Bhattacharji	25th September, 1923.
2	Satish Chandra Bhattacharji	Ditto.
3	Jadu Gopal Mukharji	Ditto.
4	Bhupendra Kumar Dutt	Ditto.
5	Jyotish Chandra Ghosh	Ditto.
6	Manoranjan Das Gupta	Ditto.
7	Bhupati Mazumdar	Ditto.
8	Amrita Lal Sarkar	Ditto.
9	Rabindra Nath Sen Gupta	Ditto.
10	Kali Prasad Banerji	27th September, 1923.
11	Jiban Lal Chatterji	4th October, 1923.
12	Satish Chakravarti	23rd January, 1924.
13	Arun Chandra Guha	25th January, 1924.
14	Kiran Chandra Mukharji	Ditto.
15	Purna Chandra Das	8th March, 1924.
16	Bepin Behari Ganguli	9th March, 1924.
17	Pratal Ganguly	22nd August, 1924.

Sir Hari Singh Gour: May I inquire whether the detention is limited as to time, or whether the prisoners are detained at the pleasure of the Government?

Mr. H. Tonkinson: I am afraid I must ask for notice of that question.

Mr. C. S. Ranga Iyer: May I ask the Honourable Member to get the information sought for in (b) of question No. 325? May I ask him to secure the information which he failed to give to this House?

Mr. H. Tonkinson: I will consider that point.

Mr. K. Ahmed: Is it not a fact that a supplementary question is a question which elicits further facts regarding the matter in issue, and, in view of that, is not Sir Hari Singh Gour entitled to get his answer from the Honourable the Joint Secretary of the Home Department as to the time within which the Government propose to release these people, or the time for which they wish to keep them in custody at the cost of the State and the population of India?

Mr. Devaki Prasad Sinha: Sir, are Government aware that yesterday the Honourable the Home Member, speaking on a Resolution which was discussed in this House, said that the case of each political détenu had been placed before him and examined by him.

Mr. H. Tonkinson: I am afraid I do not recollect the statement; you had better ask the Honourable Member.

Mr. A. Rangaswami Iyengar: Are we to wait to put questions after the Home Member arrives here? I want to know, after what the Home Member said yesterday, whether it is not the duty of the Government of India to obtain information in regard to each of these détenus?

Mr. R. K. Shanmukham Ohetty: Is the Honourable Member aware of the fact that the Home Member told the House yesterday that he took on his shoulders the fullest responsibility for the promulgation of the Ordinance and the detention of these prisoners and did not want to take shelter behind the Local Government?

Mr. H. Tonkinson: I believe that is a fact.

Mr. R. K. Shanmukham Ohetty: Then does not the Honourable Member realise that it is the duty of the Government of India to get the information asked for about these political détenus?

Mr. H. Tonkinson: So far as the Bengal Criminal Law Amendment Act is concerned, the answer is in the negative.

Mr. C. S. Ranga Iyer: Are the Government further aware that the Home Member said yesterday that all the prisoners were treated according to their status while the Honourable Member says he is not in possession of information in regard to their treatment?

The Honourable Sir Charles Innes: May I point out, Sir, that you have already intervened in this matter. The Honourable the Leader of the House will no doubt consider what you have said, and I suggest the matter may be left at that.

APPOINTMENT HELD BY KHAN BAHADUR MUNSOOR ALI KHAN ON THE EAST INDIAN RAILWAY.

326. ***Mr. M. K. Acharya:** Will the Government be pleased to state:

- (a) what place Khan Bahadur Munsoor Ali Khan who was District Traffic Superintendent, Claims, of the old Oudh and Rohilkhand Railway now holds on the East Indian Railway;
- (b) what amount has been paid through him on claims during 1924-25;
- (c) what amount was paid on other sections of the East Indian Railway as compensation for goods lost during 1924-25; and
- (d) what machinery the Railway Administration have got in order to check the validity of the claims recommended by the Claims Department?

Mr. G. G. Sim: (a) Khan Bahadur Munsoor Ali Khan holds the post of Assistant Superintendent, Commercial, on the East Indian Railway.

(b) and (c). The information is not available. The amounts of claims paid by the Oudh and Rohilkhand and East Indian Railways during 1924-25 will be found at page 27 of Volume I of the Report by the Railway Board on Indian Railways for that year.

(d) The Claims Department, with its complement of supervising staff, investigates and settles claims. No other machinery is considered necessary.

Mr. M. K. Acharya: Is the Honourable Member able to supply me with the information asked for in (c)?

Mr. G. G. Sim: Yes, Sir, I told the Honourable Member that all the details available would be found in Volume I of the Report of the Railway Board for that year, a copy of which is in the Library.

USE OF THIRD CLASS HALF TICKETS AS FULL TICKETS ON THE SOUTH INDIAN RAILWAY.

327. ***Mr. M. K. Acharya:** Will the Government be pleased to state:

- (a) what the ordinary size of third class tickets is on Indian Railways;
- (b) whether on the South Indian Railway, each half ticket is being used as a full ticket;
- (c) whether the same practice is followed on any other Railway; and
- (d) what special reasons exist on the South Indian Railway for this special procedure?

Mr. G. G. Sim: (a) to (d). The matter is under inquiry and a reply will be sent to the Honourable Member in due course.

PAY OF THE CUSTOMS MINISTERIAL ESTABLISHMENT IN MADRAS.

328. ***Mr. M. K. Acharya:** Will the Government be pleased to state:

- (a) whether there are any differences in the salaries paid to the ministerial establishments in the various customs ports in British India, and whether there are corresponding differences in the duties performed by the employees concerned?
- (b) what the minimum and maximum salaries are of the Upper and Lower Division clerks employed in the Customs offices at Calcutta, Bombay, Rangoon and Madras;
- (c) whether any representation has been received from the establishment at Madras for equality of treatment with the employees in sister ports; and
- (d) what the minimum and maximum salaries are of the clerks in the Accountant General's office at Madras, and whether Government propose to sanction to the Customs establishment at Madras, salaries not less than those of the clerks in the Accountant General's office?

The Honourable Sir Basil Blackett: As the answer is a somewhat long one, I will ask the Honourable Member to let me lay it on the table.

- (a) The answer to the first part is in the affirmative and that to the second part, broadly speaking, is in the negative, although

in the case of supervising grades there are differences in the amount of responsibility. There are of course considerable differences in the cost of living.

(b) The figures are given below :

	Upper Division.	Lower Division.
Calcutta	80—200	45—120
Bombay	110—230	60—160
Rangoon	150—250	60—150

In Madras the clerical staff is organised in three grades: the rates of pay are 40—65, 65—85, and 85—125.

(c) Yes.

(d) The salaries of clerks in the Civil Accountant General's office at Madras range from 40 to 175. The answer to the second part of the question is in the negative.

NUMBER OF TELEGRAPHISTS IN THE TELEGRAPH DEPARTMENT.

329. ***Mr. M. K. Acharya:** Will the Government be pleased to state:

(a) the exact number of telegraphists now employed in the Telegraph Department under each of the following heads, and the number of Indians and non-Indians, and rates of pay including allowance, if any, in each case:

- (i) General;
- (ii) Local Service; and
- (iii) Station Service?

(b) the prospective appointments in the Department (Traffic, Engineering, Telephones and Wireless, all inclusive) which a Telegraphist can aspire to, showing in each case the number of Indians and non-Indians employed in these appointments at present; and

(c) whether these appointments are open only to General Service telegraphists or, if not, how many of these appointments are held by Local or Station Service men at present?

The Honourable Sir Bhupendra Nath Mitra: (a) The number of telegraphists on the 1st December, 1925, was as follows:

General Service	{	Anglo-Indians	1,875
		Other Indians	687
Local Service	{	Anglo-Indians	82
		Other Indians	90
Station Service	{	Anglo-Indians	71
		Other Indians	488

The rates of pay for telegraphists of the various services are :

		Rs.
General Service		80—5—100—10—250
Local Service		55—5—120—10—180
Station Service	(a)	70—5—180
	(b)	60—5—150

Allowances in many cases are local and in others are paid according to the outturn of work or for extra hours employed on duty outside the normal hours of work. It is not, therefore, possible to specify the rates of allowances.

(b) The prospective appointments in the Department are at present :

Traffic Branch.

- (i) 353 in the grade of Telegraph Masters, of which 204 are held by Anglo-Indians and 149 by other Indians.
- (ii) 54 in the grades of Deputy Superintendents, Traffic, of which 43 are held by Anglo-Indians and 11 by other Indians.
- (iii) 49 in the Superior Traffic Branch, of which 42 are held by Anglo-Indians and 7 by other Indians.
- (iv) One appointment of Deputy Director-General, Telegraph Traffic, held by an officer of the old Superior Establishment of the Telegraph Department.

Wireless Branch.

- (i) 29 Deputy Assistant Engineers, of whom 28 are Anglo-Indians and one other Indian.
- (ii) Assistant Engineers, Wireless, of whom two are Anglo-Indians and other Indians *nil*.

Engineering Branch (including Telephones).

(i) Supervisors	{ Anglo-Indians	158
	{ Other Indians	60
(ii) Deputy Assistant Engineers	{ Anglo-Indians	84
	{ Other Indians	8
(iii) Assistant Engineers	{ Anglo-Indians	19
	{ Other Indians	2
(iv) Assistant Divisional Engineers	{ Anglo-Indians	6
	{ Other Indians	1

(c) The higher appointments in the Traffic and Engineering Branches are open to all classes of telegraphists, General, Local or Station. On transfer to the Engineering Branch telegraphists are placed on General Service conditions; in the Traffic Branch, the classification into General, Local and Station Service cadre continues to the grade of Telegraph Masters only and ceases in the higher grades when men become liable for transfer to all parts of India and Burma. Only General Service telegraphists are eligible

for appointment to the Wireless Branch. 28 appointments in the grade of Telegraph Masters are held by Local Service and one by a Station Service man. No information is readily available showing the particular service to which each telegraphist belonged before his transfer to the Engineering Service.

**DIRECT RECRUITMENT OF NON-INDIANS TO THE GENERAL SERVICE IN THE
TELEGRAPH DEPARTMENT.**

330. ***Mr. M. K. Acharya:** (a) Will the Government be pleased to state how many Local Service telegraphists were transferred to the General Service on the abolition of the former service and how many of them were Indians?

(b) What was the proportion of Indians to non-Indians in the General Service before the Local Service telegraphists were transferred to General Service and what is the proportion at present?

(c) Have the Government issued any instructions for selection of General Service probationers from amongst non-Indians only? If not, how many Indians and non-Indians have up to date been recruited direct to that Service?

(d) What are the reasons for giving preference to non-Indians for direct recruitment to the General Service?

The Honourable Sir Bhupendra Nath Mitra: (a) 778 telegraphists have been transferred from the Local to the General Service since the decision was reached to abolish the former. All of these were statutory Indians, but 671 were Indians as distinct from Anglo-Indians.

(b) The whole of both Services is manned by statutory Indians; the number of Indians and Anglo-Indians in the General Service before the Local Service telegraphists were transferred to the General Service was 137, and 1,978 respectively and is now 675 and 1,845 respectively.

(c) No. It would be impossible, without an expenditure of time and labour which the Government of India consider unnecessary, to ascertain to total number of Indians and Anglo-Indians who have up to date been recruited direct to the General Service.

(d) This will be covered by my reply to the Honourable Member's next question.

**RECRUITMENTS TO THE GENERAL SERVICE AND THE STATION SERVICE IN
THE TELEGRAPH DEPARTMENT.**

331. ***Mr. M. K. Acharya:** (a) Is it a fact that the Government or the Departmental authorities have entered into contracts with certain Anglo-Indian Schools and Homes, and with certain Indian Colleges by which the former supply Anglo-Indians exclusively for the General Service and the latter Indians exclusively for the Station Service? If so, what were the reasons for making such a distinction between Indians and Anglo-Indians and who is responsible for making this distinction?

(b) Is it a fact that on the abolition of the Local Service, the Local Service probationers, mostly Indians, who were then in the Training Classes were told either to accept Station Service or to resign?

(c) Why were the Local Service probationers not given the option of electing for the General Service when outside recruits to that Service were being taken from Anglo-Indian Schools and Homes?

The Honourable Sir Bhupendra Nath Mitra: (a) Yes. Under the system formerly in force, the ordinary channel of recruitment of Indians as distinct from Anglo-Indians to the General Service was by promotion from the Local Service. But it will be understood that since the decision to abolish the Local Service was taken a largely increased number of Indians had been transferred to the General Service, the number of appointments of Indians to that Service during the last five years having been 686 as against 408 Anglo-Indians.

(b) Yes.

(c) It would have been an unnecessary expense to have transferred probationers who were recruited specifically for a cheaper Local Service to the more expensive General Service.

GRIEVANCES OF INDIANS IN THE TELEGRAPH DEPARTMENT.

392. ***Mr. M. K. Acharya:** (a) Will Government be pleased to state whether the All-India Telegraph Union have submitted a statement of several grievances affecting mostly Indians?

(b) If so, are the Government prepared to get those grievances examined by an impartial committee of inquiry with a view to ascertaining their legitimacy?

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

(b) The Government of India will examine them, but they do not at present consider the appointment of a committee of inquiry to be necessary.

Mr. Chaman Lall: Will the Government also take into consideration the grievances of the telegraph peons?

The Honourable Sir Bhupendra Nath Mitra: That question, Sir, does not arise out of this question.

Mr. Chaman Lall: Is it not a fact that there are several peons who are members of the telegraph service?

The Honourable Sir Bhupendra Nath Mitra: But those are not the grievances to which Mr. Acharya refers. I dare say he will confirm me on that point.

RECRUITMENT OF TELEGRAPHISTS.

393. ***Mr. M. K. Acharya:** (a) Will the Government be pleased to state whether the Telegraph Department is overstaffed with telegraphists and if so, why recruitment of telegraphists is still being continued?

(b) Is it a fact that the Departmental Retrenchment Committee's recommendations affect only the prospects of the subordinate staff and that the avenues of economy with regard to the superior establishment have not at all been explored?

The Honourable Sir Bhupendra Nath Mitra: (a) Yes. Recruitment is only being continued in so far as this is necessary to carry out the agreement with certain schools which was referred to in the Honourable Member's question No. 381, which I have just answered.

(b) No.

Mr. B. Das: May I know whether Government have given effect to the recommendations of the Ryan Committee regarding retrenchments in the Posts and Telegraph Department?

The Honourable Sir Bhupendra Nath Mitra: That question will come later. If the Honourable Member had studied the list of questions he would have seen that that question appears later on, and I hope he will agree to my giving an answer to it in due course.

LEAVE OF THE VACATION DEPARTMENTS IN THE MADRAS PRESIDENCY.

334. ***Mr. B. Venkatapatiraju:** (a) Will the Government be pleased to state whether the Government of India are aware that the vacation departments of the Madras Presidency are being given no leave on full average pay at all, corresponding to the privilege leave or 'furlough' on half pay under the old Civil Service Regulations which the Fundamental Rules have in effect converted for all departments alike into 'leave on full average pay' for half the period, though other provinces like Bengal and Bihar, as I am informed, are allowing leave on full average pay to the vacation departments otherwise than on medical certificate, or for trips beyond British India?

(b) If so, will the Government of India be pleased to state whether they have directed or propose to direct removal of the anomaly and injustice by allowing leave on full average pay for half the period to the vacation departments of the Madras Presidency who are now totally denied the benefit of the Fundamental Rules with regard to full average pay?

The Honourable Sir Basil Blackett: The position is being examined.

INQUIRY INTO THE WASTAGE OF LIFE AND THE ECONOMIC DEPRESSION IN INDIA FROM PREVENTIBLE DISEASES.

335. ***Mr. B. Venkatapatiraju:** (a) Has the attention of the Government been drawn to the important resolution moved by Lt.-Col. J. W. D. Megaw, I.M.S., Director of the Calcutta School of Tropical Medicine that a strong commission chiefly of a non-technical character on the lines of the original Public Health Commission in England in the 19th century, should make a thorough inquiry into the wastage of life and the economic depression in India resulting from diseases capable of being prevented?

(b) Will the Government be pleased to state whether the Government propose to take any action in the matter in the direction indicated above?

Mr. J. W. Bhore: (a) The Government of India are aware that such a resolution was moved by Col. Megaw.

(b) The proceedings of the Medical Research Workers' Conference have not yet been submitted to the Government of India. When they are received, I can assure the Honourable Member that the resolution will be duly considered.

PREVENTION OF MALARIA.

336. ***Mr. B. Venkatapatiraju:** Will the Government be pleased to state what steps they propose to take in respect of malaria suppression work in the matter of providing an effective permanent central organisation to work in collaboration with organisations in the Provinces in the effort to cope with this menace to health and prosperity in India as indicated in the Indian Medical Research Workers Conference?

Mr. J. W. Bhore: As I have said in answer to the Honourable Member's last question, the proceedings of the Medical Research Workers' Conference have not yet been received, but I give him the same assurance that, when they are, the proposal will be duly considered.

ESTABLISHMENT OF THE RATES TRIBUNAL.

337. ***Mr. B. Venkatapatiraju:** Will the Government be pleased to state why the establishment of a Railway Rates Tribunal was postponed till now and when the Railway Rates Tribunal will be established in India?

ESTABLISHMENT OF THE RATES TRIBUNAL.

352. ***Mr. K. Rama Aiyangar:** (a) Will the Government be pleased to inform this Assembly whether they have succeeded in persuading Company-managed Railways to accept the Rates Tribunal with powers and functions as suggested by the Acworth Committee?

(b) In whichever form the Government have ultimately decided to constitute the Rates Tribunal, will they be pleased to inform this Assembly when the personnel will be announced?

ESTABLISHMENT OF THE RATES TRIBUNAL.

385. ***Mr. B. Das:** Will Government be pleased to state if they have reached any decision regarding the establishment of a Rates Tribunal?

The Honourable Sir Charles Innes: I propose with your permission, Sir, to answer questions Nos. 337, 352 and 385 together.

After consultation with the Central Advisory Council the matter was again referred to the Secretary of State whose sanction has now been received. The body will be called the "Rates Advisory Committee"; its functions will be to investigate and report to the Government of India on the following subjects:

- (1) Complaints of undue preference [section 42 (2) of the Indian Railways Act, 1890];
- (2) Complaints that rates are unreasonable in themselves;
- (3) Complaints or disputes in respect of terminals (section 46 of the Railways Act);
- (4) The reasonableness or otherwise of any conditions as to the packing of articles specially liable to damage in transit or liable to cause damage to other merchandise;
- (5) Complaints in respect of conditions as to packing attached to a rate, and
- (6) Complaints that railway companies do not fulfil their obligations to provide reasonable facilities under section 42(3) of the Indian Railways Act.

The personnel of the Committee is under consideration and will be notified in due course.

Mr. R. K. Shanmukham Chetty: Is it a fact that the Acworth Committee recommended that the Rates Tribunal should be appointed with statutory powers while the Government of India intend to appoint the Rates Tribunal merely as an advisory body?

The Honourable Sir Charles Innes: I may point out to the Honourable Member that this decision I have just announced to the House is the result of very prolonged deliberations not only on the part of the Government of India but also on the part of the Central Advisory Committee, and it represents a decision arrived at in consultation with the Central Advisory Committee. The factors entering into the case are extremely complicated and I would suggest to the Honourable Member that, if he wishes to go into the matter, he can bring it up in connection with the Railway Budget for full discussion.

Mr. R. K. Shanmukham Chetty: Did the Central Advisory Committee advise the Government of India that the Rates Tribunal should be appointed as an advisory body?

The Honourable Sir Charles Innes: As I said, this represents a decision arrived at in consultation with them.

Mr. R. K. Shanmukham Chetty: What was the Central Advisory Committee's view?

The Honourable Sir Charles Innes: They agreed to this proposal.

Mr. A. Rangaswami Iyengar: May I know if Government have since received representations from the Indian Chamber of Commerce?

The Honourable Sir Charles Innes: Not, as far as I am aware, from the Indian Chamber of Commerce, but I have had a representation from the Ahmedabad Mill-owners.

Mr. K. Ahmed: Is the Rates Advisory Committee subordinate to the Rates Tribunal, or will matters be referred to the Advisory Committee by the Tribunal?

APPOINTMENT OF AN INDIAN TO THE NEXT VACANCY OF MEMBER OF THE RAILWAY BOARD.

338. ***Mr. B. Venkatapatiraju:** Will the Government be pleased to state when the earliest vacancy will arise in the membership of the Railway Board and whether the Government contemplate appointing an Indian then?

The Honourable Sir Charles Innes: I regret to announce that Mr. Sim, the Financial Commissioner of Railways, proceeds on short leave at the end of this session. On his return from leave he will become Secretary to the Government of India in the Finance Department. After careful consideration of the claims of possible candidates, the Government of India have decided that the best man to succeed Mr. Sim is Mr. A. A. L. Parsons, C.I.E., I.C.S. Mr. Parsons will join his appointment in the beginning of April.

PROTECTION OF INDIAN INTERESTS IN TANGANYIKA, UGANDA AND KENYA.

339. ***Mr. B. Venkatapatiraju:** (a) Has the attention of the Government been drawn to the conference at Moshi of the Governors of Tanganyika, the mandated territory, Uganda, the Protectorate and Kenya, the Crown Colony, to level down the differences of administration?

(b) Will the Government be pleased to state whether they have taken any, and if so, what steps to protect the interests of Indians settled in those places?

Mr. J. W. Bhore: (a) The reply is in the affirmative.

(b) The Government of India have nothing to add to the announcements made from time to time by them and by His Excellency the Viceroy regarding the steps that have been taken to protect the interests of Indians in the territories mentioned.

INDIAN DEPUTATION TO SOUTH AFRICA.

340. ***Mr. B. Venkatapatiraju:** (a) Has the attention of the Government been drawn to the statement of Dr. Milan, Minister of the Interior, South African Government, that the request of the Indian Government for a Round Table Conference was refused by the Union Government on the ground that it would mean making a concession on the essential principles of the Bill and the Union Government was not prepared to do that but welcomed the Indian deputation as they would have an opportunity of giving evidence before the Select Committee of the anti-Asiatic Bill?

(b) Have the Government agreed to the view that the function of the Indian deputation was to give evidence before the Select Committee?

(c) Will the Government be pleased to publish the correspondence to avoid misapprehensions in the matter?

(d) Have the Government given instructions to the deputation to give evidence before the Select Committee or has the deputation been allowed only to discuss the Asiatic problem with the political parties and official representatives without committing this Government to any definite course before the Assembly had an opportunity of expressing its view in the matter?

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

(b) and (d). The functions of the Indian deputation to South Africa are explained in the press communiqué which was issued on the 20th November, 1925, a copy of which has been placed in the Library of the House. The Union Government have undertaken to give the deputation, if they so desire, an opportunity of laying the case of Indians before the Select Committee which may be appointed after the second reading of the Bill. The Government of India are not yet in a position to state whether any useful purpose will be served by authorising their deputation to give evidence before the Committee.

(c) The Government of India regret their inability to comply with the Honourable Member's request.

TREATMENT OF INDIANS IN SOUTH AFRICA.

341. ***Mr. B. Venkatapatiraju:** (a) Has the attention of the Government been drawn to the resolution of the congress held at Cawnpore that the South African Areas Reservation and Immigration and Registration Bills are a breach of the Smuts-Gandhi agreement, and racial in character and calculated to make the position of settlers worse than it was in 1914?

(b) Is it a fact that General Smuts had given the pledge referred to above not individually but on behalf of a nation and, if so, are the Government of India prepared to appeal to the British Government to instruct the Governor General of the South African Union to withhold assent to any Bill which contravenes the terms of the Smuts-Gandhi agreement?

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

(b) It was as Minister of the Interior in the Union Government that General Smuts gave on June 30, 1914, the assurance that it had always been and would continue to be the desire of the Government to see that existing laws are administered in a just manner and with due regard to vested rights.

The Government of India are not in a position to say what action they will take in the event of this or any other Bill of a similar character becoming law.

THE INDIAN TRADE UNIONS BILL—contd.

Mr. President: The House will now resume further consideration of the clauses of the Trade Unions Bill. The motion before the House is that clause 15 stand part of the Bill.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, in view of the adverse fate of my amendment No. 25, I propose to withdraw my amendment No. 26*. I do not move it.

I move my amendment No. 27; and with your permission, Sir, I shall only move one part of that amendment. My amendment is:

"That in sub-clause (j) of clause 15 for the words 'the general funds of any other registered Trade Union' the words 'any cause intended to benefit workmen in general' be substituted."

I do not propose to move the latter part of the amendment which has been printed. Sir, when I moved my amendment to clause (d)

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour): Before Mr. Joshi proceeds, Sir, may I ask your ruling on a point of order? Can Mr. Joshi be allowed now to alter his amendment?

Mr. President: It is entirely within the discretion of the Chair. The Chair has no objection to the alteration proposed by Mr. Joshi.

Mr. N. M. Joshi: Sir, I could have understood the objection of my Honourable friend if my alteration of the amendment had brought forward any new item; but I have not made any change in my amendment in that way. I have only moved one part of it and I do not propose to move the proviso in the latter part. The Honourable Member is quite prepared to meet the whole amendment and so he must be prepared to meet one part of it; he is not put to any inconvenience. I thank you, Sir, for your permission.

When I moved my amendment to clause 15 (d) it was stated that the proper place for proposing that the funds of a Trade Union may be spent for the general benefit of the class of workmen in general was in clause (j). I am, therefore, moving this amendment. My object is, as I stated last time, that if the Trade Unions are to succeed at all, the working class people must stand together and help each other. It is with that object that I want to give permission to the Trade Unions to be able to spend their money for helping the working classes in general. In my previous speech I pointed out one such object, and that was to help the working class people, organised or unorganised, during a strike. But, Sir, there are several other objects in which one Trade Union which has got funds could go to the help of the working classes in general, and one of those objects is that a Trade Union consisting of people who are organised and who realise the benefit of organisation should go to the help of unorganised workers in order to organise them. If only a few people are organised and the large mass of people outside are not organised these organised people cannot achieve anything. The first thing, therefore, that a Trade Union should do is to organise those people who are not organised, and if I were a trade unionist and if I were in charge of a Trade Union, I should spend even all my money in organising those who are not organised. If a Trade Union

*"To sub-clause (h) of clause 15 the words 'or for other workmen and their dependents' be added at the end."

has got a sum of Rs. 100 with it, I should spend the whole amount of that Rs. 100 in order that the other people in the street who are not organised should be organised. The expenditure of that Rs. 100, the whole of the amount possessed by that Trade Union, is a good investment even from a business point of view. A Trade Union may spend the whole of that Rs. 100 which they possess during that year; but if they succeed in organising those who are not organised, certainly their income will increase. Therefore it will be very useful for that Trade Union to spend at least a part of this money, if not the whole, for organising the unorganised workers, because the strength of the Trade Union movement lies in being a strong solid body; and for that purpose it is absolutely necessary that the funds of a Trade Union should be spent in this direction.

Then, Sir, there are other objects, such as relieving the distress of working class people whenever they may be in distress, and helping the working class people in their education and in other social movements. It is, therefore, necessary that a Trade Union should possess this power. Sir, when this question was discussed the other day in this House, much was made of the fact that it is necessary for legislation to protect trade unionists against the wild actions of the officers of the Trade Union. I must thank those people who are so solicitous about the welfare of the working classes, in saving them from their officers. But here I find their attempt is not only to save the trade unionists from the actions of their officers, but they want to save the working classes from themselves. They feel that the working classes do not understand their interests, that they will squander their money and therefore, we, sitting in this House, who understand their interests better than themselves and who are their friends, must make rules that they should not spend their money on other people belonging to their class, even in their distress. Sir, the object of these people is to teach these people to be selfish. They tell them "It is your money; do not spend for others." Sir, it is a matter of great surprise to me that legislation should be necessary to teach the men to be selfish. I know there are some unselfish men, and if you ask my opinion, Sir, I tell you that working class people are more unselfish than any other class of people; but even so there is enough of selfishness among the working classes to prevent them squandering their own money on other people. You need not put any safeguard to tell a man that he should spend all his money on himself and should not spend any part of his money on others. That feeling of selfishness is ingrained in man. No Legislature, no Government is required to teach a man to be selfish. Human nature contains enough elements of selfishness; and I therefore feel that when people compel men by legislation to be selfish and tell them they should not spend money on other people, they do not either understand human nature or they are not sincere in what they say, namely, that they want to protect the interests of the working classes.

If they say that the working classes are not selfish, then I say that they have not got much experience of the working classes. The working classes are better, as I said, than other classes. But then they have got enough of selfishness, and you need not teach them selfishness by legislation. But, Sir, my fear is that these people understand human nature very well. What the Government fear is that in some moment of enthusiasm the working class people may forget their selfishness and may have a little spark of unselfishness in them and spend a small part of their money on others, and these people want to prevent this being done, because they

[Mr. N. M. Joshi.]

know that it will go not against the interests of the working classes but against their own interests. Sir, in my judgment those who say that the working classes will spend all their money rashly on others are not the friends of the working classes; they are the enemies of the working classes. They do not want a working class solidarity. They want to prevent one Union helping another Union, and therefore they propose that no amount of money should be spent for the working classes in general.

Sir, I think the House will generally agree with me that my amendment must be passed if our Trade Union Bill is to serve any useful purpose. If you prevent Trade Unions spending money beyond their membership or beyond the membership of registered Trade Unions, you will not serve the cause of Trade Unionism, nor will you promote the cause of the working classes in general.

Now, as regards the clause as drafted by the Select Committee, they want that one registered Trade Union should help another registered Trade Union, but should not help unorganised workers. I cannot understand why they make this distinction except that these people are anxious to create one more class in the world, I mean a class of organised workers as distinguished from a class of unorganised workers. Sir, here again these people have not understood human nature. If workers become organised, you need not tell them that they are a class, and that they are a somewhat superior class to the unorganised workers. Unfortunately, when they become organised, when they begin to have some funds with them, when they find that they succeed more than unorganised workers, the feeling that they are a better class of people gets into them, and so you need not teach the organised workers to feel that they are a separate class from unorganised workers. The feeling gets into them naturally without your teaching them. It is a weakness of human nature. You need not promote and encourage that feeling. I therefore feel, Sir, that the clause as drafted by the Select Committee is a mischievous clause, because it tries to create a division among the working classes. If you begin to teach people that they are an organised Union and that they must help only organised people, you begin to create a feeling in the working classes that the organised workers are different from the unorganised workers. Sir, this spirit, this division, is fatal to the interests of the working classes, and we want to prevent such divisions being created, and therefore, I propose the amendment that, if the Trade Unions want to help people beyond their membership, let them do so, let them not confine the benefit to members of the registered Unions alone, let them extend that benefit to the working classes in general.

Now, Sir, there is one more point on which I should like to say a few words before I close my speech. Though in the original amendment which I had proposed I had put down a proviso that not more than one-fourth of the amount may be spent for this purpose, I now feel, Sir, that that proviso is not necessary. The safeguard which we want against Trade Unionists spending their money on others is in human nature. It is a very strong safeguard, you need not put in any additional safeguard, and therefore, to my mind, the proviso is absolutely unnecessary. I do not wish to weary the House any more, but I cannot help telling them what my experience is for the last few years in this matter. I have admitted already that the working class people are always willing to help others. But, Sir, the corrupting influence of money always works even on the working classes.

As soon as a Union begins to build up a fund, it begins to feel that that fund must be spent on itself and it should not be spent on others. During the recent strike in Bombay, I made an appeal and the President of our All-India Trade Union Congress made an appeal to all the Unions in the country. I got some money, but I assure you that the money which I expected these Trade Unions to give was not forthcoming, because these Trade Unions have already begun to feel that it is their money, it must be spent on themselves and that it should not be spent on workers in Bombay or elsewhere. Any one who is in the Trade Union movement has got this experience. He feels that you need not by legislation put down that they shall not spend more than a certain amount for the benefit of other workers. The safeguard is there in human nature. I therefore feel, Sir, that this House will accept my amendment.

Lala Lajpat Rai (Jullundur Division: Non-Muhammadan): May I, Sir, with your permission, appeal to the Honourable Mover of this amendment to stick to the amendment as it is put down in the agenda paper, because what matters is the principle involved and not the amount to be spent on the general objects. As long as the principle is conceded, I think it matters very little what . . .

Mr. President: The Honourable Member is perfectly at liberty to move an amendment to the present amendment. The Chair would permit such amendment.

Lala Lajpat Rai: I do not think it is necessary because there is another amendment to that effect later on.

Mr. President: The Honourable Member from Bombay has already moved one amendment and no suggestion from the Honourable Member from the Punjab could change that amendment.

Shaikh Mushir Hosain Kidwai (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, to my mind the amendment moved by my friend Mr. Joshi is of great value as a matter of principle, but as a practical proposition it will remain, I think, a dead letter for a long time to come, because I do not believe that in a few days or even in a few years any Union in India will be able to spare money to send to workers in England or Russia or anywhere else. I would therefore appeal to the Government not to apprehend that the Unions will misuse the money. However, it will all depend on the spirit in which Government will enact this measure—either in a spirit of trust or suspicion. If they have trust, then they had better leave it to the discretion of the workers of the Unions to spend the money as they think best. Therefore, I support Mr. Joshi's amendment.

The Honourable Sir Bhupendra Nath Mitra: Sir, I beg to move as an amendment to Mr. Joshi's amendment:

"That the words 'provided such payment does not exceed one-quarter of the amount of the general funds available at the disposal of the Trade Union at the time of such payment' be added at the end of the amendment moved by Mr. Joshi."

I am quite prepared to admit the force of that part of my friend's arguments which referred to the solidarity of labour and to the desirability of allowing the funds of a registered Trade Union to be spent in furtherance of certain objects connected with unorganised workmen. At the same time, Sir, if we do not impose the limitation which at an earlier stage Mr. Joshi himself had provided for, and if we give a registered Trade Union a free

[Sir Bhupendra Nath Mitra.]

hand to dispose of its funds in the particular manner referred to by my Honourable friend, I am afraid that it is bound to happen in the present condition of education among workmen in India that in a moment of frenzied enthusiasm to which they have been worked up by interested persons, a registered Trade Union may be persuaded to hand over the whole of its available funds for some particular purpose with the result that it may become bankrupt. I cannot, therefore, accept the amendment in the form in which it has been moved by my friend Mr. Joshi. As a matter of fact, I am not sure that there is any considerable feeling in the House in favour of the amendment, from what I heard the other day. I am not sure even that there will be a general unanimity among my friends on the other side of the House in considering the limit of one-fourth which I am suggesting,—and I have taken for that purpose the limit which Mr. Joshi had suggested in his original amendment—to be not too high.

Mr. Chaman Lall (West Punjab: Non-Muhammadan): Sir, I am very glad to find that the Honourable Member has accepted the amendment as it stands on the paper. I quite see the force of the arguments made by my Honourable colleague Mr. Joshi, but at the same time I must confess that it is better for us to have this provision as the Honourable Member would give it to us rather than divide the House on Mr. Joshi's amendment. I am personally—and I wish to state it very strongly—entirely in favour of Mr. Joshi's proposition. I feel that no restriction of any kind should be placed upon any Trade Union in their desire to utilise their funds for the general purpose of the benefit of workers. But, nevertheless, since it does give us a loophole, since it does provide some sort of method for us for the assistance of Trade Unions and workers in general, we are quite prepared on this side of the House to accept the amendment as it stands on the paper, namely, that one-fourth of the funds of the Union could be utilised at any time for the assistance of workers in general or for their benefit. In view of all that has fallen from the lips of my colleague Mr. Joshi I do not intend to say anything more, but I do wish to point out that the time may come when it will be necessary to amend this Bill and do away with this restrictive clause in sub-clause (j) of clause 15 to the effect that only a certain amount of the funds of the Union can be utilised for the benefit of workers in general. I hope the time will come soon, but in the meanwhile, as I said before, we are quite prepared to accept this amendment as it stands.

Mr. B. Das (Orissa Division: Non-Muhammadan): May I ask Mr. Joshi one question? Does he mean workers in India or outside India?

Mr. N. M. Joshi: Anywhere.

Mr. Devaki Prasad Sinha: Why do you bother about workers?

Mr. A. Rangaswami Iyengar: The clause is there.

Mr. B. Das: I want the money to be spent in India.

Mr. President: The question is:

"That at the end of Mr. Joshi's amendment the following words be added, namely:

'provided such payment does not exceed one quarter of the amount of the general funds available at the disposal of the Trade Union at the time of such payment.'"

The motion was adopted.

Mr. President: The question is:

"That in sub-clause (j) of clause 15 for the words 'the general funds of any other registered Trade Union' the words 'any cause intended to benefit workmen in general provided such payment does not exceed one quarter of the amount of the general funds available at the disposal of the Trade Union at the time of such payment' be substituted."

The motion was adopted.

Mr. Chaman Lall: Sir, my next amendment on the paper is:

"That for sub-clause (k) of clause 15 substitute the following:

'any other object not inconsistent with the objects laid down in the constitution of the Union'."

The clause as it stands says:

"The general funds of a registered Trade Union shall not be spent on any other objects than the following:

(k) subject to any conditions contained in the notification, any other object notified by the Governor General in Council in the Gazette of India."

I want that the power should be taken away from the Governor General in Council to notify in the Gazette of India any conditions that he may choose to lay down. Instead of that, I want that an express provision should be inserted in the body of the Bill to the effect that the funds can be utilised for any other object not inconsistent with the objects laid down in the constitution of the Union. My reasons for doing so are very simple. We have a very grave suspicion of the Governor General in Council. We consider that the Governor General in Council is a conspiracy. . . .

The Honourable Sir Bhupendra Nath Mitra: I rise to a point of order, Sir. Is the Honourable Member in order in expressing the words which he has just used?

Mr. President: The Honourable Member is perfectly entitled to cast suspicion on the intentions of the Government as a whole.

Mr. Chaman Lall: I thank you very much, Sir, for explaining the position to the Government. Apparently they are ignorant of the position they hold themselves. After this it will be incumbent upon us to point out to them, not once but over and over again, that we are indeed very suspicious of the attitude adopted by the Governor General in Council from time to time, and this not merely in political matters. We cannot allow the Governor General in Council to have such wide powers placed in his hands as are contained in the original draft of sub-clause (k) of the Bill. We find that the Governor General in Council can at any time lay down any further condition. The clause says:

"the general funds of a registered Trade Union shall not be spent on any other objects than the following,"

and sub-clause (k) says:

"subject to any conditions, etc."

It is an additional power. We are not prepared to allow the Governor General in Council to lay down any conditions at his own sweet will. We desire, on the other hand, to make it expressly clear in the body of the Bill that the funds can be applied for any other object not inconsistent with the objects laid down in the constitution of the Union.

[Mr. Chaman Lall.]

In the circumstances I have nothing more to say than to point out that it is only in this country that such wide powers are left in the hands of the Government. I do not desire to prolong the discussion at all on this subject, but I wish to point out merely this that it is much better for us to have an express provision in the Bill rather than leave anything to the Governor General in Council. To my mind it is perfectly clear that those who are in favour of a democratic form of government for Trade Unions will agree that it is better that the Trade Unions themselves should know where they stand rather than that they should have the sword of the Governor General in Council hanging over their heads.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): Sir, I think the Honourable Member who has sat down has completely misunderstood this clause 15. Clause 15, if he will follow, lays down definitely the objects, which are mentioned from (a) to (j), for which a Union will be entitled to spend the funds. Sub-clause (k) does not really deserve the criticism that the Honourable Member from the Punjab has offered upon it, because it merely says this, that any additional object for which the Union may be authorised to spend funds may be so authorised subject to conditions contained in the notification of the Governor General in Council, and therefore I think the Honourable Member was really beside the point when he said that the Governor General in Council may do all sorts of things. (*An Honourable Member*: "Why not?") It seems to me that the Honourable Member was not following me. The scheme of the Bill is that the objects specified from (a) to (j) are the objects for which the Union is authorised to spend money. That cannot be interfered with even by the Governor General in Council. (*An Honourable Member*: "He can add other objects.") But that does not compel the Union to spend money. Therefore, it is a really futile amendment altogether.

Mr. Devaki Prasad Sinha (Chota Nagpur Division: Non-Muhammadan): I quite agree with the interpretation, if I may say so without any impertinence, put upon this amendment by my Honourable friend, Mr. Jinnah. But the real reason which has inspired my Honourable friend to move this amendment and which inspires us to support it is this. According to the Bill as it stands, expenses on any item from (a) to (j) will be incurred as a matter of course and there the Governor General in Council or anybody else cannot interfere. The interference of the Governor General in Council or the discretion of the Governor General in Council will only come in when money is to be spent on any object other than the objects enumerated in items (a) to (j). Well, Sir, our point is this, that with the expansion of the trade union movement and the growth of Trade Unions it may be necessary to spend money on objects other than the objects enumerated in sub-clauses (a) to (j). When we need to spend money on objects other than those specified here, why should we be left at the mercy of the Governor General in Council?

Mr. M. A. Jinnah: Then why have this clause at all? Strike it out.

Mr. Devaki Prasad Sinha: Our amendment is this, that if any item of expense comes within the purview of the general aims and objects of the constitution of the Trade Union, that item of expense should be held as a perfectly reasonable expense and should be allowed without anybody else's sanction. We therefore want by means of this amendment to restrict the expenses incurred by a Trade Union within the limits imposed

by the four corners of the constitution of the Trade Union and by no other authority. That is the reason why this amendment is moved. The only limitation that ought to be imposed upon a Trade Union's power to incur expenditure should be that imposed by the constitution of the Trade Union or by the members of the union themselves. We resent any dictation on the part of anybody else, whether it is the Governor General in Council or any one else, with regard to the items upon which money can be freely spent. It is for helping the growth and development of Trade Unions that it is necessary that my Honourable friend, Mr. Chaman Lall's amendment should be accepted. For these reasons I support the amendment.

The Reverend Dr. E. M. Macphail (Madras: European): It seems to me after the speech of the Honourable Member who has just spoken that we have had a great deal of unnecessary discussion on clause 15. If the interpretation that he puts upon the amendment of my Honourable friend Mr. Chaman Lall is correct, then we might as well say that money might be spent by Trade Unions upon any object which they consider to be conducive to their welfare. (*An Honourable Member*: "Within the constitution.") The interpretation of the constitution is by the members of the Trade Unions themselves, and if that is so, it would be much simpler to say that the Trade Union may spend its funds upon any object which it considers to be conducive to the welfare of the community to which it belongs. For my own part I am not a capitalist nor am I a Labour Member, but it seems to me that we cannot do too much to safeguard the funds of these Unions if we really have the interests of the Unions at heart. A Trade Union has its funds for two purposes as I understand it, one that it may perform the benefits of a friendly society and the other that it may have a strike fund. If you dissipate these funds in the way that is proposed, on the one hand, you do not secure the benefits of a friendly society to the members subscribing, and, on the other, you weaken the Trade Union when it comes into conflict with its masters. I recognise what Mr. Joshi has said about the selfishness of human nature, but I may also inform him that there are moments of enthusiasm in which people are inclined to give away not their own money but the money subscribed by other people. That is what we have to guard against. It is not the giving away of what people have put in at the moment, but the accumulation of past years, the accumulation of past generations of trade unionists, and I say that it is not right that any such power should be given to the Trade Union. I should like to have pointed out, but I may add it on this occasion, with regard to the amendment that was accepted by the Honourable Member in charge, nothing has been done with regard to fixing a time limit, and consequently it seems to me that it is quite possible for one-fourth of the funds to be voted this week, another one-fourth next week and a third one-fourth the following week. I think there ought to have been some limit fixed on the amount of time in which the one-fourth of the funds may be given up.

***Mr. K. Rama Aiyangar** (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): I think there is some misapprehension which has caused this amendment to be moved. I will only point out to my Honourable friend Mr. Chaman Lall that sub-clause (k) gives facilities

*Speech not corrected by the Honourable Member.

[Mr. K. Rama Aiyangar.]

for a union to move the executive Government instead of going to the Council whenever it finds it necessary to add to its objects. It is, in fact, an occasion given to it to get an order by notification of the Governor General in Council and the amendment now proposed prevents that occasion being given.

Mr. Devaki Prasad Sinha: Your interpretation is absolutely wrong.

Mr. K. Rama Aiyangar: You will please think over this matter. Sub-clause (k) says:

"subject to any conditions contained in the notification, any other object notified by the Governor General in Council."

Even when an application is made the notification may restrict the way in which money can be spent by the Union on a certain object, and subject to that, power is given to the Union to move and get other objects included; and I do not think that anything can be done in that direction by the proposed amendment.

Lala Lajpat Rai: I am afraid that the discussion which is now going on does not seem to be very relevant. Section 6, which we have already passed, lays down in sub-clause (b) that when an application for registration is made the application shall contain "the whole of the objects for which the Trade Union has been established," and sub-clause (c) lays down "the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act." When we come to the first sentence in the first paragraph of clause 15 we find it stated that:

"The general funds of a registered Trade Union shall not be spent on any other objects than the following"

So, practically, clause 15 is to a certain extent restrictive and to a certain extent explanatory of the objects stated in the Trade Union's registration application. No doubt, the amendment that has been proposed is restrictive rather than expansive, but at the same time what we want to establish is the principle that, as far as possible, no interference should be made in the working of the Trade Unions by any outside authority. If any Trade Union wants to extend its objects it can certainly do so under the procedure allowed to it under the law. We do not want anything to be done by notifications because Trade Unions will have no voice in the issue of these notifications or in the control of the contents of such notification. I therefore think the amendment proposed by my Honourable friend Mr. Chaman Lal is quite in order. The clause states that the general funds of a Trade Union can be spent in furtherance of any other object or purposes not inconsistent with the objects laid down in the constitution. If it is inconsistent, then of course it cannot be allowed. This is only the substitution of one general clause in place of another general enabling clause. None of those difficulties, as has been pointed out, would arise by the acceptance of the amendment, but even if the amendment is not accepted and the clause is altogether omitted, I for myself shall be satisfied, but so long as the clause remains as it is I think it might involve at some stage an undue interference in the disposal of the funds of the Trade Union by the Governor General in Council.

Mr. N. M. Joshi: It seems to me, Sir, that there are some Members of this House who are impatient of hearing this discussion on the Trade Unions Bill. Unfortunately I cannot please them. I have to do my duty in this House towards the working classes. If some people are tired of the discussion, I am sorry, but I cannot help saying things which I think are absolutely necessary to be said. As regards the amendment of my colleague Mr. Chaman Lall (*Mr. M. A. Jinnah*: "Comrade.")—I would not mind calling him Comrade Chaman Lall—I would draw the attention of the House to the definition of a Trade Union. A Trade Union means any combination, whether temporary or permanent formed primarily for the purpose of so and so. The primary objects of a Trade Union are defined in this Bill. The secondary objects are not defined and a Trade Union, besides having these objects, which are statutory objects, may have some other minor objects. That is not prohibited even in the English legislation. The English legislation makes it quite clear that besides the statutory objects a Trade Union may have some other objects. I shall give you an example. Suppose the members of a Trade Union think that they should take advantage of their organisation for the promotion of physical culture and start some *akada* in order that they should learn wrestling and some other things. Of course you may say that this may be covered by the word "social", but it is difficult to say whether *akadas* can be called a social purpose or not. I will give you another instance. Suppose a Trade Union besides doing its primary duty wants to take advantage of the organisation for the promotion of art. They may start some group to paint and also develop art in the country. It is quite possible and it should not be prevented. Why should that organisation be prevented from starting an *akada* or a gymnasium for the use of its members or from starting a group for the promotion of arts within itself. That is provided for in the English Act, which states, that the Union besides having the statutory objects may have some other objects as my friend Mr. Chaman Lall has put down in his amendment, not inconsistent with the constitution of that Union. The English Act lays down this. The fact that a combination has under its constitution objects or powers other than statutory objects within the meaning of this Act shall not prevent the combination being a Trade Union for the purpose of the Trade Union Acts, 1871 to 1906, so long as the combination is a Trade Union as defined in this Act, and, subject to the provisions of this Act as to the furtherance of political objects, any such Trade Union shall have power to apply the funds of the Union for any lawful objects or purposes for the time being authorised under its constitution. Mr. Chaman Lall's amendment is quite consistent with this clause. I do not know therefore why people should try to restrict the power of Trade Unions in India. It was also said that the Trade Unions spend some other people's money. The Penal Code is enough to punish them.

The Reverend Dr. E. M. Macphail: May I explain, Sir. I meant that the people who were in charge of the funds of the Union are spending other people's money and not their own money.

Mr. N. M. Joshi: How can they spend other people's money? This goes on everywhere. The Government of India are spending our money without consulting us.

The Reverend Dr. E. M. Macphail: I understand the Honourable Member objected to that.

Mr. N. M. Joshi: I did. I assure you that if any officer of a Trade Union spends its money without consulting the members and beyond the wishes of the members, I shall hold that officer responsible as I hold the Government of India responsible. I shall blame that officer as much as I blame the Government of India. It is absolutely wrong for any officer of a Trade Union to spend its money on objects which the members do not wish to spend on.

The Reverend Dr. E. M. Macphail: May I explain, Sir, that after a Trade Union has been in existence for some time it may have the accumulated funds of a certain number of years. It may have large funds. When I say other people's money, I mean the money of past generations and I say that that money may be given away in a moment of enthusiasm, when it ought to be kept for the purpose of carrying on the work of the Trade Union.

Mr. N. M. Joshi: I assure my Honourable friend that I do not want the Trade Unions to waste this accumulated part of the money. Then why not change the whole law of property. You will get my support. You will never get the slightest support in this House for the proposition that you are laying down that the accumulated wealth which people possess in present circumstances is not theirs and that they have no right therefore to spend it, but you will get my support. I think that the fears that the people will spend money rashly in a moment of enthusiasm are absolutely groundless. People may make mistakes but for that reason you need not tie their hands so much. Leave them a little liberty. They will learn by experience as we are all learning in the political sphere. I am somewhat surprised to find people like my friend Mr. Jinnah, who, in politics, would like local bodies and other bodies freed from the control of Government, now doing quite the other thing. If you give them a little liberty, Trade Unions will learn a sense of responsibility. If you suspect them and tie down their hands, how will they learn responsibility? The amendment of my colleague Mr. Chaman Lal is quite consistent with the English Trade Union Act. I am quite sure there will be no danger if we pass this amendment.

The Honourable Sir Bhupendra Nath Mitra: Sir, when Mr. Chaman Lal moved the amendment the objects with which he moved it were, if I may say so, as obscure to me as it was to many other Members of the House who have already spoken. I think I now see to some extent the object of his amendment, and the extent to which I have managed to understand that object compels me to oppose the amendment. Reference has been made to the provisions of the English law. I think, Sir, at the very outset, when I was introducing this Bill, I made it perfectly clear that there was no intention in the Government Bill to blindly copy the provisions of the English Act. What we wanted was to make a beginning with the formation of registered Trade Unions after taking into due consideration the present conditions, educational and otherwise, of the workmen in India. A general provision like the one which it is now proposed to introduce may work in a country like England where the workman is in a much more advanced state of education than his brother in India. (*An Honourable Member:* "Why don't you give them education here?") That is another matter. When that stage of education is reached it is pretty certain that we shall have a different form of Trade Union Bill, probably drawn up by an Assembly quite different to the one to which I have the honour to address my remarks. Until that stage is reached, Sir, this

Government have certain responsibilities in the matter, and therefore they are bound to take such action as they may consider desirable to safeguard the interests of these workmen. As I said before, the fundamental objects on which the general funds of a Trade Union can be spent in England are two-fold, firstly, trade objects and secondly the benevolent objects. Provision for all those objects have been made in section 15. I think myself that it would be dangerous from the point of view of the workman, who may be worked up to frenzies of enthusiasm, to put in a provision of the sort proposed in the amendment of my friend Mr. Chaman Lall.

Mr. President: The question is:

"That for sub-clause (k) of clause 15 the following be substituted:

'any other object not inconsistent with the objects laid down in the constitution of the Union'."

The Assembly divided:

AYES—26.

Abdul Karim, Khwaja.
Abhyankar, Mr. M. V.
Acharya, Mr. M. K.
Chaman Lall, Mr.
Chetty, Mr. R. K. Shanmukham.
Das, Pandit Nilakantha.
Duni Chand, Lala.
Dutt, Mr. Amar Nath.
Goswami, Mr. T. C.
Iyengar, Mr. A. Rangaswami.
Joshi, Mr. N. M.
Kidwai, Shaikh Mushir Hosain.
Lajpat Rai, Lala.
Lohokare, Dr. K. G.

Majid Baksh, Syed.
Murtuza Sahib Bahadur, Maulvi Sayad.
Narain Dass, Mr.
Nehru, Pandit Motilal.
Ray, Mr. Kumar Sankar.
Samiullah Khan, Mr. M.
Sarfaraz Hussain Khan, Khan Bahadur.
Shafee, Maulvi Mohammad.
Sinha, Mr. Ambika Prasad.
Sinha, Mr. Devaki Prasad.
Tok Kyi, U.
Yusuf Imam, Mr. M.

NOES—57.

Abdul Qaiyum, Nawab Sir Sahibzada.
Abul Kasem, Maulvi.
Ahmad Ali Khan, Mr.
Aiyer, Sir P. S. Sivaswamy.
Ajab Khan, Captain.
Bajpai, Mr. R. S.
Bhore, Mr. J. W.
Blackett, The Honourable Sir Basil.
Bray, Sir Denys.
Burdon, Mr. E.
Calvert, Mr. H.
Carey, Sir Willoughby.
Clow, Mr. A. G.
Cocke, Mr. H. G.
Crawford, Colonel J. D.
Das, Mr. B.
Datta, Dr. S. K.
Donovan, Mr. J. T.
Dumasia, Mr. N. M.
Ghazanfar Ali Khan, Raja.
Ghose, Mr. S. C.
Gordon, Mr. R. G.
Gour, Sir Hari Singh.
Graham, Mr. L.
Hezlett, Mr. J.
Hira Singh Brar, Sardar Bahadur Captain.
Hudson, Mr. W. F.
Innes, The Honourable Sir Charles.
Jafar, Mr. K. S.
Jeelani, Haji S. A. K.

Jinnah, Mr. M. A.
Kasturbhai Lalbhai, Mr.
Lindsay, Sir Darcy.
Lloyd, Mr. A. H.
Macphail, Rev. Dr. E. M.
Maguire, Mr. L. T.
Makan, Khan Sahib M. E.
Mitra, The Honourable Sir Bhupendra Nath.
Muddiman, The Honourable Sir Alexander.
Mutalik, Sardar V. N.
Naidu, Rao Bahadur M. C.
Neave, Mr. E. R.
Owens, Lieut.-Col. F. C.
Pal, Mr. Bipin Chandra.
Rahman, Khan Bahadur A.
Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.
Ramachandra Rao, Diwan Bahadur M.
Reddi, Mr. K. Venkataramana.
Roy, Mr. G. P.
Sim, Mr. G. G.
Stanyon, Colonel Sir Henry.
Sykes, Mr. E. F.
Tonkinson, Mr. H.
Vernon, Mr. H. A. B.
Vijayaraghavacharyar, Diwan Bahadur T.
Vishindas, Mr. Harchandrai.
Yakub, Maulvi Muhammad.

The motion was negatived.

Mr. President: Honourable Members will understand that unless they have made up their minds to divide the House, they should not carry matters up to the stage of the Division Bell. Except under exceptional circumstances, Members must not change their attitude at the last moment; otherwise they will find that much against their will, they and their supporters will have to go into a Lobby, as in the present instance:

Clause 15, as amended, was added to the Bill.

Mr. President: The question is:

“That clause 16 do stand part of the Bill.”

The Honourable Sir Bhupendra Nath Mitra: Sir, I have to move an amendment of a formal character. I move:

“That in sub-clause (1) of clause 16 before the words ‘Trade Union’ the word ‘registered’ be inserted.”

That was, I confess, a verbal error which was made while this new clause was drafted in Select Committee. The Bill itself refers to registered Trade Unions and does not contemplate any other class of Trade Unions, and hence it is necessary that the word “registered” should be put in before the words “Trade Union”.

Mr. Devaki Prasad Sinha (Chota Nagpur Division: Non-Muham-madan): I rise to oppose this amendment proposed by my Honourable friend, Sir Bhupendra Nath Mitra. The object with which this new clause was introduced in the Bill was to enable workers in general to carry on a political propaganda for the recognition of their rights. That being the object, it is permissible for every worker in this country, whether he belongs to a registered Trade Union or does not belong to a registered Trade Union, to contribute his mite to a fund which would be utilised for organising a political platform for the workers in general. By this amendment it is intended to restrict the building up of a political fund by means of subscriptions paid only by members who belong to a registered Trade Union. That would be an illegitimate interference with the object for which this fund is sought to be built up. If any other worker, who does not belong to a Trade Union for some reason, is as enthusiastic about the recognition of the political rights of workers as another worker who belongs to a Trade Union, there is no reason why he should not contribute to a fund which may be utilised for political purposes. We realise that in this new clause which has been introduced by the Select Committee only a halting recognition has been given to the principle which the British Act of 1913 introduced in England. A perusal of this clause will show that there is a substantial difference between the provisions of clause 15 and that of the British Act of 1913. There the principle upon which a member can claim exemption from payment to a political fund is the principle of contracting out. Here every member has to contract himself into paying for the accumulation of political funds; therefore there is no meaning in saying that we have granted a very great boon to workers by incorporating this clause in the Bill—such being the limitations imposed upon the workers’ capacity to build up a political fund, I submit that it should not be restricted further by limiting it to members belonging to a registered Trade Union. What I ask for by opposing this amendment is to allow workers, who belong to a Trade Union or not, to collect money for carrying on political activities.

activities which would give them that right which other sections of the community, namely, the capitalists, enjoy. I submit, Sir, that this is a very moderate demand and does not involve any interference with the funds of a Trade Union. If there is a political fund there will be proper disbursements from that fund, and you can impose any restrictions for safeguarding it, but why do you want to limit the number of persons who will pay for that political fund? Why do you want that the building of the political fund should be restricted to members belonging to a Trade Union? Why should any worker who belongs to a Trade Union which may not be registered not be entitled to pay to a political fund or to spend money on political propaganda? For these reasons, Sir, I oppose the amendment.

Colonel Sir Henry Stanyon (United Provinces: European): Sir, I beg to support the amendment. I can assure the last speaker that no court construing this Act, if enacted as the Bill now stands, would or could, in face of the Preamble, apply section 16 to any Trade Union except a registered Trade Union. The Preamble says that the object of this enactment is to "define the law relating to registered Trade Unions in British India", therefore while that Preamble stands this enactment cannot be taken, nor can any particular section of it be used for the purpose, unless expressly stated, of Trade Unions not registered. The words "a Trade Union" any court will consider to signify a registered Trade Union. Therefore the amendment which is proposed merely helps clarity and avoids the sort of misconception under which the last speaker obviously labours.

Mr. President: The Honourable Member knows that the House would change the Preamble if it agreed to retain clause 16 as it is.

Colonel Sir Henry Stanyon: It is true, Sir, that I anticipate what is going to happen in working upon the basis of a Preamble which has yet to be passed, but apart from the Preamble, every clause that we have so far dealt with is concerned with a registered Trade Union and with no Trade Union which is not registered, except only with the provisions relating to the formation of a Trade Union. I submit that, if there is to be legislative sanction to the registration of Trade Unions by an enactment obviously devised for that purpose only, apart altogether from the Preamble, it would lead to endless confusion to attempt to have occasional provisions or even one provision in the enactment relating to Trade Unions which are not registered. Therefore, my submission to the House is that they should strongly support this amendment. The omission of the word "registered" has been stated to be a mere clerical omission and it ought to be rectified.

Mr. N. M. Joshi: I think, Sir, this amendment of the Honourable Member for the Department of Industries and Labour is a useless one. I do not know what is his object in moving this amendment. It is beyond his power to prevent an unregistered Trade Union forming a political fund. I do not therefore know why he insists on this amendment. I know his object is some other one, but I am quite sure he will not succeed in that object.

The Honourable Sir Bhupendra Nath Mitra: My object was, to quote the words of Sir Henry Stanyon, to clarify the law. The Bill as it came out from the Select Committee provided for the registration of Trade

[Sir Bhupendra Nath Mitra.]

Unions and in certain respects defined the law relating to registered Trade Unions in British India. That was the Bill as it came out of the Select Committee, but in drafting, the word "registered" was not put in between (a) and "trade union" in clause 16 (a). It may be that the legal position, even if the word is not there, will be that the court will not apply the clause to any but a registered Trade Union, but my object was simply to clarify the law, as has been fully explained by Sir Henry Stanyon.

Mr. President: Does the Honourable Member for Government suggest it is a clerical error which he wishes to remedy?

The Honourable Sir Bhupendra Nath Mitra: I simply wanted to correct a clerical error. (*The Honourable Mr. S. R. Das:* "To make it clear.") To make it clear; it comes to the same thing. I simply wanted to clarify the position that this clause, as drafted by the Select Committee, applied to registered Trade Unions only.

Mr. President: The Chair regrets that it has not been able to follow the Honourable Member. Will the Honourable Member kindly explain whether in Select Committee this point was considered and it is only by the mistake of the draftsman that the word "registered" has been omitted.

The Honourable Sir Bhupendra Nath Mitra: The Select Committee never contemplated that any of the provisions in the Bill should apply to a non-registered Trade Union. That was what the Select Committee did.

Mr. President: Does the Honourable Member know that this particular clause does apply to non-registered Unions?

The Honourable Sir Bhupendra Nath Mitra: No, it does not, because, if so, it is obvious the Select Committee themselves would have changed the Preamble to the Bill.

Mr. N. M. Joshi: That may have been by mistake.

***Diwan Bahadur M. Ramachandra Rao** (East Godavari and West Godavari *cum* Kistna: Non-Muhammadian Rural): Sir, may I also point out that Chapter III is headed "Rights and Liabilities of registered Trade Unions" and therefore clause 16 coming within that Chapter would certainly apply to registered Trade Unions. It may be, as pointed out by my Honourable friend Sir Bhupendra Nath Mitra, that the word "registered" was omitted in clause 16. It seems to me it is all a question of intention, and the intention can only be judged by the titles of the Chapters. Therefore, if the intention is that Chapter III should apply only to registered Trade Unions, it seems to me it automatically follows, apart from all other considerations, that the word "registered" should find a place in clause 16.

Pandit Motilal Nehru (Cities of the United Provinces: Non-Muhammadian Urban): Sir, I have heard with great interest the discussion that has proceeded on this clause, but I confess my inability to understand exactly the point of the Honourable the Member in charge of the Bill as well as that of my friend Sir Henry Stanyon. As for the remarks which have fallen from the Honourable the Diwan Bahadur I can only point out

*Speech not corrected by the Honourable Member.

to him the very well worn-out doctrine of law that neither the headings of Chapters nor the marginal notes of an Act have anything whatever to do with the construction of that Act.

Mr. M. A. Jinnah: It has not become law yet. What was the intention of the Select Committee?

Pandit Motilal Nehru: The intention we have to express is the intention of this House and not of the Select Committee. Are we going to take evidence on the intentions of the Select Committee? Here are the words, and they have a definite meaning. When you talk generally of a Trade Union, it is not restricted to a registered Trade Union. I am not going to take cognizance of the unexpressed intentions of the Select Committee. I have to gather their intention from the words they have used; and it is not open, I say to any of my Honourable friends, to say that this is either a clerical error or that the amendment that is being proposed is with a view to clarify the law. The law has to be made here by us. It is in the making now; it is on the anvil, and you can only discuss it on the merits. It is open to us to say either that this power should be restricted to registered Trade Unions or to give it to all Trade Unions and have a general clause in the terms in which it appears in the Bill. There seems to be again some confusion of thought about what controls and what does not control the construction of a clause. As has been pointed out by my Honourable friend Mr. Jinnah, the Bill has not been passed as a Statute yet, and the stage when it will have to be interpreted as a Statute has not arrived. But the very important stage which has either arrived or is going to arrive is as to what is the scope of this Bill, and whether . . .

Mr. M. A. Jinnah: The point has not been raised.

Pandit Motilal Nehru: It has been raised. They wish to clarify the position, and I say that that is raising a direct question as to the scope of the whole Bill. It has been attempted to be made out on two grounds. The first ground which was taken by my friend, Sir Henry Stanyon, rested on the language of the Preamble: It was very properly pointed out to him that he was relying upon a Preamble which had not yet met with the acceptance of this House and that it was open to the House to change it in any manner it liked, having regard of course to the provisions of the operative clauses after they have been passed by the House. Then, we come to the clarifying process. I do not know how the clarifying is to be made, unless we go into the question as to what is the exact scope of this Bill. If that is the point which has been raised by the Honourable Member in charge of the Bill, I am perfectly willing to discuss it; but I understand from him that he is not raising that point. If he is not raising it, then the one question that the House is concerned with at the present moment is that of the merits of the clause; whether having regard to the provisions contained in this clause we should give the power to registered Trade Unions only or to Trade Unions in general to raise funds in the particular manner described in that clause. My contention is simply this, Sir, that what we have to consider is not whether there has been some kind of omission, clerical or verbal, or an oversight, or even the exact thing contemplated by the Select Committee. We need not go behind the terms of the clause as it is laid before us for consideration. We must take the intention of the

[Pandit Motilal Nehru.]

Select Committee from the words which we find staring us in the face here; and on those words I say that no reason has yet been advanced on the merits why all Trade Unions may not do what a registered Trade Union may certainly do under this clause.

Mr. President: The Chair desires to warn Honourable Members of the consequences of their vote on this amendment one way or the other. For, on the decision which they arrive at on this particular amendment would depend more or less the decision of the Chair on the question of the admissibility of certain amendments which are to follow. If the House refuses to accept the amendment of Sir Bhupendra Nath Mitra, it will be an indication that, in the opinion of the House, the scope of the Bill is so extensive as to admit of amendments affecting unregistered Trade Unions. But, on the other hand, if they accept the amendment of Sir Bhupendra Nath Mitra it must follow as a matter of course that in their opinion the Bill should be confined to registered Trade Unions only. It will therefore be necessary for Members to consider this particular amendment very carefully. The Chair is perfectly prepared to give due weight to the decision of the House on the point.

Mr. M. A. Jinnah: I do not know, Sir, how to proceed after what you have said. I am perfectly willing, Sir, that you should give your ruling so that it might help us in dealing with this Bill whether any amendment or amendments which relate to unregistered Trade Unions are within the scope of this Bill or whether they are not. That, Sir, is for you to decide. But here, dealing with this clause 16 and with this amendment, as a Member of this House I wish to deal with it on its merits, apart from whatever your ruling may be. Now, this amendment is moved by the Honourable Member in charge of this Bill, and if I may say so, Pandit Motilal Nehru has taken an erroneous view of the situation that has arisen. The Bill is not yet passed into law and we are at a stage when you have before you the Report of the Select Committee, and Honourable Members are entitled to move any amendment they like to the various clauses of this Bill. The question arose as to what could have been the intention of the Select Committee in not putting in the word "registered" in clause 16. Well, Sir, I happened to be on the Select Committee and I am entitled to say to the House that all along—I may be wrong—my impression was that we were dealing purely with registered Trade Unions

Mr. Devaki Prasad Sinha: On a point of order, Sir. Can the Honourable Member mention things that passed in the Select Committee?

Mr. President: In so far as it is necessary to clarify the issue now before the House the Honourable Member from Bombay may do so.

Mr. M. A. Jinnah: And I quite agree that the Bill as it has emerged from the Select Committee is one which can be modified and amended, and this House is certainly not bound by it. It is open to Honourable Members to move any amendments they like. Similarly, the Honourable Member in charge has moved an amendment, and it is for this House to decide whether it should be accepted or not. Therefore, we get back to the merits. The merits are these. Clause 15 undoubtedly deals with registered Unions, and as you will see, Sir, clause 16 was not there; it was added

in the Select Committee. The question then arose as to the provision for the civic and political interests of these registered Unions that we were dealing with under clause 15. We were laying down for what purposes they could spend their funds, and having exhausted those purposes, it was suggested that they should also be allowed the power to spend their funds for the civic and political interests of their members. The question was debated at great length, and eventually the Select Committee after a great deal of discussion suggested that if the Unions wished to spend any money for civic and political interests, a separate fund should be created for that purpose. And I still maintain that we were dealing with registered Unions, and it was for that reason that a new clause was added in the Select Committee. Therefore, you will see, Sir, that absence of the word "registered" is a mere omission by oversight, because reading it along with clause 15 and following clause 15, you will see what the intention is.

"A Trade Union may constitute a separate fund."

—it was clearly intended thereby that we meant a registered Trade Union—

"From contributions separately levied for or made to that fund, from which payments may be made for the promotion of the civic and political interests of its members. . . ."

Therefore, Sir, I submit the Select Committee intended registered Unions, and the omission of the word 'registered' is clearly an oversight. This amendment therefore comes in that form to cure the slip.

Mr. Devaki Prasad Sinha: That is entirely an opinion.

Mr. M. A. Jinnah: After all, I am expressing my own opinion, I am not laying down any law; it is left to the Honourable Member to lay down the law in this House. I am here expressing my own opinion, and I am persuading the House to agree with me and to vote with me. That is what I am doing. I claim no other function. (*An Honourable Member:* "That is right.") I am very glad that it is endorsed by my friend over there.

Now, Sir, if you do not add this word, then you are legislating for a Trade Union which may mean a registered or unregistered Trade Union.

Mr. Devaki Prasad Sinha: Why should we not?

Mr. M. A. Jinnah: I do not say that you should not, I say that I should not. That, Sir, is shortly the position. Whether you consider that it is within the scope of this Bill to legislate for Trade Unions which are not intended to be registered, it is for you to decide. But I say, Sir, that we must confine ourselves for the present to Trade Unions which are registered.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I entirely agree with what Mr. Jinnah has said and in further support of it I wish to draw attention to the fact that the whole of the Bill has been framed with the distinct object of dealing with registered Trade Unions. The Preamble, though it has not yet been passed, is certainly the best index of the intentions of those who have brought forward the Bill, and it says that this is:

"a Bill to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India."

[Pandit Madan Mohan Malaviya.]

It does not contemplate dealing with unregistered Trade Unions. This is made clearer in Chapter III. Look at the heading. The heading is: "Rights and Liabilities of registered Trade Unions." That is again an index of what is intended. Look through the clauses in that Chapter. Every single clause refers expressly to registered Trade Unions. In clause 15 you have:

"The general funds of a registered Trade Union shall not be spent, etc."

In clause 17 you have:

"No officer or member of a registered Trade Union shall be liable, etc."

Clause 18 says:

"No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union. . . ."

In sub-clause (2) of that clause you have the words "a registered Trade Union in respect of which any act is done." In clause 19 "registered Trade Union" is mentioned. So also clause 20 says: "the account books of a registered Trade Union shall be open to inspection, etc." Clause 21 refers to the right of a minor to membership of registered Trade Unions. Clause 22 says:

"Not less than one-third of the total number of the officers of every registered Trade Union, etc."

Thus, the words "registered Trade Union" occur in all the clauses of this Chapter except in clause 16 (1). The words occur in clauses 23, 24, in two places in 26, in two places in 27 and in two places in 28. Obviously it was an unintentional omission that the word "registered" was not put in in clause 16. Are my friends right in taking advantage of this omission to raise a debate and to take up so much time of the Assembly? Obviously nobody can say that this enactment will in any way hamper the activities of unregistered Trade Unions. They can do what they like. This point is made clear in paragraph 5 of the Select Committee's Report which says:

"The question of the expenditure of Trade Union funds on political objects was found to be one of considerable difficulty. We are by a majority of opinion that such expenditure should be allowed."

We are here dealing with the question of expenditure of Trade Unions which will come under the operation of this Act. Where is there any justification for the suggestion that any provision of this Act shall prevent an unregistered Trade Union from constituting a separate fund? And if there is not, then why should there be any objection raised to the insertion of the word "registered" before "Trade Union" in clause 16 as it is inserted before every other "Trade Union" in the Bill? I think, Sir, that my friends should see the wisdom of not pressing their opposition, and that we should all vote for the amendment moved by the Honourable Sir Bhupendra Nath Mitra.

Mr. A. Rangaswami Iyengar: On a point of order, Sir. Are we discussing the amendment before the House or the point of order as to whether it is right to deal with unregistered Trade Unions as being within or beyond the scope of the Bill?

Pandit Madan Mohan Malaviya: May I explain, Sir? I have endeavoured to point out that no occasion has arisen for a ruling as to whether the Bill does or does not apply to unregistered Trade Unions. Obviously it does not apply.

Mr. President: The Honourable Pandit is well within his right. From the observations that fell from the Chair, the House must have seen that the vote of this House on this amendment will materially affect the decision of the Chair on the question of the admissibility of certain other amendments. Therefore the Honourable Pandit is perfectly entitled to raise the whole question.

Mr. Chaman Lal: Sir, the question at issue is not what the intention of the Select Committee was. The question at issue is, whether we in this House should adopt this Bill as referring merely to registered Trade Unions or to registered as well as unregistered Trade Unions. That is, to my mind, the main point at issue. The question has been debated at very great length by the legal luminaries who sit to the left of me, but I fail to understand why they should harp upon a reference to the Select Committee. The Select Committee, they will note, in the very first sentence of their report, said :

"We, the undersigned Members of the Select Committee to which the Indian Trade Unions Bill was referred . . ."

They do not refer to any "Indian registered Trade Unions Bill." The point that I want to make is this, that if the other side are going in for this hair-splitting, we also can do the same. But that does not carry us very far. The question is, are you or are you not going to confer certain benefits on unregistered Trade Unions, or are you going to limit them to registered Trade Unions only? On the merits of the question there can be no doubt whatsoever in the minds of those who are in the movement, who have seen the growth of Trade Unions, not those who have merely looked at the law on the subject of Trade Unions, that it is necessary and essential that legislation should protect unregistered Trade Unions as much as registered Trade Unions. In the English Act you have a clear indication. Under the Act of 1913 you have Unions which are registered, Unions which are merely certified and Unions which are unregistered, and all these three classes under the English Act obtain the same privileges as the registered Unions. Why should not this House adopt the same procedure and allow the privileges that are contained in the provisions of clause 16 to the unregistered Trade Unions also? (*An Honourable Member:* "There is nothing to prevent it.") My Honourable friend says there is nothing to prevent it. Let us make it perfectly clear, just as they want to make it clear by having the word "registered", that there is nothing to prevent any unregistered Union from having the same advantages. It may be that Government may declare a powerful unregistered Trade Union to be an unlawful assembly exactly as they declared the S. G. P. C. to be an unlawful assembly. We want to protect those unregistered Unions which want to levy political funds. We want the same privileges extended to those Unions, which do not come under this Bill and find the restrictions against Trade Unions being registered too much and therefore do not accept the provisions of this Bill, as you are extending to registered Unions. And in order to make it perfectly clear, we ask you to extend the same privileges to the unregistered Trade Unions and not restrict the scope of clause 16.

Lala Lajpat Rai: I have been really surprised at the turn the discussion has taken. Much eloquence has been spent about the intentions of the Select Committee. I think, Sir, the indication given by you as to the effect of a vote on this amendment was perfectly right. The real question raised by the Honourable Member in charge of the Bill was whether anything

[Lala Lajpat Rai.]

relating to an unregistered Union was within the scope of the Bill or not, and any decision of this House on this amendment under this clause will practically dispose of that question. If that is the question, then of course, we have to discuss the legal point, whether an inclusion of unregistered Unions within the provisions of this Bill is within the scope of this Bill, and whether this House wants to consider those provisions or not. In view of that fact, and in view of the indication given by you, Sir, all this discussion about the intentions of the Select Committee seems to be absolutely superfluous and a pure waste of time in my judgment. If this House now rules that the word "registered" should be added in the clause it would be ruling that anything relating to unregistered Trade Unions will be outside the scope of this Bill, and therefore all the amendments which my Honourable friends intend to propose to clauses 17, 18 and 19 will be out of order. So, the point to which we should address ourselves is this, whether anything relating to unregistered Trade Unions is within the scope of this Bill or not. As soon as that point . . .

Mr. M. A. Jinnah: I rise to a point of order. Is the question whether particular amendments are within the scope of the Bill or not to be decided by the House or by the Chair?

Mr. President: That question has, of course, got to be decided by the Chair, and the Chair has already intimated to the House that the decision of the Chair will mostly depend upon the decision of the House on this particular amendment.

Lala Lajpat Rai: After this ruling, it is perfectly clear that the real point at issue at this stage of the discussion is, whether anything relating to unregistered Trade Unions is within the scope of this Bill. I would, whatever may be the decision, respectfully warn those Honourable Members who are taking a very light view of this amendment to remember that it is a very important point which they are omitting from their consideration. After a great deal of hesitation, delay and procrastination, the Government have brought in this Bill relating to Trade Unions. When my Honourable friend, Mr. Chaman Lall, pointed out that the Title of the Bill was the law relating to Trade Unions, Honourable Members on the Government Benches laughed at it, but it was not a matter for laughter at all, because I find that it is exactly the Title of the English Bill which first dealt with Trade Unions in 1871, and in that Bill there were distinct provisions which related to Trade Unions in general and also provided for the registration of Trade Unions in addition. So the law there was made comprehensive and included both registered and unregistered Unions under one Title. There is nothing in this Bill, so far as the Title is concerned, to prevent anything relating to unregistered Trade Unions being discussed and included within the provisions of this Bill. It is entirely open to this House to say that they shall not deal with anything relating to unregistered Trade Unions. I can understand it. If that is the view of the House, the matter is disposed of at once and all amendments which my Honourable friends propose to bring forward with regard to clauses 17, 18 and 19 will be out of order. If that is not the view of the House, then I would urge upon this House, both from the points of view of justice and expediency, to consider the

whole law relating to Trade Unions. There are certain immunities granted under clauses 17, 18 and 19 to registered Trade Unions. My own opinion is that those immunities already exist at the present moment and that all Trade Unions enjoy them. Doubts have, however, been expressed in certain quarters whether Trade Unions at the present moment enjoy those immunities or not. But the keeping of these provisions confining them to registered Trade Unions and not extending them to Trade Unions in general will lead to an increase in litigation, an increase in misery and an increase of agitation. There is nothing beyond that. If the House or the Government decide to keep the law in an uncertain condition for another 50, 20 or 10 years, it is entirely in the power of this House and of the Government to do so. I would respectfully urge that an opportunity like this should not be thrown away. We know that Trade Unions are existing in this country. Their existence has been recognised by Government and other persons interested in them. This is the first attempt to make a law relating to them, and it is perfectly just and proper to enact a comprehensive law, if not fully comprehensive, at least comprehensive in the sense in which the English law of 1871 was. That would have made the law clear as to certain privileges which all Trade Unions enjoy and should enjoy. Certain additional privileges could also be given to registered Trade Unions. That would have been perfectly intelligible, but the Government have evidently chosen the other course which, in my judgment, will simply lead to further litigation, further agitation and unrest. I shall not detain the House further at this late stage but perhaps I may

Mr. President: The Honourable Member might raise the whole point at the last stage of the Bill.

Lala Lajpat Rai: Very well, Sir. I have then finished.

The Reverend Dr. E. M. Macphail: With reference to your ruling, does it imply that, if this amendment of the Honourable Member is lost, the word "registered" will be deleted in the following clauses of the Bill or will it be voted upon?

Mr. President: The Chair has made the position absolutely clear more than once. The decision of the Chair on the question of the admissibility of amendments that are to follow regarding the inclusion of non-registered Unions in the Bill will depend mostly upon the decision of the House. If the House decides to adopt the amendment of the Honourable the Industries Member, then it will be taken as an indication that the House is not in favour of including within the scope of the Bill provisions in regard to unregistered Trade Unions. If, on the other hand, the House decides to reject the amendment of the Honourable the Industries Member it would be inferred by the Chair that the House is in favour of including within the provisions of the Bill matters regarding unregistered Unions also. The Chair would have taken the entire responsibility on itself if the matter had been made quite clear by the Select Committee itself, but it appears some members of the Select Committee are of opinion that it was by a mere oversight that the word "registered" was omitted from the Report while there are others who hold a contrary view. Therefore it is very

[Mr. President.]

difficult for the Chair to decide what, in the opinion of the Select Committee, the original intention of the Bill was. That being so, the decision of the House will be taken as a guide by the Chair as to what the scope of the Bill is.

Mr. M. A. Jinnah: Will you allow me to say a word on that point. The position that you are putting before us is putting us in a very difficult position. I may vote in favour of this amendment on the simple ground that a Trade Union which is not a registered Trade Union does not require any assistance of law with regard to how it should start its funds or how it should spend its funds. On that point alone my vote will be recorded. It does not however follow from that that I therefore express the opinion that other non-registered Unions, which other amendments seek to bring within the scope of the Bill, should also derive the benefits of this Bill or not. That does not follow so that the question whether those amendments are within the scope of the Bill can only be decided by the Chair. Therefore, Sir, I want to make my position clear. My vote, and I hope the vote of many other Honourable Members, will be merely based on that one issue that I have mentioned. And I may point out respectfully that it does not depend on what was done in the Select Committee. It is entirely for you to decide whether certain amendments are within the scope of the Bill or not and for you to decide from the provisions of this Bill and its Objects and Reasons. The Select Committee may have gone wrong. It may have allowed certain amendments not within the scope of the Bill. It is for you to decide whether those amendments, to which objection is taken, are within the scope of the Bill. Therefore I hope, Sir, you will consider this and give us a definite ruling whether certain amendments which are now on the agenda are within the scope of the Bill or not. And I can only point to the precedents. It was done on more than one occasion by both your predecessors Sir Frederick Whyte and Sir Chimanlal Setalvad. It was done when the Steel Protection Bill was before this House. . . .

Mr. President: Order, order. It is entirely for the Chair to decide whether particular amendments are admissible or not, but it is quite open to the Chair in a doubtful case to say that it will take the decision of the House as a guide in a particular case. In this particular case if this clause 16 had not been inserted by the Select Committee, the Chair would not find any difficulty whatsoever in ruling all those amendments out of order. But, in view of the fact that the Select Committee has introduced this particular clause which applies to non-registered Trade Unions, the question arises what was the intention of the Bill? Therefore the decision of the House on this particular amendment would be taken as a guide by the Chair in the determination of the question of the scope of the Bill.

The Honourable Sir Alexander Muddiman (Home Member): The only point that I would bring to your notice is this. A Select Committee deals with a Bill after a motion for second reading has been passed and it is for the Select Committee to settle the details of the Bill. The House in sending a Bill to Select Committee under our practice affirms the principles of a Bill. Now, I submit to you most respectfully as a matter for your consideration that a Select Committee cannot enlarge the scope of a

Bill without an order from the House. The point is one of very great general importance as affecting the procedure of our Assembly.

Mr. N. M. Joshi: May I submit, Sir, on this point of order that this point should have been raised earlier? This is not the stage at which this point of order can be raised; it ought to have been raised long ago.

The Honourable Sir Alexander Muddiman: I raised it as soon as I had an opportunity of hearing the discussion. I could not raise it before.

Mr. President: Is it the contention of the Honourable the Home Member that the particular clause is outside the scope of the Bill and therefore beyond the powers of the Select Committee?

The Honourable Sir Alexander Muddiman: I understand that is the view, Sir,

Mr. President: The Honourable Industries Member said that it was through oversight that the word "registered" was omitted by the draftsman. The Government cannot maintain two contradictory positions.

The Honourable Sir Bhupendra Nath Mitra: What I said was that the word "registered" before "Trade Union" was not put in the Bill appended to the Report of the Select Committee by oversight, and it has never in fact been urged by a member of the Select Committee that it was done deliberately. If that had been said at any stage, I should have certainly said that the Select Committee had been out of order in making such a recommendation. But no such statement had in fact been made at an earlier stage of this discussion. The correct procedure has been clearly laid down, or rather clearly indicated, by the Leader of the House. I had no opportunity of bringing before you that particular aspect of the position because, without giving me any opportunity to offer any observations on that subject, you, Sir, laid down a certain procedure; you said that the voting on this particular amendment would govern your decision on the question of order.

Mr. Devaki Prasad Sinha: May I submit, Sir, in view of what my Honourable friend, Sir Bhupendra Nath Mitra has said that no member of the Select Committee said whether it was a deliberate omission or an omission through oversight? As one who sat on the Select Committee I submit, Sir, that what was placed before the Select Committee was this clause in the form in which it is to-day. Nobody knew whether it was an omission through oversight on the part of Government or a deliberate omission of a word. We understood that the clause was as it is in the Bill to-day; we discussed it as it stands to-day, and in the form in which it was presented to us, and we passed it. As for the action of the Select Committee in widening the scope and principle of the Bill, I would remind my Honourable friend, the Home Member, that it is not a point of ruling from the Chair which will decide whether the Select Committee has widened the scope or the principle of the Bill. In the Report the Select Committee say at the end:

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

Therefore, Sir, the proper persons to say whether the Bill has undergone a change in its principle or scope are members of the Select Committee themselves and nobody else.

The Honourable Sir Alexander Muddiman: May I say one word, Sir. I have not contended, I do not wish to contend, that the question whether an amendment is outside the scope of the Bill or not is a matter for decision by anybody but you, Sir. That is my whole point. I say that that is a decision for you entirely, but I do also urge this point for your consideration, namely, that it is not open to a Select Committee to enlarge the scope of a Bill without a direction from the House.

Mr. R. K. Shanmukham Chetty: With reference to the point raised by the Honourable the Home Member, I should like to know from you, Sir, whether it is within the scope of the Chair to say whether a Bill as it has emerged from the Select Committee has gone beyond the original scope of the Bill. My contention is that if an amendment is made by a Select Committee which goes beyond the principles of the Bill, it is for the Chairman of the Select Committee to rule that out of order and not for the Chair.

Mr. President: The final decision in a case of that kind always rests with the Chair here in this House. The matter has been sufficiently discussed and I will put the question now. The question is:

"That in sub-clause (1) of clause 16 before the words 'Trade Union' the word 'registered' be inserted."

The motion was adopted.

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

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

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

"That in sub-clause (1) of clause 16 after the word 'members' the word 'or of workmen in general' be inserted."

The object of this amendment is quite clear. Clause 15 enables Trade Unions to establish a political fund. Now this sub-clause proposes that the political fund should be used for the promotion of the civic and political interests only of its members. If the clause is allowed to be as it is, it will not be of much use to Trade Unions. There may be one constituency in which there may not be members of the Trade Union as voters and the Labour Party as a whole may like to support that candidate in any part of the country. If there are no members of a Trade Union in that constituency that Union will not be able to help the election of members for it. (*Honourable Members on the Treasury Benches:* "Question, question.") Sir, the Honourable Members question it. They should not mind my making the meaning of the clause clear. If they think that a Union can send some part of its political fund for fighting any election in any part of the country where among the voters they may not have any members, then certainly they should not object to my amendment. My amendment is that political funds may be utilised for the promotion of the civic and political progress of workmen in general in this country. What may happen is that in a few years time there may be a Labour Party in this country and the Trade Unions may be affiliated to the Labour Party. The Labour Party may put up a candidate for one constituency and all

the Trade Unions in that country may like to support the candidature of that candidate. As the sub-clause stands at present I think it will be absolutely necessary that my amendment should be carried so that the clause will enable any Trade Union to help the election of any member in whose constituency there may not be members of the Union as voters.

The Honourable Sir Bhupendra Nath Mitra: Sir, if I have correctly understood my friend, Mr. Joshi, what he mainly wants is already provided for in the clause, and I do not see any necessity for overburdening the law. The clause provides that from this political fund payments may be made for the promotion of the civic and political interests of its members. Now if there are certain interests which affect other workmen concurrently with the members of this Trade Union, the furtherance of those interests is a legitimate charge on the funds of the Union. I do not see therefore why it is necessary to make the addition proposed by Mr. Joshi. There may, on the other hand, be certain other interests connected with other workmen which do not in any way affect the interests of members of this particular Trade Union. I consider that this is just the sort of case in which no expenditure should be allowed to the funds of that particular Trade Union because it has been brought out time after time in this House that these Trade Unions at first will be comparatively poor. Is it not better that they should concentrate what small funds they may be able to raise in the furtherance of the various interests of their own members; and where those interests are the same as those of workmen in general there is not the slightest objection to others' interests being furthered at the same time. But from these limited funds I am pretty certain—and I am sure the House will agree with me—that it is undesirable, particularly in the earlier stage of formation of these institutions, that money should be allowed to be frittered away in a frenzy of enthusiasm and probably at the dictate of somebody else. I therefore, Sir, feel that I cannot help opposing the amendment.

Mr. Devaki Prasad Sinha: Sir, I find that there is practical agreement between my Honourable friend Mr. Joshi and the Honourable Sir Bhupendra Nath Mitra on the substance of this amendment. Sir Bhupendra Nath Mitra contends that what Mr. Joshi wants to introduce through this amendment is already in the Bill. (*Mr. A. G. Clow:* "No.") Then, Sir, our reasons for supporting this amendment are still stronger because I understood him to say he practically accepted what Mr. Joshi desired to introduce. Well, Sir, there are cases in which it may so happen that the political interests of a certain candidate who stands for election from any constituency will not coincide with the political interests of members of a Trade Union, but on other grounds it may be necessary for members of a particular Trade Union to help the election of a candidate from a constituency which is very far away from the headquarters of a Trade Union. In those cases, Sir, I feel that difficulties might arise in the way of Trade Unions contributing to the success of that candidate. Well, Sir, in order to provide for those cases my friend Mr. Joshi wants to make this clause quite clear. If we take a concrete instance, it may happen that members of a Trade Union are not voters in any constituency, and if they are asked to contribute money for the success of a candidate who stands for that constituency of the Legislative Assembly, an interpretation might be put on this clause that members of this Trade Union are not entitled to contribute any money for that election because the political benefit which might accrue to this Trade Union would be much

[Mr. Devaki Prasad Sinha.]

too remote. We know that in England the judiciary has not helped the development of the trade union movement. They have interpreted the statutory law in such a way as to restrict the right of trade unionists and not to expand those rights. The Taff Vale case and other cases are instances of this character (the Osborne case also, my Honourable friend rightly reminds me). For this reason the trade unionists are nervous, and they want to make the law quite clear on this point. I have not heard anything that my Honourable friend Sir Bhupendra Nath Mitra has urged against this amendment. If this amendment is carried, there would not be any harm done to the Trades Unions or to members of a Trade Union. In the furtherance of their political and civic rights they might desire to enlist the sympathy of some Members of the Assembly or of a Council. If they want to do so, it is necessary for them to have in the Legislative Assembly or in the Legislative Council of a Province some Members who will always support their cause and who will help in securing political rights for members of a Trade Union. If this is to be done conveniently, and I may safely presume that the House desires that this should be allowed to be done, then it is the duty of the House to make the position quite clear by accepting my Honourable friend Mr. Joshi's amendment. I therefore hope that in this matter at any rate my reasonable and Honourable friends of the Independent Party will not *en bloc* go against us. Whenever we have moved our amendments we have always been told that our demands are unreasonable. Now, Sir, if my Honourable friends oppose this amendment of my friend Mr. Joshi, we shall be entitled to say that their attitude is not very reasonable towards the Trade Unions. With these words I support the amendment.

***Diwan Bahadur M. Ramachandra Rao:** I should like the Honourable Member in charge of this Bill to explain to me whether the words in clause 16 (1):

"A Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made for the promotion of the civic and political interests of its members. . . ."

in any way qualify the subsequent clause. I may illustrate it in this way. Supposing in the Presidency of Madras there is a Trade Union in Madras, another in Tinnevely and another in Ganjam. All of them are interested in running a candidate for election to the Legislative Council in Madras. Now I wish to know whether under these sub-clauses (1) and (2) read together it would be open to a member of the Trade Union in Madras to be assisted by the Trade Union in Tinnevely or Ganjam. (The Honourable Sir Bhupendra Nath Mitra: "Why not?") My Honourable friend says "Why not?" I ask him to read sub-clauses (1) and (2) together. Sub-clause (2) runs as follows:

"(a) the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of India Act or of any local authority,"

and so on. I should like to know whether this candidate or prospective candidate should be a member of the Trade Union referred to in sub-clause (1). That is a point I should like to know because it seems to me that if you

***Speech not corrected by the Honourable Member.**

said clearly that the candidate or prospective candidate for election may or may not belong to the Trade Union, the matter would be quite clear. Otherwise it seems to me, Sir, that those words "for the promotion of the civic and political interests of its members" may preclude the Trade Union from going to the help of a man who does not belong to that particular Union.

Mr. M. A. Jinnah: How do you make that clear?

Diwan Bahadur M. Ramachandra Rao: By adding those words here.

The Honourable Sir Bhupendra Nath Mitra: Perhaps my Honourable friend Mr. Jinnah who was largely instrumental in the drafting of this clause would have helped more to illuminate Diwan Bahadur Ramachandra Rao than I . . .

Diwan Bahadur M. Ramachandra Rao: I would like to get it from whatever quarter it comes.

The Honourable Sir Bhupendra Nath Mitra: But I think I shall be able to satisfy him. So far as sub-clause (2) (c) goes it simply says:

"the maintenance of any person who is a member of any legislative body constituted under the Government of India Act or any local authority."

It does not in any way limit who that person should be, and the amendment before the House does not in any way clarify the position. We then come to the words "for the promotion of the civic and political interests of its members". Now, if the Trade Union at Madras in furtherance of the civic and political interests of its members joins hands with a similar Trade Union, or it may be a dissimilar Trade Union, at Tinnevely or Madura, and conjointly shares the election expenses of that person referred to in sub-clause (2) (c), I do not see what objection there can be to this action under the provisions of the Bill as they now stand.

Mr. Chaman Lall: It seems to me that my Honourable friend Mr. Devaki Prasad Sinha was not very far wrong when he said that the Honourable Member over there and my colleague Mr. Joshi do not differ very substantially on the interpretation put on his particular clause. It seems to me that the clause is wide enough. Although I myself have sent in an amendment on the same lines as my Honourable friend Mr. Joshi, if the interpretation which the Honourable Member puts on that clause is correct, then I have no hesitation in saying I myself would withdraw my own amendment. The interpretation I take it is this, that any Union is entitled to spend money upon the advancement of the objects laid down under clause 16 (2). That does not restrict the Union from spending money only upon its members, but in furtherance of the political and civic objects of its members, which may not certainly coincide with the political and civic objects of the Union itself. The political and civic objects are general, and if that is the interpretation, I have no hesitation in accepting the interpretation put upon this clause by the Honourable Member over there.

Mr. M. A. Jinnah: Sir, I congratulate the luminary on the other side who has at last grasped the meaning of this clause. (*An Honourable Member:* "On the other side?") On this side, I think. But, Sir, no amount of speech either from him or even from the Honourable Member in charge or from anybody else is going to help in any way whatsoever, because we must after all depend upon the words of the Statute; and

[Mr. M. A. Jinnah.]

no man, however strong his opinion may be as to what is the true or correct construction of this clause, will prevail for a single moment in a court of law. Therefore, it is not really a question as to what is the opinion of a particular Member of this House. The question for the House really to consider is whether this clause requires amendment or not. Now, Mr. Joshi's amendment does not carry the case any further. It leaves us where we are; and, as far as I can judge, as far as my opinion goes if it is worth anything, I entirely agree with my learned friend there who happens to belong to the same profession as I do, and, I hope, will attain to the position of a legal luminary very soon. (Mr. T. C. Goswami: "He is already that.") I am not prepared to accept that yet, but I have no doubt that in course of time light will dawn.

Mr. N. M. Joshi: Sir, in view of the discussion, I withdraw the amendment.

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

Mr. Chaman Lall: Sir, there is an amendment regarding sub-clause (3). It is a very small matter; it is a question of contracting in and contracting out. (An Honourable Member: "A very big matter.") The sub-clause as it stands is as follows:

"No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union."

To this I intend to move an amendment as follows:

"That for the words 'no member shall be compelled to contribute to the fund constituted under sub-section (1)' the following shall be substituted:

'Every member shall have the right to claim exemption from contributing to the fund referred to in sub-section (1) either at the time of his enrolment as a member of the Trade Union or at any time subsequently within one month of the notice requiring him to pay towards such fund.'

The provision in this amendment follows fairly strictly the law on the subject under the Trade Union Act of 1913; and clause 5 of the Trade Union Act of 1913, sub-clause (2), says:

"On giving notice in accordance with this Act of his objection to contribute, a member of the union shall be exempt, so long as his notice is not withdrawn, from contributing to the political fund of the union as from the first day of January next after the notice is given, or, in the case of a notice given within one month after the notice given to members under this section on the adoption of a resolution approving the furtherance of political objects, as from the date on which the member's notice is given."

The difference, Sir, is this, that if the present clause is accepted, then it is not incumbent upon any member to contribute to the political funds of the Union. The Union passes a resolution and it is the Union's business then to collect the money from the members and any member who refuses to pay is not debarred from any of the benefits of the Union; but under the amendment which I am moving it becomes incumbent upon members to pay the contribution and they cannot claim the benefits of the Union unless they comply with that provision, namely, that within one month they give notice of their intention not to contribute to the political fund. The Honourable Member over there will readily see the difficulty in a large Union with a large membership where the executive will

be forced to go to every member and collect the money for the political fund. On the other hand, in practice it has been found under the English Act that it is very much simpler, it is very much cheaper, for the Union to collect their money in this fashion. After all, the question of expense has got to be considered. Imagine a Trade Union sending circular after circular to a hundred thousand members asking them to contribute to the political fund according to the resolution passed by the executive. Every man will know what it is his duty to contribute to the political fund, and if a member does not give due notice of his intention not to contribute to the fund, then he will be liable for all sorts of penalties which are connected with the forfeiture of his membership of the Union. Now, Sir, under these circumstances, I think that the Honourable Member in charge can do no better than follow the practice of the English law on the subject; he can do no better than follow the practice which is adopted by English Trade Unions in this matter. It is a very simple matter. There ought to be no difficulty at all. If you are honest, if you are sincere, about creating political funds for Trade Unions, you should follow the practice which is known in the civilized world, and you should not force upon Indian Trade Unions a practice which has not behind it the sanction of reason or of intelligence or of experience.

The Honourable Sir Bhupendra Nath Mitra: Sir, in spite of the eloquence of my friend, Mr. Chaman Lall, I am afraid I remain unconvinced. As I said before, personally I have not much sympathy for these political funds at the present stage of the formation of Trade Unions. I may be entirely wrong, but I hold, and I hold very strongly, that it would be better for the growth of these Trade Unions, and for the members of the Trade Unions, if in the early stages of the formation of these Unions all the money that was collected were spent on the two objects which, for forty years have remained the objects of expenditure of Trade Unions in England, namely, trade purposes and benevolent purposes. However, the matter was fully discussed in Select Committee and some members who took a different view decided by a majority to insert this particular provision in the Bill. I said on Monday that Government were willing to accept the compromise arrived at by the majority of the Select Committee in the matter. Beyond that however I am not prepared to go. Personally, I do not feel that any advantage will accrue to Trade Unions at the present day by the adoption of the amendment of my friend Mr. Chaman Lall. On the other hand, I feel, and I feel very definitely, that a certain amount of harm will be done. Still I am quite willing to adhere to the compromise arrived at in the Select Committee. I cannot go beyond that.

Mr. President: The question is:

"That in sub-clause (3) of clause 16 for the words 'no member shall be compelled to contribute to the fund constituted under sub-section (1)' the following be substituted:

'Every member shall have the right to claim exemption from contributing to the fund referred to in sub-section (1) either at the time of his enrolment as a member of the Trade Union or at any time subsequently within one month of the notice requiring him to pay towards such fund.'

The motion was negatived.

Mr. President: The question is:

"That clause 16 do stand part of the Bill."

Mr. W. S. J. Willson (Associated Chambers of Commerce: Nominated Non-Official): Sir, I would like to take this opportunity of associating myself

[Mr. W. S. J. Willson.]

with the remarks which recently fell from the Honourable Sir Bhupendra Nath Mitra in regard to this clause 16 as arrived at as a compromise in the Select Committee.

I would like to explain to the House, which is aware that employers offered a certain amount of opposition to this Trade Unions Bill, that one of the reasons for their so doing was that they really feared that there was some grave menace to industrial tranquillity behind this trade union movement. They therefore considered it a positive mistake that this clause should have been admitted in the Bill. They thought that it would have been wiser in the earlier stages of trade unionism that the leaders and the workers should have confined their attention to the working of Trade Unions for pure trade unionist, apart from political, purposes. But, Sir, the pro and con for the inclusion of a political clause was extremely well explained to the House by Mr. Shanmukham Chetty on the original introduction of the Bill. That being so, Sir, I do not propose to level any opposition to this clause as it stands. I would rather rely upon those political leaders who have been responsible for the introduction of this clause to use their influence with the leaders of Trade Unions in order to see that the clause, now it is there, may not be abused.

Clause 16 was added to the Bill.

Mr. President: The question is:

"That clause 17 do stand part of the Bill."

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

"For clause 17 the following be substituted:

"No two or more persons"

The Honourable Sir Bhupendra Nath Mitra: May I rise to a point of order, Sir? I think you decided that any amendments intended to extend to persons who are not members of registered Trade Unions certain provisions of this Act are out of order. That I understood to be your decision before the House adjourned for lunch. That being so, is Mr. Joshi in order in moving this amendment?

Mr. N. M. Joshi: On the point of order, Sir. I do not know, Sir, what you said

Mr. President: Order, order. The Honourable Member was present in the House when the Chair made these observations.

Mr. N. M. Joshi: I do not know whether you had actually decided about this amendment, but I would like to be heard on this point. My point is this. The principles of this Bill are the registration of Trade Unions and settling the criminal and civil law in trade disputes. Those are the two principles of this Bill. (*Mr. A. G. Clow:* "No".) There are two clauses about trade disputes, clauses 17 and 18. The other clauses refer to the registration of Trade Unions. I therefore think that there are two main principles of this Bill, to define the criminal and civil law as regards trade disputes and to enable Unions to be registered according to certain rules. That being so, my feeling is that my amendment is quite in order.

The Honourable Sir Alexander Muddiman: I have just one point to submit. I suggest that the scope of a Bill is to be found in its Preamble and the Preamble to the Bill, with your permission, I will read. It runs as follows:

"Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India."

Now, the scope of this law, I submit, is to provide for registration and to provide certain provisions in regard to the Unions which have been registered and an amendment which extends that scope is outside the Preamble. On those grounds I oppose my Honourable friend.

Mr. President: The Honourable Member from Bombay should have used his skill in persuading his colleagues to reject the amendment moved by the Honourable Member in charge of the Bill and then perhaps his case would have been somewhat stronger. The House as well as the Government have already expressed their view that the scope of the Bill is restricted only to registered Trade Unions, and the Chair has no difficulty now in accepting that view. The Chair therefore rules this amendment as well as similar amendments, which are Nos. 35, 36, 37, 39, 40 and 46, as out of order.

Mr. N. M. Joshi: As regards No. 40, I submit I have got two amendments there. One is the omission of the word "registered" and the other is the omission of the words "to which a member of the Trade Union is a party". The latter portion of my amendment is, I think, in order.

Mr. President: The Honourable Member from Bombay is right. The ruling just given applies only to the first part of No. 40.

Mr. N. M. Joshi: I beg to move:

"That in clause 17 after the word 'offence' the words 'except that which is due to breach of contract of service or desertion' be added."

In the printed list there is a little grammatical mistake and I have corrected it in the amendment as I have read it. The object of my amendment is this, that any action as regards certain agreements, such as agreements to break one's contract of service or to induce others to break their contracts of service, should not be brought within the scope of the section in the Indian Penal Code for conspiracy. The object of this clause is that these actions, namely, breach of contract of service and inducing people to break their contracts of service without notice, should not be punished as a criminal conspiracy and the clause says, "unless the agreement is an agreement to commit an offence". Ordinarily, to break one's contract of service even without notice or to induce others to break their contracts of service is not an offence. It is only a civil wrong, but unfortunately in our country there are some Statutes, some laws, in which a breach of contract of service is a criminal offence, such as the Assam Planters and Labour Act.

Mr. A. G. Olow: It does not apply.

Mr. N. M. Joshi: The Act is still there and it is not repealed. There is also the Madras Planters' Labour Act. There are Acts under which certain municipal servants are punished for breaking a contract of service as an offence. This clause will not cover the cases of those who will come

[Mr. N. M. Joshi.]

under those laws. Fortunately for us, the Honourable the Home Member was responsible for repealing much of the legislation which punishes breach of contract of service as an offence. Now, some relics of old laws still remain unfortunately, and in those laws a breach of contract of service is still punished as an offence. I therefore think that it is necessary to give the benefit of this clause even to those people who break their contracts of service. I hope that my amendment will be accepted by the House.

Mr. A. G. Clow (Industries Department: Nominated Official): May I ask the Honourable Member whether he intends to bring within the scope of his amendment the case of seamen who have signed articles of agreement and who subsequently desert? That is an offence of desertion under the Merchant Shipping Act.

Mr. N. M. Joshi: I want to cover every offence for breach of contract of service. I am not asking by this amendment to repeal that legislation at all. If it is an offence according to those sections it will remain an offence. The only thing that I am seeking is to prevent its being made a conspiracy.

Mr. W. S. J. Willson: I am afraid I cannot see my way to support Mr. Joshi's amendment. The point I was going to raise was the one just mentioned by Mr. Clow. It seems to me that so long as Mr. Joshi's amendment includes the word "desertion", it would specifically and directly apply to seamen. The position that you might have a bunch of seamen holding up a ship, say, with a full complement of pilgrims on the way to Jeddah is to my mind unthinkable. I must therefore oppose Mr. Joshi's amendment.

serious objections to it. I will now draw attention to some other objections.

The Honourable Sir Bhupendra Nath Mitra: I cannot possibly accept Mr. Joshi's amendment. Mr. Willson has drawn attention to certain. The clause will afford immunity from punishment to agreements to commit breaches of contract punishable under certain other special laws relating to public utility services like the Post Office Act. It will also, as Mr. Joshi said, apply to agreements to commit a breach of contract under certain other special Acts. He mentioned for example the Assam Labour Act. But the penal provisions of the Assam Labour Act have already been withdrawn by statutory notifications. The other Act, Act XIII of 1859, will cease to be operative from 1st April next and though it is true that there are certain other special laws covering the same ground in regard to certain special localities in Madras, etc., the exemption contemplated by Mr. Joshi should in my opinion be secured not by a general provision of this class but by the local Legislative Councils amending these particular provisions in the special Act. So far as I am aware the provision which Mr. Joshi wants to introduce does not find a place even in the English law. I cannot possibly accept it.

Mr. President: The question is:

"That in clause 17, after the word 'offence' the words 'except those which are due to breach of contract of service or desertion' be added."

The motion was negatived.

Clause 17 was added to the Bill.

Mr. President The question is :

"That clause 18 be added to the Bill."

Mr. N. M. Joshi : I move my amendment which is part of amendment No. 40, namely :

"That in clause 18, sub-clause (1), the words 'to which a member of the Trade Union is a party' be omitted."

This clause 18 gives certain immunity from the consequences of actions done in connection with a trade dispute. The clause provides that if any officer of a Trade Union or a member thereof commits certain acts which ordinarily would be liable for civil action he will not be liable for civil action under this clause. Now, Sir, the advantage of this clause is given to the members and officers of a registered Trade Union in respect of any act done in contemplation or furtherance of trade disputes to which a member of the Trade Union is a party. What this clause does is this, that in a trade dispute an officer or a member of a Trade Union is not liable under the civil law for certain damages for taking part in that trade dispute. Now, Sir, if this section is to be of use to the working classes and the trade union movement in India, the words 'to which a member of a trade union is a party' must be omitted. If those words remain, only the officers and members of a particular Trade Union involved in a trade dispute can take part in that trade dispute. But I have already explained several times in the discussion of this Bill that it is not enough for any section of the working class people that they should be allowed to do certain things. It is always necessary also that they should receive the help of other workmen. Now in India members of a registered Trade Union may go on strike and their officers may be immune from the consequences of the civil law. But the whole of our labour movement is one movement. Officers of one registered Trade Union may go and help the members and officers of another Trade Union which has gone on strike, and it is absolutely necessary that they should receive the help of the officers and members of other registered Trade Unions. If that is so we must provide for it. These other Trade Unions may not be parties to the dispute but still it is their duty to assist the Union that is involved. In India we have Trade Unions and Provincial Committees of the Trade Union Congress and we have the All-India Trade Union Congress. Some of us are officers of the All-India Trade Union Congress. If one of the registered and affiliated Unions is involved in a strike it is the duty of the officers of the All-India Trade Union Congress to go to their help. But if they do go to their help they will not get the benefit of this immunity, because they are not a party to the dispute.

The Honourable Sir Alexander Muddiman : But will they be registered, because the amendment does not cover that?

Mr. N. M. Joshi : If the amendment requires some modification I do not mind, but my object is quite clear. If you accept my view that it is necessary for the officers and members of other registered Trade Unions who are not a party to a dispute going and assisting the Union involved in the dispute, then you must remove the words "to which a member of the Trade Union is a party". I have already explained, Sir, that in

[Mr. N. M. Joshi.]

India we have an All-India Trade Union Congress and that some of us are officers of that Congress, and in every dispute we are called on to help the Union involved, but if we go there we shall be liable to damages under this clause. It is a very dangerous thing from our point of view, and the position is difficult indeed. I want the Members of this House to understand it clearly. Personally, I am at present the General Secretary of the Trade Union Congress and every time there is a strike they ask for my help. I may not be a member of that registered Trade Union which is involved in the dispute but as the General Secretary of the Trade Union Congress I am asked to help, and, if I go, I am liable to pay damages. Of course I do not mind paying damages because people will not be able to get very much out of me, but the principle is there. I, therefore, think, Sir, that my amendment is a very reasonable one and should be accepted by the House.

Mr. Chaman Lall: Sir, I am in the same difficulty as my friend Mr. Joshi. He is the General Secretary of the Trade Union Congress and I happen to be a member of the executive. But the question is not a personal one. The question is really one of principle, and the principle involved is this. We have restricted the scope of the Bill to registered Trade Unions, and I noticed that the Honourable the Home Member raised the objection whether this amendment covered registered Trade Unions or not.

The Honourable Sir Alexander Muddiman: No, no.

Mr. Chaman Lall: May I direct his attention to the fact that the wording is perfectly clear:

“No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute”

All that we are asking is this, that the subsequent words, which restrict this immunity only to the members of the Trade Union involved, should be taken out, namely, “to which a member of the Trade Union is a party”. I do not see how the Government can have any objection. We ask merely that the Trade Unions which are registered should be immune from civil liability. Under these circumstances, we are not asking for a general immunity for everybody, much as I would personally advocate it for unregistered Trade Unions or for outsiders. We are simply asking for immunity for registered Trade Unions which have a duty and owe a duty to themselves and to the movement as a whole—a registered Trade Union which is involved in a trade dispute. Now, that, Sir, is not asking too much of the Government, and I do hope that the Government will in a simple matter like this agree with us in holding that, if you are going to give immunity to a Trade Union, you should not restrict that immunity to any one particular class of registered Trade Unions: give it to the whole Trade Union movement as a whole so long as Trade Unions are registered.

Mr. A. G. Olow: Sir, the object of the amendment has, I think, been made sufficiently clear by my Honourable friends, Mr. Joshi and Mr. Chaman Lall. It is really to give this extraordinary immunity which we are conferring on Trade Unions, or rather a certain class of Trade Unions

in respect of acts which they may do to assist strikers if they are in unregistered Trade Unions, or even if they are not in Trade Unions at all. Now that does to my mind enlarge the scope of the clause in a very dangerous manner. So long as an officer or member of a registered Trade Union is acting in connection with a dispute that concerns his own Union, he is bound to have a certain sense of responsibility. He is liable to account to his own executive for the manner in which he spends his funds, for the acts he does; and where that sense of responsibility is present, we think it is safe to confer this immunity, an immunity of an entirely new kind, as far as I am aware, in the Indian law, upon officers and members of a Trade Union.

Mr. N. M. Joshi: The officers or members of registered Trade Unions will get this immunity.

Mr. A. G. Clow: Yes, personally they will get it, but they are not in any way tied by a sense of responsibility to their own executive.

Mr. N. M. Joshi: To their executive, they are.

Mr. A. G. Clow: But their executive is not necessarily responsible for the conduct of that strike. Then there is another point. I am glad to hear that the Trade Union Congress will be a registered Union, and I do hope it will exercise all its influence in the endeavour to get other Unions registered. What we are really trying to do is to build up trade unionism of a responsible kind, Unions that will have their funds audited, Unions that will have responsible executives, and this proposal seems to me to undermine that whole principle. Nor do I think the danger suggested by Mr. Joshi is a very real one. I understand that without any protection at present Mr. Joshi gallantly goes to the rescue of a large number of Unions throughout India or to the rescue of strikers who are in difficulties. I hope he will continue to do so. So far as I know, he has never yet been prosecuted, and I sincerely hope he will never be prosecuted.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, I am afraid my Honourable friend Mr. Clow has not understood clearly the significance of the amendment moved by my friend, Mr. Joshi.

I do not agree with my Honourable friend Mr. Clow when he says that the amendment of Mr. Joshi would indiscriminately extend the scope of the immunity granted under the section.

Mr. A. G. Clow: Not indiscriminately, no.

Mr. R. K. Shanmukham Chetty: The amendment of Mr. Joshi will make the right given by the clause more effective. I will give my Honourable friend an example. In my place there are four mills. Suppose the labourers of two mills have joined together and formed themselves into a registered Trade Union, and the labourers of the two other mills have got a separate registered Trade Union. The members belonging to one of the Unions go on strike. Would it be open to the members and officers of the other registered Trade Union to go and help them in the strike. The clause

[Mr. R. K. Shanmukham Chetty.]

as it is drafted would not protect them in such a case. The officers of one registered Trade Union cannot go and help the strikers in another registered Trade Union and get the benefit of clause 18.

Mr. A. G. Clow: Mr. Joshi's amendment goes much beyond that.

Mr. R. K. Shanmukham Chetty: It does not. If it goes much beyond that, will you please suggest a modification. I am sure that my Honourable friend Mr. Clow realises the difficulty created in the clause as it is. At present the members or officers of one registered Trade Union cannot go to the rescue of the members of another registered Trade Union. I am not speaking of unregistered Trade Unions and I do not know how my Honourable friend Mr. Clow will get over the difficulty created by the clause as it is at present.

The Honourable Sir Bhupendra Nath Mitra: I am not sure that I entirely agree with my friend Mr. Chetty. I may be a little dense, not being a lawyer, but I believe that the question which he specifically put was this: There are two registered Trade Unions of workmen in one particular locality. One of these has had some trouble with its employers and there is a trade dispute. Can the officers of the other registered Trade Union go to the assistance of the first Trade Union and still enjoy the immunity? I cannot see anything in the provision as it stands which deprives the officers of the second Trade Union from that immunity. The clause says:

"in furtherance of a trade dispute to which a member of the Trade Union is a party."

(Mr. Devaki Prasad Sinha: "*The Trade Union.*") Mr. Joshi, to begin with, inserted a definition of "Workmen" in the definition of "trade dispute". That being so, if the trade dispute is of such a nature that though it directly affects Trade Union No. I it also indirectly affects the interests of Union No. II, I personally see no reason why the provisions of the clause as it stands should not apply to Trade Union No. II.

Mr. Devaki Prasad Sinha: I want to move a further amendment.

Mr. President: I cannot allow any further amendment.

The question is:

"That in clause 18, sub-clause (1), the following words be omitted:

'to which a member of the Trade Union is a party.'"

The motion was negatived.

Mr. Devaki Prasad Sinha: With your leave, Sir, and the leave of the House, I wish to move an amendment, which would be like this:

"Instead of the word"

Mr. President: The Chair has already ruled that no further amendment will be allowed at this stage.

Mr. W. S. J. Willson: Sir, it takes but a few words to explain the meaning of my amendment, which is as follows:

"That sub-clause (2) of clause 18 be omitted."

This is not an immunity granted to any individual or corporation, but to Trade Unions and the point for consideration is why should the Trade Union be able to get out of liability? As Trade Unions under this Act will be in their infancy, is it not better to let them acquire a sense of responsibility? I do not think any other words are necessary to explain that amendment.

Mr. Chaman Lall: I see no reason whatsoever for pressing this amendment moved by Mr. Willson. He is asking for the omission of sub-clause (2) of clause 18. He has given us no grounds whatever in the brief speech which he has made. He merely wishes to make a formal protest against it. I take it that the sense of the House is that you are going to give immunity on the most civilised lines to Trade Unions which are registered. If you take away one limb of this clause you do a great injustice to Trade Unions throughout India. Sub-clause (2), of which Mr. Willson wants to deprive the Bill, is merely a replica of the existing law on the subject in Great Britain. I do not see why he should be enamoured of British institutions and not of this particular institution.

Mr. M. A. Jinnah: It is much worse.

Mr. Chaman Lall: As Mr. Jinnah points out, it is much worse. In what way Mr. Jinnah will explain to you (Laughter). As far as I am concerned the Bill would not be worth having if this sub-clause, as amended, were not insterted in clause 18. What does the sub-clause say?

"No suit or other legal proceeding shall be maintainable in any Civil Court against a registered Trade Union in respect of any act done in contemplation or furtherance of a trade dispute by any person acting on behalf of the Trade Union, if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union. . . ."

The House will notice that the word "express" does not occur in the British Act of 1906. Probably I have made a mistake, in the New South Wales Act the word "express" does not occur. That is more modern than these provisions. We have tried to copy, as far as I understand it, the provisions of the British Act. (*Some Honourable Members:* "No, no.") But we have thrown the onus on the man himself to prove whether he was aware of the instructions of the executive or not. What we are attempting to do is not to omit this clause but to throw the onus upon the man who sues this particular official for damages to prove that this man has committed something which makes him liable for damages under this Bill. My friend wants the clause to be omitted. It is like cutting the body in two and hanging the upper portion, while throwing the lower to the dogs. In dealing with this particular clause, take the clause as a whole or do not consider the question of immunity which you are granting to Trade Unions in India. The question of immunity is a very important question and if you are going to qualify your statement by giving them immunity only by halves, that sort of immunity is not worth having. I recommend to the House that the House should pass clause 18 with the amendments that we intend to move.

Pandit Motilal Nehru: Sir, it seems to me that much confusion has been caused in the debate on this Bill by analogies and comparisons with the English Bills and Acts on the subject. As I read sub-clause (2) of clause 18, it seems to me that there is no question of immunity involved in it at all. What that clause lays down is this—and it is a universal proposition—

[Pandit Motilal Nehru.]

of law—that you shall not hold a body, the whole body, liable for the offence of an individual member of it, unless it is proved that that individual committed the offence with the connivance or the active support of the general body. That has really nothing whatever to do with any question of immunity at all. What it says is that a Trade Union as a Trade Union shall not be liable for the acts or omissions of its staff unless it is identified in some way or other with that act or omission, and taking it as such I submit that it is an unexceptionable proposition of law.

My only difficulty arises when I come to the latter part of the clause where the onus is thrown upon the Union to prove its innocence, and not on the plaintiff to prove that the whole Union was the guilty party, having permitted the act with knowledge of the circumstances, or having actually instigated it. But that is not the proposition before the House now. There is, I find, a separate amendment to that effect and I will deal with it when we come to it. At present we are on the question whether this clause should be wholly omitted. I submit there is no reason for omitting it, but, as Mr. Chaman Lall put it, there is every reason for improving it.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I do not understand why my friend Mr. Willson wants this clause omitted. There is immunity everywhere. If a district magistrate or police superintendent orders the police to fire while a strike is led by my friend Mr. Chaman Lall, and Mr. Chaman Lall is shot, that district magistrate is immune from trial by the State laws. If a director of companies promotes bogus companies and defalcates, even the law cannot get hold of him. We could not get hold of the Directors of the Alliance Bank. If a Trade Union leader gets some immunity when giving his assistance in a strike, why should we stand against it? Let him have the immunity. The law as it stands of the British Government allows immunity to all executives; why should not the executives of a Trade Union have similar immunity?

Mr. M. A. Jinnah: Sir, I would like to ask Mr. Willson really to withdraw his amendment. The position is this. This clause deals with nothing else than what is the very well known principle of Principal and Agent. It is very elementary to any lawyer; you know that there are certain circumstances under which the principal is liable for the act of his agent. Now this clause therefore is intended to give immunity to the principal unless under certain circumstances the principal can be held liable. Mr. Chaman Lall said it was exactly the same as the English law. I regret to say it is not. He said that I would explain it. The important point involved with regard to the clause between the Government and ourselves on this side is the difference as to the burden of proof. In this clause the burden of proof is thrown on the Union, that is to say, unless the Union proves that it had no knowledge of the act of its officers, or that it did not give instructions to its officers, the presumption would be that the Union is liable. Under the English law the position is quite different, and that principle I am not discussing now. We have already got the amendment tabled and I shall reserve my remarks till that amendment is moved, but I hope Mr. Willson will withdraw his amendment because it is really impossible to accept it.

Mr. President: The question is:

“That sub-clause (2) of clause 18 be omitted.”

The motion was negatived.

Mr. N. M. Joshi: Sir, I move:

“ That in sub-clause (2) of clause 18 all the words beginning from ‘ if it is proved ’ up to the end of the sub-clause be omitted.

Sir, let me tell my friend Mr. Willson that his amendment is lost, but let me tell him that half a loaf is better than no loaf. His amendment was for the omission of the whole clause. I offer him the omission of half the clause. I therefore hope he will support my amendment.

Now, Sir, my amendment is this, that the portion of this sub-clause beginning from ‘ if it is proved, etc., etc. ’ should be dropped, and my object is to bring our trade union law as regards this question into line with the English law. I know, Sir, the Honourable Pandit just now said that we need not go into the analogies of English law, but somehow or other I generally admire English law and English institutions, and therefore I always like that our law should be modelled on their laws. Unfortunately, Englishmen in India do not like their laws, but I hope that, when they find that men like me like the English law and English institutions, they will reconsider their position and begin to love their laws, to like their laws and see that other people get similar laws.

This section that was introduced in the English legislation has a long history. The capitalists, or I may call them employers, in England tried to exhaust the funds of Trade Unions by civil litigation. If an officer of a Union did something, a civil suit was filed against the Trade Union and thus the funds of the Trade Union were being exhausted gradually by such litigation. The English legislation was therefore changed to prevent this evil, and the legislation was passed with the consent of all parties in England and it is considered to be very good legislation by the working classes in England; I am quite sure if anybody in England now tries to change the law he will never succeed. Sir, there is a great danger in allowing this latter portion to remain, because, if you hold the Trade Union liable for the actions of its officers, the evil which existed in England will reappear here. The employers will file some civil suits for the acts done by some officers and try to exhaust the funds of the Trade Unions. That is actually what happened in England and therefore the English law was changed, and I say let us not wait to see the evil arise in India and then change the law. If an officer commits some wrong which is punishable by itself, the officer will be punished. If the officer commits a civil wrong, the officer will have to pay the penalty. If he commits an offence which is punishable as a crime, why should the Union itself be made liable for the actions of its officer.

Mr. M. A. Jinnah: The officer may have no money.

Mr. N. M. Joshi: Do not file a civil suit then; it is wise not to file a civil suit.

Mr. M. A. Jinnah: But we are talking of civil suits now.

Mr. N. M. Joshi: Sir, this law is considered to be a very good law in England and I therefore think we should have a similar law here; and I appeal to all Englishmen to see that India gets English legislation and not some hybrid legislation. I also appeal to Mr. Willson on the principle that half a loaf is better than no bread.

Mr. President: The Chair may better give a warning that if the Honourable Member from Bombay takes the decision of the House on this

[Mr. President.]

amendment he runs the risk of his subsequent amendments on the same question being ruled out as being inconsistent with the decision of the House on this amendment.

Mr. N. M. Joshi: Then, Sir, with your permission, I will postpone the consideration of this amendment till the consideration of my second amendment is completed. I request your indulgence. I move amendment No. 44 which is as follows:

"That in sub-clause (2) of clause 18 for the words beginning from 'if it is proved' up to the end of the sub-clause the following be substituted:

'Unless it is proved that such person acted with the knowledge of, or in accordance with express instructions given by, the executive of the Trade Union.'

Sir, I need not make another speech. What my amendment now seeks to do is to throw the burden of proof upon those people who will prosecute. It is a sound principle that if people want to prosecute some Trade Union the burden of proof should be upon the prosecutor and not upon the people who will be prosecuted. This is the ordinary principle of law, and I therefore hope that the House will accept my amendment. If the clause remains as it is it will be putting the Trade Unions in a great difficulty. The clause says that not only must the Trade Union prove that the man acted without the knowledge of the Trade Union but that they must repudiate and publish the repudiation in the papers. This is again a method by which the newspapers must be subsidised by a Trade Union. How is the Union first to know that a man has acted in the particular manner he has? Then, they must pass a Resolution repudiating his action. We know and the Government of India know generally that there are mistakes made by their officers and by members of the Government of India. They certainly do not repudiate the action every time an officer makes a mistake. Suppose they repudiate that action; do they publish it in the papers or in the Gazette that their officer has made a mistake? Generally it is not done for small things; and you are not going so far as to say that if an officer of a Trade Union makes a mistake the Trade Union must repudiate him and must publish that repudiation. Moreover, I do not know what is reasonable publicity. When Government want reasonable publicity they put advertisements in the papers and pay for them; but unfortunately the Trade Unions cannot pay so much money. Therefore, Sir, the latter part of this is absolutely bad and will put the Unions in difficulties. My amendment is one which will modify the clause in a somewhat suitable way.

Pandit Motilal Nehru: Sir, let me first remove the misapprehension from the mind of my friend Mr. Joshi that I asked the House not to follow the English law. What I did ask the House was not to see things with the somewhat narrow vision with which my friend is afflicted by his study of the Trade Union Law. The principle that I asked the House to adopt is a very well known principle of English law. It is, as Mr. Jinnah put it crisply, that no principal is liable for the act of his agent unless that act falls within the purview of the authority of the agent. The clause as it stands is a most extraordinary one. It not only throws the burden of proving its innocence upon the Union and presumes the liability of the Union if no evidence is adduced by it, but imposes most unheard-of obligations upon the Union. The whole body, of which a particular officer is a member, is to be held liable in damages unless and until it proves not only that the act or the omission of the officer which involved

him in damages was without its express knowledge but also takes the earliest possible opportunity to repudiate the act. Who ever heard of any such liability being fixed upon a person who is not the actual doer of the act and not directly responsible for the act or the omission? The Union is only responsible for the act of the member, because it is an act done by the member in furtherance of the objects of the Union. Now, a member may go out of his way to do things which do not fall within the scope of his authority, and even may do things which he was distinctly told not to do. If a case is instituted against the Union, and the Union is put upon its defence, it will have to prove not only that it had no knowledge of the act or the omission complained of, but that it took every possible care to proclaim the fact from the housetops as soon as it suspected what the member had done, and repudiated the act or omission of the man. I submit, Sir, it is a perversion of all principles of law to cast the burden of proof upon the Union in that particular way.

Colonel Sir Henry Stanyon: Sir, I take it that the amendment now before the House is No. 44. With all respect for the opinion just expressed by my Honourable friend Pandit Motilal Nehru, I would suggest to the House that there is no misplacing whatever of onus in the wording of this clause. As my friend Mr. Jinnah put it, the whole clause embodies quite correctly, in my humble opinion, a well established part of the law of principal and agent. This sub-clause deals first of all with an act done—by whom?—not by any person *purporting to act* on behalf of a Trade Union, but on behalf of a person who *is acting*, that is to say, some officer or some executive agent of the Trade Union. Now, who is the best person, the best informant of the authority which a person so acting possesses from the Trade Union? Who is it but the Trade Union? It is a simple rule of the onus of proof that the person best acquainted with the facts is the person who ought to be asked to prove them. If the person who acts is somebody who has nothing whatever to do with the Trade Union, then it is a different matter. But if he is one of the executive officers or agents of the Union, then the public do not know,—they cannot be expected to know,—in each particular act what precise authority such agent has. He is an agent, and his principal is required by this clause to prove whether or not he had authority to do the particular act in question. The moment it is proved that the agent had no authority, there comes in another question. Where an agent does something for his principal which the principal has not authorised him to do, the principal should take the earliest possible opportunity to inform the public accordingly. He might say, "This man is my agent, he does work for me, but he had no authority from me to do this particular act". It is necessary for the protection of the public generally when immunity is being given to a Trade Union that the Trade Union should take all the steps within its power to protect the public from unnecessary loss as a result of that immunity. There is no hardship, and I would strongly suggest to the House not to attempt to tinker with the law of onus of proof. If in each case a Trade Union gives proof of the authority the agent concerned has in general or of the authority he had or did not have in that particular case and further proves that as soon as it obtained knowledge of the unauthorised act it repudiated it, the onus would then shift on to the party seeking to hold the Union liable. I suggest that the House should not tinker with these principles—with the law and rules and practice relating to the onus of proof as carried out by the courts.

Mr. Chaman Lal: Sir, Sir Henry Stanyon has apparently not looked up the law on the subject. I think his legal knowledge has gone into disuse. If he looks up the Taff Vale judgment he will find that the doctrines that he is preaching to us here were the very same doctrines that were preached in the Taff Vale case and that the Government of Great Britain were compelled to repudiate this idea of agency which Sir Henry Stanyon wants to apply to Trade Unions in India. In 1906 the Trade Disputes Act was passed in order to do away with the evils that were brought into existence by the Taff Vale case. The law of agency as applied to Trade Unions does not exist in England. It has been expressly and firmly repudiated. Agents of Trade Unions are not liable as the agents of principals are liable under the ordinary law. That is the principle which applies to Trade Unions to-day in England.

Now, what this Bill wants to do is not only to apply this principle of agency, but to throw the onus of proof upon the man who is charged. It says that it is his duty to prove that he is not guilty,—an unheard of and unthinkable proposition to place before the House. I will read section 3 of the Trade Disputes Act of 1906. It says:

"An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to commit a breach of contract of employment, or that it is an interference with the trade, business or employment of some other person to dispose of his capital or labour as he will."

Section 4 is even more emphatic. It says:

"An action against a trade union, whether of workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union, shall not be entertained by any court."

There, Sir, you have the express provisions of the Trade Disputes Act which lay down the law as regards tortious liability with regard to Trade Unions. The question that we are concerned with here is not about liability but whether the person liable is to prove his own liability or not, whether you are going to throw upon that person the onus of proving his innocence or guilt. That is the question that we are concerned with. It is an unthinkable proposition to lay before the House that the man you are suing is the man who is to prove whether he is liable or not liable. It is for the man who sues him to prove whether he is liable or not.

Now, as far as the law of agency is concerned, this is what the then Attorney General of Great Britain said. The clause in the Government's original Bill conferring partial immunity on trade unions ran as follows:

"Provided that a person shall not be deemed to have acted under the authority of the committee if the act was an act of one of a class of acts expressly prohibited by a resolution of the committee, or the committee by resolution expressly repudiate the act as soon as it is brought to their knowledge."

The Attorney General said:

"We propose to provide that the unions shall not be bound, and their property shall not be bound, by an act unless it be the act of the executive itself—which, I take it, would mean the act of that body by resolution formally passed—or unless it be the act of some person whom they have authorised to bind them by the conduct which is impugned. That is not enough, because it may be said that the principal is liable for the acts of an agent and that the agent is acting within the sphere of his authority, even although he may violate his instructions. We do not propose that that principle of law should apply to these cases."

That is what we are asking you to do. We desire that this particular law should apply to these cases. We are asking you in the alternative in Mr. Joshi's amendment—the wording is perfectly clear—that unless it is proved that such a person acted with the knowledge or in accordance with the express instructions given by the executive of the Trade Union he should not be held liable. In a matter like this there are several things that are necessary for you to prove. One of the things that you have to prove is that he was actually the agent of the executive which you are suing. The second thing that you have to prove is this that he actually acted with their knowledge, and the third thing that you have to prove is this, that he either acted with the knowledge of or under the express instructions given by that executive. We say that it is asking too much of a Trade Union official under the law to prove his own liability. It is for you to prove, not for him to prove. It is for you to prove that he acted as agent of the Trade Union executive and that he was aware of or had knowledge of the Trade Union executive's decision, and not for him to prove that. Nothing could be more just, more equitable, or more in consonance with the principles of equity and justice than this provision that we ask you to incorporate in this clause.

Mr. A. G. Olow: We have heard a good deal about the burden of proof. I think that if the House will reflect over this amendment of Mr. Joshi's and the one which he put before the House at the beginning of his speech, they will see that in substance there is not really very much difference between them. To take this amendment, he says,

“ unless it is proved that such person acted with the knowledge of, or in accordance with express instructions given by, the executive of the Trade Union.”

Surely, in that amendment the words “ or in accordance with express instructions given by ” are superfluous, because if express instructions have been given by the executive the man must have acted with the executive's knowledge. And that knowledge will be a very difficult thing to prove.

However, to come to the clause we are considering, that is clause 18 (2), the Honourable Member who has just sat down referred to Taff Vale case, and any one unfamiliar with the history of this clause or of section 4 of the Trade Disputes Act of 1906 would infer that the latter section was the only possible solution of the difficulty. The Taff Vale case was one of the incidents which led to the appointment of a Royal Commission to consider the question and that Royal Commission, which included, I think, that very learned Judge, Lord Dunedin, and Mr. Sidney Webb, actually framed the clause which we are now asking the House to accept, and they put that forward in 1905 as their solution of the difficulty. Mr. Sidney Webb, I think I am right in saying, supported this clause and regarded it as a reasonable solution of what was an admitted difficulty. Coming to the much wider clause which Mr. Joshi would like the House to adopt, and which, as he correctly informed the House, virtually reproduces the law in England, Mr. Sidney Webb and Mrs. Beatrice Webb who are considered as perhaps the best authorities on trade unionism, and they are certainly sympathetic authorities, described that immunity “ as an extraordinary and unlimited immunity, and however great may be the damage caused, however unwarranted the act, which most lawyers, as well as employers, regard as nothing less than monstrous.”

Mr. T. C. Goswami: You must read it in the particular context. I remember the passage very well. The author points out that very wide immunities were consciously and deliberately given to Trade Unions.

Mr. A. G. Olow: I am perfectly willing to lend my Honourable friend the book from which I am quoting.

Mr. T. C. Goswami: Oh, I remember the passage very well. Read the whole of it.

Mr. A. G. Olow: We are not imposing any new obligation on the Trade Unions. The law of agency will remain the same. A Trade Union will not be liable for the act of its agent if he acts outside the scope of his authority. They can limit that authority by express instructions and if the agent goes outside that scope it will not be necessary for them to repudiate him as in this clause. This clause is really an exception. It goes beyond and confers an immunity on the Trade Union not enjoyed by other corporations in respect of the acts of their agents; and it is in consequence of that that we ask the Trade Union to subject itself to certain safeguards.

I would remind the House finally that the form in which the clause now stands was accepted practically throughout India by all except those whom I may describe as extremists on either side. Mr. Willson asked you to reject the clause *in toto*. That was opposed by Government as Government are opposing this. The clause was essentially a compromise between opposing views, it was a compromise which commended the support of the Select Committee and it is a compromise which I ask the House to accept.

Mr. B. K. Shanmukham Chetty: If sub-clause (2) of clause 18 as it is at present drafted simply enunciated the ordinary law of the principal's liability for the acts of his agent, even then it would be a hardship indeed for Trade Unions. My Honourable friend Mr. Chaman Lal pointed out that under the English law the ordinary law of the principal's liability for the acts of his agent does not apply in the case of Trade Unions. But under the clause as it is drafted Trade Unions are made liable not merely for the acts of their agents but for any person who might profess to act as their agent. (*Some Honourable Members:* "No.") Please read the clause. Under the ordinary law of principal and agent, if any person professes to act as the agent of another person and if the principal simply proves that the other person is not his agent, then he is not liable; but under your clause if any person professes to act as the agent of the Trade Union, it would not simply do for the Trade Union to come and prove that that person was not the agent of the Trade Union. They have to repudiate his act and also give publicity to their repudiation. That I consider is a very serious hardship indeed. The clause as it is drafted goes far beyond the ordinary law of the principal's liability for the acts of his agent and therefore I hope Government will see their way to accept the very reasonable amendment suggested by my friend Mr. Joshi.

Mr. M. A. Jinnah: I have heard the speech of the Honourable Member on the Government Bench who supported this clause and opposed the amendment of Mr. Joshi. Let us see what this sub-clause (2) means. As was pointed out a moment ago, any person means any person, not necessarily an officer, not necessarily a person who is appointed as agent of the Trade Union. It may be anybody in the street acting on behalf of the

Trade Union. Suppose to-morrow I go and do a tortious act in the name of the Trade Union. The clause does not say authorised agent or an appointed agent or a servant of the Trade Union. I am told that it implies that the authority is delegated. Where? In the air? What is there in the clause to show that. See what follows. On the face of it, there is no question here that the person who acts on behalf of the Trade Union must necessarily be a person who is either employed by them or authorised by them. See what the clause says:

"if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union."

Look at what follows further on. The executive has got to repudiate. Repudiate what? That somebody acted on their behalf and that he does not represent them and he is an imposter. The clause says the executive has to repudiate such act at the earliest opportunity and by all reasonable means and with reasonable publicity. Now, in England the law is very different. If we were to follow the law of contract we should get perfectly muddled up so far as this Bill is concerned. The law of contract must be excepted. But any person acting on behalf of the Trade Union may commit a tortious act and in order to hold the Trade Union liable for his tortious act you wish to make a provision, for it is said "Well it is no use our suing a man of straw who has committed a tortious act; it is no use filing a suit against him and getting a decree because he has not got anything to pay with; and therefore we will file a suit against the Union who naturally will have some funds against which the decree can be executed." Therefore in England after I suppose careful consideration, they enacted as follows:

"An action against a trade union whether of workmen or masters or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union shall not be entertained by any court."

Now, I here agree with my friend Pandit Motilal Nehru. The English law and English precedents may be very good, but I am not one of those who are ready and willing to follow the English law slavishly. And therefore, although I oppose the first amendment of Mr. Joshi which of course does away with all that completely, I am prepared to support Mr. Joshi in his second amendment, No. 44, namely, that by all means provide that a Union should be held liable for the tortious act of any person acting on behalf of the Union, provided the Union had knowledge or gave express instructions to that man to act. But now the question arises who is to prove that? Now, Sir, if the plaintiff comes into the court and says "Here is Mr. X, he has committed a tortious act—that is proved; he acted on your behalf, namely, he was within the meaning of this clause doing acts in furtherance of a trade dispute and he acted on your behalf; and now you have to prove that you had no knowledge and you never authorised him and unless you prove that the decree must go against you", that I say is really reversing the elementary principle that the claimant must establish his claim and the burden of proof lies upon him. If the claimant wants to get a decree against the Union he must prove against the Union that they had knowledge or gave express authority to the man who in the course of his duty committed a tortious act, and that being the case the Union is responsible for damages to the claimant. That I can understand. Then again we talk about the Contract Act. Now what is the law with regard to principal and agent in matters of contracts? You find in section 237 that "when

[Mr. M. A. Jinnah.]

an agent has without authority. . . . (Colonel Sir Henry Stanyon: "An agent, not a stranger.") Sir, he is not an agent when he has no authority. If he has no authority he is not an agent. He purports to be an agent but is not. He purports to act as your agent, he has no authority. When an agent has without authority done acts or incurred obligations—(he is not your agent)—to third persons on behalf of the principal, the principal is bound by such acts or obligations if he has by his words or conduct induced such third person to believe that such acts or obligations were within the scope of the agent's authority. Well, now, Sir, let me give you an illustration. Supposing the Secretary of a Trade Union off his own bat goes and commits a tortious act, he has no authority to do so. The Union has no knowledge. According to your present clause the Union will be liable to pay damages, unless the Union proves that it had no knowledge or had given no authority or further repudiates it at the earliest moment and notifies and publishes such repudiation. Now I say, Sir, that is not fair.

Colonel Sir Henry Stanyon: At the earliest opportunity—not at the earliest moment.

Mr. M. A. Jinnah: It comes to the same thing. I stand corrected, but it is a distinction without a difference. I therefore, Sir, support the amendment of Mr. Joshi, and I hope that the Government will see their way to meet it.

The Honourable Mr. S. R. Das (Law Member): Sir, I am very sorry indeed to have to differ from two such great lawyers as my friends Pandit Motilal Nehru and Mr. Jinnah. I would ask my friends to notice—to begin with—that the clause does not confer any right of suit. The clause itself does not confer any right of suit. What the clause does is this. Whatever right of suit there is, that suit shall not lie by reason of an act of an agent—that suit shall not lie if the conditions therein mentioned are proved—so that the clause does not itself confer any right; and I think, if I may say so with very great respect to my friends, that the error in their argument really lies in not noticing that fact.

Mr. M. A. Jinnah: You mean you cannot file a suit?

The Honourable Mr. S. R. Das: I am pointing out that the clause itself does not confer any right of suit.

Mr. R. K. Shanmukham Chetty: Who said that?

The Honourable Mr. S. R. Das: I did not say that anybody said it; I am pointing out that the clause itself does not confer any right. Therefore the position is this. Under the ordinary law the agent of a Trade Union would be liable. Now a Trade Union would be liable for any act of its agent done within the scope of his authority. That still remains; and in order to make a Trade Union liable under the ordinary law, apart from this clause, the plaintiff would have to prove that the act of the agent was within the scope of his authority. What this clause says is this. Even if it is within the scope of his authority, if he can show, if the Trade Union can show—because that is the ordinary right of suit, so long as it is within the scope of his authority, a suit would lie—what this clause says is this; even if it is within the scope of his authority, provided the Trade Union proves that it was done without the knowledge of the Trade Union, or against the express instructions of the Trade Union, then that suit will not lie against the Trade Union.

Mr. M. A. Jinnah: Will the Honourable Member tell me that any tortious act by an agent can ever be within the scope of the authority of the agent under this Bill? A tortious act?

The Honourable Mr. S. R. Das: Certainly. Why not, if it is within the scope of his authority? Supposing the principal directed the agent to go and commit a trespass, would that be within the scope of his authority or not?

Mr. M. A. Jinnah: Certainly not. Then no question regarding the scope of his authority would arise.

The Honourable Mr. S. R. Das: I am sorry to differ from my friends on that point.

Mr. M. A. Jinnah: My principal might ask me to commit a murder. That is not a question within the doctrine of the agent's scope of authority.

The Honourable Mr. S. R. Das: And the principal would not be liable?

Pandit Motilal Nehru: Your words are "any person".

The Honourable Mr. S. R. Das: This does not confer any right of suit. The right of suit, whatever there is, exists apart from that clause. That clause merely points out that even that right of suit will not exist against the Trade Union if it is proved that the agent acted without its knowledge or against the express instructions of the Trade Union. Now, my friend has pointed out that the words there are "any person acting". There is no right of suit against any person acting unless it is proved that the person acting was the agent of the principal. That, I think, my friends will admit. (*Pandit Motilal Nehru:* "You have no such words here.") I began by saying that this clause does not confer any right of suit. All that this clause says is whatever right of suit there may be against the person acting—and assumes therefore that it would be as against the agent, otherwise there is no right of suit; assuming that there is a right of suit against the agent,—it says that no suit will lie.

Pandit Motilal Nehru: Which assumption itself would be wrong.

The Honourable Mr. S. R. Das: What assumption? That the right of suit lies against the principal?

Pandit Motilal Nehru: There is no question of principal here at all. The words are "any person".

The Honourable Mr. S. R. Das: Perfectly true. There is no right of suit against any person unless he is an agent. When it says that there is no right of suit against any person, it is not permitting a suit against any person, but it says that there is no right of suit against any person acting which is conferred by the ordinary law, that is, as against an agent acting as an agent; that even that right of suit shall not exist if it is proved that the agent acted without the knowledge or against the express instructions of the principal. If I am right as to the interpretation—I may be wrong—if I am right, then it is not a question of putting the onus on the accused person of proving that he is innocent, because you have got to prove first that there is a right of suit against the Trade Union by reason of the fact that the act was the act of the agent of the Trade Union. That he will have to prove. If he succeeds in proving that, then in order to secure this immunity the Trade Union will have to prove that the agent acted without the knowledge of the Trade Union or against its express instructions and that the Trade Union repudiated that act.

Mr. R. K. Shanmukham Chetty: Does my Honourable friend concede, Sir, that the clause as at present provided is more stringent than the ordinary law of principal and agent?

The Honourable Mr. S. R. Das: I am afraid I have not been clear. That is exactly what I am trying to show it is not. It limits the liability because under the ordinary law, if I am right, all that the plaintiff would have to show is that he acted as the agent of the principal. This clause limits that liability. Even if he was the agent of the principal, even then, if the principal can show that the agent acted without his knowledge with regard to that particular act or against the express instructions of the principal, the principal would not be liable. It is really restricting the liability, if my interpretation is correct. Now. . . .

Pandit Motilal Nehru: May I ask a question, Sir?

Mr. President: If the Honourable Member gives way.

Pandit Motilal Nehru: Does the Honourable Member mean that this clause only gives an additional defence to the Union and does not take away its rights to put the plaintiff to proof? If so, why not make it clear? You are importing many words into the sections which are not there.

The Honourable Mr. S. R. Das: That is how I read it. If you suggest anything that will make it clearer, I have no doubt that Government will accept it. That seems to me to be fairly clear. I may be wrong. So far as the English law is concerned, that I admit gives absolute immunity against an act of an agent; the ordinary suit that you are entitled to bring against a principal for an act of an agent, under section 4 of the Trades Disputes Act. You cannot bring that.

Pandit Motilal Nehru: Will you be willing to substitute the words "duly authorised agent" for the words "any person"?

The Honourable Mr. S. R. Das: I do not think there will be any objection to that at all. Certainly not. I am not in a position in this House to say that I will accept it, but I have no doubt that the Member in charge will accept it without any difficulty. That certainly is the intention.

Mr. M. A. Jinnah: May I ask how that will be consistent? If you use the words "duly authorized agent" how can you say "if it is proved that such person acted without the knowledge, etc."?

The Honourable Mr. S. R. Das: That is what we are saying. Even if he is a duly authorized agent, the Trade Union will be entitled to show that in respect of a particular act, the agent acted without its knowledge. That is certainly the intention. Government would be perfectly willing to accept those words. So far as section 4 of the Trades Disputes Act is concerned, that gives absolute immunity, but the Government are not prepared at this stage to go so far as that. As Mr. Joshi and Mr. Chaman Lal know, that followed the decision in the Tuff Vale case and it was really political considerations that got the immunity.

Pandit Madan Mohan Malaviya: Will it make the matter clearer if instead of saying "any person acting on behalf of a Trade Union" we said "an agent of a Trade Union"?

Mr. President: Will the Honourable Member move that as an amendment?

Pandit Madan Mohan Malaviya: I am suggesting a possible solution. If you say "duly authorized" it will clash with the clause that follows: "if it is proved that such person acted without the knowledge, etc." If you put in the words I suggest, namely, "an agent of a Trade Union" it does not clash with the clause following.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, I wish to suggest a slight improvement which I think may be acceptable to the Government, and it is this, that by a slight alteration in the language, as the Honourable Mr. Das has pointed out, the intention of this clause, namely, "any person acting on behalf of the Trade Union" might more clearly include what was intended to comprise and limit the liability to a person who was an agent, a duly authorized agent. Suppose we read this clause in this way, "by an agent acting on behalf of the Trade Union"; taking out the words "any person". If the Government accept that suggestion of mine it will certainly obviate a number of difficulties which the present draft of clause 2 presents. At the same time I cannot support the Honourable Mr. Joshi's amendment on the following grounds. Mr. Joshi's amendment states that the Trade Union will not be liable unless it is proved that the person had acted with the knowledge of or in accordance with the express intentions given by the executive of the Trade Union. Apart from the onus which raises a vital issue, I ask the Honourable Mr. Joshi a question. Supposing that the Trade Union did not give instructions and had no knowledge and the agent's act was afterwards adopted and ratified and confirmed by the Trade Union, would or would not the Trade Union be liable? It is a well known principle of law that he who adopts and ratifies the act of an agent stands in the same degree of complicity as one who had aided and abetted him in the commission of a tortious act.

Suppose, Sir, an agent goes and sets fire to a house and brings all the goods and deposits them in the warehouse of the Union. The Trade Union says, "I did not authorise you to do that; I had no knowledge of it; but now that you have brought the goods, I will use them". Well, I ask, Sir, what will be the meaning of the clause if the Honourable Mr. Joshi's amendment is carried and the Government clause is defeated? But in opposing Mr. Joshi's clause I do not necessarily lend my vote to the Government clause, because I find that it is equally faulty and I shall state my reasons for it. My learned friend the Honourable the Law Member says that this clause does not confer any right of action. It is perfectly true; it does not expressly confer any right of action. But it recognises the right of action and it exempts certain persons from enforcing that right of action. In so far as it recognises a right of action it supports the view that if the case of a person is not brought within the exceptions stated in clause 2, he would otherwise have that right of action. So far, therefore, I submit it countenances the right of action except in the cases provided. But if that were all, it would be one objection, but by no means an insuperable one. I now pass on to the other objection which exists to the Government clause. It is this. It is provided in this clause that in the case of any person acting on behalf of a Trade Union no suit shall lie against him if it is proved that such person acted with the knowledge of or with the concretely expressed instructions given by the executive of the

[Sir Hari Singh Gour.]

Trade Union. Now, Sir, I have pointed out the objections to the Honourable Mr. Joshi's amendment and those objections I submit equally apply to the Government draft. What becomes of the *post facto* ratification and adoption by the Trade Union of the action of their agent or the person acting on their behalf? The fact of the matter is, Sir, that the whole law of agency and the rights and the limits of the agent's liability have been tried to be condensed within the narrow compass of three or four lines, and the result is that these three or four lines do not satisfy either the draftsmen who are responsible for the original clause, or the Honourable Members on the opposite Bench who would restrict the operation of that clause to nefarious and illegal acts to be proved by the person complaining of them. I therefore suggest, Sir, that the Government should take counsel with themselves and redraft the clause on the lines I have indicated.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 28th January, 1926.
