

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 4th FEBRUARY, 1926

Vol. VII—No. 10

OFFICIAL REPORT



CONTENTS

Statement of Business.

Panel of Chairmen.

The Weekly Payments Bill—Motion to refer to Select Committee withdrawn.

The Indian Arbitration Bill—Motion to circulate adopted.

The Law of Property (Amendment) Bill—Motion to refer to Select Committee negatived.

The Indian Medical Degrees (Amendment) Bill—Motion to consider withdrawn.

The Transfer of Property (Amendment) Bill—Motion to refer to Select Committee adopted.

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The Criminal Law Repealing and Amending Bill—Introduced.

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

The Indian Medical Education Bill—Introduced.

The Bengal State Prisoners Regulation (Repeal) Bill—Introduced.

The Indian Penal Code (Amendment) Bill (Amendment of Section 141)—Introduced.

The Indian Penal Code (Amendment) Bill (Offences under Chapters VI and VIII)—Introduced.

The Reservation of the Coastal Traffic of India Bill—Introduced.

The Code of Criminal Procedure (Amendment) Bill (Amendment of Section 491)—Introduced.

The Specific Relief (Amendment) Bill—Introduced.

The Prevention of Deferred Rebates Bill—Introduced.

The Prohibition of Export of Cattle Bill—Introduced.

The Indian Income-tax (Amendment) Bill—Introduced.

The Code of Criminal Procedure (Amendment) Bill (Amendment of Section 144)—Introduced.

The Indian Evidence (Amendment) Bill—Introduced.

The Imperial Bank of India (Amendment) Bill—Introduced.

The Indian Registration (Amendment) Bill—Introduced.

The Hindu Limited Owners Bill—Introduced.

LEGISLATIVE ASSEMBLY.

Thursday, 4th February, 1926.

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

STATEMENT OF BUSINESS.

The Honourable Sir Alexander Muddiman (Home Member): Sir, with your permission I desire to make a statement on the probable course of official business during the next week.

On Monday, the 8th February, it is proposed, first, to complete the discussion on the motion to pass the Contempt of Courts Bill, and then to present the Demands for Supplementary Grants in respect of Railways and thereafter the following legislative business will be taken:

A motion will be made to pass the Trade Unions Bill; and leave will be asked to introduce:

A Bill to provide for the validation of certain promissory notes, and

A Bill to amend the Steel Industry (Protection) Act, 1924. Motions will next be made to refer the Indian Insurance Companies Bill and the Indian Factories (Amendment) Bill to Select Committees.

Thereafter motions will be made to take into consideration and pass the Indian Naturalization Bill as reported by the Select Committee.

On Wednesday, the 10th February, motions will be made to take into consideration and pass the Insolvency (Amendment) Bill as reported by the Select Committee, the Indian Income-tax (Amendment) Bill, the Code of Criminal Procedure (Amendment) Bill (Amendment of Section 123), the Code of Civil Procedure (Second Amendment) Bill relating to *vakalat-namas*, the Legal Practitioners (Fees) Bill, and the Indian Tariff (Amendment) Bill.

A motion will also be made to refer the Indian Bar Councils Bill to a Select Committee.

Thereafter if time allows, a Resolution, of which the Honourable Sir Charles Innes has given notice, will be moved for continuing the imposition of an export duty on lac up to the 31st December, 1931.

PANEL OF CHAIRMEN.

Mr. President: Under rule 8 of the Indian Legislative Rules, I appoint the following Panel of Chairmen:

Mr. K. C. Neogy,
Sir Darcy Lindsay,
Lala Lajpat Rai, and
Mr. Abdul Haye.

THE WEEKLY PAYMENTS BILL.

Mr. Chaman Lall (West Punjab: Non-Muhammadan): Sir, I move that the Bill to make provision for the weekly payment of wages to workmen, domestic servants and other employees, be referred to a Select Committee consisting of the Honourable Sir Bhupendra Nath Mitra, Mr. A. G. Clow, Sir Darcy Lindsay, Mr. T. C. Goswami, Lala Lajpat Rai, Mr. N. M. Joshi, Mr. C. S. Ranga Iyer, Mr. Devaki Prasad Sinha, Dr. S. K. Datta, Mr. K. C. Neogy, and myself, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

Now, Sir, in making this motion I would like briefly to explain the objects of this Bill and the necessity for its reference to a Select Committee. This Bill has a two-fold object. It is designed firstly to make it impossible for employers in India to withhold the wages due to their workmen for more than a period of one week of their employment. Secondly, it is designed to facilitate the payment of wages to workmen after a week's employment in order to alleviate the economic sufferings of the workers in the key industries of India.

Now, Sir, I admit at the outset that there are very many drafting defects in this Bill which have to be remedied (*Khan Bahadur W. M. Hussanally*: "Hear, hear"); that it has many imperfections which are obvious on the face of the Bill itself; but all those defects and all those imperfections can be met and cured in the Select Committee and it is for that reason that I want the Bill to be referred to a Select Committee.

In the opinions that have been received regarding this Bill, Honourable Members will notice that most of the objections that have been raised against this Bill have come from people who do not wish to include domestic servants in the category of those whose payments should be made to them weekly. I quite admit the force of that argument. I admit that it is very difficult to enforce the payment of wages to domestic servants by the week; and I would be quite prepared in the Select Committee to drop that provision in the Bill which refers to domestic servants only.

But on the other hand we have to note that there are large classes of employees throughout India, particularly in the key industries, such as the textile industry of Bombay and of Ahmedabad, and the Railways, which are being penalised by their employers by the withholding from them of the wages that are due to them. Honourable Members who have followed the reports of recent strikes in India, particularly in Bombay, will have noticed that, time and again, the complaint has been made by the employees and those who represent the employees that the wages due to these workers at the time of the strike have been withheld by their employers. This is a matter within the knowledge of Honourable Members who have followed the trend of recent troubles in Bombay. During the last strike it became almost a scandal. There were workers, thousands of them, who were starving when they went out on strike (some of them just before pay-day). They asked for their wages and their employers told them that they were not going to pay them and that if they wanted their wages they could go to the courts and file suits and get their wages. Now, Sir, Honourable Members will readily admit the difficulty of the position when you are dealing with a mass of labour 184,000 strong, whose wages are withheld by their employers;—they can understand the difficulty of 184,000 men and women going to the law courts and suing their employers in order to

get their wages. This actually happened in the last strike and it has happened in almost every strike in Bombay, and the reason is very simple. Employers feel that if they can withhold wages from their workers they can thereby compel the workers by the force of starvation to go back to work. This is the method they adopt in breaking the back of a strike. That is exactly what happened once in Bombay and it is likely to happen every time when employers withhold the wages of their workers and ask them insolently to resort to the law courts for redress.

Now, Sir, a state of affairs like this certainly ought to be remedied. There is no justification for any employer in withholding the wages of the worker when those wages are actually due. We know perfectly well in the Indian industries what happens is this: that employers not only withhold wages in this fashion, but they actually withhold them by fining their employees on every conceivable occasion. But that is not what I am trying to remedy. What I am trying to remedy is this: the withholding of wages due to the workers in order to force them to go back to work—wages that are really legitimately due to the workers. An objection has been raised to this Bill on the ground that there is no real hardship which is inflicted upon the workers under the prevailing system of monthly payments. I hold in my hand Paper No. I which gives the opinions of the various Local Governments and of the people consulted by various Local Governments in regard to this Bill. I want to draw the attention of the House to the fact that in the opinions which are given in this White Paper, very few labour organisations have been consulted. Time and again it has been stated in these opinions that the workers were consulted. Who are they? Local Governments consulted the employers of labour, not the workers. It is quite an *ex parte* statement that I find in this document. No reliance should be placed upon it because legitimate labour organisations have not been consulted in regard to this Bill. And I venture to say that those who have been actually consulted, those who have informed the Government of their opinions, are overwhelmingly in favour of the provisions of this Bill. I have only to take the most important Local Government with which I have to deal, namely, the Government of Bombay to shew that I am right. Honourable Members will remember that this question of the payment of weekly wages to workers was raised by the late Secretary of State for India, Lord Olivier. Lord Olivier, in a letter which he addressed on the subject, said that he would like some light thrown upon this question both by employers and the Government because it had been brought to his notice that there were various complaints by workers with regard to the withholding of their wages by their employers. When the Government of Bombay circularised the Millowners' Association, they were told that the Committee of their Association were in agreement with the statement that wages ought to be paid to them more often than on the monthly basis and that the matter would be placed before the whole Association. When the matter was placed before the whole Association there was a change in the attitude of the Committee. I do not know whether that change coincided with the disappearance of the Labour Government, but I have my suspicions on that matter. It was stated that the Committee as a whole were not at all in favour of the new provisions with regard to the payment of wages on a weekly or a fortnightly basis, that they would stick to the payment of wages on the monthly basis as there was no case

[Mr. Chaman Lall.]

made out at all for payment to the workers on the weekly or fortnightly basis. I will reserve my remarks on this question of Lord Olivier's letter for the present.

Let me take the opinions given by various Collectors in the Bombay Presidency. Here we have the Collector of Belgaum. He says:

"I am of opinion that the view expressed by Diwan Chawan Lall in the Statement of Objects and Reasons appears correct so far as it concerns the mill hands and factory workers."

Here is the Commissioner, Central Division:

"Factory owners ought to pay their ordinary workmen once a week."

Here is the Collector of Ahmedabad:

"The Bill may be made applicable to factory employees only, but there is at present no strong demand for it by the employees and it is not altogether an advantage to them since India is accustomed to monthly payments."

Here is the Collector of Broach:

"Only industrial concerns which come under the cognizance of the Factories Act should be brought under the purview of the Bill."

All these opinions relate to the restrictions that they want to place upon the terms of the Bill. They do not say that they are opposed to the provision which I am making in this Bill. They say that they would like the Bill to be confined to factory employees only.

The prominent citizens of Broach say:

"The Bill should be enforced in the case of industrial concerns amenable to the Indian Factories Act if at all it is deemed necessary to legislate on the subject."

The Collector, Panchmahals, says:

"The Bill should be made applicable only to such concerns as factories, mills, etc., and not to small concerns employing ten persons or less daily and working only four months or less in the year."

The Collector, Poona, says:

"The Bill should be restricted to concerns coming under the Factories Act only." and so on.

Mr. A. G. Olow (Industries Department: Nominated Official): Will the Honourable Member please read the heading under which these opinions are given?

Mr. Chaman Lall: The heading is this: "Application of the Bill: Question of including Factory Workers only." If the Honourable Member had only listened to my remarks instead of making his own notes he would have realised that I myself said that these opinions are for the restrictions to be placed on the terms of the Bill itself, that is to say these people want to restrict the Bill to factory workers. I said that quite clearly and I am surprised the Honourable Member did not follow me.

Mr. A. G. Olow: They must not be taken as complete opinions of these gentlemen upon the Bill.

Mr. Chaman Lall: Of course not. I said that quite clearly. I am surprised at the Honourable Member. I think he must be suffering from loss of memory. He does not realise that I said quite clearly and explicitly

that these opinions intend to confine the terms of the Bill. They want to confine them to factory workers only if the principle of the Bill is accepted. That is quite clearly stated in the opinions themselves.

Now, Sir, I turn to a very important personage. We have the opinion here of the Chief Justice of the Allahabad High Court, Sir Grimwood Mears. He says that he is in entire agreement with my desire as expressed in the provisions of this Bill, that is, payment to workers on a weekly basis.

I said, Sir, that I shall reserve my remarks about Lord Olivier. Let me briefly state what the position was with regard to the Secretary of State's letters to the Bombay Government. On page 25 Honourable Members will find a copy of the letter, dated the 22nd April, 1924, from His Excellency the Governor of Bombay, to Mr. S. D. Saklatvala of the Millowners' Association. It runs as follows:

"I reported very fully to the Secretary of State for India, at his request, for the information of Parliament, all matters arising out of the recent mill strike including the cause which led up to the strike and all the facts in connection with the strike itself and the return of the mill hands to work. I have to-day received from Lord Olivier a letter, from which I quote the following sentence:

'My attention was called the other day to the great hardship of the Indian system of paying wages, namely, that they are not payable till a month has run, and after that are liable to be delayed. This is an evil which used to be much felt in the Colonies, but we superseded it in Government employment many years ago, and now pay wages at least fortnightly and, if possible, weekly. India is still behind hand in this respect, but as industrialism progresses more civilised arrangements must be made. Can you do anything in this direction?'

I had been intending to communicate with you as Chairman of the Millowners' Association on the subject before the receipt of Lord Olivier's letter and it is a fact that wages in the mills in Bombay are not even paid monthly for the men do not receive their wages until the middle of the month, and then only for the preceding month.

I have been studying the terms of service with reference to the employment of operatives in the various mills in Bombay, and while they differ to a small extent amongst different mills, they are in principle mainly the same for all. I think it would not be unfair to say that the employer, while, of course, in the majority of cases the Manager of the Mill, is given power to use discretion in regard to their enforcement.

In the Jute Mill Industry of Bengal wages are paid to ordinary operatives weekly. This system has been in practice for some considerable time and it has been found to work satisfactorily both to employers and employed. I feel sure that it would be a great boon to the operatives, if wages could be paid fortnightly, even if it were not possible to adopt the practice in the Jute Mills in Bengal, and I sincerely trust, in view of what I have said in this letter, that your Association will give favourable consideration to this proposal."

That was the letter which was addressed by His Excellency the Governor of Bombay to Mr. Saklatvala. There was a reply from Mr. Saklatvala of the Millowners' Association,—he was at that time, I believe, the Chairman of the Millowners' Association—to His Excellency the Governor of Bombay. The reply says:

"In continuation of my letter of the 24th April, I have the pleasure to inform you that the Committee of my Association, to whom your letter of the 22nd ult. was referred, have approved of the principle of the fortnightly payment of wages. A detailed scheme is now being prepared and it will be necessary to place this before the Association for final sanction. We hope to have this meeting about the middle of June."

This was the position in May 1924. But later in September, 1924, the Chairman of the Millowners' Association informed His Excellency the Governor that his Association were unable to accept the proposition that wages should be paid on any other basis than the monthly basis. After having

[Mr. Chaman Lall.]

given a clear undertaking, the undertaking being this that the Committee itself were in thorough agreement with the principle of a fortnightly payment of wages, the Committee then wanted sanction from the larger group and when they did place the matter before the larger group they discovered that they had to go back entirely upon the opinions they had expressed previously. They say that they are not at all in agreement with any change in the system of payment of wages to workers and that they agree that the best system is the monthly payment system. The particular reasons they give are these. They say that the workers themselves are not in favour of the alternative principle. Now, in the whole body of these opinions there is no evidence whatsoever to prove that the workers themselves are against it except merely the statement made by the employers that the workers are not in agreement with this principle. Those Associations which have been directly consulted are, with one or two exceptions, in entire agreement with the principle. The Jamshedpur Labour Association, the Madras and Southern Mahratta Railway Employees' Association, they are all entirely in agreement

The Honourable Sir Charles Innes (Member for Commerce and Railways): What about the South Indian Railway Employees' Association? The Honourable Member said all were entirely in agreement. I find that there was not entire unanimity.

Mr. Chaman Lall: I am going to deal with that Association and the Burma Labour Association. The Labour Associations which have been consulted are in agreement with this principle except the Burma Labour Association and the Association which the Honourable Member mentions with which I am going to deal, and I am going to explain why that particular Union is not in agreement with the principle of my Bill. The Honourable Member will find, if he reads the statement carefully, that it is the opinion only of the Secretary and not of the Association itself. The Honourable Member has only got to read that statement. I do not accept the opinion of the Secretary unless he consults the Association as well. There is nothing on the record to show that the Association had been consulted, that the workers themselves are against the provisions of this Bill. It is the Secretary who, being a very ingenious person, probably a conservative in the labour movement, makes that statement and I am not prepared to accept it. I will deal with him in a minute. Here, we have, the opinion of Messrs. E. D. Sassoon and Company:

"Messrs. E. D. Sassoon and Company stated that in 1912 they made an experiment of fortnightly payments in their mills but the attempt had to be given up owing to the opposition from the workpeople."

After three months' trial they had to stop it on a deputation of the workpeople approaching the management and informing them that the workers would strike if fortnightly payments were not stopped. Here, again, the question is this. The whole problem is very complicated. You will find that by "workers" they mean not the actual workers but probably only the jobbers in the various departments. The workers are controlled by the jobbers. At that time in 1912, if I am not wrong, there were really no unions of workers which could place their grievances before the employers. It was but to-day that I looked at the papers and found that during the Bombay municipal elections the workpeople voted with the employers because the employers sent their jobbers to them whose influence was

supreme. The workers are in the clutches of the jobbers, the jobbers lend them money, the jobbers control their lives, the jobbers control their movements, and it is not correct to say that the workpeople themselves are not in agreement with this system. Further, it is stated by the Millowners' Association:

"Fortnightly payment, if introduced, will in no way benefit good salary earners, say Rs. 50 and over per month, as they can meet their ordinary obligations without running into debt, and whether they get Rs. 25 fortnightly, or Rs. 50 monthly, would be immaterial to them."

The whole reply of the Millowners' Association relates not to the workers themselves but definitely to the better salaried workers. The average wages paid to the Bombay textile workers have been reckoned at Rs. 82-4-6, and if that is the average it is not covered by this statement, namely, the statement referring to those who are paid at the rate of Rs. 50 a month and over. The wages of large masses of workers in Bombay are less than Rs. 35 a month. It is for their sake, not for the sake of the jobbers, not for the sake of the highly paid officials, but for the sake of these people that I want the provisions of this Bill to be applied.

Now, let me come to the question of the opinion given by the Buckingham and Carnatic Mill Workers' Relief Committee. In Madras the Government could have easily consulted the opinion of the Buckingham and Carnatic Mill Union. They have not consulted that Union, but what they consult is a Welfare Committee. We know perfectly well what welfare committees are. They are usually run by very honourable, very intelligent and very honest (Mr. T. C. Goswami: "Pious"), and as my Honourable friend, Mr. Goswami says, very pious Y. M. C. A. workers. They work in alliance with the employers. Their funds are derived from the employers as in the case of the Nagpur Welfare Committee and the result is they cannot be expected to go against the interests of the employers. Whatever the employers say, they must accept. Whatever information they get they get mostly from the employers with the result that their opinions cannot be accepted by this House to be the opinions of the workers but merely the opinions either of the mill managers or the millowners. Therefore, I place absolutely no reliance whatsoever upon the statement at pages 29 and 30. Here we have a letter from the President of the Madras and Southern Mahratta Railway Employees Union at page 31. They pass a resolution in which they say:

"That this meeting supports the Weekly Payments Bill without daily rated system, that is, full pay for six days in a week including Government holidays."

Again, Sir, I congratulate the Calcutta High Court on the opinion they have given, I consider it a very honest opinion. They say:

"In reply, I am to say that the provisions of the Bill raise a question of policy upon which the Court does not desire to express an opinion."

It is a question of policy and it was but right and proper that the High Court should hold that they were not in a position to interfere with any question of policy. I wish the other High Courts had followed the same principle and not given their opinions in the manner in which they have given them, because I find that some of them are very ignorant opinions, some of them are based upon so-called facts which do not exist. Here is the Commissioner of Coorg. He is so desirous of consulting the interests of the workers that he actually goes to an Association and consults them. May I draw the attention of the House to this particular Association? This Association was not an employees' association or a trade union, but the

[Mr. Chaman Lal.]

association he consults is the Coorg Landholders' Association. He goes further and he consults the Coorg Planters' Association and agrees with their views that the provisions of this Bill do not suit the local conditions in his province. Had he consulted the workers or the workers' association he would have had a different story to tell. The Bill is aimed at taking away certain powers and privileges which the employers have to-day and it is no good coming to this House and saying, "Here are these opinions which say, 'We do not agree with the provisions of this Bill' ". These opinions happen to be the opinions of the employers or their representatives, and not of the workers or their representatives. Now, Sir, there is the Joint Secretary of the Labour Association at Jamshedpur and the only objection that he has is given on page 40. The only objection that he has is this: that he does not want the privileges and advantages given to monthly paid labour to be taken away by the provisions of this Bill. I do hope that if this Bill is passed or if this Bill is put into force at some future date the privileges and advantages given to monthly paid labour will not be taken away under any circumstances. Barring that, the Jamshedpur Labour Association, a very powerful union, is entirely in favour of the provisions of this Bill. In passing, I may remark that there are a large number of unions throughout India which have informed the Government and which have informed me (some may not have informed the Government but have informed me), that they are in favour of the provisions of this Bill. I refer to only one or two of them, namely, the Nagpur Trade Union Congress Committee and the Punjab North Western Railway Union. They have expressed their opinions in resolutions passed by them at their meetings, and they are in entire agreement with the provisions of this Bill. Those opinions are not found in this White Paper, but that is no reason why Honourable Members should ignore those opinions. The opinions that Honourable Members will find in this White Paper are mostly those of Government officials or else of employers' associations. Here is one opinion which says that the "Bill is calculated to facilitate strikes and in my opinion should be rejected". This is the sort of opinion we have in this White Paper. Another gentleman says that in his opinion this Bill will create a minor revolution in the country. These are statements which are absolutely irrelevant, which have nothing to do with either the principles of the Bill or the objects with which this Bill has been brought into existence. As I have already said, the Chief Justice of the Allahabad High Court says: "I approve most heartily of the Bill". Justice Daniel says:

"It is difficult to speak of this Bill in terms of moderation. It is paternal government run mad and an absolutely unwarrantable interference not only with the trade but with the custom of the monthly pay which prevails almost universally in India."

Now Justice Daniel does not live in Calcutta. It is unfortunate that he does not live in Calcutta. If he had lived in Calcutta, he would have known that the Calcutta jute mills make payments on the weekly basis. If he had lived in Dhanbad or Jharia in the coal area, he would have found that payments in the coal area are made also on the weekly basis. The system of weekly payments is actually in existence in many parts of India and it is working very well. Nobody has ever said that the workers have complained in Calcutta or in the coal mines where payments are made on the weekly basis. These workers never want to go back to the monthly wage system. The reason is simply this. Wherever English capitalists have brought in their own English traditions with them they

have introduced the weekly system. It is a much more civilised system of payment than the system of a monthly wage. The jute mills in Calcutta are mostly owned by Europeans in this country. (*An Honourable Member*: "No.") Out of 76 mills I beg your leave to state 74 are in the hands of Europeans.

Mr. W. S. J. Willson (Associated Chambers of Commerce: Nominated Non-Official): That was not what you said.

Mr. Ohaman Lall: Most of the jute mills in Calcutta are owned by Europeans. That was what I said. Honourable Members should not indulge in any hair-splitting about the word ownership. I do mean that they are controlled by managing agencies and that the managing agencies are in the hands of Europeans.

The Honourable Sir Basil Blackett (Finance Member): You mean something else than ownership.

Mr. Ohaman Lall: It means complete control quite as complete as ownership. If the Honourable Member does not know that, he had better look up the constitution of the managing agencies of these mills. Now, here you find that these mills have introduced the weekly payment system. In the coal area also most of the colliery companies are owned by foreigners. They have also introduced this system and it is quite right that they should. I congratulate them for having introduced this system. But when you get back to Bombay you find that most of the mills are owned by Indians and there—if you like—is to be found "paternal government run mad". There they have introduced the monthly system and not only the monthly system. If I go and seek employment as a weaver in one of the mills in Bombay on the 1st of the month, I do not get payment of my wages until the 15th of the following month. Six weeks labour I have to give free to my employer. Now in the Ahmedabad mills, there are certain millowners who are philanthropists. They have introduced the system of fortnightly payments. Fortnightly payments are acceptable to the workers in the Ahmedabad mills. Is there any reason, are there any grounds given, why a fortnightly system should not also be acceptable to the millowners of Bombay? All that the employers say is that if you institute a fortnightly system or a weekly system, it will increase the clerical labour employed by the owners and that they would have to import a large number of clerks to look into their accounts. That, I submit, is a very inconsequential argument. It has really no force whatever. A mere addition of a few more clerks on the one side and the intense relief that you would give to the workers on the other are the two things that have got to be balanced. On the one side you would be attempting to get the workers out of the clutches of the money-lenders if you pay them firstly, promptly, and, secondly, on the weekly basis. The worker who comes from the mufussil usually has some money on him but it is not sufficient to last him throughout the month. It can last perhaps 6 or 7 days. If he gets his wages at the end of that period there is no necessity for him to resort to the money-lender but if he gets his wage six weeks after joining work then the natural result is that he must resort to the money-lender and borrow money at highly enhanced rates of interest. Are you trying to get the worker out of the clutches of the money-lender? If you are, I submit that one of the essential conditions for effecting that would be to introduce the system of weekly payments of wages to workers in the mill industry.

[Mr. Chaman Lall.]

Now, Sir, I have lastly to refer to a very valuable bulletin which has recently been issued by the Department over which the Honourable Sir Bhupendra Nath Mitra presides. I suspect my very able friend Mr. A. G. Clow had a hand in its production. If Honourable Members will refer to that pamphlet they will find that it is admitted that the most important exceptions to the rule of monthly payment is the system that prevails in the jute mills in Calcutta and in the cotton mills of Ahmedabad. Now one of the most important passages is on page 2 and that passage says :

“ It is only natural that, as a general rule, the longer waiting periods should be associated with the longer periods of payment. Monthly wages are not paid so promptly as fortnightly wages, weekly wages are withheld for still shorter periods and daily wages are nearly always paid on the day on which they are earned or on the following day. In the majority of cases it is probably true to say that the waiting period lies between one-third and one-half of the period of payment, i.e., that monthly payments are normally made 10 to 15 days after the close of the month, fortnightly payments within 5 days to a week after the close of the fortnight and weekly payments in two to four days. This scale can at any rate be taken as indicating the average waiting period with a fair degree of accuracy.”

Here is a horrible state of affairs. What right have the employers to utilise the labour of workers for a period of six or seven weeks before they make any payment. What right have they? Is it not the concern of the representatives of the people to see that justice is done to the workers and that they get their legitimate dues? This weapon is employed by the millowners of Bombay particularly, because they know that every time there is a strike in Bombay they can starve the workers to come back to work by the simple method of withholding their wages. I admit the force of the argument that the monthly system of payment facilitates strikes but I am not here to facilitate strikes. I would much rather see that there were no strikes in India at all. I am here to try and ameliorate the condition of the workers and if it can be done without a strike I would much rather resort to that method. Nevertheless, I would back them every time in their strikes for justice and fair wages. It is their only weapon against society as at present constituted. By this system of weekly payments you will get the workers out of the clutches of the money-lenders and relieve their poverty and their indebtedness. There is no force in the argument that we are trying to rob the workers of a weapon which they at present possess, namely, that if they are paid on the monthly rate, they can last out longer whenever they go on strike. I see no argument in that at all but even if there be any force in that argument, I am prepared to give up this weapon provided I can better the condition of the workers by getting them out of the clutches of the money-lender. Now, Sir, I have already stated that the opinions given by the Bombay Millowners' Association have changed considerably. Firstly, they were in favour of fortnightly payments. Then all of a sudden, they changed over and gave a different version of the story. They then said there were difficulties in the way; the workers themselves did not want weekly payments. I challenge the Honourable Member opposite to take a referendum of the workers and see if they are not willing and desirous of accepting weekly instead of monthly payments. And the one argument that I would advance in favour of my statement is this, you actually have the system of weekly payments in India and wherever it is in vogue not a single complaint has been made by the workers themselves. There is no evidence either on record in this book or in any other document where the workers have said they did not want weekly payments where that system is actually

in force. And if that is so all this special pleading on behalf of employers and officials when they turn round and say, "Oh the workers themselves are not willing to accept weekly payments" can be turned down for what it is worth. Sir, it is the duty of the Government, it is the duty of the people to do something to relieve the great distress among the working classes and I call upon the Government, the employers and the representatives of the people assembled in this House to realise that one of the best ways of relieving the distress in my opinion would be to accept the provisions of this Bill. (Applause.)

Mr. President: The question is :

"That the Bill to make provision for the weekly payment of wages to workmen, domestic servants and other employees, be referred to a Select Committee consisting of the Honourable Sir Bhupendra Nath Mitra, Mr. A. G. Clow, Sir Darcy Lindsay, Mr. T. C. Goswami, Lala Lajpat Rai, Mr. N. M. Joshi, Mr. C. S. Ranga Iyer, Mr. Devaki Prasad Sinha, Dr. S. K. Datta, Mr. K. C. Neogy, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Mr. Chaman Lall: May I have your permission, Sir, to add the name of Colonel Gidney?

Mr. President: And Colonel Gidney.

Sir Purshotamdas Thakurdas (Indian Merchants Chamber: Indian Commerce): Sir, in the absence of my colleague, Mr. Kasturbhai Lalbhai, who represents the millowners' interest in this House, it is my painful duty to rise at this stage to oppose the motion before the House. My Honourable friend, Sir, said at the conclusion of his speech that his motive in moving this Bill was to get the operative worker, the mill hand, and the labourer in India, out of the clutches of the money-lender. If he can prove by any argument and with the help of any of the opinions that have been now made available to this House that the measure that he wishes this House to consider will achieve the end even to a small degree, I should be most reluctant to oppose the motion under discussion. But, Sir, the opinions which we have now the benefit of all lead one to only one conclusion and that is that the measure which my Honourable friend seeks now to take one stage further before this House will not achieve that aim. I go further and say that my inference from what I have read of the opinions only lead to one conclusion and that is that it will conduce to more harassment of the labouring class for whose welfare the Honourable Member is so solicitous. The labour that is sought to be relieved is divided into three classes. Firstly, agricultural, secondly, industrial and thirdly domestic labour. My Honourable friend, Sir, has said very frankly that he proposes to leave out domestic labour from his Bill in the Select Committee. I do not wish to labour the last any further. I would have liked him to explain how the principle of the Bill affects the domestic labourer any the less than the other two classes and why he thinks that he is justified in giving up this class of labourer if he feels that the other two classes of labour will benefit as much as he has said to this House they will do. However, I will now deal, Sir, with the two other classes. Mr. Chaman Lall had nothing to say regarding how this measure is likely to affect the agricultural labourer. I will deal with it a little later. I wish at once to come to the very strong advocacy that Mr. Chaman Lall has put forward on behalf of the industrial labourer. I note that Mr. Chaman Lall had in that connection only one organization to complain against very

[Sir Purshotamdas Thakurdas.]

bitterly and that is the cotton millowners and mill agents of Bombay. I do not wish to quarrel with the opinion which Mr. Chaman Lall holds regarding that class of labour employer in India. Mr. Chaman Lall is quite welcome to his opinion about this class, but when he quoted His Excellency the Governor and his letter to the Chairman of the Millowners' Association I wish Mr. Chaman Lall had put before the House complete information regarding the grounds on which the Chairman of the Bombay Millowners' Association wrote his second letter in September, 1924, and communicated to His Excellency Sir Leslie Wilson that in the opinion of the Millowners' Association of Bombay it was not necessary to pursue the question of weekly wages any further. Mr. Chaman Lall has read pretty fully from His Excellency Sir Leslie Wilson's letter to Mr. Saklatvala dated the 22nd April, 1924. It is quite correct that Mr. Saklatvala on the 14th May, 1924, did write back to the Governor of Bombay saying that the question would be put before the Millowners' Association of Bombay at a general meeting. Mr. Chaman Lall thinks, in fact has said, that the millowners of Bombay after that avoided putting this question before a general meeting of their members and came to some other conclusion.

Mr. Chaman Lall: No, Sir, I never said that.

Sir Purshotamdas Thakurdas: I am pretty sure he said something to that effect. However, I am very glad if he did not say that. But the millowners of Bombay, Sir, wrote a very full letter on the 24th September, 1924, and came to the conclusion—I will read the concluding paragraph. They say:

“ Under these circumstances Your Excellency will doubtless feel convinced that the only course left open to the millowners is the continuance of the present system of monthly payments since the workers themselves appear to be antagonistic to the introduction of any changes.”

Now, Sir, what were the circumstances which are referred to? I will now read a paragraph or two from Mr. Saklatvala's letter. Paragraph 4 says this:

“ Replies have been received from practically all the mills in the city and island of Bombay and it appears that fortnightly payments were desired by the operatives of only two mills. The operatives of all the other mills expressed themselves as being in favour of the continuance of the present system of monthly payments.”

Mr. Chaman Lall: I challenge that statement.

Sir Purshotamdas Thakurdas: I note Mr. Chaman Lall would challenge that statement. I will give him another statement.

Mr. Chaman Lall: Give me proof.

Sir Purshotamdas Thakurdas:

“ For Your Excellency's information I summarise below the principal reasons advanced by the operatives against the introduction of fortnightly payments ”

I need not, Sir, read those. They are very fully given, but I would like very much to read paragraph 5 of Mr. Saklatvala's letter to the Governor.

“ Messrs. E. D. Sassoon & Co. . . . ”

and they control a dozen mills:

"... stated that in 1912 they made an experiment of fortnightly payments in their mills but the attempt had to be given up owing to the opposition from the work people. I beg to reproduce below an extract from their letter which will no doubt interest Your Excellency:

'The majority of the workmen are apathetic but sullenly think that the scheme is some dodge of the Association to do them down. As you are aware in about 1912 we made an experiment of fortnightly payments, but after three months' trial we had to stop same on a deputation of the workpeople approaching the management and informing us that they would strike if fortnightly payments were not stopped, their argument then being that they lived monthly as far as their bills and credits were concerned and they wanted their pay monthly. Several of the workpeople advanced the view that if fortnightly payments are adopted, they would not be able to go to their country on the usual exodus that takes place about February, as they rely on the one month's pay and the month's *havala* pay to provide the funds for the trip to their native village. This of course particularly holds good with reference to the Marathi element from the vicinity of Ratnagiri.

Our own opinion is in favour of fortnightly pay solely on the principle that it is wrong to hold a man's pay up so long, but in view of the opinion from all quarters—including the men themselves—we think it better to drop the same.'

This, Sir, is from a very respectable firm which controls about 12 mills. Here is another opinion:

"Messrs. W. H. Brady and Co. have in their Colaba Land and Mill Company an operative named D. R. Mayekar who is also editor of a vernacular paper called "*Kamkari*" and in the issues of the 21st and 28th June he dealt with the question at length and stated that the workpeople would resent the introduction of the fortnightly payment system."

Then, Sir, there is paragraph 7 in which Mr. Saklatvala says:

"I beg to give in an appendix to this letter extracts from the replies received from some of the other mills which will give Your Excellency an idea as to the prevailing trend of opinion among the operatives on this question."

These, Sir, are the reasons why it appears that the millowners of Bombay did not put the question before the general body and indicated to His Excellency the Governor that they thought it not only desirable but almost advisable in the interests of the workpeople to drop this question of weekly payments. Mr. Chaman Lall says that the Government of Bombay seem to have changed their opinion. After this correspondence the Government of Bombay addressed the Secretary in the Department of Industries and Labour of the Government of India on the 11th February, 1925. Mr. Chaman Lall has spoken with approval of His Excellency Sir Leslie Wilson's great solicitude to improve the condition of the industrial labourer in Bombay. What is the conclusion of His Excellency? I will read now from paragraph 28 on page 25 of the "Opinions" (Paper No. 1):

"The Governor in Council is therefore strongly of opinion that demand for such legislation should precede its introduction. It would be futile to place on the Statute-book an Act which is asked for by nobody, and will therefore remain a dead letter in the greater number of cases, and be used as an engine for blackmail and false accusations in the remainder."

These, Sir, are not the convictions of and conclusions arrived at by the millowners but by the Government of Bombay. I heard Mr. Chaman Lall say at one stage that he did not believe them. Will Mr. Chaman Lall believe the Labour Office of Bombay or not?

Mr. Chaman Lall: Of course not.

Sir Purshotamdas Thakurdas: He will not. What is it that Mr. Chaman Lall will believe? Let us have that clear. What is good enough for Mr. Chaman Lall?

Mr. Chaman Lall: Facts and figures.

Sir Purshotamdas Thakurdas: Here is the Labour Office giving the same reasoning. On page 20, Sir, the Labour Office reports as under:

"From inquiries made by the Labour Office Investigator at Ahmedabad it is found that both the employers and the workmen prefer the present system of payment. In fact, in some industries, e.g., the Cotton Mill Industry, a weekly system was in vogue some years ago but had to be discontinued for mutual benefit. The Secretary of the Labour Union is also of the same opinion and a number of workers who were questioned also expressed the same view."

Does Mr. Chaman Lall believe that?

"During personal investigations made in connection with this inquiry by Investigator II of the Labour Office, Bombay, several hundreds of workmen were interrogated in all classes of factories and workshops through the courtesy of employers and managers. In many cases the foremen of the different works visited were asked to ascertain the views of the workmen under them and in such cases it was possible to get the considered opinion of several types and classes of labourers. In all cases the employers and managers were also consulted . . .

In a few cases some workmen did show a preference for receiving their wages at more frequent intervals than they do at present. Most of these appeared to be of that frivolous type always anxious to spend their earnings as soon as received. The great majority—almost all of the workmen consulted—were definitely against any change from the present system of monthly payment and were inclined to the opinion that such a change was contemplated for the express object of worsening their condition.

To sum up, it is absolutely clear that the proposed measure is neither necessary nor demanded by either employers or employees. Probably one of the main apprehensions which have led the Bombay millhands to fear this change is the chance of the money-lenders making up accounts weekly if wages are paid weekly. This apprehension is probably well grounded. The money-lender would argue that interest at 1 anna per rupee per month is the same as 1 pice per rupee per week."

With this material, Sir, does it surprise either my friend, Mr. Chaman Lall or this House that the Government of Bombay could come to only one conclusion which I have just read out, and is there anything inconsistent? Or can you not say that in spite of the solicitude of His Excellency Sir Leslie Wilson and in spite of the anxiety that he evidenced in improving the condition of the workman in Bombay, he could not help coming to the conclusion that no change in the system of payment as in vogue at present was desirable in the interests of labour alone? It is easy, Sir, to criticize any set of people. But if only the point of view of other people is borne in mind, and if only one avoids imputing motives, it would be possible to come to a conclusion which would not be so much at variance with all the facts that are brought to one's notice. I have felt that if Mr. Chaman Lall at the time that he moved his motion that the Bill be referred for eliciting public opinion wanted some other bodies to be consulted besides those which the Government of India usually consult, if he had only named those to the Department concerned, I should have been very much surprised to learn that the Department avoided consulting those bodies. Mr. Chaman Lall appears to have taken no such step or precaution. He comes forward to-day and says that he refuses to believe many of the opinions, the usual sources from which opinions are elicited for the benefit of this House, and he asks this House to-day to pass over the substance of the vast majority of the opinions that are before us, and asks us to consider this Bill further. I feel that if Mr. Chaman Lall can make

out a case, he should propose that the Bill should be sent to a few more bodies or individuals as Mr. Chaman Lall may name and which will satisfy him, and let us consider those opinions, but I feel that at this stage it would be futile for this House to proceed further with the consideration of this Bill.

Now, Sir, one word more regarding agricultural labour. I said in an early part of my remarks that Mr. Chaman Lall had not a word to say about this part of labour. May I draw the attention of the House, Sir, to page 13, where the Central Provinces Government in paragraph 5 of their letter say as under:

"To the third class will belong all ordinary agricultural labourers, the system of paying whom is subject to all sorts of variations. In the villages most farm servants are paid by the year or half year....."

Mr. Chaman Lall: You are talking of "pay".

Sir Purshotamdas Thakurdas: What else is it? It is agricultural labour, Sir, I am referring to:

"In the villages most farm servants are paid by the year or half year, and get much of their wages in kind in a lump payment at harvest. It would be an impossible revolution to change this system by an act of the legislature."

I would also refer, Sir, to page 5 where the Government of Burma has the following:

"More important than this, however, would be its application to agricultural labourers in Burma. These are almost invariably engaged for the ploughing season or the harvest season or both and are generally paid in terms of paddy at the harvest, taking advances in the meantime. The labourer, if unmarried, generally lives with, and is fed by, his employer. The effect of the Bill on such labour, if any attempt were made to enforce it, would be devastating."

Does Mr. Chaman Lall wish to include agricultural labour also? What has he to say to these remarks from two very important agricultural provinces in India? I am looking forward to Mr. Chaman Lall's reply to this when he makes his remarks at the end of this debate.

Sir, I do not wish to oppose anything which may improve the condition of labour in India. But I do feel that there should be no amateurist effort at this. Things have settled down after the experience of years, if not of decades. It is possible that some of these things require to be amended and to be changed. But, Sir, the change should not be such as will upset and completely revolutionise without any good effect the present system because I do believe that it is easy to disturb existing conditions but it may be much more difficult to bring about that organisation and that settlement which alone can make for the prosperity and happiness of these classes. I should be the last to oppose any measure which Mr. Chaman Lall may bring forward for the improvement of the labouring classes, but I would strongly resist any experiment with those classes. Irrespective of any motives that may be attributed to a person who may have the misfortune or the good fortune to be connected with the class that is called "capitalist", I would assert this, let us not play any experiments with the labouring classes, the welfare of whom everyone in this House has at heart. I feel, Sir, that I ought to oppose this motion at this stage.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, I have great pleasure in supporting the motion moved by my Honourable friend Mr. Chaman Lall.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Another poor man's friend!

Mr. N. M. Joshi: Perhaps Dr. Gour considers it to be a great shame to be a poor man's friend. Sir, apart from the evil of wages being very low in India, we have other evils as regards the wages, namely, the method of the payment of wages. In the first place, the wages are paid monthly instead of being paid weekly. That is one evil. In the second place, the actual payment of wages is deferred sometimes by three weeks, sometimes by two weeks and sometimes by a week after the payment becomes actually due.

Pandit Shamlal Nehru (Meerut Division: Non-Muhammadan Rural): Usually two weeks.

Mr. N. M. Joshi: Then, Sir, there are other evils which are mentioned by Mr. Chaman Lall and endorsed by Sir Purshotamdas Thakurdas, although Sir Purshotamdas did not call them evils, namely, the payment of wages in kind. Some people are paid their wages in the form of grain if they produce grain. Some people who produce cigarettes may be paid in the form of cigarettes. This is an evil. There is also another evil in connection with the payment of wages, namely, the employers are allowed to deduct fines imposed by themselves upon the employees from the wages. Sir, the last two evils are not dealt with by Mr. Chaman Lall's Bill. Mr. Chaman Lall seeks to deal with two evils, namely, he does not want the payment of wages to extend over a period of one month but he wants the wages to be paid as soon as a week's wages become due. Secondly, his indirect object is also to limit the period of deferring the actual payment of wages to a period of one week. I have already stated that in some cases the actual payment is deferred sometimes by three weeks, sometimes by two weeks and sometimes by a week.

Sir, the Honourable Member who represents the Indian Merchants Chamber in this House, stated that if someone were to prove to him that the passing of Mr. Chaman Lall's Bill will reduce the indebtedness or prevent the indebtedness of the industrial workers, he for himself would support it. Sir, the only argument on which I support Mr. Chaman Lall's Bill is that it will prevent the indebtedness, or at least reduce the indebtedness, of the industrial workers in this country. (*Some Honourable Members:* "Question.") Some people question this. I hope, Sir, they will have the patience to hear me. I will narrate to this House what happens in a city like Bombay. A man comes from, say, one of the Konkan districts to Bombay. He takes up work in a factory. He works there for a month. Till then the wages are not paid. He works for two weeks more and after working in that factory for six weeks he gets his first payment of wages. Now, Sir, a man leaves his home in the Konkan and goes to Bombay not because he is a rich man but because he is a poor man. Perhaps he borrows some small amount of money in order to go to Bombay and when he comes to Bombay he finds that he has got to incur expenditure for six weeks before he gets even a pie as a reward for his work for that period. It is not very easy for a man to live in Bombay for six weeks without having any money with him. So, he has to borrow. He borrows some money, say, Rs. 25, in order that he should be able to defray his expenses for six weeks. If he borrows Rs. 25, the indebtedness begins. And what rate of interest does he pay? If he is

not known in Bombay and if he has got no friends, who will introduce him to some *banya*, he pays 4 annas for a rupee per mensem, that is, he pays interest at the rate of 300 per cent. per annum. If he borrows Rs. 25, he has got to pay Rs. 6 per mensem as interest. If he has got some introduction, he pays 2 annas per rupee per mensem, that is, he pays interest at the rate of Rs. 150 per cent. per annum. When he settles down for a year or two and when the *banya* knows him to be an honest man, the *banya* becomes very gracious and charges him only 75 per cent. Sir, this is the root cause of the indebtedness of the industrial workers in Bombay. I can assure my Honourable friend Sir Purshotamdas Thakurdas that in this matter I am not speaking as a mere amateur. I have spent 15 years of my life amongst the working classes in one city studying the problem of indebtedness of these people and trying to remedy indebtedness in whatever way one can do. I have spent at least 10 years in promoting the co-operative credit movement in the city of Bombay amongst the industrial workers and, if Sir Purshotamdas makes an inquiry from the Co-operative Department of the Government of India, he will learn that I have some experience in this matter. I can say, Sir, positively that one cause of the indebtedness, the main cause of the indebtedness, is the monthly system of payment of wages coupled with the system by which the payment of wages is deferred for two weeks. It used to be deferred for three weeks or even four weeks.

But the millowners of Bombay have been pleased now, after a strike, but not of their good-will, to rule that wages should not be deferred for more than two weeks after they become due, so that a man gets his wages at least after six weeks. This is the main cause of indebtedness. If you study the causes of indebtedness in Bombay you will find that on the average the indebtedness of industrial workers in Bombay is not less than Rs. 50. My own estimate is that the average indebtedness is Rs. 100 per individual, but I take the most conservative estimate that the average indebtedness per individual in Bombay is Rs. 50. If the average indebtedness is Rs. 50 and a debtor pays the lowest rate of interest charged at present, namely, Rs. 75 per cent., a man pays in interest alone Rs. 37 per year, at least Rs. 3 to Rs. 4 per month out of his wages in interest. Now, Sir Purshotamdas Thakurdas will not deny that the evil of indebtedness exists in the city of Bombay among industrial workers and if one studied the problem still further and tried to find out the root causes of indebtedness he would come to the conclusion that the main cause of this indebtedness is the long period for which the actual payment of wages is deferred. In the case of the working classes who are illiterate and ignorant it is found in many cases that if they get a large sum of money in their hands at the end of the month they spend some portion of it in drink and in some other vices which they may not spend to that extent if payments were made weekly and if they did not get a larger amount in their hands. That will be one way in which the money of the working classes will be spent much better and to that extent also indebtedness will be reduced.

Now, Sir, in regard to the question of indebtedness, you have also to remember this that this system of monthly payments forces a man to make his purchases on credit instead of for cash. A man gets his monthly pay and in about eight days' time he spends it. He generally pays almost the whole amount to the *banya*. The *banya* is his banker, though the amount does not go to his *banya* as part of his savings. The man owes

[Mr. N. M. Joshi.]

such a large amount to the *banya* that he has to hand over his monthly wages to the *banya*, so after three or four days, at the most eight days, the man has nothing left with him. Then he goes on making his purchases on credit and you know when a man makes purchases on credit he loses double the money. The *banya* is no philanthropist. If a man makes purchases for cash the *banya* knows what to charge, but if the man makes purchases on credit the *banya* does not know what to charge, so he makes allowance in prices first. If a man purchases for cash he will get cheaper prices but if he makes purchases on credit he will have to pay higher prices. Then the *banya* will charge him interest on the sum given to him on credit, so the man loses in two ways. This system of purchasing things on credit will be done away with as soon as you begin to introduce the system of weekly payments, but if you continue the system of monthly payments, the system of purchasing things on credit will continue.

Now, Sir, in this matter also I have got some experience. In Bombay we tried to establish some co-operative stores for working class people and the experience was that the stores could not succeed simply because the men who were expected to make their purchases from the stores had no cash to purchase with. The first principle of co-operative stores is that purchases must be made for cash, but the people in Bombay who are paid monthly could not make cash purchases. They were accustomed to purchase on credit, and therefore in spite of all our efforts for the last ten years to start co-operative stores we have not succeeded in starting any stores in Bombay. This is an experience lasting over ten years' time, and I state it as one of my firm beliefs that co-operative stores will not succeed in Bombay as long as the monthly system of payments exists in that city.

Sir Purnhotamdas Thakurdas: I am loath to interrupt the Honourable Member, but may I ask if the Government of Bombay were not thus advised by the Registrar of Co-operative Societies. This is an important aspect of the matter, and I hesitate to believe that the Government of Bombay were not advised by the Registrar of Co-operative Societies.

Mr. N. M. Joshi: I do not know whether the Government of Bombay ever consulted the Registrar of Co-operative Societies. They ought to have consulted him. I do feel that if I ever support this weekly payment I support it on one ground that the monthly system of payment encourages indebtedness, and not only encourages indebtedness but every effort to reduce indebtedness, to get rid of indebtedness fails on account of the monthly system of payments.

Sir, I would like to have a monthly system of payments on other grounds. Somebody has stated that Mr. Chaman Lall's weekly system of payments facilitates strikes. It is just the other way. The monthly system of payments is far better for strikes in Bombay, and I state this with my experience of several strikes in Bombay. I can tell you this, many of my friends in Europe simply wonder how we get on with strikes in Bombay for such a long time. They do not know that the real secret of Bombay strikes going on without having any organisation and money, is the monthly system of payments. Sir, if I had only cared for strikes, I would not have supported Mr. Chaman Lall's Bill; but, Sir, I feel that this monthly system of payment deteriorates the whole economic

position of the working classes in India. They suffer daily from this system and therefore, in spite of the fact that the monthly system of payment is good for strikes, I support this Bill because I feel that the indebtedness of industrial workers in India will be reduced to a great extent.

Sir, from the point of view of the employers who have six weeks' wages in their hands, the monthly system is a great advantage. If the employers have in their hands six weeks' wages naturally they have a certain hold over their workers. That is the reason why they want six weeks' wages to be kept in their hands.

Then, Sir, some people have made mention of the opinions of the workers themselves. I admit that there are some workers who, on account of their ignorance, on account of their illiteracy, do not understand the benefit of the weekly system of payment. They see the advantage of the monthly payment, but they do not see the disadvantage of the monthly payment. They are unable to strike a balance of the advantages and the disadvantages of the two systems

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban): Do they feel the disadvantages in their daily life?

Mr. N. M. Joshi: Oh, yes.

Diwan Bahadur T. Rangachariar: Then why do they not say it?

Mr. N. M. Joshi: Because, while people in India feel very much the necessity for having self-government in this country, and every one feels it, it is only the educated classes who make an agitation. The poor man may feel it, but he cannot explain why his miseries are caused or how they are caused. He cannot go to the root cause of his misery; he feels the misery and suffers from it, but unfortunately not having been educated he has not got the power to explain. If people know how to read the mind of the working class, they will know what they want, but unfortunately we do not know how to read the mind of the working class; we are not acquainted with them, we do not know them. I therefore think that we cannot make much of the argument that there are some workers who prefer the monthly system of payment to the weekly system of payment. And this is not the only case where the workers sometimes, on account of wrong notions, on account of ignorance, oppose a reform which is in their favour. I remember in England when they first introduced a measure to prohibit the employment of children, and when some of the leaders of the working class people supported that measure, those leaders were actually stoned by the workers. If my friend Mr. Chaman Lall addressed a meeting in Bombay, he might meet with the same fate to-day because the people have not yet realised why they suffer. They suffer from indebtedness and they simply feel it is the *banya* who robs them; they do not know it is not the *banya* who is the root cause, but that the root cause is the monthly system of payment. Sir, therefore we cannot take advantage of the ignorance of the working classes in two ways. First, these people suffer on account of the monthly system of payment and we cannot base our arguments for any change in the system on the ground that they do not want what is for their good. I know, Sir, there are some workers who also oppose it, believing that the weekly system of payment may deprive them of the benefits which they at present get from the monthly system of payment. On railways there are two classes of workers, the daily-rated workers and the monthly-rated workers.

[Mr. N. M. Joshi.]

The monthly-rated workers have the advantage of a provident fund; they get longer leave and they also get certain other privileges which are not given to the daily-rated workers. The fear of the monthly-rated workers to-day is that if the weekly system of payment is introduced, they may lose these advantages, that is they may lose the advantage of a provident fund because to-day the advantage of a provident fund is only given to those people who are paid monthly and who are called monthly-rated men. Of course there is no connection between the payment being made every month and the provision for the provident fund, but unfortunately the poor people do not know these differences and therefore, in their ignorance, they fear that if a weekly system of payment is introduced, they may lose the advantage of the provident fund and other privileges. Sir, it is also said that the demand must come from the men; that the men do not demand it. There are many things which men do not demand, but we still provide them. Who provided the Indian Factories Act for the men? Was there much agitation in the country when the first Factory Act was introduced? I do not think so. We have had several things before any demand was made, and is it right, is it a wise policy to wait till the demand comes from the people who suffer? Is it not our duty to find out whether a particular system is good or bad and take measures, if the system is bad, to improve it, instead of waiting for some people to agitate and force you to take measures for reform? Therefore, Sir, it is not a sound argument that the Bombay Government have used, that there is no demand from any class of people. It is not wise for us to wait till that demand comes. If you want a demand, then certainly people like my friend Mr. Chaman Lall have to agitate. He has to introduce a Bill so that it can be circulated and people may know what the weekly system of payment is, and a demand may be created ultimately. But I do not think it is right for any Government to say that they will not adopt a measure of reform simply because there is no demand for it. I know, Sir, the Government of Bombay gave me a similar reply in another matter regarding the system of payment of wages, namely the deduction of fines from the wages. The Bombay Government told me that they would not stop this pernicious system unless there was a spontaneous demand. They thought a demand coming from me was not spontaneous. The poor working class people must agitate, must hold meetings, must go on strikes, then only will the Government move. I do not think, Sir, that this is a policy which any wise ruler will adopt.

Sir, much has been said about the agricultural classes. I do not wish to go into the problem of the agricultural classes because my friend Mr. Chaman Lall has already stated that if the Select Committee considers it proper to restrict the scope of the Bill to industrial workers, he will be quite pleased to accept any proposal like that. We on our part do not see much objection to the Bill being applied to larger sections of workers, but if the Select Committee comes to the conclusion that the Bill may be restricted to a smaller section of workers, the Select Committee will be at liberty to do so, but the principle of the Bill is absolutely sound and therefore must be accepted by this House.

Sir Willoughby Carey (Bengal: European): Sir, my objection to the motion for referring this Bill to a Select Committee is that I object to the principle of the Bill, which principle would be accepted by referring the

Bill to a Select Committee. It seeks to impose by law a very stringent and upsetting condition on many sections of labour, who, in spite of all that the Honourable Member has said, do not want it. As he has said, in Bengal much of the labour in the jute mills and in the mines does draw pay weekly, but not by any means entirely. A large number of the staffs and of superior labour drawing considerably less than Rs. 100 monthly are paid monthly. There are special reasons generally for those of the labour who draw their pay weekly. A good proportion of them are floating labour well suited by that method.

I congratulate the Honourable Member on his selection of evidence from the White Paper, but I think that he will admit there are at least as many points—I personally reckon more—quite as weighty on the other side. I think, Sir, he will believe that my experience, over a lengthy period, of labour in many industries is that in very few things labour is more quickly disturbed than by suggestions to alter well tried and long established customs of pay systems. A Bill of this kind cannot hope to meet the varied conditions to be met with in different parts of the country or the varied conditions under which the labour live. I see in the White Paper one suggestion which doubts whether central legislation at all is the right way of dealing with this subject. That I shall express no opinion upon, but at least it proves to me that a Bill of this kind is open to very great doubt as being at all the right method. I also very much doubt whether weekly payment of wages would really touch the subject of indebtedness. All employers of labour would of course welcome the saving of labour as much as possible from the hands of the money-lender, but the men who borrow because they are paid monthly would still borrow even if they were paid weekly. Even in Bengal, in the very places where these men are paid weekly, the *banya* is by no means unknown. In England his counterpart is also by no means unknown, and it is the weekly wage earner who is his best customer. Even if you pay the labour weekly the improvident man will still be improvident. I think the same thing also applies to credit purchases. I see here in this same bulletin to which the Honourable Member has referred that in a great number of cases relief is afforded by the system of advances, where wages are paid at longer periods than by the week. I may say that that is not unknown also to us in Bengal, and it is a reasonable method by which we assist the labour not only with their own personal expenses but also with their purchases, and food, clothing, and so forth. Therefore I do not think the system of weekly payments would really be nearly as advantageous as it is held out to be. I think there would be, in spite of what my friend Mr. Joshi has said, a very distinct effect on the provident fund question. I think there would not be the same attraction to the weekly wage earner to belong to Provident Funds as there is to be monthly wage earner, because the sums which he would save in the provident fund would seem so small to him. Also in the case of your weekly wage earner there is very little security that he will remain long enough to make the Provident Fund worth while. His temptation to depart from you is much greater than the man's who is a steady monthly wage earner. Such changes as that proposed by this Bill cannot I am sure be well imposed by law. Any wise and enlightened employer in these days will suit his methods to his labour and I do not believe that this Bill would at all assist either employers or labour to settle the question. Therefore, Sir, I beg to oppose the motion.

Mr. Gaya Prasad Singh (Tirhut Division: Non-Muhammadan): Sir, I have no desire to attempt to arrest the further progress of the Bill at this early stage; but there are just one or two observations which I should like to make before the Bill is committed to a Select Committee, if it goes there at all. I am glad, Sir, that my Honourable friend Mr. Chaman Lal has himself recognised the drafting imperfections of the Bill which he says he will remedy in the committee stage. I am also glad that he recognises that by including domestic servants within the purview of the Bill he has gone too far, and that he is going to exclude them, if I understand him correctly, from the scope of the Bill. Apart from that I find, Sir, that the Bill is still open to certain serious objections. Sub-clause (4) of clause 1 of the Bill says that it applies "to all employees in Government or private service establishments"; and "to all skilled or unskilled workers or employees wheresoever employed, provided that such workers or employees are in receipt of wages which in total amount to less than Rs. 100 per month". This includes all Government servants as well as servants in private employ getting a salary of less than Rs. 100 per month. We have, Sir, in our part of the country a lot of such private servants, for instance, *gomantias*, *patwaris*, *tahsildars* and others whose pay is certainly less than Rs. 100 per month. Some of them have to give cash or landed securities for their service, as they have to handle money, and if the Bill is made to apply to them it will be very difficult for them, and it will be practically unworkable. Besides, the objections to which this Bill is open if it is applied to Government servants have been set out clearly in some of the opinions to be found in the White Paper. I will just read out one extract from page 40:

"It is perhaps unnecessary to dilate upon the difficulties of weekly payment in the services under Government. A large subordinate staff is scattered throughout the district whose pay is disbursed from headquarters or sub-divisional treasuries. Sometimes, as in the case of police-stations, it is sent out in cash, sometimes as in the case of teachers in primary schools, it is sent by money order. In addition to the extra accounting involved, there is the cost of the money orders and the increased demand on the police for escorts to be considered. Against this there is no compensating advantage to be set off."

Besides, there will be no guarantee for continuity of service, and this will introduce a serious element of uncertainty in the relations between the employer and the employee.

Then, again, Sir, the Bill, as it stands at present, brings within its scope agricultural labour. Now, we have a lot of agricultural labour in the province of Bihar and Orissa, and sometimes this labour is not paid weekly or monthly but by the season; sometimes they are paid in kind, and that depends upon the vagaries of the season. I shall read out the opinion of the Bihar and Orissa Government on this point. They say at page 39:

"As regards agricultural labour the measure would in practice be unenforceable, and would remain a dead letter. These wages are governed by immemorial custom, and are paid sometimes in cash, sometimes in kind, sometimes by a portion of the crop harvested, sometimes by service jagirs. If it were possible to impose on the cultivator an obligation to pay a weekly cash wage, it would ruin many of them by delivering them into the hands of the money-lender, while it is at least doubtful whether the currency of the country would be sufficient to meet the demand. There are undoubtedly evils connected with agricultural labour which still exist in spite of the attempt to remedy them by legislation, such as Kamianti labour, or work obtained from tenants as a predial condition of their holdings."

Then on page 37 this is what the Deputy Commissioner, Assam, says in regard to agricultural labour :

" At present these are paid by the day, or week, or month or season. They usually take an advance which has to be worked off. Some of them get payment partly in kind after the harvest is reaped. A law prescribing weekly payments in such cases is out of the question. The same observation would, for a similar reason, apply to contractor's coolies."

My Honourable friend Mr. Joshi in the course of his speech has said that monthly payment is bad, and that agricultural indebtedness is due to that; and therefore, he says, although there may be no demand from the labourers, we must introduce weekly payments. But this is just begging the question. He has first to prove that weekly payments are a panacea for the evils of which he complains. It might have some advantages in certain cases; but I do not think that weekly payments will touch even the fringe of the question of agricultural indebtedness.

Then, Sir, my friend, the Honourable the Mover of the Bill has said that all the employers are against this Bill, and that labourers' associations are in favour of it. In reply I refer to the proceedings of the South Indian Railway Labour Union of Negapatam, in which resolutions were passed opposing Mr. Chaman Lal's Bill for the introduction of payment to labourers drawing less than Rs. 100 as wages per mensem on a weekly basis. Then, again, at page 8 of this White Paper is given the opinion of the Burma Labour Association. This is the resolution:

" This public meeting of labourers of Rangoon strongly protests against the Weekly Wages Bill which has been introduced in the Indian Legislative Assembly by Diwan Chaman Lal as it is not applicable to the labourers here on the following grounds :

- (a) cases of irregular payments in Burma are very few in comparison with other provinces in India as the number of such payments do not exceed ten per cent. ;
- (b) it will give indulgence to excessive drinking and other superfluous expenses, four times a month in place of once.
- (c) No substantial amount will be saved at the end of each month from the poor wages of workmen for the provision of their families at home."

Then, I will read from page 30 the opinion of the Madras Labour Union. This is what it says :

" As regards the other Bill, the labourers appreciate the advantages of a weekly system of payment, but at the same time they consider that in the present circumstances it has certain disadvantages also, the chief of which is that they have to wait for long periods of time at the Pay Office of the Mills in order to receive payment, and that instead of waiting there once a month they will have to wait four times a month, losing their hard won leisure."

Sir, the objections to which this Bill is open have been very clearly set forth in the letter of the Industrial Surveyor, Delhi, to the Deputy Commissioner, Delhi, dated the 8th December, 1924, I am tempted to read out this quotation from page 4 :

" The reasons advanced are :

- (a) That at present workmen being paid monthly and subject to monthly notice, are kept on during periods of depression in anticipation of the improvement of conditions before a notice to terminate their services is given. Under the proposed alteration, all workmen would be weekly employees and this is believed to give rise to a tendency on the part of a majority of employers to dismiss surplus labour as soon as slack times are indicated. Thus a part of unskilled labour would be thrown out of employment for a time during the year instead of receiving constant employment under the existing system of payment.

[Mr. Gaya Prasad Singh.]

- (b) That under the existing arrangements, it is more or less customary to observe the pay-day as a factory holiday. The proposed system of payment would cause extra expenses which is considered to be so great as to be prohibitive out of all probability to pay the labour in the factory hours. The workmen will thus lose one day out of every working week.
- (c) That a large number of factories have Provident Funds for the benefit of their labour. These Provident Funds will have to be discontinued by most of them as under the proposed scheme it would entail enormous extra clerical work.
- (d) That under the present arrangements, most of the labour are employed on one month's notice of dismissal which usually enables them to secure other employment before the termination of their previous job. If the Bill is brought into force it follows that the notice of dismissal will have to be shortened to that of six days and in most cases this will keep them out of employment for a time.
- (e) That it is open to question whether the payment of weekly wages will achieve the object for which the Bill is intended as the majority of Indian workmen are not gifted with the ability to effect saving and that there is a grave danger that the wages earned weekly may not be sufficient for the purchase of necessities of the worker's household."

(An Honourable Member: "Why do you make these long quotations?")
My friend, the Mover, was quoting the opinions in his favour; I am quoting the opinions against him.

Mr. B. Das (Orissa Division: Non-Muhammadian): Leave a portion for Government to read from.

Mr. Gaya Prasad Singh: I will just read out one sentence.

Mr. President: The printed paper is in front of every Honourable Member, and the Honourable Member should not read long quotations from that paper.

Mr. Gaya Prasad Singh: Sir, I thought I was following the example of my Honourable friend Mr. Chaman Lall when he was allowed to make long quotations from that very paper. But since you have ruled it out of order, I would make no more quotations, but would simply say this. The expressions which my Honourable friend Mr. Chaman Lall has used in the Statement of Objects and Reasons are rather severe and hardly appropriate when applied to the conditions obtaining in the country as a whole. There might be a few cases of "unscrupulous employers," but my Honourable friend has said that the evil was a "scandal." The Government of Bihar and Orissa point out that the use of such expressions has in some measure served to prejudice the fair discussion of the question. I may not agree with that view; but I feel that the Bill has not been drawn up in that impartial frame of mind which ought to be brought to bear upon a Bill of this character. This Bill will have to be further altered, lock, stock and barrel, before it can be a useful piece of legislation, and be acceptable to this House or the people. If the Bill were to go to a Select Committee, all these points should be carefully considered.

Mr. E. S. Roffey (Assam: European): Sir, I rise to oppose this motion. Using Mr. Joshi's words I think that I can claim that I am not an amateur in respect of labour conditions in Assam. Unlike my predecessor, Mr. Chalmers, I am not a tea planter, but I have been a solicitor in the Assam Valley of the Province of Assam for the last 23 years, living in the midst of tea gardens and acting for very many of the tea companies and proprietors. I have for the last 14 years been and am now the Secretary of the Assam Branch Indian Tea

Association, and as such Secretary, I have during that period had to consider labour conditions and the thousand and one other matters that come before the Association which affect the tea industry. Now Sir, that Branch has a membership area of about $\frac{1}{2}$ million acres and a labour force of just under one and a half millions. As Secretary I obtained the opinions of my members on this particular Bill and that opinion is summarised in my letter which is included in this White Book and with your leave I propose to read that letter to the House. I may say that it places I think very shortly the views, at any rate, of the members of the Assam Branch of the Tea Association and I will read it to the House:

"I am to inform you, my Association are very strongly opposed to the Bill on the ground it is neither necessary nor suitable for labour employed in the Tea Industry.

The system of payment of such labour differs considerably throughout this Province and consists of daily, weekly, or fortnightly payment in respect of 'ticca', or what might be termed 'overtime' work, and of monthly payments in respect of the monthly wage. As 'ticca' work is always available and undertaken it follows that tea garden labour does not have to wait for pay earned for anything like the period mentioned in the Bill, which it is admitted has been introduced for the purpose of relieving alleged hardships suffered by the labour working in cotton mills."

The most extraordinary part of the Honourable Member's statement in moving this motion is this. He does not appear, so far as I have been able to gather, to refer to the tea industry at all. His great point is, he gives the opinion of what he calls the most important Government, namely, Bombay. Now, Sir, as far as I know, the labour employed by the cotton mills of Bombay totals 1,34,000 or thereabouts, whereas, in the tea industry the Local Government of Assam look after upwards of a million.

Mr. B. Das: Do the Assam Government look after them?

Mr. E. S. Roffey: I submit they do.

Mr. B. Das: I do not agree.

Mr. E. S. Roffey: To continue this letter:

"Apart from this fact in practically every tea concern one month's rice ration is available to every coolie on application at a figure which is never over and is generally much under cost price.

In so far as the payment of the monthly wage is concerned there are many castes who absolutely decline to receive it otherwise than monthly. The payment thereof has in some concerns been attempted weekly, or fortnightly and has been resented to such an extent as to result in strikes and riots and the consequent resumption to the monthly payment, which is made on any date between the 1st and the 15th of the month succeeding that in which it is earned. I am to inform you this Association are now strongly advising members to expedite the payment of such wage as much as possible and in any case to make it prior to the 10th of each month."

Now, Sir, another very large employer of labour in Assam is the Assam Railways and Trading Company, Limited, whose agent and general manager is Mr. Joseph. When I tell the Honourable the Mover that Mr. Joseph was up to about two years ago a senior member of the Civil Service of his own province I am quite sure that he will agree that his opinion ought to carry some considerable weight. Now, I am not going to read his letter which is in the White Book. He places four points before the Local Government stating his objections. The first is that weekly payments mean the preparation, checking and auditing of bills four times a month instead of once. The second is clerks and workmen are paid during working hours which means the loss of service for four hours once a month. Thirdly, it is a common practice for labour to be

[Mr. E. S. Roffey.]

absent for at least one day after pay day and that the loss of efficiency in this respect is considerable. Lastly, weekly payments will not induce thrift as the man who feels that he will be paid again in seven days' time is not likely to economise in the intervening days.

Now, Sir, having received the opinions of the residents of Assam, the Local Government states this:

"The Bill as it stands has hardly found a friend. It is recognised that there may be a case for such legislation in areas where there are large factories and where the labourers live in important industrial centres and have doubtless weekly liabilities to meet but the Governor in Council considers the Bill quite unsuitable for Assam where there are no such centres."

Is not the opinion of the Local Government who have to look after the labourers worthy of acceptance by this House? I submit that they are the sole people in that province who are capable of knowing the conditions throughout the province. The Local Government go on further to say with reference to the Tea Association's opinion:

"No obvious reason can be advanced for this difference but experience has shown that the system actually in force is the one which commends itself to the labourers on any garden and His Excellency in Council holds that it would be a complete mistake to enact and enforce any one uniform system. It is fairly certain that if the workers on a garden want their wages weekly or fortnightly they will get them."

Now, with regard to that last remark, I would simply refer the Honourable the Mover to this point. I do not know whether he knows, but if he does not, I would inform him that having regard to the enormous expense that employers now have to pay for the importation of their labour, it would be crass stupidity on their part if they did not practically pamper them as they do. Now, Sir, the Honourable the Mover in introducing the Bill in September last, gave two reasons therefor. The first was that industrial workers had to live one month on credit, having to borrow large sums of money from money-lenders at exorbitant rates of interest and the second was with regard to the Bombay mill strikes. I have shown that the tea industry does not come under either of those heads. They receive weekly tieca payments and advances of rice and therefore they are perfectly capable of supporting themselves during the month till their monthly wage is paid. All I put to the Honourable Mover now is that labour at the present time there is in a settled state. According to the last emigration report the wages have increased considerably and I put it to him that when labour is in that settled state it is not fair to press on them legislation which they neither ask for nor which is required.

Lala Lajpat Rai (Jullundur Division: Non-Muhammadan): Sir, I had no intention of intervening in this debate but the remarks that came from my friend Sir Purshotamdas Thakurdas have induced me to speak. During the last part of his speech I was thinking whether those remarks should not have come from the official Benches rather than from the Bench which my friend occupies. If we were to accept his arguments about amateurish experiments or about the non-desirability of disturbing existing conditions or long-established customs, I think all those arguments which are advanced by the bureaucracy for not making political and economic changes in this country would be considered to be perfectly cogent and practically unanswerable. I impute no motives to my friend. I admit that he is actuated by the best of motives and he is as

anxious for the amelioration of the condition of workers as any one else on these Benches. I quite accept that. But there are two factors which affect the mentality of every individual and which perhaps my friend omitted to consider. They are habit and something which is called class bias. I do not charge him with any other motive. I am of opinion that most of the arguments that have been advanced in this debate in opposition to this Bill are of this nature and are not weighty. They should not affect the opinion of this House when it proceeds to decide the fate of this Bill. I am also of opinion, Sir, that the arguments based on the opinions of the workers themselves, are equally devoid of weight. We are quite familiar in this House with the way in which such opinions are obtained and readily put in the various Blue-Books and White Books issued by the Government. We are quite familiar with such opinions. They are to be found in abundance in the Blue Books that have been issued in connection with the constitutional question, and I think they ought to carry no weight. The only thing which this House should consider is whether the principle of the Bill is just and whether it will improve the conditions of the workers. I beg to submit that from both these considerations the Bill is a proper Bill to be considered by a Select Committee. The workers in this country are under a great handicap by this monthly system. They are practically at the mercy of the employers. We on this side of the House, who have often to speak on behalf of the workers, are at a great disadvantage because almost all the Honourable Members of this House are employers of labour, and they are to a certain extent, if not wholly, carried away by their own interests, their prejudices or habits, in judging Bills of this kind, and that is very natural. I do not blame them for it. It is just human nature. I consider that the system of monthly payments is a very pernicious system and the workers are very much at the mercy of the employer through this system. Much has been made of the monthly system because of the liability of a month's notice on either side. Well, Sir, I know by personal experience that this system of a month's notice, it may be in force in Government offices or in other offices where particular classes of workers are employed, is not ordinarily observed in factories or by private employers. I know by experience that employers do dispense with the services of workmen quite readily without giving them either a month's wages or a month's notice, and the workmen on account of their poverty and inexperience have no redress against the employer. You can only put down that system by adopting the principle of this Bill. Whether this Bill should be applied to domestic servants, and agricultural labourers or confined only to industrial workers are matters which can be examined in the Select Committee. The disabilities that have been pointed out, and the facts that have been relied upon by my friend Mr. Joshi are so cogent and important that I will beg of this House not to reject this Bill at this stage. No harm will be done by going into the entire Bill in the Select Committee and taking further opinions if necessary, and working out all the details so that the whole question may be thrashed out and laid before the House with the Report of the Select Committee. Perhaps the Select Committee might come to the conclusion that it should be confined only to a certain class of workers. Perhaps it may come to the conclusion that it is premature. But it should not be rejected at this stage. Otherwise I think there would be ample ground for saying that the classes of employers which are represented in this House have only taken into consideration their own interests and not the interests of the workers.

[Lala Lajpat Rai.]

Much has been made of the system of payment in kind to the agricultural labourer in several provinces. Well, Sir, I think the system of payment in kind is a vicious system whether in agriculture or in industries. (*An Honourable Member*: "Why?") In most cases it forces the workman to sell the share that he gets either of the agricultural produce or of the industrial produce at much cheaper rates than prevail in the bazaar. (*An Honourable Member*: "No, no.") I know it as a fact. You say, "No." My experience is otherwise, and I am entitled to state my experience. I know that in the case of tenants, for example, when the tenants are paid in kind, they are often forced by circumstances to go and sell their wages which they receive in kind at much cheaper rates than prevail in the bazaar. It is the same with regard to the system of land revenue also. Small peasants who have no capital to fall back upon are, on account of this rigorous system of payments of land revenue in cash at stated times, forced to sell their produce to the first bidder, to the man who comes first and wants to advance the money; or they have to go to the money-lender, which is a worse remedy than the other. I have also learnt that in several parts of the country even industrial wages in small factories are paid in kind by a share of the goods which the workers have helped in producing, i.e., by a share of the manufactured goods. I learnt this only recently in Burma a province to which reference has been made by several Members. The result is that they have to go to the bazaars and sell their goods very very cheaply, to their detriment, because they have not the resources at their command which the ordinary seller, either retailer or wholesaler, has got. They have got no organization at their back.

Diwan Bahadur T. Rangachariar: What about foodgrains?

Lala Lajpat Rai: They are exactly in the same category. They require a certain amount for consumption at home, but they cannot afford to keep even that quantity for the whole year or for the rest of the season. They have to sell a part at least of that quantity for other purposes, for purchasing cloth, for purchasing implements of agriculture and other requirements of domestic life. They are thus very much handicapped by this system of payment in kind. Therefore the system of payment in kind is not such a one that this House or the Members of this House ought to encourage or ought to perpetuate in this country.

I think if the system of payment in kind is objectionable from the Government point of view and the employers' point of view in certain cases, it is more objectionable from the point of view of the employee or the worker, and therefore the principle of this Bill, so far as that point is concerned, is perfectly sound. I can well understand the disinclination to disturb the existing condition of things, but my friends ought to know that we are in for disturbing the existing conditions in more ways than one. Why should they hesitate to disturb existing conditions when that disturbance is in favour of the workers, if they have no hesitation in disturbing existing conditions in other respects? I think the condition of the worker requires very careful watching by the Honourable Members of this House because the workers are not directly represented here; and the Government itself, being a large employer of labour, is not so disinterested as it otherwise ought to be. The tendency is that in respect of particular conditions of labour the Government is very anxious to alter them, but in respect of others it is not. We are often lectured upon the

conditions, the disastrous conditions and miserable conditions of labour that prevail in Bombay or at Nagpur. We have often heard such remarks both in the Press and in the Legislative Chambers. But when it comes to the real improvement of the conditions of labour improvements which do not bring them into competition with labour in other countries, then we find that the alacrity for improvement disappears. I beg of all the Honourable Members of this House, once more, to remember that they are the trusted guardians of the interests of workers in this country and they should lay aside all prejudices, all class bias or their personal interests in considering measure affecting workers. By personal interest I do not mean necessarily the interest of each individual, but include in that category the interests of their class. Labour has no direct representatives in the Legislature and we are the only guardians of their interests. Those interests apply to many departments of life and in judging of a proposal like this we ought to be broadminded and should absolutely divest ourselves of all kinds of bias and all kinds of prejudice. If we do so, we shall find that the proposition is not so absurd or so premature or so entirely uncalled for as some Honourable Members think it to be. It requires investigation. Perhaps we cannot apply it wholesale to all kinds of labour. We may be able to apply it only in certain provinces and to certain kinds of labour. All these things can be threshed out in the Select Committee. But to reject the Bill on the ground that it is entirely premature or that it is not wanted by the labouring classes themselves or by the employers or the Chambers of Commerce, will not, I think, be proper.

I may say one word more on this question, Sir. The very insistence of the employers on the rejection of the Bill makes me suspicious, that the Bill must be something really desirable and good from the workers' point of view.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): It is a bad habit.

Lala Lajpat Rai: It may be a bad habit, but it is a habit which I find Honourable Members are very much accustomed to. In any case it is a convenient habit. And, if my friends are right in thinking that because a certain proposition is opposed by certain interests therefore it must be good, I think I am also entitled to take advantage of that habit and say that, because labour employers are so much against this Bill and they are all united in demanding its rejection, therefore there is something in the principle of this Bill which must be good for the workers. I, therefore, beg to submit that the Bill is not so bad either in principle or from the point of view of its desirability that it ought to be rejected at this stage.

Diwan Bahadur T. Rangachariar: Sir, the remarks of my Honourable friend, Lala Lajpat Rai, must have opened the eyes of the Assembly to the revolutionary character of the measure now before the House. My Honourable friend the Mover of this Bill did not claim so much merit for his Bill as my Honourable friend Lala Lajpat Rai claims for it. He will revolutionise the whole system of agricultural labour in this land. He does not believe in payment in kind. He thinks it is vicious in principle and mischievous in practice. Is this House going to lend its support to a measure which is going to open up such large and revolutionary

[Diwan Bahadur T. Rangachariar.]

issues? Sir, on perusing this Bill I asked myself—how will it affect me as a small landholder in the Tanjore district and how will it affect the customs and traditions which we hold sacred? (*An Honourable Member*: “You are a big landholder.”) You may call me big, but I consider myself to be a small landholder. Sir, I have got a manager, an accountant, and some other petty servants not employed actually in agricultural labour. I have also got agricultural labourers, both casual and permanent. I receive my income only twice a year from what is called the Kar crop and the Samba crop. I pay my manager in kind at the rate of 100 *kalam*s per annum, *plus* a certain amount of money, and similarly in the case of lower grades, the watchmen and other people, I pay them in kind. They are glad to take the things in kind, and they store them for the year, and if Lala Lajpat Rai’s suggestion is to take effect and I am to calculate the value in money, Sir, the price of the paddy varies violently from the time of the harvest to the time of scarcity, so if I am to calculate their wages in money at 100 *kalam*s per annum I would be tempted to calculate at the lowest price. Now when the crops are plentiful and paddy sells at Rs. 2 per *kalam*, I store my paddy and sell it at Rs. 3/12 to Rs. 4. Now if I make a money calculation and pay my farm manager at Rs. 2 a *kalam* he would get only Rs. 200 whereas if he got payment in kind he would store the paddy. If he got paid in money how would he buy his food with the price of grain at Rs. 3 and Rs. 4 per *kalam*? So that it would be far from doing any good, whereas by paying him in kind his food supply is assured for the year. I do think that the bulk of the population in our land will not welcome the change proposed by my Honourable friend. I thought Mr. Joshi who spoke in support of the measure was prepared, with the support of Mr. Chaman Lall, to drop agriculture, but my friend Lala Lajpat Rai will not allow that to be done. Therefore I scent danger in this Bill, I scent mischief in this Bill so far as labourers are concerned. As regards clause 4, sub-clauses (ii) and (iii) say:

“(ii) to all employees in Government or private service establishments; and

(iii) to all skilled or unskilled workers or employees wheresoever employed, etc.”

Those are the two classes of people mentioned, and I am positively of opinion with the limit of knowledge I have of the conditions of life which these people are in that it will be positively mischievous to introduce it. Look at it from one aspect which has not been emphasized. I know clerks, teachers and others getting Rs. 100 per mensem pay their rent monthly. Now, Sir, supposing you introduce a weekly system. You will introduce a weekly rental system. Now what is the effect? I will positively benefit by this system being introduced. Whereas I am able to let my houses in Madras on a monthly basis on a lower rent, if I am now able, as in the Xmas or fair season to let them by the week or fortnight, I can get probably six months’ rent when I adopt that course. So that when you introduce the weekly system, the weekly rental system will also follow, and the weekly rental system means that a man has to pay more rent. For instance, Rs. 10 is all right, but if you divide the amount by four and make it Rs. 2/8 or Rs. 3, it sounds so small. So that if you make it even daily there will be a tendency on the part of the landlords—the landlords, I am one of them, are always exacting and want to make as much as they can—will be tempted to put up rents. I speak

from experience of these matters, having been on the Madras Corporation for many years. For one rupee put on the rates, what does the landlord do? He puts Rs. 3 on the tenant. (*An Honourable Member*: "Shame!") It may be a shame, but that is done; I have done it myself, and you wish to give a new advantage to the landlord. The persons whom you want to benefit will suffer, I am sure they are bound to suffer. What is the necessity for it? My Honourable friend, Lala Lajpat Rai, has been connected with the Indian National Congress for many years. Did the Congress ever take up this question? When did Lala Lajpat Rai discover this great mischief underlying this monthly payment system? He discovered it after my youthful friend Mr. Chaman Lal, for whom I have an affectionate regard. Sir, the very fact that no popular assembly in this country composed of eminent lawyers like Lala Lajpat Rai ever discovered it proves conclusively that this has not been an evil. On the other hand, as I said already, it is positively mischievous so far as concerns classes of people dealt with in clauses (ii) and (iii). I am doubtful of the utility of the measure as regards industrial workers for the reasons I have already mentioned. These industrial labourers in Madras take a room and pay 12 annas a month or one rupee a month for the room, or Rs. 1/4, but if you introduce the weekly rental system, I am sure they will have to pay twice the rent they now have to pay. Or take the *dhobi* who is paid by the month. Suppose you introduce the weekly payment system for the *dhobi*. (*An Honourable Member*: "He takes payment by the hundred.") No, we pay them by the month also.

Lala Lajpat Rai: I pity the poor *dhobi*.

Diwan Bahadur T. Rangachariar: You may pity the poor *dhobi*, but that is the existing condition. Pity does not bring in money. The worker has to meet his bill for necessities; you do not provide more money to be paid for these things. And probably it may have another effect. In the case of clerks who are paid only small salaries, if you make their payment weekly, what will they say? Calculated by the week, say Rs. 8 or Rs. 10, it sounds so small, and they will say why not make it Rs. 12, and the employers will suffer. You will be revolutionising the whole system here. It applies to all classes of employees. The trend of the discussion hitherto has been as if it was a question merely between the Bombay capitalist and the Bombay labourer. It is not so at all. I want the House to realise this is a measure which applies to the whole of British India. It applies to the agricultural population; it applies to every sort of service, not merely labour and capital; it applies to the railway service, to district board service, local service, municipal service, private service; everywhere where you have to pay people less than Rs. 100 a month. It is a revolutionary measure; it is a large measure. The consequences produced by this measure will be so mischievous in my view that, with all respect to my leader, Lala Lajpat Rai, I have no hesitation in recording my vote against it. I ask the House to reject the measure.

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour): Sir, the fundamental principle of the Bill in regard to which a motion is now before the House is the weekly payment of wages, i.e., payment on weekly basis. That is clearly brought out by the Title and the Preamble of the Bill. The position at present, as will appear from the "Bulletin on the Periods of Wage Payment" recently issued by my Department, is that

[Sir Bhupendra Nath Mitra.]

wages are paid on a monthly, fortnightly or weekly basis according to arrangements made between employers and employees. It is proposed in the Bill before us to abolish this freedom of contract between the employer and the workman and to substitute for it a compulsory system of weekly payment of wages. That, Sir, is the principle of the Bill.

Speaking in this House on the 30th September, 1925, I said that it was not fair to ask this House to deal with this Bill until it was fully satisfied that the need for the measure in the present-day conditions of India was felt by the people whom it was intended to benefit and was admitted by the public at large. The House accepted my motion for the circulation of the Bill. We have now received the opinions of Local Governments and various other authorities on the Bill. In spite of what my Honourable friend Mr. Chaman Lall said in his speech, the Local Governments, who under the existing constitution are primarily responsible for the welfare of labour, are unanimously opposed to the Bill. I shall crave your indulgence, Sir, and the indulgence of the House, to read out certain extracts from those opinions, because it seems to me that they have not been fully appreciated by various Members of this House.

The Government of Burma has said that :

"in the opinion of the Governor in Council the Bill is entirely unnecessary and uncalled for, is unsuited to conditions of labour in this country and if introduced would cause a minor revolution."

I know my Honourable friend Mr. Chaman Lall jibbed at the last portion of that sentence, but he had probably overlooked the resolution passed by the Burma Labour Association to which reference was made later on by my friend Mr. Gaya Prasad Singh. The point is that labour in Burma is mostly imported labour and the conditions there are quite different from what they may be in many stations in India. In any case it is clear from their opinion that the Burma Labour Association consider that this compulsory system of weekly payments would be absolutely unsuitable to them.

The Local Government of the Central Provinces has said :

"The Local Government recognises that a change from monthly to weekly payment of workers may be to some extent desirable provided it is restricted entirely to industrial concerns."

Well, that shows the *bona fides* of this Local Government; but it proceeds to say :

"But even this restricted application is severely condemned by local opinion and will meet with almost universal opposition from employers."

I do not want to lay stress upon the last portion of the sentence. The Local Government points out :

"No such demand has been made in this province by the workers themselves despite strikes where the question would certainly have been raised had a grievance really been felt."

I submit, Sir, that that is very important.

I now come to the reply of the Government of the Punjab and I shall quote at length some portions of it because they deal with certain very relevant matters:

"Inquiries have shown that the introduction of a compulsory weekly payment system would not be popular either with employers or with workers."

"Its adoption would involve an enormous increase in clerical work, and the difficulties of its application to departmental or local fund staff working in remote areas are obvious. Further the payment of illiterate labour is a laborious process and the institution of four pay-days a month would seriously affect the interests of the employer in respect of the waste of working time involved."

I might not have paid much attention to all this which has nothing to do with the interests of the labourer, but then we come to this:

"In certain industries this loss of time might be shifted to the workers, thus reducing their total wages."

What follows is more important:

"Under the present system the custom has grown up of workers meeting their private commitments monthly; a system of monthly payment enables them to meet these commitments and even in some cases to effect small savings. If weekly payments are made, there is a real danger that a greater proportion of each worker's pay will be spent on petty extravagances, the saving possible out of a weekly wage being too small to act as any inducement to economy, apart from the difficulty of securing the safe custody of any such savings. The result would probably be that all except the most thrifty would constantly find themselves in difficulties."

Now, Sir, I come to the Bombay Government's reply. We have heard and we know that there the Governor has taken a personal interest in this matter of introducing a system, not of weekly, but of fortnightly payment of the wages of the labourer in the Bombay mill industry. Still, after the experience which he had in that connection, the Governor in Council says this:

"It has been repeatedly ascertained from the Bombay mill-hands that they do not desire any change in the monthly system of wages now prevailing. The Governor in Council also believes that one of the main reasons why the mill-hands prefer the monthly system is their apprehension that, if wages are paid weekly, the traders who deal with them on credit as also their money-lenders, will demand the making up of accounts weekly without any reduction in the rate of interest. It is an axiom when dealing with compound interest any given rate operates more severely the more frequently it is computed."

The Madras Government has expressed itself:

"in general agreement with the view that while weekly payment of wages might to a limited extent protect factory employees against unscrupulous employers, it would have little or no effect in rescuing the wage earner from the clutches of the money-lender, and the objections to which the proposal is open outweigh any possible advantage."

The opinion of the Government of Assam has already been brought before this House pointedly by Mr. Roffey and I do not want to waste the time of the House by further referring to it.

I come now to the opinion of the Government of Bihar and Orissa.

"Employers generally dislike the idea because of the increased cost of the economically unproductive work of accounting"—We may leave that aside—"Nor, with few exceptions is it apparently desired by workers"—this is important—"It is a significant fact that in the strike on the East Indian Railway in 1922, when every possible grievance was dragged out and ventilated there was no complaint as to the period of wage payment. The Manager of the Bengal Iron Company adopted the practical method of taking a referendum among his staff, and found some 4,500 employees in favour of the monthly payment, while some 200 only desired the weekly payment. The Jharia Mines Board of Health experimented with the system of weekly payments in the belief that it would save the employee from the money-lender, but found that it was inconvenient and did not attain the result expected."

[Sir Bhupendra Nath Mitra.]

The Bengal Government says:

"The framer of the Bill states that existing arrangements place wage-earners unnecessarily at the mercy of money-lenders, and he regards readjustments as impracticable or unlikely owing to the temper and strength of employers. In the opinion of the Governor in Council existing arrangements in Bengal do not place wage-earners at the mercy of money-lenders to an appreciable degree which different arrangements might avoid."

Now, Sir, I have quoted some of the opinions of the more important Local Governments. Mr. Chaman Lall quoted the opinions of certain Collectors in the Bombay Presidency. When he was quoting those opinions, however, he deliberately referred to the opinions given on one particular aspect, namely, the application of the Bill to factory workers only. If he had referred to the portion of the opinions which dealt with the principles of the Bill, he would have found that on that point there was an unanimity of opinion, namely, against the principles of the Bill.

It has been brought out by several speakers who spoke before me that the opinions of the workmen themselves, at least as they appear in the White Paper, do not show that there is any marked demand for the Bill on the part of the people whom it is intended to benefit. I have already referred to the opinion of the Labour Association of Rangoon. Mr. Chaman Lall has referred to what happened in Bombay, but he skilfully omitted to read out all the relevant portions of the letter from the Chairman of the Bombay Millowners' Association of the 24th September, 1924. In passing, I may observe that that letter was issued before the Labour Government had gone out of power in England and that is a sufficient refutation of the insinuation which my Honourable friend made that it was because the Labour Ministry had gone out of power in England that a change took place in the attitude of the people of Bombay and of the Bombay Government.

Now, Sir, if we turn to the portions of the letter which Mr. Chaman Lall did not quote, we find the following statement:

"The principal reasons advanced by the operatives against the introduction of fortnightly payments are:

It is customary in Bombay to make payments of house-rent and credits of grain and food, etc., monthly and thus the present system of making payment of wages monthly is quite suitable to the mill labour."

Then again we find:

"There would be greater percentage of absenteeism throughout the month owing to the habit of taking one or two days off immediately after pay day. This dislocation of work prevalent on pay days would occur twice a month instead of once and would cause a correspondingly greater loss in the earnings of piece workers."

My Honourable friend, Mr. Chaman Lall has contended that his Bill is an adequate measure for providing the best means of enabling the workers to get out of the clutches of the money-lender, and that statement has the support, to some extent, of my Honourable friend, Mr. Joshi. The opinions from Local Governments which I have quoted, and also from other authorities, indicate that the provisions of the Bill will not be of any benefit to the worker, but that, on the other hand, they will operate to his detriment. It appears from the opinions that the existing arrangements do not place workers at the mercy of money-lenders to a degree which the arrangements proposed might avoid to an appreciable extent. I do not want to labour the point. But I may mention that we know that weekly payments were tried on

sections of a certain railway, the Assam Bengal Railway, and that it had to be abandoned at the request of the staff. One result of the weekly payment was an immediate contraction of credit, the local shop-keepers holding that the chance of absconding had been increased. This is only natural as obviously credit depends on security. Moreover, as has been pointed out in some of the opinions before us, a system of weekly payment will compel the workman, who is not continuously in debt, to buy for cash the articles of his food on a weekly instead of a monthly basis and will force him to pay higher prices. Further, the customs of the country requires that the workman should meet monthly some of his private commitments at any rate, for example, in the matter of house rent. A system of monthly payment of wages enables him to meet these commitments, and in some cases to effect small savings which he remits to his family if he is working away from his home. If weekly payments are made, there is a real danger that a greater proportion of each worker's pay will be spent on petty extravagances or greater indulgence in liquor, the saving possible out of a weekly wage being too small to act as any inducement to economy, or to be remitted to the family at home. The result will be that a system of weekly payment of wages will render thrift more difficult.

Speaking on this question of the effect of the weekly payment on the indebtedness of the workmen, Mr. Joshi referred particularly to the initial debt with which the workman starts his work. I find that the system in most provinces is for the employer to give advances to the workmen against the wages earned by them. In fact, I find from the Bulletin to which I have already referred that in Bombay 56 per cent. of the mills advance money to their workmen in times of difficulty either against their provident fund or wages without interest or at a nominal rate.

Mr. N. M. Joshi: What is the nominal rate of interest?

The Honourable Sir Bhupendra Nath Mitra: I have no information about the rate of interest except that it is nominal. If the position is as described, I do not quite understand the statement that the workman is saddled with an initial debt. I have another point. I think Mr. Joshi said that one advantage of the system of monthly payment was that during the last strike in Bombay the workmen had a certain amount of money on which they could rely to carry on the strike. If they were groaning under a burden of debt, I cannot understand how that could have happened.

Mr. N. M. Joshi: Where is the difficulty? Nobody was paid. The money was in their hands and no sowcar could get it.

The Honourable Sir Bhupendra Nath Mitra: If the money was in their hands, I am certain the sowcar would have arranged to take it out of their hands.

Mr. N. M. Joshi: Not unless they went to the Small Cause Court.

The Honourable Sir Bhupendra Nath Mitra: Now, Sir, in regard to the opinions which appear from the workmen's side in this White Paper, my friend Mr. Chaman Lal said that they were incomplete, that the Local Governments did not go to all the workmen's associations and get their opinions. Well, Sir, the Bill was published not only by the Government of India but by the Provincial Governments and it was open to the Workmen's

[Sir Bhupendra Nath Mitra.]

associations to send their opinions on the subject either to the Local Governments or to the Government of India direct. Nothing prevented them taking that action.

Mr. Chaman Lall: You have received some.

The Honourable Sir Bhupendra Nath Mitra: What we have received is included in the White Paper. It was admitted by my friend that the bulk of opinions in the White Paper show that the Workmen do not want these weekly payments. Mr. Chaman Lall's interruption comes in very timely. It reminds me of a point which I had overlooked. In referring to one of the opinions, that from the Secretary of the South Indian Railway Employee's Central Association, Podanur, my friend said that it came from the Secretary and not from the Association. I find on the other hand in a press report which originated from Madras on the 18th November the following statement:

"At a meeting of the South Indian Railway Labour Union at Negapatam resolutions were passed opposing Mr. Chaman Lall's Resolution in the Legislative Assembly for the introduction of payment to labourers drawing less than Rs. 100 as wages per mensem on a weekly basis."

That is a press communication from Madras and it absolutely rebuts what Mr. Chaman Lall said in his speech that the opinion printed in the White Paper is the personal opinion of the Secretary and not the opinion of the Association. Further, Sir, the All-India Trade Union Congress did not pass any resolution at their last annual meeting supporting this system of weekly payments of wages.

As I have already said the principle of the Bill is this, that the payment of wages should compulsorily be fixed on a weekly basis. I submit, Sir, that the House has not sufficient justification for accepting that principle; and that therefore it cannot agree to a motion to refer the matter to a Select Committee. The reference of the Bill to a Select Committee will involve the acceptance by the House of this particular principle in regard to which we have no information that there is a demand for it on the part of workmen. On the contrary whatever information we possess indicates that the workmen themselves do not yet demand it. If at a later stage workmen should demand it, they are bound to articulate that demand through the Trade Unions which I hope will be established in this country as soon as we have on the Statute-book a Trades Union Act in some form or other. For the present all the information we have got shows that this weekly payment may not suit the conditions and requirements of workmen in all provinces and for all the industries in a particular province. In the course of the debate I have heard various suggestions that we might leave out domestic labour or agricultural labour from the scope of the Bill. I think, Sir, that is absolutely beside the point. If you once admit the principle that it is in the interest of the workman, and will help him to get out of indebtedness, to introduce this compulsory system of weekly payments—once that principle is admitted, the system must apply to all classes of workers. Mr. Joshi, I think, mentioned in his speech that the indebtedness of the Bombay labourer is Rs. 50. I find from Mr. Darling's book on the Punjab Peasant in Prosperity and Debt that the indebtedness of the tenants at will in the Punjab is Rs. 135. That being so, of the two who requires the greater assistance, the tenant at will in the Punjab or the Bombay mill worker? No, Sir, the point is one of principle; and as I have already

urged I would ask the House to throw out this motion for reference to Select Committee which will immediately involve the acceptance by this House of the principle of the Bill.

At the same time, Sir, I fully recognise the force of certain observations which have been made by my friend Mr. Chaman Lall and also by my friend Mr. Joshi. What Mr. Chaman Lall really wants is not that the wages should be paid weekly but that the wages should be paid quickly. Here again, Sir, the general practice, according to this Bulletin, seems to be that there is not inordinate delay in payment, that the waiting period is not unnecessarily large. At the same time sporadic cases have occurred in which payments have been unduly withheld. That aspect of the question is already receiving the separate consideration of Government and if as a result of those inquiries we find that legislation is required on that particular question, we shall not hesitate to undertake such legislation.

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

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

Mr. Chaman Lall: Sir, I do not wish to take up too much of the time of the House in my reply to the debate on my Bill. Sir, I do admire the spectacle of every industrialist or capitalist whose eyes are filled with tears whenever he sees industries in distress, but I do not admire the spectacle of an industrialist or a capitalist

An Honourable Member: On a point of order, Sir. Is a quorum present? (No quorum being present the Bell was rung and a quorum was obtained.)

Mr. Chaman Lall: As I was saying, I admire the spectacle of great sympathy shown by capitalists whenever they find that their industries are in distress, but I do not admire the spectacle of the capitalist who has nothing whatever to show in sympathy towards workers whenever we happen to deal with their cause. Let me, to start with, take note of the position taken up by Sir Purshotamdas Thakurdas, who I am sorry to notice is not present in the House. What did he have to say in support of his theory that the workers did not demand this particular measure or that there was no need for this particular measure? All that he had to say was to refer me to a White Paper and to the opinions expressed by the Labour Office of Ahmedabad. On page 26 the Labour Office gives us its opinion. Honourable Members are aware how these particular opinions are manufactured for the consumption of the public. I myself can vouch for it that when the Labour Office at Bombay wanted family budgets prepared, they got hundreds of them by the simple method of paying one rupee to each individual for each family budget. I can get any amount of opinions for Honourable Members on that basis, any amount Sir Purshotamdas likes if he is willing to pay. Here on page 26, the Labour Investigator himself is saying that he went and inquired about this Bill from "hundreds" of operatives—and what had they to say? He says that those who were in favour of it were usually of the "frivolous" kind. Imagine an investigator going into a workshop and asking the workers

[Mr. Chaman Lall.]

whether they are in agreement with the provisions of this Bill, whether they should receive their wages on the weekly basis, and all of a sudden coming to the conclusion that because a worker supports the provisions of this Bill, therefore he must be a man belonging to the "frivolous" sort! (Laughter.) Are these the opinions upon which this House is going to be asked to base its definite conclusion, namely, whether this Bill is acceptable or not? I say there is no evidence that is reliable which can be called in support of the Honourable Sir Purshotamdas Thakurdas's statement. We have it, Sir, clearly stated in this White Paper that the Governor of Bombay was himself in agreement—and naturally he was speaking on behalf of his Government,—with the principle that wages in Bombay should be paid, if not on the weekly basis, at least on the fortnightly basis. And what are the arguments that have convinced him when he speaks as Governor in Council to the contrary? There are no arguments advanced except merely the statement of Messrs. Sassoon and Company. Messrs. Sassoon and Company have been held by Sir Purshotamdas Thakurdas to be model employers. Are not these the very people who were responsible for withholding the wages of the workers when the workers went out on strike? Sir Purshotamdas Thakurdas is silent on that point. These are the employers, the model employers, who find all of a sudden great interest rising in their capitalist breasts for the condition of their workers. No, they seek every opportunity to down their workers. We want to rob these employers of the power that they desire to perpetuate in order to down their workers. On page 20 Messrs. Sassoons turn round and say that several hundreds of their workmen were interrogated and it is further stated on the same page that these workmen actually told the employers that they were not in favour of the receipt of weekly wages because it would add to the clerical labour of the employers. Imagine a body of workers so solicitous of the interests of their employers as to advance a reason in their favour and against the provisions of this Bill! I say no arguments are advanced against the Bill. All that Sassoons say is that it might possibly add to the clerical labour and might add to establishment charges. Imagine the spectacle of these workers being so solicitous of the interests of these very employers who are always prepared to suck the last drop of their blood if necessity arises. I assure the House that reading between the lines of these statements which are so nicely prepared and concocted, no judicious person can honestly place any reliance whatsoever upon them. It is surprising to me that the Governor in Council could so alter his opinions within two months and alter them on the basis of a letter sent by the Millowners' Association. Here is a crying need, a need which is apparent, a need which has been pointed out to the Governor himself and to the Millowners' Association by the late Secretary of State for India, a need which has been time and again exposed in the Press in India and all of a sudden, merely because he received a letter from the Millowners' Association, the Governor in Council changes his opinion about this great need. The Honourable Member wants me to be convinced of the fact that it was that letter alone which altered the mentality of the Governor in Council. I refuse to believe that. There are other influences that are at work, of which no mention is made in this White Paper. These are not the reasons. Nor have any reasons been given by the Millowners' Association of Bombay. In fact, their own executive declared openly to the Government and to the public that they were in agreement with the system of fortnightly payments. Yet all of a sudden a couple-

of months later they go to their own Committee and the Committee says : " No, we are not in favour of it." And these very people who were so enthusiastic about fortnightly payments and who had accepted that principle sent a little later this letter to the Governor of Bombay and to the Press saying that this system is a vicious system and that it cannot be accepted. May I ask whether they did or they did not have at that time all the evidence upon which they based their opinion, or was that evidence produced afterwards? There is no mention of that in this White Paper. They must have had all the evidence before them but there must have been other influences which worked in order to change their opinion on this subject. Sir, there is one important matter of which mention has been made and that was this, that the opinions are overwhelmingly in favour of the rejection of this Bill. Now, opinions may or may not be in favour of the Bill. My point is this that the opinions that are to be found in this White Paper are all tarred with the same brush; they emanate from the same source. A great majority of opinions that are given by the workers' associations, are in favour of the provisions of this Bill. The Honourable Member has got all the newspaper cuttings with him and also the letters received from Trade Unions. Will he not assure the House that all these opinions which are not to be found in this White Paper and which emanated from the workers' association are in favour of the weekly payment system? In my opening remarks I reminded the Honourable Member of the North-Western Railway Union. They have sent him a letter to the effect that they are in favour of the Bill. If the Honourable Member keeps press cuttings he will find in the Press reports it is stated that not only the North Western Railway Union and the Mazdur Sabha of Cawnpore but the Trade Union Congress Committee are also in favour of my Bill.

The Honourable Sir Bhupendra Nath Mitra: When?

Mr. Chaman Lal: Quite recently. All the opinions that I have been able to collect are in favour, and wherever I have consulted workers they have evinced a desire in favour of this system. The question is one of principle, is it a good thing or is it a bad thing? I say it is a good thing. Have you a case to the contrary? What do you give me in reply? You quote me the opinions of Government officials, of employers' associations. Do you expect employers' associations or Government officials to go against their own interests? You cannot. They are not going to do it. Go and consult the workers. I challenge my Honourable friend to come with me to the Sassoon mills and hold a referendum, and I assure him that I will win every time against him. It has not been done. Why? It is not my fault if opinions has not been obtained from proper quarters. I refuse to be bound by *ex parte* statements such as those contained in this White Paper. What had my Honourable friend from Assam to say? He said the workers in Assam are pampered. We have heard a great deal about the pampering, the treatment meted out to the Assam coolies, to those poor unfortunate souls who left the tea plantations at the time of the Chandpur strike. They were pampered with bayonets. That is the sort of pampering treatment they received. They receive Rs. 5 or 6 a month as wages. That is not called decent treatment, that is inhuman exploitation of the worker. Is the Honourable Member from Assam aware that in the Surma Valley payment is made on the weekly basis and not on the monthly basis? I was surprised to find the Honourable Sir Willoughby Carey getting up and opposing this Bill. Is he not aware that in Bengal the system is

[Mr. Chaman Lall.]

based on weekly payments? There in Bengal no "Minor" or Major revolution has been created because of this system of weekly payments. It is acceptable all round. Why should any man from Bengal who represents the interests of employers object when he knows that the system is in working order in Bengal and working to the satisfaction of everybody? So is the system working satisfactorily in the coal mines. Does anybody suggest that because that system is in existence in those parts of India that that system is responsible for creating "minor" revolutions? The Bengal Ordinance has not been created because of the system of weekly payments. There is no revolution which needs to be crushed merely because the system of weekly payments is in force in certain parts of India. I think it is a simple matter. Do you want to pay your workers on the weekly basis? Do you want to treat them well and get them out of the clutches of money-lenders? If you do, try and do justice to them. This is a false issue to raise that public opinion is not in favour of the Bill. Public opinion has never been consulted, the workers' opinions have never been consulted. Go and hold meetings of your employees, go to the mines and factories and find out whether they desire weekly payments, and then come to us and tell us that they do or do not agree. Then I would be prepared to accept your statement, but I am not prepared to accept the *ex parte* statements contained in this White Paper. Mr. Gaya Prasad Singh, I find, has suddenly become the spokesman of the Bihar Government. The Bihar Government object to the use in my Statement of Objects

and Reasons of the word "unscrupulous." I understand, Sir, 3 P.M. that Mr. Gaya Prasad Singh himself objects to that expression. (Mr. Gaya Prasad Singh: "I quoted the Bihar Government.") That is why I said he had become the spokesman of the Bihar Government!

Are the Jherria and Dhanbad coalfields within the jurisdiction of the Bihar Government? And have we not heard a great deal of the misery, of the horrible degradation of the workers in those provinces? We have. And if I use the word "unscrupulous," I am merely restraining myself in giving vent to the feelings uppermost in my heart. When I say the employers have been unscrupulous and have acted in a most dastardly fashion to their workers, I challenge any Member of this House to get up and deny that statement of mine. Honourable Members who have followed the trend of labour events in India in recent years know that my expression is not uncalled for, that it is within the bounds of reality, that it is within the bounds of truth. I stick to that expression in spite of the fact that Mr. Gaya Prasad Singh or his Government object to it. I care not for his Government or for the opinions of those who do not wish to face facts and to face realities.

Sir, Diwan Bahadur Rangachariar, in his usually sweet and usually explicit and clear manner raises an issue which has to be met, although I do not agree with him—he will pardon me if I say so—in his desire to pay his workers in kind and not in cash. I think any one who desires to do that is born at least 500 years too late (Laughter). But nevertheless he has raised a very acute issue, and that issue is this. You are going to upset the whole system of payment of agricultural workers. I for my part would be prepared to exclude the agricultural workers and confine this Bill in the Select Committee to those workers who come under the

Factories Act of 1911. I would be prepared to accept that and I would have asked my Honourable friend over there to accept this statement of mine confining the terms of the Bill and to try and do something for these workers. I believe I have made out a strong case for the adoption of the principle underlying my Bill, and I must now leave it to the mercy of public opinion and of individual employers since I notice that the Honourable Member is not prepared to go even as far as that with me. I will be content for the moment to accept his assurance that he is making an inquiry into this matter and that he intends to find out whether there has been any delay in recent years in the payment of wages to workers when those wages are really due to them, and that if he finds that there is any necessity for reform on the basis of his inquiry, he will present us with a Bill in this House to cover any irregularities which have occurred in recent years. I understand that is what he means by his inquiry, and on that assurance I do not wish to waste the time of the House or to divide the House on this occasion, but I shall reserve to myself the liberty to introduce this Bill again in case there is no satisfaction given to us. With these remarks I will withdraw this Bill with your permission, Sir, and the permission of the House and not press it to a division.

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

THE INDIAN ARBITRATION BILL.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan): Sir, with regard to the motion that I have to make regarding my Arbitration Bill, I received a notice last night that Mr. Duraiswami Aiyangar is due to move an amendment. My motion is that the Bill be circulated for the purpose of eliciting opinions thereon, whereas Mr. Duraiswami Aiyangar proposes to let it go straight to a Select Committee. Although I originally tabled this motion of mine, I may inform you, Sir, that I am rather in favour of Mr. Duraiswami Aiyangar's amendment at this particular stage for this reason. . . .

Mr. President: Order, order. We are not at present discussing the amendment of Mr. Duraiswami Aiyangar. It is not a question whether Mr. Duraiswami Aiyangar's amendment is in order or not. The Honourable Member should confine himself to his own motion.

Mr. Harchandrai Vishindas: In that case no choice is left to me but to move my motion that the Bill to consolidate and amend the law relating to arbitration in British India be circulated for the purpose of eliciting opinions thereon.

As will appear from the papers, I presented this Bill at Simla on the 9th September, 1924. Then it was introduced. Next when this motion of mine which was made at the suggestion of Government was brought forward, unfortunately it was blocked from time to time by other

[Mr. Harchandrai Vishindas.]

work until it had the good fortune of being reached to-day, of which also at one time there seemed to be but a remote chance. I have already stated in my Statement of Objects and Reasons the object of this Bill, and again explained that object when I moved for the introduction of the Bill, which motion was unanimously passed. The Bill is of great importance to the public inasmuch as it tends to convenience and speed in the administration of justice and is in consonance with the wishes from time to time expressed by judicial authorities. At present the provisions of the arbitration law are scattered in several places. Part of it is contained in the Civil Procedure Code, part in the Arbitration Act; and there have been several omissions noticed by High Courts, which omissions I have with my humble efforts tried to supply in the Bill as it is now presented. The Bill has been before the public for a long time. It was even mentioned by the Civil Justice Committee as probably a measure which was calculated to serve the ends which that Civil Justice Committee had in view, namely, to expedite justice; and, as the Bill has been before the public and before this House for a long time, I think I shall be wasting the time of this Assembly by explaining its provisions any further. I, therefore, move that the Bill be circulated for the purpose of eliciting opinions thereon.

Mr. C. Duraiswami Aiyangar (Madras ceded districts and Chittoor Non-Muhammadian Rural): Sir, with reference to the motion which has been brought forward by my Honourable friend Mr. Harchandrai Vishindas, I may say at once that if that motion is the only motion that is to be allowed in this House it is as good as not moving anything at all. The one thing I have learned in this Assembly is that, if you have not got either the heart or the inclination or the patience to go through with a Bill which is of great importance, the surest way to kill it and to confine it in a pigeon-hole is to refer it for circulation for public opinion. At any rate this particular Bill will necessarily suffer that fate seeing that at the far end of this Assembly this motion is being made; and if this Bill is to be sent out for circulation through the arteries and veins of India, then by the time it returns this Assembly will have been dissolved and this Bill itself will die automatically. Therefore, Sir, I sent in notice of an amendment with which I shall deal at the end after taking the ruling of the Chair whether it is in order or not.

Sir, I am surprised that the Government themselves should not have taken this important matter into their own hands and that they should not have introduced a Bill which is of such paramount importance, particularly in view of the fact that much of the law's delays is reported to have been caused by the meagre provisions relating to the law of arbitration. Sir, the attempt to codify the law of arbitration and to make as far as possible a perfect law of arbitration has commenced not now; it commenced 18 years ago. There was a special committee once appointed under the presidency of Sir Erle Richards in 1907, and the Committee recommended then:

"We are of opinion that the best course would undoubtedly be to eliminate from the Code all the clauses as to arbitration and insert them in a new and comprehensive Arbitration Act. There are perhaps difficulties as to this at present. We have determined, therefore, to leave the arbitration clauses much as they are in the present Code; but we have placed them in a Schedule in the hope that at no distant date they will be transferred to a comprehensive Arbitration Act."

This, Sir, preceded the Civil Procedure Code of 1908. The Civil Justice Committee has also devoted seventeen pages of printed matter to this question and the Committee has offered several suggestions and suggested several remedies, and has also considered in a way the Bill which is now being moved by my friend here for being circulated for public opinion. This Bill was placed in the hands of the Civil Justice Committee and they have bestowed attention upon this Bill also. Now, Sir, we are told that this Bill has once more to be circulated in order to get public opinion thereon. I can understand technical matters, mercantile matters and other such matters being referred for public opinion. But on a matter like this, Sir, relating to a proposal to legislate on the various methods of arbitration which have now been failing on account of defects in the law. I think we have got a sufficient number of lawyers in this House itself who could go through it and do it successfully. We have got lawyers here who are the sole monopolists of sanity as well as of wisdom; we have got eminent lawyers here who are legal luminaries. With such a number of lawyers in the Assembly, for us to proceed to collect public opinion, I say once again, is a mere waste of time or a method of evading an important law. The Civil Justice Committee is strongly of opinion . . .

Mr. President: The Chair does not desire to interrupt the Honourable Member; but will he come to the point and state whether he wishes to oppose this motion or support it? The Honourable Member must come to the point. If he wishes to move his amendment, let him do so. It will then be for the Chair to decide whether the amendment is in order or not.

Mr. C. Duraiswami Aiyangar: What I was driving at, Sir, was to point out to Government that in the event of my amendment not being allowed by the Chair, I was going to request the Government to take up the measure and introduce a similar measure instead of sending it out for eliciting public opinion. I am making that suggestion and for that reason I am mentioning it. Certainly I cannot oppose this motion in the event of every other remedy failing. That, Sir, is the position which I take, and I take this opportunity of bringing these facts to the notice of the Government. I only wish to suggest to the Government, who seem to be in agreement with my friend, that this is a matter of great importance and therefore should be sent out for public opinion, that the Government themselves may bring in a measure within the spirit of the Report made by the Civil Justice Committee.

Mr. President: The Honourable Member has done that already. He need not repeat the same thing.

Mr. C. Duraiswami Aiyangar: Now, Sir, I wish to know the ruling upon this amendment. I move that the Bill be referred to a Select Committee consisting of the Honourable the Home Member, Mr. Tonkinson, Sir Henry Stanyon, Mr. Harchandrai Vishindas, Lala Duni Chand. Diwan Bahadur T. Rangachariar, Mr. K. Rama Aiyangar, Mr. Amar Nath Dutt, Pandit Shambhu Dayal Misra, Pandit Madan Mohan Malaviya, Mr. K. K. Chanda, Syed Majid Baksh, Khan Bahadur Ghulam Bari and the Mover. That, Sir, is my amendment.

Mr. President: Will the Honourable Member show how it is in order?

Mr. C. Duraiswami Aiyangar: Sir, under Standing Order 39—I must admit that I myself felt a little doubt about it—under Standing Order 39, clause 2 (b):

“if the member in charge moves that his Bill be referred to a Select Committee, any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.”

I thought, Sir, that it made no difference

Mr. President: Order, order. The Honourable Member has proved that he is out of order.

Mr. C. Duraiswami Aiyangar: Then, Sir, may I say a few words on the motion itself? I may mention that the motion of my friend is a motion of very great importance. It is a matter which requires a speedy disposal by this House before it comes to be dissolved or comes to a close. Sir, there is one omission probably due to an oversight on the part of my friend who moved his motion that it be circulated for public opinion. According to the Standing Orders he must have fixed also the time by which that public opinion must be secured. That is compulsory under the Standing Order and I believe my friend has omitted to do so only by an oversight and I hope he will fix a date. Let that date not be far beyond the 1st of April of this year, so that there will be a likelihood of our getting the public opinion by the 1st of April, and it may be circulated among the Members of this House and the matter may be placed at least before us during the Simla Session of this Assembly, which is the last Session which this Assembly will have the honour of attending. Let us therefore piously hope that the Government will consent to that addition being made to the motion, which is necessary under the Standing Orders. The Standing Order says:

“If the member in charge moves that his Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee, or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.”

Therefore, that motion itself must specify the date by which the opinions must be received. I only trust that my friend will put in that date as the 1st of April and I hope the Government also will accept that date so that we may have all the opinions collected before the 1st of April and this Assembly may have the honour to codifying the law of arbitration in a satisfactory manner. Otherwise, Sir, there are lots of suits which, although they may have been referred to arbitration either through the court or without the intervention of the court, have been prolonged for the simple reason that there are several defects which are open to the discontented party in the arbitration award to raise as a defence and thereby prolong the litigation. This has been fully dealt with by the Civil Justice Committee. Therefore, Sir, the sooner the law of arbitration is put on a firm and satisfactory basis, the sooner we will end the prolongation of litigation in the manner in which it has been going on. You may ask for any number of courts, but the sooner litigation is put down and shortened, the better it is for the greater prosperity of the country. Therefore, Sir, I trust my friend will put in that date and Government will accept it.

Mr. Harchandrai Vishindas: May I rise, Sir, on a point of explanation? My friend Mr. Duraiswami Aiyangar is wrong if he thinks that it is obligatory upon me to fix a date, because, under Standing Order 38 . . .

Mr. President: Order, order. It is not at all obligatory on the Honourable Member to fix a date.

Mr. Harchandrai Vishindas: That is what I was pointing out, Sir.

Mr. H. Tonkinson (Home Department: Nominated Official): Sir, I rise to make a short statement in regard to the attitude of Government towards the present motion. My Honourable friend, in his Statement of Objects and Reasons, and again when he introduced this Bill, referred to the statement of Sir Lawrence Jenkins who was a member of the Select Committee which dealt with the Code of Civil Procedure, 1908. My Honourable friend, Mr. Duraiswami Aiyangar has also referred to the remarks made by that Select Committee in regard to this question. Those remarks suggest and this is what Mr. Duraiswami Aiyangar has definitely stated, that the proposal to consolidate the law in regard to arbitration is eighteen years old. In regard to this point, I must of course admit that the Select Committee and certain members of that Select Committee separately expressed the view that it was desirable to enact a comprehensive Arbitration Act. Now, that Committee was presided over by Sir Erle Richards, and he himself undertook an inquiry into the question and within a year came to the definite conclusion that the people in the mofussil of India would be opposed to any such comprehensive Arbitration Act. That is the reason why no further action has been taken upon this suggestion. So far as Government are concerned, the next stage in this matter arose with the meeting of the Associated Chambers of Commerce in Bombay in 1923. That meeting was attended by the Honourable the Finance Member. As indicated in the report of the Civil Justice Committee, a member of the Karachi Chamber, Mr. Backhouse, referred at length to some of the difficulties experienced in the operation of the arbitration law. The Honourable the Finance Member first of all informed the members of the Associated Chambers that no one in India, since the passing of the Code of Civil Procedure, 1908, had drawn the attention of either the Legislative Department or the Home Department of the Government of India to any difficulties in the operation of the arbitration law. He then issued an invitation to the effect that we should be very glad to receive representations in regard to such difficulties and we would consider them and see what amendments to the law were necessary. No one has taken any advantage of that invitation, that is to say, no one has come forward to us and told us of the difficulties which are being experienced in the operation of this law. Obviously, the Executive Government are not in a very good position to ascertain such difficulties themselves unless they are brought to their notice. We did, however, take some action there. We caused a précis of all the rulings upon this question to be prepared. I have a copy of it here, it extends to 40 pages in print. I think it will form a very valuable basis for further action in regard to this matter. It would be more suitable perhaps for any one who wanted to prepare a treatise on the subject of arbitration. The précis does not give us any very definite suggestions as to the action which we should take, and in order to decide that, I am

[Mr. H. Tonkinson.]

afraid we ought to have in the Government of India some Judge who has had a long experience of the administration of arbitration law to go into these cases and make definite proposals.

Now, let me turn to the Bill itself. In regard to that, I would merely refer to the remarks of the Civil Justice Committee upon it. Perhaps it will be well if I read the paragraph in Chapter 13 of their report in which they deal with this question. In paragraph 11 they say:

"We have been furnished with a copy of a draft Bill to consolidate and amend the law relating to arbitration in British India, prepared by Mr. Harchandrai Vishindas of Karachi. Apart from minor amendments of the law and from the fact that the whole law of arbitration is intended to be incorporated into one Act, the general intention of the Bill appears to be to apply the principles of the Indian Arbitration Act of 1899 to the whole of India, making however certain modifications. The main modifications seem to be (1) that an award may be enforced as a decree, but only by leave of the court, such leave to be obtainable only after the lapse of a certain time in order that an application to set aside, modify, or remit the award may be made meanwhile; (2) that no suit should lie to contest the validity of a submission or award on any ground other than fraud; and (3) that no award should be deemed to be invalid by reason only of its being based on a reference which, amongst other matters, includes the subject matter of a pending suit or proceeding."

That, Sir, is the description of the Bill now before the House given by the Civil Justice Committee. I do not know whether the Honourable Member in charge of the Bill would accept it as correct. But I will assume that it is for the present purpose. Then the Committee went on and made very definite proposals themselves in regard to this subject. They are entirely different from those of my Honourable friend. We have not as yet referred those proposals to Local Governments. As a matter of fact we were awaiting the result of the present motion before this House before doing so. Our intention is that if this motion is accepted and the Bill is circulated for the purpose of eliciting opinions, then we should at the same time refer the proposals of the Civil Justice Committee to Local Governments. By this means we shall, I submit, be in a position shortly to dispose of the questions which call for most urgent disposal in regard to the amendment of our arbitration law. My Honourable friend Mr. Duraiswami Aiyangar suggests that this only means delay but I submit that it is certainly desirable that we should refer this Bill to Local Governments and judicial authorities and to see what their opinions upon it are. We shall get those opinions. I am certainly of opinion that it will be quite impossible to get them by the 1st of April of this year as my Honourable friend suggested, but we shall get those opinions in time and we shall also get opinions upon the recommendations of the Civil Justice Committee and I submit that that should enable us, as I have said, satisfactorily to dispose of those questions which call for most urgent treatment. I do not say that that will dispose of the case altogether because, judging from this précis that I have here, there will still be many questions in regard to arbitration which will probably take, I should think, many years to solve. Sir, I support the motion.

Mr. President: The question is:

"That the Bill to consolidate and amend the law relating to arbitration in British India be circulated for the purpose of eliciting opinions thereon."

The motion was adopted.

THE LAW OF PROPERTY (AMENDMENT) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I beg to move that the Bill to remove certain doubts as to the right of a person to effect a transfer of property otherwise than as provided by the Transfer of Property Act, 1882, be referred to a Select Committee consisting of the Honourable the Home Member, Diwan Bahadur T. Rangachariar (Sir Sivaswamy Aiyer is not here and I omit his name), Mr. K. C. Neogy, Sir Darcy Lindsay, Mr. Venkatapati Raju (in place of Diwan Bahadur Ramachandra Rao who is otherwise engaged), Mr. K. Rama Aiyangar, Pandit Motilal Nehru, Mr. Ambika Prasad Sinha and myself, and that the number of persons whose presence shall be necessary to constitute a meeting of the Committee shall be five.

I do not wish to detain this House with a long history which has culminated in the motion which I have just submitted for the acceptance of the House. When I introduced this Bill there may have been two opinions on the subject, but those opinions have been set at rest by a valuable document placed in the hands of Members known as the Civil Justice Committee's Report. Evidently they considered this question and they have in fact devoted a whole chapter to the question which I ask this House to consider to-day. It is Chapter XXXV and occupies eight pages of discussion from page 447 to 454. I am glad to say, Sir, that the Civil Justice Committee strongly support the principle of my Bill, first, on the ground that the Indian Transfer of Property Act lays down in clear and unmistakable terms that a transfer of property by sale can only be effected by a registered instrument. Now, Sir, in a long course of decisions, extending over a series of years, of which I have stated the leading cases in my Statement of Objects and Reasons, the courts in India have held that while a sale of immovable property cannot be effected otherwise than as provided in the Transfer of Property Act, section 54, still, if the purchaser is put in possession of the property in anticipation of the sale and the sale is not registered or is not otherwise completed by a valid conveyance, the purchaser's possession being lawful the vendor cannot turn round and eject him without fulfilling his part of the contract, during the period that the specific performance of the contract is not barred by time. Now I can well understand that this principle of law is not in consonance with the statute law and does not conflict with it. It is an equitable remedy which the courts grant to the suffering purchaser who has been put in possession of the property but who is unable to secure a validly registered document because the vendor has turned back on his contract and is not willing to fulfil his contractual obligations. But, Sir, this was a view which the Privy Council took in three or four cases known to me; but latterly in one case their Lordships applied the first principles enunciated in a book known as "Bell's First Principles", and overlooking the provisions of section 54 they said that they did not think that the Indian statute law conflicted with the principle that he who had a part performance in his favour could implement and complete an unregistered transfer by recourse to that document. Well, Sir, that gave rise to a tremendous amount of judicial conflict; Full Benches sat and I have made references to them in my Statement of Objects and Reasons, when the Indian High Courts were constrained to follow this enunciation of principle and to say that section 54 of the Transfer of Property Act must not be exhaustive and there must be other modes of effectuating a transfer. The amount of litigation and the amount of consequential uncertainty created by this litigation was so appalling that I felt it my duty

[Sir Hari Singh Gour.]

to introduce this Bill. I would have moved this motion to-day with the greatest hesitation if it had not been for the fact that every word I have written in my Bill finds ample support from the report of this Civil Justice Committee. I do not propose to read more than two or three passages to convince this House how far the principle of my Bill is supported by the recommendations of this Committee. At page 453, in paragraph 14, the Committee says:

"It appears to us that the working out of the principle laid down in the case of Mahomed Musa above cited."

--and that is the case which gave a different turn to the Indian case law on the subject of sales--

"is likely to be of more and more difficulty in the near future. The principles cannot yet be said to have been defined with any exactitude or to be applied with any uniformity. Our Statute-book says nothing about part performance. In view of the absence in Indian law of any provisions as to contracts really analogous to those of the Statute of Frauds, English cases on 'part performance' yield a dubious and insecure analogy even as regards 'agreements to lease'. The principles derived from Scots law"

--and that is, in the case I have referred to the Scotch law was applied to India--

"as to *locus penitentiae* and the doctrine of *reinterventus* are, to say the least, not readily adaptable to the language of the Registration Act or the Transfer of Property Act. It is probably right to say that no branch of English Law creates more difficulty in our lower courts than the principles of equity which were elaborated in England with reference to very different circumstances and very different laws. We are not convinced that the doctrines referred to under the name of 'part performance' are logical in themselves or when taken together with the language of the Registration Act; but however this may be we think that a question has now arisen which the legislature should determine."

Sir, those are strong words, strong words by a Committee appointed by the Government and in the Report of which frequent references are made by the Government in the course of discussions. In paragraph 16 at page 454 of their Report they say:

"As soon as it is known to be well settled that the strict letter of the law will be applied, cases of individual hardship will cease to occur, and full effect will be given to the considerations of public policy on which the enactment in question was based."

And then in the last clause they support that principle which I have enumerated and which I have embodied in my Bill, namely, that, so long as a contract is not barred by time, the purchaser, if in possession of the property, may retain it if the vendor is unable to fulfil his contractual obligations.

Now, Sir, that, as I have said, has been the position of Indian law for a long series of years. That position was disturbed by a decision of the Privy Council in which a principle of Scotch law was applied to India because it was said that there was nothing in the Indian statute law to conflict with that principle. The Civil Justice Committee have pointed out, and I do not think that it was necessary for such an authoritative Committee as the Civil Justice Committee to point out, that. Anybody who can read section 54 of the Transfer of Property Act will have no difficulty

in understanding the meaning of that word "only". It says that the sale of immoveable property shall *only* be in the case of any property over Rs 100 in value by a registered instrument. Sir, as this uncertainty is causing incalculable insecurity and is fruitful of litigation in this country, I felt it my duty in anticipation of the Report of the Civil Justice Committee and long before it was appointed to ask this House to give me leave to introduce this Bill. Owing to the vagaries of the ballot it is only an accident that I have been permitted to-day to move my next motion, otherwise I feel confident that my Bill would have found its place on the Statute-book long ago, and once more restored the established law laid down in the Indian Transfer of Property Act as supplemented by the provisions of the Indian Registration Act. Honourable Members belonging to my profession know with what solicitude, anxiety and care the question of the enactment of section 54 of the Transfer of Property Act was considered by Lord Hobhouse's Committee and in introducing compulsory registration how they felt that it was necessary that all transfers must be transfers by public registration. Sir, the enunciation of this principle has completely done away with that security of title created by the Transfer of Property Act, and the Civil Justice Committee point out the insecurity which is caused thereby. I should have expected amongst the numerous tiny Bills that emerge from the Government archives and see the light of day in pursuance of the recommendations of the Civil Justice Committee a Bill drawn up on the lines of my own Bill being piloted by some Honourable Member of Government. But I am afraid, Sir, that the Government are perhaps feeling that, if somebody else can do their job, why should they do it themselves. If that is their view, I would ask the Government to support this motion. I do not know what their attitude is. My friend the Honourable the Law Member looks somewhat bellicose and suspicious. (Laughter.) Whether he is going to support my motion or is going to oppose it, I know not; but whether he accepts it or not, I feel confident that the House will accord to me the support which the merits of my case deserve and demand. Sir, I move my motion.

The Honourable Mr. S. R. Das (Law Member): Sir, I rise to oppose the motion on behalf of Government. I do so on several grounds, one of them being that it involves a very serious change in the law, a law which, as my friend has pointed out, is not a creature of the Statute but is the result of judicial decisions evolved out of experience, extending over a considerable period, of the working of the Statute of Frauds in England and of the Transfer of Property Act and the Registration Act in India. I do not accept my friend's account of the state of that law at the present moment, because so far as my researches go, practically all the High Courts have accepted the law which my friend seeks to change. It is true that the Civil Justice Committee have made a suggestion that this law should be changed, but I will ask the House to bear in mind that the main concern of the Civil Justice Committee was the question of delay in the administration of justice by the courts, and to what extent they could relieve the courts of some of the matters which come before them.

Now, I do not know if the House has quite realized what it is that my friend seeks to do by this Bill. With the permission of the House I shall endeavour to put before it as simply as I can, and avoiding so far as possible all legal terms, what it is that my friend seeks to do. Now, under the Transfer of Property Act, read with the Registration Act, certain

[Mr. S. R. Das.]

transfers of immoveable property, such as sales, leases and mortgages, can be effected only by a written document which has got to be registered. Now it very often happens that two parties have come to an agreement, one to sell to the other or to let to the other, say, a house, and while the necessary documents are being drawn up, executed and registered, by agreement between the parties the seller or the lessor makes over possession of the house to the person who is going to buy it or take it from him on lease. Now, under the Transfer of Property Act, no interest in the house passes to the lessee or buyer until there is a written document, and under the Registration Act even if there was agreement for the sale or for the lease, the unfortunate person who has been in possession is not in a position to prove that he has lease of the house. Now under those circumstances you can imagine some of the hardships that might arise with regard to a very innocent party. Let me give you an illustration. A and B have agreed that A is going to let a particular house to B for a certain number of years. The rent is settled, and everything is settled. B is in a hurry to get into the house because he has to vacate the house in which he is then residing, upon which A agrees that he should get into possession at once. While the lease is being drawn up and registered, supposing in the meantime, before actual registration, A gets a better offer for his house. He finds C willing to take it at a much higher rent. Under the Transfer of Property Act he would be entitled, if he sues B for ejectment, to do so. B would have no defence whatever, although it had been agreed between the parties and as a result of the agreement B had been let into possession. He would have no defence at all under the Transfer of Property Act and under the Registration Act. Under those circumstances the courts have evolved the doctrine of what is known as part performance, that is to say, although you cannot prove the document, you cannot prove that there was agreement to lease, still if that agreement has been part performed by giving over possession, for instance, part of the agreement has been actually carried out, then the courts say, "Well, it is not equitable that you should be allowed to go behind that simply because under the Statute there ought to have been a written document". Now that is the law which my friend wants to alter. He wants to have it that you cannot even then resist a suit for ejectment; you cannot put up the defence that the owner has agreed to let you have this house. I have given an illustration with regard to a lease. Similarly there may be a case of a sale, where part of the consideration has been received. . . .

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammudan Urban): And the whole of it too.

The Honourable Mr. S. R. Das: And the whole of it may have been received, but because it has taken time to write out the document and to register it, I cannot put forward the defence that the house has been sold to me. There equity comes in and says, this is not fair, the agreement has been part performed and therefore I am not going to let you go behind the agreement. That is the doctrine that has been applied by the Privy Council and that has been accepted by all the High Courts in India.

Now, the main ground on which the Civil Justice Committee recommend that this law should be changed is that it has led to a certain amount of fraudulent defence of part performance which has taken up a good deal of

the time of the court. That is to say, people have put forward a defence of part performance, which was a false defence, and that takes up the time of the court. Well, I think you might as well say that a defendant should not be allowed to plead that the document was obtained fraudulently from him because a defence of fraud always involves time. Therefore, if you want to prevent delays in the courts, pass a law that no one should be entitled to plead that a particular document was obtained by fraud from him

Diwan Bahadur T. Rangachariar: Or forgery.

The Honourable Mr. S. B. Das: Or forgery, because all these defences take time. Now, so far as we have been able to consider it, that is not a sufficient reason for changing a law which, as I say, is a well established law, and a very very useful law. It would create, I know personally, a great deal of hardship in a place like Calcutta or Bombay where these leases are constantly taking place; where possession is given to the lessees of a house before the actual lease is drawn out it would involve a great deal of hardship if you were to change the law suddenly as my friend proposes. That is one of the reasons why we suggest that my friend's motion should not be accepted by the House. At any rate I think the House will agree with me that it is a point which requires very serious consideration.

Now, the next ground on which I oppose this motion will, I am sure, appeal to all practical lawyers in this House. I do not know if it will appeal to jurists like my Honourable friend here, but I think it will appeal to all practical lawyers in this House. I have a rooted objection to tinkering with the law. I can understand this: take up a branch of the law, consider it from all its aspects, see how a particular change which has been advocated will affect the rest of the law, and then if you think it necessary, change it. But it always gives rise to a great deal of confusion if you take a certain small part of the law and change it without considering how it is going to affect the rest of the law. Now, although the doctrine of part performance does not find a place in the Transfer of Property Act, it is a portion of the law of transfer of property well recognised by the courts, and therefore it would be dangerous, according to us, to consider this question apart from its effect on the rest of the Transfer of Property Act. The intention of the Government is that this recommendation of the Civil Justice Committee should be considered in connection with the revision of the Transfer of Property Act, and I should like to tell this House how that matter stands. The question of the revision of the Transfer of Property Act was taken up some years ago under my predecessor in this office, Sir Tej Bahadur Sapru. He had practically gone through the whole thing and all the necessary notes for consideration are complete. All that is left to be done is to bring the notes up to date and I propose

Diwan Bahadur T. Rangachariar: I may also add that a committee sat on it and had a few sittings.

The Honourable Mr. S. R. Das: Yes, a committee sat and the whole thing is really ripe for consideration. I propose during the Simla Season, after the Assembly is over, to take up the Transfer of Property Act seriously so that we may really bring before this House a thoroughly revised Transfer of Property Act brought up to date, and the intention of the Government is that this recommendation of the Civil Justice Committee,

[Mr. S. R. Das.]

which is a very very serious matter, as every lawyer will tell you, should be taken into consideration in connection with the revision of the Transfer of Property Act and should not be dealt with in this tinkering fashion.

The third ground of objection that we have is the drafting of the Bill itself which has been put forward by my Honourable friend. Now, I do not propose, I do not think it would interest the House if I were to go into technical matters with regard to this Bill, but I would ask the House to take it from me that the Bill as drafted, if it is ever sent to Select Committee, will have to be wholly recast.

Sir Hari Singh Gour: That is the work of the Select Committee.

The Honourable Mr. S. R. Das: Not to wholly recast a Bill. I challenge anyone to read that Bill itself and find from it that the real intention at the back of the Bill is to change this law of part performance. It deals with a section of the Specific Relief Act practically, and unless you are put up to it, as to what the intention is, it is rather difficult to ascertain that it is really intended to change this well known doctrine of part performance. And my Honourable friend will pardon me for saying that if you do send it to Select Committee there is a very good chance of the Select Committee doing what I am told it did in regard to another Bill, that is, to advise the House that the Bill should be rejected. That would be a serious waste of time of many Members of this House. I do not want to take up your time any longer. I have tried to avoid all technical difficulties, and I trust the House will not think that I have agreed to the way that the Honourable Member has dealt with the history of this doctrine.

I should just like before I sit down to quote a passage from a case with reference to this doctrine, because I can quite understand why the Honourable Member is anxious that this Bill should go through. In his book on the Law of Transfer he expressed an opinion that the cases in the High Courts which have accepted this doctrine, that "those cases are founded on no intelligible principle and if accepted would have the effect of overriding the clear provisions of the law." That was the opinion expressed by my Honourable friend, that is to say, that this doctrine was not founded on any intelligible principle. Well, the Privy Council had the misfortune to differ from my Honourable friend. The Privy Council held that it is not only not an unintelligible principle, but a very very useful and necessary principle to be observed

Diwan Bahadur T. Rangachariar: And based on bare justice.

The Honourable Mr. S. R. Das: And based on bare justice. After the Privy Council's opinion my Honourable friend would of course find it hopeless to argue in any court that this principle is unintelligible, and I take it my friend wants to get back on the Privy Council by passing this legislation. Now, this is what the learned Judge of the Allahabad High Court said:

"I observe that in discussing this question Dr. Gour in the 4th edition of the Law of Transfer, Vol. 1, takes the other view and referring to (*I will not mention them*) two cases says that these cases are founded on no intelligible principle, and if accepted would have the effect of overriding the clear provisions of the law. This is (*said the learned Judge*) rather severe on the Privy Council."

I do not think that I really ought to take up any further the time of this House. I have tried to explain it as simply as possible.
 4. P.M. and I trust this House will reject this motion.

Colonel Sir Henry Stanyon (United Provinces: European): Sir, I was not going to speak on this Bill; but having heard the Honourable the Law Member I think it may be as well to mention that in one respect his summary of my friend Sir Hari Singh Gour's Bill is perhaps not quite accurate. He gave us an illustration of a man who had agreed to take the lease of a property for some years but had not got the necessary registered lease for some years having no defence at all against eviction. That, I submit with all respect to him, is not quite correct. If I understand that the Bill before the House—and I admit that one has to read it as explained by the Honourable Mover in his speech before one can altogether understand it—the object is this. I can best explain that object by an illustration. A man has a contract of sale in his favour. Under that contract of sale he is allowed to take possession. The registered title deed is yet to come when the vendor, getting a better offer, as in the illustration given by my Honourable and learned friend, tries to turn him out. It is wrong to say that the purchaser has no defence. All the courts in India have agreed that while the contract of sale is alive, that is, within the time during which it could be specifically enforced, it would be a complete defence to the attempt of the vendor to eject the intending purchaser. I understand that in this Bill Sir Hari Singh Gour does not intend to controvert that view of the law; and the Civil Justice Committee, as I understand their Report, do not have any fault to find with that view of the law. But the proposition now is this, that, if a man who has agreed to buy certain property, and has got possession of that property, neglects, in the period of three years allowed to him, to obtain his title deed, he should not after that be allowed to set up a mere equitable defence of part performance. In a well-known case (*Balkishen v. Legge*) reported in Vol. 22 of the I. L. R. Allahabad series, their Lordships of the Privy Council laid down this principle:

"The cases in the English Court of Chancery which were referred to by the learned Judges in the High Court have not, in the opinion of their lordships, any application to the law of India as laid down in the Acts of the Indian Legislature."

I take that to be a dictum that while the principles of equity—and a great deal of our principles of equity in India are derived from the English courts—while such principles of equity can be used wherever there is room for them, they should not be applied to override any definite enactment of the Indian Legislature. Now, the Indian Legislature has enacted two things in the Transfer of Property Act with which we are now concerned, namely, (1) that certain sales shall be capable of being effected by registered document only, and (2) that a mere contract to sell shall give no title to the property. Those two are definite enactments contained in the Transfer of Property Act. Therefore, when an intending purchaser obtains a written contract of sale, he gets no title to the property. When he gets possession in anticipation of being given a registered title deed, he still has no title, under the Indian law, in that property. What is to happen if he fails to take advantage of the time which is given to him by law to overcome the default of the vendor in not giving him a registered deed? If he allows the time to go by and then goes to the courts in India to have that contract specifically performed, the law of limitation will stand against him; and the court will have to say, as courts constantly have to say, in the face of negligence, "We are very sorry for you, but we cannot

[Colonel Sir Henry Stanyon.]

help you. You have your own negligence to thank for not being able to enforce the contract of sale." Now, the question is whether their Lordships of the Privy Council intended to rule that notwithstanding the express provisions of the Transfer of Property Act that a transfer of interests in property shall not take place except by a registered deed, nevertheless, by the introduction of an equitable doctrine from England, that express provision of law shall be swept aside and an intending purchaser who has never got a sale deed executed shall be treated as, and in fact and law become, the owner of the property. That may be a perfectly good doctrine from the equitable point of view, but we cannot deal with these matters on principles of philanthropy or sympathy with a negligent purchaser or anything of that kind. The question involved here is, are principles of equity to be introduced from the Chancery Courts in England to override an express provision of the Transfer of Property Act? The Transfer of Property Act does not say that a sale may be effected in this way. The Transfer of Property Act has been construed over and over again to mean that if the sale comes within its purview it shall not be effected in any other way than by a registered deed. That is the doubt which I understand Sir Hari Singh Gour seeks and the Civil Justice Committee recommended to have cleared up. I understand the Civil Justice Committee to recommend that where an intending purchaser has allowed the time for specific performance to go by, and has allowed his contract of purchase to die by lapse of time, then the law should step in and say "We are very sorry for you, but there is the Transfer of Property Act; there is the Limitation Act. You have no sale; you have no contract of sale now left alive." That, I think, is a matter on which there should be legislation. Whether this Bill is the best way to attain that is not a point upon which I am going to take up the time of the House. The Honourable the Law Member promises that in the near future this question will be taken up and considered. My principal object in rising now is to say that there is this difficulty and that it is a difficulty which ought to be cleared; and I submit that it is wrong to say that a man who is put in possession of a leasehold or of a property to be purchased by him in anticipation of a registered deed of sale has no defence. He has a defence while his agreement is alive. He can plead the agreement. But the further question whether he can be allowed to plead the agreement when he has let it die by lapse of time is a totally different matter.

Diwan Bahadur T. Rangachariar: The principle to which we are asked to commit ourselves on this Bill is this. When a person is sued as a defendant he is not seeking the aid of the Court, he is merely protecting himself against a suit by another individual. He is in possession of properties, has entered into a contract, has probably paid the full consideration for it. Now, my Honourable friend shakes his head . . .

Sir Hari Singh Gour: That is not the Privy Council view.

Diwan Bahadur T. Rangachariar: Take a case like that where a contract of sale has been entered into, the vendee has paid the full consideration and has been placed in possession, only the formal contract has not been executed and registered. Taking advantage of the fact that time for execution has passed, this dishonest plaintiff, who has received full cash, who has executed the contract of sale, who has placed the vendee in possession, comes to Court and says, "I have taken the money. I have entered into a contract with the defendant and put him in possession.

Please place me back in possession because the formal registered deed has not been executed." The defendant says, "What is this injustice? Are you going to deprive me for want of this paper while I have paid hard cash and this man has entered into this contract?" And my Honourable friend asks this House to commit itself to the principle, "Yes, place him back in possession." That is the justice this man gets! The rule of part performance which the Privy Council has accepted and the High Courts have accepted is this. It is open to a party to say that apart from the question of absence of a formal document, he has a defence. Call it equitable defence if you like. Merely calling it equitable defence does not make it any the less a defence. What is meant by equitable defence? Defence based on justice. These are courts of justice to do justice. How can you go and help a dishonest plaintiff to get back possession of property which he has himself parted with under a contract? All that section 54 of the Transfer of Property Act says is this, that by reason merely of a contract of sale title does not pass. No interest is created. That is, if a man like that were to go to court and sue another for possession, then of course the absence of document of title may be fatal to his claim, but where he is merely defending his possession against another who put him in possession, in principle of law and justice we should recognise that defence. My objection to go to the Select Committee is this. If this Bill is referred to a Select Committee we have to accept that principle. The Select Committee will be committed to that principle of denying justice to the defendant and we can only reframe the Bill accepting that principle. Are we prepared to accept that principle? That is the question now before the House and that is why this Bill should not go before the Select Committee.

Mr. K. Rama Aiyangar (Madura and Ramnad *cum* Tinnevely; Non-Muhammudan Rural): Sir, I only want to take the very instance that was given by my Honourable friend, Diwan Bahadur Rangachariar, and ask the House what it will do. Suppose a powerful man, because there is no registered document executed, takes possession of the property forcibly from the person to whom he had transferred possession. Is he to be allowed to keep possession? Has the other man no remedy? (*An Honourable Member*: "That is part performance.") I quite understand what the Honourable the Law Member stated. It is a question which we will have to consider together when the whole thing is recast. But if it is said that the law is satisfactory as it is, it is impossible to follow that. Suppose by some force or fraud or other means

Diwan Bahadur T. Rangachariar: It will not be cases of performance.

Mr. K. Rama Aiyangar: I do say in cases where a man with unclean hands goes to a court and wants help it should be refused, but where there are circumstances which will enable the court to come to a conclusion as to title or otherwise, there may be difficulty during the time the suit is not instituted, for specific performance within the period allowed by law. But if according to law no title is created in one man and immovable property ought to be kept with him in equity, that is the Indian law up to the Privy Council now. Is it good to leave the law as it is or is it better to legislate to make it clear and modify the law as to title? That is the only point. I am glad the whole question is going to be taken up. It is better that my friend should not press his Bill now, but there is difficulty in the position as it stands.

Sir Hari Singh Gour: I have listened to the Honourable the Law Member's criticism of my Bill which makes me more than ever convinced of its justice. My Honourable friend takes it as an axiomatic proposition that the principle of part performance is well known in this country and is embodied in the statute law of the land. I invite him to dispel my ignorance by showing me a single provision of law in which the doctrine of part performance as such finds a place. He will not only dispel my ignorance but will also dispel the ignorance of the Civil Justice Committee who commit themselves to the following view—"Our Statute-book says nothing about part performance"—and what is the position of part performance in England? They say:

"In view of the absence in Indian law of any provisions as to contracts really analogous to those of the Statute of Fraud, English cases of 'part performance' yield a dubious and insecure analogy even as regards 'agreements to lease'."

That is the position here. My learned friend says that part performance is good law. If it were good law, I would have been the last person to disturb it. In the Statement of Objects and Reasons appended to my Bill I have pointed it out, and in the speech with which I prefaced my motion to go to the Select Committee I have repeated it, but I am afraid I have not been understood. Otherwise I cannot conceive of a misunderstanding between myself and the Honourable the Law Member upon this one issue. What I stated was that when Lord Hobhouse's Committee drew up a Transfer of Property Bill, the whole question as to the policy of registration was considered *in extenso* and after ten years of deliberation they came to the conclusion that all sales should only be effected by a registered instrument. That is the statute law of the country. That is the law which prevails in the land. Then the High Courts of India in a long series of cases and the Privy Council in two cases laid down that the statute law cannot be annihilated or evaded by any recourse to the doctrine of English equity. My learned friend Sir Henry Stanyon has drawn your attention to the well known case of *Balkishen v. Legge*. They have in other cases pointed out that it is dangerous to apply the Chancery principle of equity to supplement the statute law of this country, and in a long series of cases, which I have cited in the Statement of Objects and Reasons, I have pointed out that this view prevailed in this country for a number of years. That is therefore the established law of the land—statute law and case law. And any departure from that law was immediately and ruthlessly checked by a decision of their Lordships of the Privy Council. And that was the state of the law till its even course was disturbed by one single decision given on the principles of part performance. That was in 1917—I speak from memory. Even after that, when the question went up before the Privy Council, in 44 Calcutta their Lordships said that they stood by the statute law. That was a case from Burma, *Maung Shwe Goh v. Maung Inn*, 44 Calcutta, 542. Now, Sir, the position therefore is this; the decisions of the Privy Council as to the applicability of the doctrine of part performance to implement the law are conflicting. In some cases they say the statute law cannot be supplemented by recourse to the doctrine of part performance; in other cases they saw that there is nothing in the statute law of this country to stand in the way of the application of the doctrine of part performance. It is that confusion which has been caused by the conflicting rulings of the Privy Council that I submit has created uncertainty in the law of property in this country; and it is this uncertainty that the Civil Justice Committee desired should be set at rest by legislation. Could any principle be simpler than that?

My learned friend referred to the question of a lease. Let me point out to him that the Privy Council had never for one moment dealt with the question of leases. All the cases were cases decided under section 54, namely, cases of sales. The doctrine of lease, as any Honourable and learned member of the Bar here will tell you, stands on a different footing; because there may be a relationship of landlord and tenant created by acceptance of rent, estoppel, conduct or acquiescence. But that is not possible in the case of a sale; and therefore to give us the analogy of a lease to illustrate the question of sale—and it is the question of sale with which their Lordships of the Privy Council were dealing—is I submit a fallacious analogy. I therefore submit that on the first point I am not unsettling the law. I am asking this House to reaffirm what is the established law of the country, the statute and case law of the country, and I simply ask this House to once more settle what is sought to be unsettled by one disturbing ruling of their Lordships of the Privy Council, against which there are rulings of their Lordships which, as I have said, uphold the statute law as enacted in the Transfer of Property Act. I am surprised, Sir, that my honourable and learned friend who should be the upholder of the law enacted by the Central Legislature should get up with a battle-axe and try to cleave it in two. I am surprised that he should put his foot down upon what is such a clearly expressed intelligible provision, section 54 of the Transfer of Property Act. I am surprised, Sir, that he should regard that nebulous and little understood doctrine of part performance which Mr. Justice Ranken who is drawn from the English Bar describes as not even understood in England itself, the place of its birth, as a doctrine which is established in its new domicile after six or seven years. I am surprised, Sir, how my friend could regard that as an established doctrine in this country when it was absolutely unknown, a stranger, to those learned lawyers who compiled the Report of the Civil Justice Committee. And, as I have said, I am myself utterly ignorant of the doctrine of part performance as an established legal doctrine. My friend then said: "We do not wish to tinker with legislation". Sir, an arch tinkerer as he has been, tinkering all his life with legislation, should certainly not come and label that as an excuse for opposing my motion. How many tinkering pieces of legislation have not emanated from that fertile source of tinkering legislation?

The Honourable Mr. S. R. Das: Not from me.

Sir Hari Singh Gour: Only last week and the week before last we were having little scraps of paper hurled at us, when my friend, Diwan Bahadur Rangachariar, that doyen of the Indian Bar Committee, got up and said, "I do not believe in your dangling these small bits of paper before this House. Come up with a comprehensive piece of legislation and embody all the recommendations of the Indian Bar Committee."

Diwan Bahadur T. Rangachariar: I did not say that, please.

Sir Hari Singh Gour: He never said it but he meant it. (Laughter.)

That, I submit, Sir, has been the cry of this House. Small pieces of legislation are brought up from day to day, and they say, "We are carrying out in instalments the recommendations of the Civil Justice Committee". The Honourable the Law Member, who

[Sir Hari Singh Gour.]

accuses me of tinkering with legislation, is I am afraid a person who lives in a glass house throwing stones at a person who lives under a cemented roof. (Laughter.)

Then, Sir, we have been assured of very early legislation on the Transfer of Property Act. Let me remind the Honourable the Law Member that this piece of legislation has been engaging the attention of his Government, so far as I am aware, for the last 18 years. Successive Law Members have added to a pile of papers which lies embedded in some obscure archive of the Government of India, and I am sure that by this time, if it is not a donkeys load, it is certainly a man's load—this voluminous literature of conflicting laws and conflicting reports on the future of the Transfer of Property Act. Sir, I shall certainly congratulate the Honourable the Law Member if he can unravel this hopelessly tangled skein of Property Law and evolve out of it an intelligible and acceptable piece of legislation. But how long will it be? (*An Honourable Member*: "September.") And I am, Sir, contributing to the elucidation of that law by my humble might, which I submit might well be put side by side with the other suggestions, complete and incomplete, which you will have eventually to take into account when consolidating and amending the Transfer of Property Act. Sir, in my humble way I am the pioneer (Loud applause) of that great work which he has undertaken to do in the next Simla Session. I therefore support on principle, on its intrinsic merit, on its immediate necessity, the Bill, and I hope it will receive the acceptance of this House. (Applause.)

Mr. President: The question is:

"That the Bill to remove certain doubts as to the right of a person to effect a transfer of property otherwise than as provided by the Transfer of Property Act, 1882, be referred to a Select Committee consisting of the Honourable the Home Member, Diwan Bahadur T. Rangachariar, Mr. Venkatapati Raju, Mr. K. C. Neogy, Sir Darcy Lindsay, Mr. K. Rama Aiyangar, Pandit Motilal Nehru, Mr. Ambika Prasad Sinha and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

(A division was called for.)

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): On a point of order, Sir. There is no motion before the House to reject the proposal of Dr. H. S. Gour. Nobody has moved its rejection.

Mr. President: Order, order.

Maulvi Abul Kasem (Bengal: Nominated Non-Official): Its acceptance has been moved and we are dividing on that.

Maulvi Muhammad Yakub: But nobody has opposed it.

Mr. President: Order, order. The question is:

"That the Bill to remove certain doubts as to the right of a person to effect a transfer of property otherwise than as provided by the Transfer of Property Act, 1882, be referred to a Select Committee consisting of the Honourable the Home Member, Diwan Bahadur T. Rangachariar, Mr. Venkatapati Raju, Mr. K. C. Neogy, Sir Darcy Lindsay, Mr. K. Rama Aiyangar, Pandit Motilal Nehru, Mr. Ambika Prasad Sinha and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided :

AYES—18.

Aiyangar, Mr. C. Duraiswami.
Aiyangar, Mr. K. Rama.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Majid Baksh, Syed.
Misra, Pandit Harkaran Nath.
Narain Dass, Mr.
Nehru, Dr. Kishenlal.

Nehru, Pandit Shamlal.
Neogy, Mr. K. C.
Ramachandra Rao, Diwan Bahadur M.
Ranga Iyer, Mr. C. S.
Ray, Mr. Kumar Sankar.
Stanyon, Colonel Sir Henry.
Tok Kyi, U.
Venkatapatiraju, Mr. B.
Yakub, Maulvi Muhammad.

NOES—47.

Abdul Qaiyum, Nawab Sir Sahibzada.
Abul Kasem, Maulvi.
Alimuzzaman Chowdhry, Khan
Bahadur.
Badi-uz-Zaman, Maulvi.
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.
Datta, Dr. S. K.
Donovan, Mr. J. T.
Ghose, Mr. S. C.
Gidney, Lieut.-Colonel H. A. J.
Gordon, Mr. R. G.
Graham, Mr. L.
Hezlett, Mr. J.
Hira Singh Brar, Sardar Bahadur
Captain.
Hudson, Mr. W. F.
Innes, The Honourable Sir Charles.
Jatar, Mr. K. S.

Jeelani, Haji S. A. K.
Lindsay, Sir Darcy.
Lloyd, Mr. A. H.
Macphail, Rev. Dr. E. M.
Mitra, The Honourable Sir Bhupendra
Nath.
Muddiman, The Honourable Sir
Alexander.
Muhammad Ismail, Khan Bahadur
Saiyid.
Naidu, Rao Bahadur M. C.
Neave, Mr. E. R.
Owens, Lieut.-Col. F. C.
Purshotamdas Thakurdas, Sir.
Raj Narain, Rai Bahadur.
Rangachariar, Diwan Bahadur T.
Reddi, Mr. K. Venkataramana.
Roffey, Mr. E. S.
Roy, Mr. G. P.
Sim, Mr. G. G.
Singh, Rai Bahadur S. N.
Sykes, Mr. E. F.
Tonkinson, Mr. H.
Vernon, Mr. H. A. B.
Vijayaraghavacharyar, Sir T.
Willson, Mr. W. S. J.

The motion was negatived.

THE INDIAN MEDICAL DEGREES (AMENDMENT) BILL.

Mr. Kumar Sankar Ray (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I beg to move that the Bill to amend the Indian Medical Degrees Act, 1916, be taken into consideration.

Under Article 2, Schedule I, Part II of the Devolution Rules, medical administration, including hospitals, dispensaries, asylums and provision for medical education, are provincial subjects, and under Article 2, Schedule II, they have also been made transferred subjects; but by Article 45 of Schedule II, Part I, regulation of medical and other professional qualifications and standards, though provincial subjects, are made subject

[Mr. Kumar Sankar Ray.]

to legislation by the Indian Legislature, and by section 3 of Act VII of 1916 (the Indian Medical Degrees Act) the Indian Legislature has vested the right of conferring medical degrees and diplomas upon the Calcutta, Madras and Bombay Universities and certain other particular bodies, and has authorised the Governor General in Council to grant this power to other bodies as occasion arises. As medical administration and medical education are all provincial subjects, the object of my Bill is to change the law so as to empower the local Legislature also to determine in whom and how this power to grant titles should be vested. What I propose in my Bill is that a clause should be added to the Schedule which would enable the provincial Legislatures to enact how and by whom future institutions should be allowed to grant medical titles. This power the Local Government had possessed before the Act of 1916 was passed. For instance, in Bengal, Bengal Act VI of 1914 provided for the constitution of a Council of Medical Registration, and by section 18 thereof empowered the Local Government, upon recommendation from the said Council, to grant recognition to persons holding titles granted by fit and proper medical institutions, by allowing them to be registered as medical practitioners. The subsequent enactment of the Indian Medical Degrees Act, 1916, has rendered this provision of the local Act nugatory, as it has prevented and penalised the holding out of any degrees by medical men which have not been granted by certain specified institutions. The Governor General has no doubt from time to time extended the number of institutions authorised to grant titles, but if the whole administration has been vested in the provincial authorities apparently on the ground of difference of local circumstances and needs in the different provinces, it does not stand to reason why this power only should be reserved to the Governor General in Council. The object of the reservation was perhaps to maintain an uniformity of standard. Whatever may be said as regards the higher degrees, that argument had to yield before the crying needs of the country for more medical men, for the Government have been obliged to constitute State medical faculties for different provinces for facilitating medical education on a lower scale. Even the framers of the Indian Medical Degrees Bill, which subsequently became law in 1916, were fully alive to the situation, for what they prevented was people assuming bogus titles and not quacks and other men from practising the medical profession, nor did it at all affect the indigenous systems. This will be amply borne out by the discussion in the Assembly when the Bill became law. These medical faculties have been created by administrative orders of the Government and are highly officialised bodies, and the object of my Bill is to give them a legal basis and to make them more representative of the people. In moving my amendment I do not propose any new law; I simply want to restore to the Provincial Governments the powers they already had, and this Bill has been before the country for well over one year without any serious objections being raised to it from any quarters. The Government also have, by the constitution of State medical faculties, recognised the necessity of vesting the Local Governments with such powers, and I submit no useful purpose will be served by delaying the matter, especially when the crying and incessant needs of the country for a long time will be for more and more doctors. With these words I beg to move that the Bill to amend the Indian Medical Degrees Act, 1916, be taken into consideration.

Lieut.-Colonel H. A. J. Gidney (Nominated: Anglo-Indians): Sir, even though I might feel disposed to accept the principle underlying this Bill in so far as it is a movement in consonance with medical administration as a transferred subject, yet, I feel that as a medical man and a member of this Honourable House I should be failing in my duty if I gave it my support. The Honourable the Mover of this Bill, Sir, has been at pains to explain to this House the reasons why he wishes a return of extended powers, under the Indian Medical Act of 1916, to Local Governments, but he has not told this House why those powers had been taken away. Those Honourable Members who are acquainted with the relevant history, specially of the province from which the Honourable Mover comes, will remember that it was not many years ago when our capital cities, especially Calcutta, were flooded with amateur and bogus medical institutions, including American, which after a short course of amateur instruction and training to their students, or no training at all, lavished out medical qualifications and degrees at varying prices. The M.D. degree could be purchased for Rs. 50 or less. Indeed it became a public danger and was a source of great trouble to the Government of Bengal and the Government of India. I know many men who practised with a qualification given by one of these bogus medical institutions, who deserved to be criminally tried. It was this wholesale marketing of bogus qualifications that led the Government of India to take this step. The Reforms however have since been introduced and possibly the Honourable Mover thinks that more powers should be given to Provincial Governments. But, Sir, as in the legal profession, so in the medical profession, India needs none but the best; and any Bill that will open the flood gates to quackery, to the recognition of improperly equipped and administered medical institutions, that will lower the status of the medical profession and that will lower the standard of medical qualifications has everything to condemn it and nothing to commend it. Indeed, Sir, I do not believe there is a single Member of this Honourable House who would support such a dangerous Bill. We have on to-day's agenda another Medical Bill which is the very opposite of this. It calls for a centralisation of our medical institutions; indeed it calls for a general Medical Council to be established by law in India; and I submit, Sir, that, if we were to accept this Bill, it would be a retrograde step. As a medical man I have learned to appreciate the need of a high standard in medical training and the care and caution necessary in recognising medical institutions, and I have no hesitation whatever in asking this Honourable House to reject this Bill.

Dr. S. K. Datta (Nominated: Indian Christians): Sir, I greatly regret that I must differ from my Honourable friend Mr. Kumar Sankar Ray. I do not understand what precisely he desires, what particular powers he desires to vest in the provincial Legislative Council of Bengal. Now let us turn for a moment to the Act as it stands. The Act is No. VII of 1916, and I will read one of the clauses. Section 3 of Act VII of 1916, says:

"The right of conferring, granting or issuing in British India degrees, diplomas, licenses, certificates and other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise Western medical science shall be exercisable only by the parties specified in the Schedule and by such other authorities as the Governor General in Council may by notification in the Gazette of India, subject to such conditions and restrictions as he thinks fit to impose, authorise in this behalf."

[Dr. S. K. Datta.]

Now we turn to the Schedule. The Schedule includes a list of recognised bodies whose licenses enable the holder to practise western medicine :

- (1) Every university established by an Act of the Governor General in Council.
- (2) The State Medical Faculty in Bengal.
- (3) The College of Physicians and Surgeons of Bombay.
- (4) The Board of Examiners, Medical College, Madras.

Since this Act was passed there have been several other bodies added to the Schedule. Now, Sir, what is it precisely that my Honourable friend desires to do? The Government of Bengal recognise and the Government of India recognize the State Medical Faculty in Bengal as being a faculty which is authorized to license persons who profess to practice the Western form of medicine. It is open to the provincial Legislative Council at present to make such representations to the Bengal Government to enlarge the basis of this particular faculty or to recognise other bodies which the Government of Bengal in their turn will recommend to the Government of India for inclusion in the Schedule of this Act. All that I wish to point out is that the Honourable Member has his remedy at hand.

The second point which I wish to make is regarding the matter which Colonel Gidney has already raised, namely, uniformity of degrees in India. Sir, this House will recognize readily that we have never been in the position in which the United States of America was once, where the licences of certain State Medical Faculties were not recognised by the other States. with the result that these States had to protect themselves against the medical men who were authorised in other States, because the standards varied very greatly. Indeed it led to the medical profession in America becoming a by-word among the medical institutions and faculties of the word, because of the tremendous difference in standards. Things have been remedied, indeed it has taken an enormous time to remedy them. We desire that every person who is qualified to practise western medicine (and I emphasise the words "Western medicine"), every person who is licensed to practise Western medicine may have an opportunity of practising in any part of British India. Furthermore there are particular emergencies such as war and great epidemics, when we have to mobilise the medical forces of India. We therefore desire to preserve as far as possible a uniform standard which will be recognised throughout India. We have on the agenda this afternoon (and I trust that the business of the House will allow it to come before us) a Bill which is to be presented by my Honourable friend from Poona, Dr. Lohokare. Dr. Lohokare has not brought forward legislation with regard to registration or licensing. What he is concerned with, and rightly concerned with, is the question of medical education, namely, the uniformity of medical education. Now, medical education is a far more important thing and a broader thing than mere licensing of people to practise medicine. If we can obtain a uniform system of medical education and bring up standards all over India, I believe that we shall have done a great deal for the medical profession in India; we shall have done a great deal to preserve the public health of this country. I regret, therefore, Sir, that I am compelled to oppose the motion made by my Honourable friend, Mr. Kumar Sankar Ray.

Dr. K. G. Lohokare (Bombay Central Division: Non-Muhammadan Rural): Sir, in the interests of the profession to which I belong I am sorry I have to oppose the motion now before the House. My friend, in placing his motion before the House, pointed out that medical education was a provincial transferred subject. I will take his permission to point out that standards of medical education is not a transferred subject at all. Provision for medical education is a transferred subject; but laying down standards for medical education is a reserved subject, and as such, it is in the hands of His Excellency the Governor of a province to say what qualifications shall be admitted to the register and what shall not be. So his main purpose of handing over the *laying down of standards* of medical education to a transferred department is not achieved, Sir, by the proposal he has been making. Secondly, he quotes the 1916 Act and says that that Act has taken away the power of the provincial legislation of recognising certain degrees and diplomas. I do admit that his statement is partially true. In 1912 the Bombay Medical Act was enacted, in 1914 the Bengal Act was enacted and there was the Madras Act too simultaneously, and all these Acts had been superseded by the Act of 1916 in the matter of giving recognition to diplomas and degrees. There is only one slender section in these Acts which says that the Medical Council, with the sanction of the Governor, will enter into the Schedule and recognise any new body. That is the only section. At the same time, there is not the slightest mention of the method of managing medical education in all the provincial Acts. The fact is that these provincial Acts are more for registration of practitioners and for looking to the ethics of the profession. The Preambles to the Acts mention registration alone as the purpose. Medical education is not a field of all these provincial Acts at all, and if my friend wished to take advantage of that section, I am sorry, Sir, he has been stretching the Act too much.

Seeing that these provincial Acts contained no provision for Medical education the Act of 1916 was passed for a real purpose; namely, to avoid a danger to the medical profession. There were many in the profession who condemned the language of certain sections but all these were unanimous in saying that bogus colleges and schools with only a board of the name of a college outside and a dispensary behind, issuing diplomas wholesale should be absolutely prohibited. There were such institutions in Calcutta and other places and I know medical men, who had failed in the regular Colleges, who could not get through even in the first examination, got their diplomas within a year or so from some of these colleges. I know them personally and I disliked this state of things, and myself as a medical man, working my bit for the profession, did approve of the 1916 Act. Of course I did not agree with the details, but I did agree with the principle of it. It was, therefore, no wonder, Sir, that the provincial Acts were overridden by the 1916 Bogus Medical Degrees Act for two reasons, namely, for the condition created in the country with an ultimate danger to the profession and secondly because the provincial Medical Acts did not contain any provisions for the management of medical education. If we have to provide for the management of Medical education in these Acts it would be somewhat difficult indeed. Firstly, you have to provide for a staff of Inspectors. I will give you a concrete illustration. Take Bengal. There are three Medical Colleges. You want an Inspector for Anatomy—an expert in teaching Anatomy. For the sake of

[Dr. K. G. Lohokare.]

three Colleges you want an expert in Anatomy, an expert in Surgery, an expert in Medicine and so on—such a large inspecting staff for a few colleges that the Bengal Government themselves would say that they cannot afford to incur expenditure on this inspecting staff. It is therefore, Sir, that I suggest in a subsequent Bill that might come up if it has any chance, a uniformity of standards and co-ordination, of medical education in all the provinces. That is exactly what the medical profession in India has been expecting. My friend, to my utter surprise and dismay, strikes at the root of the very idea of the profession. He says

Mr. President: Order, order. The Honourable Member need not labour the point. The Honourable Member who had moved this motion has sent a note to me that he would like to withdraw his motion. Mr. Kumar Sankar Ray.

Mr. Kumar Sankar Ray: I beg leave, Sir, to withdraw my motion.

Mr. President: The question is

Mr. J. W. Bhore (Secretary: Department of Education, Health and Lands): Sir, am I not entitled to speak on behalf of Government?

Mr. President: Is it really necessary for the Government Member to speak in view of the fact that the Honourable Member wishes to withdraw his motion?

(Mr. J. W. Bhore thereupon resumed his seat.)

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

THE TRANSFER OF PROPERTY (AMENDMENT) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): At this late hour and in view of the fact that I understand that Government will not oppose my motion, I beg formally to move that the Bill to explain certain provisions of the Transfer of Property Act, 1882, be referred to a Select Committee consisting of the Honourable the Home Member, Colonel Sir Henry Stanyon, Diwan Bahadur T. Rangachariar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Harchandrai Vishindas, Maulvi Muhammad Yakub, Mr. Gaya Prasad Singh, Khan Bahadur Sarfaraz Hussain Khan, (and I wish to add the name of Mr. K. Rama Aiyangar) and myself, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

Mr. H. Tonkinson (Home Department: Nominated Official): Sir, it has fallen to my lot on many occasions to oppose the legislative proposals made by my Honourable and learned friend, Sir Hari Singh Gour. It is, therefore, all the more pleasing to me to be able to say that on this occasion I am enabled to lend him my support. I think, however, that it is necessary that I should indicate the reasons why Government propose to support this motion. The subject matter of this Bill has been before the Legislature on many occasions. In the first place, there was a Bill by my Honourable friend, Pandit Madan Mohan Malaviya, in the old Imperial Legislative Council, which finally resulted in the passing of the Transfer of Property Validating Act of 1917 and which, so far as the United Provinces of Agra and Oudh are concerned, provided for the validation of certain transfers

made prior to the 1st January 1915. That Act may be extended to other parts of British India, but so far it has only been extended to Ajmer-Merwara. Then we had a proposal by my Honourable friend, the Deputy President, to amend the Transfer of Property Act which was rejected by the Assembly in September, 1921. We had two further efforts by my Honourable friend, Mr. Rama Aiyangar; the first was one to amend the Indian Evidence Act and it was rejected at the introduction stage on the 21st February, 1924. The second also proposed another amendment of the Indian Evidence Act and that was rejected on the motion for reference to a Select Committee in September, 1924. Now, we have the present Bill which, like the original Bill of the Honourable the Deputy President, proposes to amend the Transfer of Property Act, but of course, it takes a different course to that taken in the former Bill. Briefly, the Bill proposes to insert a definition of "attest" in the Transfer of Property Act. The definition follows to some extent the provisions of section 50 of the Succession Act of 1865 and section 68 of the Indian Succession Act passed last year. But actually the provisions are not quite identical as Honourable Members will be able to see if they compare them. The Indian Succession Act deals with wills and here of course we are dealing with contracts made between parties, mortgage deeds and so on. Now, in the discussions on the Bill of Pandit Madan Mohan Malaviya the decision that was taken was that all that was necessary to do at that time was to validate deeds made before the date I have mentioned in the United Provinces and that for the future it was sufficient to leave section 59 of the Transfer of Property Act to its operation. My Honourable friend in his Statement of Objects and Reasons says there was a serious conflict between the High Courts till the decision of the Privy Council in the case of Shamu Pattar which is reported in 35 Indian Law Reports, Madras Series. Now, what was the position? In the first place, the Judicial Committee of the Privy Council in deciding that case did not upset the decision of the Madras High Court. The Madras High Court had upheld also the decision of the original subordinate court. Therefore both the lower courts in that instance had accepted what my learned friend has styled the narrow interpretation but what I suggest is the clearly correct interpretation of the word 'attest' and their views were confirmed by the Judicial Committee. In their judgment also the Judicial Committee indicated at length the views held at that time by the other High Courts in India. The Calcutta High Court had taken the same view as the Madras High Court and so had the Bombay High Court. It was only the Allahabad High Court which had taken a different view and that was the reason for the form which the Validating Act of 1917 took. There was indeed nothing novel in the views taken by our High Courts and by the Judicial Committee in those cases. Blackstone in the middle of the 18th century had noted that the last requisite to the validity of a deed is the attestation or execution of it in the *presence of witnesses*. Again as another early commentator says: "attestation should be in this form:

'Signed by the above-mentioned testator in the presence of us, present at the same time, who have hereunto signed our names'."

It is true that in some early English cases as stated by the Judicial Committee in Shamu Pattar's case the meaning of the word had been extended so as to cover acknowledgment. Those early cases however related to wills and not to mortgage deeds and the eminent judges who decided them themselves doubted the correctness as well as the expediency of widening the

[Mr. H. Tonkinson.]

meaning of the word "attested" but felt overborne by authority. In the case decided in 1754, for example, Chief Baron Parker began his judgment by saying:

"I confess, if this had been *res integra* I should doubt whether the testator's declaration is a proper execution within the 5th clause; because, I think, an admission that it is sufficient tends to weaken the force of the statute and let in inconveniences and perjuries."

In the cases decided in England since the middle of the 19th century the strict view of the meaning of the word "attest" has been accepted. As stated by the Lord Chancellor in *Burditt v. Spilsbury*,—

"The party who sees the will executed is in fact a witness to it, if he subscribes as a witness, he is then an attesting witness."

I have said enough in regard to what I think is the correct view of the meaning of the word "attest".

I will now turn to the Bill and in this connection I should like to draw the attention of the House to the fact that whereas in the Indian Succession Act, each of the witnesses must sign in the presence of the testator, the Honourable Member proposes in the Bill that each of the witnesses must sign before the transaction to which it relates is closed. That is, not only does my Honourable friend reduce the solemnity of attestation in the way I have already described, but he also further reduces it beyond the provisions of the Indian Succession Act. That, however, is a point which can be considered by the Select Committee which my Honourable and learned friend proposes. I now come to my attitude towards the Bill. The question raised by the Bill has been considered by the Civil Justice Committee. The Judicial Committee have held the view that the correct interpretation of the word "attest" is a barrier against fraud and perjury. In regard to this the Civil Justice Committee deal with the question in paragraph 8 of Chapter XXXIX of their Report, and they say there that:

"Unfortunately experience has shown that the requirements of attestation in the strict sense of the Privy Council's decision gives rise to many false pleas, having regard to the rules under section 68, etc., of the Indian Evidence Act which require the examination of at least one attesting witness."

They say such witnesses when won over depose that they signed after obtaining from the mortgagor an acknowledgment of his signature but without actually seeing him sign. That is to say, although this attestation, strictly interpreted, is introduced as a barrier against perjury and fraud, my Honourable friend, and he is supported by the Civil Justice Committee, holds that in India this strict interpretation has opened another avenue for fraud. It may be then that in the special circumstances of India the balance of advantage lies in weakening one bulwark against fraud if by doing so we can prevent a greater leak in another direction. And I admit that my Honourable friend does not do away with that bulwark entirely, as he does require what you may style if you like a form of attestation. My Honourable friend and the Civil Justice Committee agree in the substance of their proposals and I think that they can be supported on the lines I have just mentioned. Last September, when this same motion was down for consideration, I tabled an amendment for the adjournment of the decision. My object was to await the result of a reference which we had made to Local Governments on the question. Our replies are now

complete, and I may inform the House that, except for two Local Governments and one Local Administration, all Local Governments support the recommendation of the Civil Justice Committee, the substance of which is embodied in the Bill before the House. In these circumstances and having regard to the evident weight of opinion in favour of a change in the law, which is indicated also by the many occasions upon which this subject has been raised both in the first Assembly and in this Assembly, Government have come to the conclusion that the view I have adumbrated that the barrier against fraud may have become another avenue for fraud does represent the position in India. Government accordingly have decided to support the principle of this Bill. Some modification of the details may be desirable but that can all be considered in the Select Committee. Accordingly, Sir, I support the motion of my Honourable friend.

Mr. President: The question is:

"That the Bill to explain certain provisions of the Transfer of Property Act, 1882, be referred to a Select Committee consisting of the Honourable the Home Member, Colonel Sir Henry Stanyon, Diwan Bahadur T. Rangachariar, Mr. K. C. Neogy, Mr. M. A. Jinnah, Mr. Harchandrai Vishindas, Maulvi Muhammad Yakub, Mr. Gaya Prasad Singh, Khan Bahadur Sarfaraz Hussain Khan, Mr. Rama Aiyangar and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE CRIMINAL LAW REPEALING AND AMENDING BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I shall not take many minutes to ask for leave to introduce a Bill to repeal and amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and the Code of Criminal Procedure, 1898.

I have tried, Sir, to meet the criticisms that were levelled against my Bill and also several Bills introduced by the Honourable Mr. Patel, and I have tried, Sir, to consolidate all the objections and to meet them as far as possible. At a later stage of this Bill, I hope to explain at greater length the utility of the provisions of the Bill, which I ask leave to introduce to-day.

The motion was adopted.

Sir Hari Singh Gour: Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

***Mr. Kamini Kumar Ohanda** (Surma Valley *cum* Shillong: Non-Muhammadan): Sir, I ask for leave to introduce a Bill for the amendment of section 367, sub-section (5), of the Code of Criminal Procedure, 1898.

As the Statement of Objects and Reasons shows, the intention is not to abolish capital punishment but to restrict it in certain cases. At this stage I do not think that I need make a speech in support of it. I ask that leave be given to introduce this Bill.

The motion was adopted.

Mr. Kamini Kumar Ohanda: Sir, I introduce the Bill.

*Speech not corrected by the Honourable Member.

THE INDIAN MEDICAL EDUCATION BILL.

Dr. K. G. Lohokare (Bombay Central Division: Non-Muhammadan Rural): Sir, I request leave to introduce a Bill to regulate medical education in India.

Sir, the object for which I ask leave to introduce this Bill is given in the Statement of Objects and Reasons. I will add only one word as regards one misapprehension that may perhaps exist in the minds of some regarding the question as to how much part the Medical Council should take in the control of other systems. This is left to be settled by rules. The Council may simply sanction the constitution and the working rules, if any Faculty of Indigenous Medicine comes up and leave the rest to such a body. There is therefore no fear of any infamous conduct on the part of a registered member of the profession as there is no actual association with unqualified men. There is a similar device for homœopaths in the Toronto Medical Council and still their M. C. P. S. is recognised by the General Medical Council of the United Kingdom. I am simply adopting this procedure. With these words, Sir, I beg to request the leave of the House to introduce the Bill.

The motion was adopted.

Dr. K. G. Lohokare: Sir, I introduce the Bill.

THE BENGAL STATE-PRISONERS REGULATION (REPEAL) BILL.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill to repeal the Bengal State-Prisoners Regulation, 1818.

The objects and reasons of my Bill are stated in the Statement of Objects and Reasons and I need not take up the time of the House by recapitulating them. Sir, I move.

The Honourable Sir Alexander Muddiman (Home Member): Sir, I propose on the present occasion to extend to my Honourable friend the same courtesy which the House extended to me the other day when I brought in a Bill under somewhat similar circumstances. In case the Honourable Member is under any delusion, as I think perhaps he may be, I now inform him that I shall subsequently oppose the Bill.

The motion was adopted.

Mr. Amar Nath Dutt: Sir, I introduce the Bill.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 141.)

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I move for leave to introduce a Bill further to amend the Indian Penal Code.

In the Statement of Objects and Reasons I have set out my reasons for asking leave and I have nothing more to add to them. I move.

The motion was adopted.

Sir Hari Singh Gour: Sir, I introduce the Bill.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill to amend certain provisions of the Indian Penal Code relating to offences under Chapters VI and VIII of the said Code.

These two Chapters relate to the offences of sedition and the promotion of enmity between classes. I do not wish to say anything at the present time. The objects of the Bill are explained in the Statement of Objects and Reasons. I move.

The Honourable Sir Alexander Muddiman (Home Member): Sir, I propose to include my friend Mr. Rangaswami Iyengar in the same category as I included my friend Mr. Amar Nath Dutt. I only wish to inform him that on a subsequent occasion I shall oppose his Bill.

The motion was adopted.

Mr. A. Rangaswami Iyengar: Sir, I introduce the Bill.

THE RESERVATION OF THE COASTAL TRAFFIC OF INDIA BILL.

Sardar V. N. Mutalik (Gujarat and Deccan Sardars and Inamdars: Landholders): Sir, I beg to move for leave to introduce a Bill to reserve the coastal traffic of India to Indian vessels.

I have already given the reasons for this Bill in the Statement of Objects and Reasons. The only thing that I wish to mention here is that several countries have followed the same practice and the same thing is recommended by the Mercantile Marine Committee. I move.

The Honourable Sir Charles Innes (Member of Commerce and Railways): Sir, I merely wish to say that the attitude of the Government in regard to this Bill should not be inferred from the fact that I do not propose to oppose it at this stage.

The motion was adopted.

Sardar V. N. Mutalik: Sir, I introduce the Bill.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadian Rural): Sir, my Bill is covered by the motion which has just been moved by Sardar V. N. Mutalik and accepted by the House. Therefore I do not move my motion.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 491.)

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): Sir, I move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898.

The reasons for this Bill are stated in the Statement of Objects and Reasons, and I do not wish to take up the time of the House by recapitulating them. I move.

The motion was adopted.

Mr. Amar Nath Dutt: I introduce the Bill.

THE SPECIFIC RELIEF (AMENDMENT) BILL.

Diwan Bahadur M. Ramachandra Rao (Godavari *cum* Kistna: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Specific Relief Act, 1877.

The object of this Bill is fully explained in the Statement of Objects and Reasons.

The motion was adopted.

Diwan Bahadur M. Ramachandra Rao: Sir, I introduce the Bill.

THE PREVENTION OF DEFERRED REBATES BILL.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill to provide for the prevention of the deferred rebates and resort to retaliatory or discriminating practices in the coastal traffic of India.

This Bill is intended to combat a well known evil that has so long stood in the way of the development of an Indian Merchant Marine. The provisions of this Bill formed part of a more comprehensive measure that was introduced in the first Assembly in March, 1923, by Mr. Seshagiri Aiyer. It is therefore almost a formal motion I am making in order to enable this House to take cognisance of that measure and proceed with the Bill from the stage where it was left by the last Assembly. I may inform the House that after introduction of the last Bill, it was circulated for eliciting public opinion, and opinions were received and duly circulated to Members of the first Assembly. My intention is on the next non-official day to move for leave to refer this measure to Select Committee.

The motion was adopted.

Mr. K. C. Neogy: Sir, I introduce the Bill.

THE PROHIBITION OF EXPORT OF CATTLE BILL.

Pandit Shamlal Nehru (Meerut Division: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill to prohibit the export of cattle.

For the reasons, Sir, I will refer the House to the Statement of Objects and Reasons printed with the Bill, which has already been circulated. I will reserve my remarks for another stage.

The motion was adopted.

Pandit Shamlal Nehru: Sir, I introduce the Bill.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Income-Tax Act, 1922, for reasons stated in the Statement of Objects and Reasons.

The motion was adopted.

Mr. Amar Nath Dutt: Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 144.)

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898.

The object of this Bill is stated in the Statement of Objects and Reasons. I am not quite sure what the attitude of my Honourable friend the Home Member is going to be at a later stage, but I am sure I will have the leave of the House to move for leave to introduce the Bill.

The Honourable Sir Alexander Muddiman (Home Member): I would also inform my Honourable friend that I shall oppose this Bill, as I include Mr. Chetty's Bill in the same category as the previous ones.

The motion was adopted.

Mr. R. K. Shanmukham Chetty: Sir, I introduce the Bill.

Khan Bahadur Sarfaraz Hussain Khan (Patna and Chota Nagpur *cum* Orissa: Muhammadian): Sir, the provisions of my Bill are covered by the Bill* introduced by Mr. Rangaswami Iyengar. So, I do not move my motion.

THE INDIAN EVIDENCE (AMENDMENT) BILL.

Mr. Kamini Kumar Chanda (Surnia Valley *cum* Shillong: Non-Muhammadian): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Evidence Act, 1872.

The motion was adopted.

Mr. Kamini Kumar Chanda: Sir, I introduce the Bill.

THE IMPERIAL BANK OF INDIA (AMENDMENT) BILL.

Mr. B. Das (Orissa Division: Non-Muhammadian): Sir, I beg to move for leave to introduce a Bill further to amend the Imperial Bank of India Act, 1920.

Sir, I have set down my views in the Statement of Objects and Reasons. The Imperial Bank as it stands is a bank managed by certain vested interests with no control of the Government of India, and no representation of the Indian people on the Managing Board and not even an Indian Managing Governor. I should like the Imperial Bank to be so altered that it should be the State Bank of India on the lines suggested in the External Capital Committee's Report by my friend the Honourable Pandit Madan Mohan Malaviya.

The motion was adopted.

Mr. B. Das: Sir, I introduce the Bill.

*Vide page 835 of these Debates.

THE INDIAN REGISTRATION (AMENDMENT) BILL.

Diwan Bahadur M. Ramachandra Rao (East Godavari and West Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Registration Act, 1908.

The object of the Bill is fully explained in the Statement of Objects and Reasons.

The motion was adopted.

Diwan Bahadur M. Ramachandra Rao: Sir, I introduce the Bill.

THE HINDU LIMITED OWNERS BILL.

Diwan Bahadur M. Ramachandra Rao (East Godavari and West Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill to make better provision for the transfer of immoveable property by Hindu widows and other female heirs having limited estates in property, and to protect the rights of transferees from such persons.

The object of this Bill has been fully explained in the Statement of Objects and Reasons.

The motion was adopted.

Diwan Bahadur M. Ramachandra Rao: Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Monday, the 8th February, 1926.
