

# LEGISLATIVE ASSEMBLY DEBATES

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MONDAY, 1st FEBRUARY, 1926

Vol. VII—No. 7

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## OFFICIAL REPORT



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# LEGISLATIVE ASSEMBLY.

Monday, 1st February, 1926.

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

## MEMBER SWORN:

Lieutenant-Colonel. H. A. J. Gidney, M.L.A. (Nominated: Anglo-Indians).

## QUESTIONS AND ANSWERS.

### EXPENDITURE ON THE INDIAN DELEGATION TO THE ASSEMBLY OF THE LEAGUE OF NATIONS AND THE INTERNATIONAL LABOUR CONFERENCE.

444. **\*Mr. B. Das:** Will Government be pleased to state the expenses incurred:

- (a) by the Labour Delegation of India to Geneva,
- (b) by the Delegates of India to the League of Nations?

**Mr. L. Graham:** (a) Small claims are still outstanding but the total expenditure in connection with the last delegation will not exceed Rs. 17,000.

(b) The information is being obtained from the India Office and will be supplied to the Honourable Member in due course.

### INTERCEPTION OF COPIES OF *NEW ASIA* ARRIVING IN INDIA.

445. **\*Mr. Ohaman Lall:** (a) Is it a fact that copies of *New Asia* arriving in India have been intercepted?

(b) Will Government state the grounds on which action was taken by them?

**The Honourable Sir Alexander Muddiman:** I have not been able to trace any such paper, nor can I trace any orders for its interception.

### SOUTH AFRICAN COLOUR BAR BILL.

446. **\*Mr. Ohaman Lall:** (a) Is it a fact that the Colour Bar Bill was considered by the South African Government on January 14th, 1926?

(b) If so, what action do the Government of India intend to take in the matter?

**Mr. J. W. Shore:** (a) The Government of India understand that the Colour Bar Bill has passed its first reading in the Union House of Assembly and that the second reading was begun on January 27th. They have been informed by the Governor General of South Africa that the Bill is identical with the Mines and Works Act Amendment Bill rejected by the Senate last year.

(b) The matter is engaging the urgent attention of the Government of India.

#### THE LOCARNO TREATY.

447. **\*Mr. Ohaman Lall:** (a) Will Government state whether they have been approached with regard to India's assent to the Locarno Treaty as well as to the supplementary arbitration treaties?

(b) Is it a fact that India is not bound by any of the sanctions attaching to the Locarno Treaty?

(c) Do Government propose to consult the Central Legislature before embarking upon international obligations such as are attached to the Locarno Treaty?

#### THE LOCARNO TREATY.

448. **\*Diwan Bahadur M. Ramachandra Rao:** With reference to the statement by Colonel Amery in the House of Commons and reported by Reuter's Agency on the 30th November last, have the Government any objection to place on the table the communication received by the Government of India about the Locarno Treaty? Will the Government be pleased to state to what extent and in what ways, financial or otherwise, the Government of India are committed to the maintenance of the Security Pact?

#### THE LOCARNO TREATY.

449. **\*Khan Bahadur Sarfaraz Hussain Khan:** Will Government please state:

- (1) if it is a fact that they have not been a signatory to the Locarno Pact, so far?
- (2) whether they intend to consult the Assembly before signing it?
- (3) if it is a fact that Article No. 9 of the Locarno Treaty deals with the position of the Dominions and India?
- (4) if it is a fact that India was not represented at the Security Conference?

#### THE LOCARNO TREATY.

450. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state whether or not they have received any communication from His Majesty's Government regarding the Locarno Pact?

#### THE LOCARNO TREATY.

451. **\*Kumar Ganganand Sinha:** Have the Government bound themselves under any obligation imposed by the Locarno Pact? If they have what are those obligations?

THE LOCARNO TREATY.

452. \***Kumar Ganganand Sinha**: Will or will not the question of the ratification of the Locarno Pact be placed before the Indian Legislature? If the answer be in the negative, will the Government state the reasons?

THE LOCARNO SECURITY PACT.

548. \***Raja Raghunandan Prasad Singh**: Will the Government be pleased to say whether the Locarno Security Pact will be brought before the Legislative Assembly for discussion?

**Sir Denys Bray**: I beg permission to answer questions Nos. 447 to 452 and 548 together.

Like the Dominions, India was not directly represented at the Locarno Conference, and, like the Dominions, is expressly saved by Article 9 from any obligations under the Treaty of Mutual Guarantee initialled at Locarno and finally signed in London unless and until the Government expressly signifies her acceptance thereof. Like the Dominion Governments the Government of India have been apprised of the negotiations, and as stated by Sir Austen Chamberlain in the House of Commons on the 18th November, His Majesty's Government hope that the whole position may be discussed at the next Imperial Conference, regarding the date of which communications have been passing between His Majesty's Government and the Governments of the Dominions and India. Government do not purpose to consult the Assembly on the subject nor do I propose to lay the papers on the table.

**Mr. Ohaman Lall**: May I ask, Sir, why the Government do not intend to consult the Assembly in this matter?

**Sir Denys Bray**: I beg the Honourable Member will not press me on these matters of high policy. On the particular point he raises, I would refer him to the Legislative Rules.

**Mr. R. K. Shanmukham Chetty**: Does the Honourable Member know that, so far as the Dominions are concerned, the respective Governments in the Dominions consult their Legislatures before they give their assent to the Locarno Pact?

**Sir Denys Bray**: Did the Honourable Member ask me if I knew that as a fact?

**Mr. R. K. Shanmukham Chetty**: Yes, Sir.

**Sir Denys Bray**: What was the question?

**Mr. R. K. Shanmukham Chetty**: Is the Honourable Member aware that the Dominion Governments consult their respective Legislatures before those Governments give their assent to the Locarno Pact?

**Sir Denys Bray**: I am not so aware.

**Mr. N. M. Joshi**: May I ask, Sir, whether the rules prevent the discussion of such questions altogether or do they provide that the discussion shall take place with the consent of the Governor General?



**Mr. President:** It is a question for the Chair to decide whether the rules permit discussion or not.

**Mr. N. M. Joshi:** I am not discussing whether the question . . . . .

**Mr. President:** Order, order.

**Sir Purshotamdas Thakurdas:** Will the Honourable Member tell us whether an official copy of the Pact is available to this House?

**Sir Denys Bray:** I cannot, I am afraid, say whether it is so available, but I shall have much pleasure in making it available.

**Sir Purshotamdas Thakurdas:** Do I take it that the Honourable Member will have a copy placed on the table of this House?

**Sir Denys Bray:** Willingly.

**Sir Purshotamdas Thakurdas:** Will the Honourable Member tell us what the liability of India financially is likely to be in case the Government of India are pleased to be party to the Pact, Sir?

**Sir Denys Bray:** That, Sir, is a very hypothetical question.

**Sir Purshotamdas Thakurdas:** Will the Honourable Member tell us the liability of India in case the Government accept the Pact?

**Sir Denys Bray:** I put it, Sir, that this question is in a highly hypothetical form.

**Mr. A. Rangaswami Iyengar:** May I ask, Sir, whether the Government have considered the question of the financial liability arising out of the acceptance of the Locarno Pact?

**Sir Denys Bray:** The Government have given the Locarno Pact, its implications, and its possible implications with regard to India, every conceivable consideration.

**Mr. A. Rangaswami Iyengar:** And the financial implications, I take it?

**Sir Denys Bray:** Naturally.

**Diwan Bahadur M. Ramachandra Rao:** May I ask the Honourable Member whether what he said amounts to this, that the Government of India have not come to any conclusion with regard to the Locarno Pact pending a discussion on the subject before the Imperial Conference? Is that the position?

**Sir Denys Bray:** The position is that the matter is under very close examination.

**Diwan Bahadur M. Ramachandra Rao:** May I know, Sir, what the Honourable Member means by making a reference to the Imperial Conference and its proceedings in connection with the Locarno Pact? The Honourable Member in his answer referred to the proceedings of the Imperial Conference.

**Sir Denys Bray:** In my answer I said that His Majesty's Government hoped to discuss the whole question with the Dominions and India at the next Imperial Conference.

**Diwan Bahadur M. Ramachandra Rao:** May I take it, Sir, that the Government of India have not come to any conclusion in regard to this matter?

**Sir Denys Bray:** That is so.

**Sir Purshotamdas Thakurdas:** Are the Government of India going to await the deliberations of the Imperial Conference before they come to a decision in this matter?

**Sir Denys Bray:** They will certainly come to a provisional decision before the Imperial Conference.

**Sir Purshotamdas Thakurdas:** May I take it, Sir, that the provisional decision that the Government of India may come to will not be communicated officially to the parties concerned as far as the consent or otherwise of the Government of India is concerned?

**Sir Denys Bray:** Who are the parties, if I may ask?

**Sir Purshotamdas Thakurdas:** Great Britain, I take it.

**Sir Denys Bray:** I submit, Sir, that I have given a very full answer on a matter of high policy, and I would be very glad if the House would not press me any further.

**Sir Purshotamdas Thakurdas:** The very full answer which my Honourable friend thinks he has given does not at all meet the question I have put. I am most reluctant to raise any question which will put the Government of India in a difficult position, but I hope the Honourable Member will realise the anxiety of this House to know exactly what India may be liable to, especially in view of the fact that the Honourable Member has said that the Government of India do not propose to consult the Assembly before coming to the final decision. I submit, Sir, that the Assembly is entitled to a fuller answer.

**Mr. President:** The Honourable Member must put a question.

**Sir Purshotamdas Thakurdas:** I submit, Sir, that the Honourable Member should give a direct reply to my last question which is only. . .

**Mr. President:** What is the question?

**Sir Purshotamdas Thakurdas:** The question is, do the Government of India propose to await the decision of the Premiers' Conference in London before they come to a decision which would be officially communicated to Great Britain as far as the Locarno Pact and India are concerned?

**Sir Denys Bray:** I submit, Sir, that is also very highly hypothetical in form.

**Diwan Bahadur M. Ramachandra Rao:** May I know, Sir, whether the Government of India would not like to have the benefit of the views of this Assembly in coming to a provisional conclusion?

**Mr. Chaman Lal:** Is the Honourable Member aware that the obligations under the Locarno Treaty are of very grave import and that it is therefore necessary to consult the representatives of the people before the Government of India come to a definite decision in this matter?

**Mr. President:** One by one.

**Sir Denys Bray:** The answer to the first part of the question, as far as I remember it, is in the affirmative. The answer to the second part is that it is a matter of opinion.

**Mr. Chaman Lal:** May I ask the Honourable Member if he is aware of the fact that the Locarno Treaty has been considered by very many people to be a Treaty meant for the purpose of defeating Russia and for drawing a cordon round Russia?

**Mr. President:** That question comes within the mischief of rule 8 (1).

**Mr. Chaman Lal:** May I ask the Honourable Member once again whether he is aware that the grave obligations which would be put upon India as a result of this Treaty being ratified or of India becoming a party to this Treaty is a matter which is primarily the concern of this Assembly and of the people of India, and that, therefore, the Government ought to make it a point to consult the representatives of the people in this Assembly before they come to a decision?

**Mr. A. Rangaswami Iyengar:** May I know, Sir, if the Government of India have at all considered the advisability and the propriety of consulting this House on a matter of high State policy, and, if so, whether they have arrived at any definite decision on this matter?

**Sir Denys Bray:** I understand that a Resolution was tabled and it was found to lie within the mischief of the Rules.

**Mr. President:** The Honourable Member wants to know whether the Government of India are prepared to consult the Assembly?

**Mr. A. Rangaswami Iyengar:** I want to know whether the Government of India have at all considered the advisability and the propriety of consulting this Assembly?

**Sir Denys Bray:** It has, and the answer is in the negative.

**Sir Purshotamdas Thakurdas:** May I ask, Sir, whether the Honourable Member will make a copy of the Pact available to the House in the course of the day?

**Sir Denys Bray:** I understand, Sir, that a copy is in the Library, and if it is not already there, I will have one put there.

**Sir Purshotamdas Thakurdas:** In the course of to-day?

**Sir Denys Bray:** Yes.

#### RAILWAY FREIGHTS ON PIECE-GOODS FROM BOMBAY TO CALCUTTA AND SHOLAPUR TO CALCUTTA.

458. **\*Mr. Kumar Sankar Ray:** (a) What is the railway freight on piece-goods from Bombay to Calcutta and from Sholapur to Calcutta respectively?

(b) If there is any difference in the two rates what are the causes of such difference?

**Mr. G. G. Sim:** (a) The rate from Bombay to Calcutta is Rs. 1/8/0 per maund and that from Sholapur Rs. 4/8/0 per maund.

(b) The Bombay rate was reduced in December, 1924, owing to the competition of the sea route, which factor does not operate in the case of Sholapur. It is understood that the Railway will shortly notify a rate from Sholapur to Calcutta equal to the rebooking rate *via* Bombay.

#### RAILWAY FREIGHTS ON RICE.

454. **\*Mr. Kumar Sankar Ray:** What are the railway freight rates per mile towards the sea-coast and towards the interior, respectively, for the export of rice from Cuttack and Balasore?

**Mr. G. G. Sim:** The Honourable Member is referred to the Goods Tariff of the Bengal Nagpur Railway. I may mention however that it appears from the Goods Tariff that the same rate applies to consignments booked from Cuttack and Balasore in either direction.

#### REPRESENTATION TO THE GOVERNOR GENERAL IN COUNCIL, SOUTH AFRICA RE THE FIFTH ORDINANCE OF 1925.

455. **\*Mr. Kumar Sankar Ray:** Will the Government be pleased to state why no representation was made in time so as to reach the Governor General in Council of South Africa before sanction was given to the Fifth Ordinance of 1925?

**Mr. J. W. Bhore:** By the Fifth Ordinance of 1925 the Honourable Member presumably means the Natal Township Franchise Ordinance. The Government of India did not receive information about this Ordinance till after assent to it had been accorded by the Governor General of South Africa.

#### ESTABLISHMENT OF A BRANCH OF THE DEPARTMENT OF EPIGRAPHY IN INDIA AT BOMBAY.

456. **\*Mr. Kumar Sankar Ray:** Will the Government be pleased to state if they have received any representation from the Karnatak Sahitya Parishad for establishing a branch of the Department of Epigraphy in India at Bombay to collect and publish scientifically ancient manuscripts and inscriptions in Karnatak?

**Mr. J. W. Bhore:** The answer is in the affirmative.

#### CURTAILMENT OF THE POWERS OF THE CALCUTTA HIGH COURT IN RESPECT OF JUDICIAL APPOINTMENTS.

457. **\*Mr. Kumar Sankar Ray:** Will the Government be pleased to state if the Government of Bengal has passed any order relating to the curtailment of, or interference with the powers of, the Calcutta High Court in respect of judicial appointments? If so, what is the order and what steps do the Government propose to take about it?

**The Honourable Sir Alexander Muddiman:** The Government of India have no knowledge of any such order having been passed by the Government of Bengal.

## DELIVERY OF REGISTERED AND INSURED LETTERS IN CALCUTTA.

458. **\*Mr. Kumar Sankar Ray:** Will the Government be pleased to state whether a system of morning or evening delivery of registered and insured letters has been introduced in Simla and Delhi? If so, why has not such a system or a system of delivering such letters from 9 o'clock to 8 o'clock been introduced in cities like Calcutta, especially in the residential quarters thereof?

**Mr. G. P. Roy:** The hours fixed for delivery are necessarily dependent upon the prescribed times of receipt of mails, and it is quite impracticable to apply uniform hours of delivery to all the larger cities in India.

The hours of delivery of registered and insured letters at Simla and Delhi are:

|                                       |  |
|---------------------------------------|--|
| Simla General Post Office . . . . .   | <div> <div>8-30 A.M.</div> <div>9-30 A.M., and</div> <div>2-30 P.M.</div> </div> |
| Delhi General Post Office . . . . .   | 11- 0 A.M.   |
| Raisina Post Office (Delhi) . . . . . | 1- 0 P.M.  |

Government do not consider any change in the hours of delivery of registered and insured letters in Calcutta to be called for.

## CONTRIBUTIONS MADE BY INDIAN STATES TO THE LEAGUE OF NATIONS.

459. **\*Mr. Gays Prasad Singh:** (a) With reference to my starred question No. 244 of the 31st August, 1925, regarding the selection of India's representatives to the League of Nations, will the Government be pleased to say what is the amount of contribution made by the Indian States to the League of Nations?

(b) What is the total amount of contribution made by India (excluding Indian States) to the League of Nations up to date?

## CONTRIBUTIONS MADE BY INDIAN STATES TO THE LEAGUE OF NATIONS.

460. **\*Khan Bahadur Sarfaraz Hussain Khan:** With reference to Government reply to the last supplementary question to starred question No. 244 asked in the meeting of the Legislative Assembly held on 31st August, 1925, regarding Indian representatives at the September Session of the League of Nations, will Government please state whether any of the Indian States bear any portion of the contribution to the League of Nations?

**Mr. L. Graham:** With your permission, Sir, I should like to answer questions Nos. 459 and 460 together.

(a) No contribution is made by the Indian States to the expenses of the League of Nations.

(b) India's contribution for the years 1920 to date is £318,799.

**Mr. E. K. Shanmukham Chetty:** Sir, are the Ruling Princes, who are from time to time chosen as delegates to the League of Nations, sent as the representatives of the Government of India or as representing the Native States?

**Mr. L. Graham:** All the delegates represent India.

**Mr. R. K. Shanmukham Oshetty:** Do they represent the Government of India, Sir? That is what I wanted to know.

**Mr. L. Graham:** The answer which I gave is that all the delegates represent India.

**Mr. K. Ahmed:** Will the Honourable Member be pleased to state if Indians will not be able to send their representatives, and, if their representatives here are not allowed to elect the delegates who go to the League of Nations, why should India pay the cost? Will the Honourable Member enlighten the House on this matter?

**Mr. L. Graham:** I submit, Sir, that that question does not arise out of this question.

**Mr. K. Ahmed:** In view of the fact that they take so much money from Indian revenues and the Indian tax-payers, do the Government of India propose to send delegates chosen by the representatives of the people instead of sending their own nominees who have nothing to do with the Indian people?

**Mr. President:** This question does not arise out of the original question.

#### CONSTRUCTION OF AN OVERBRIDGE IN PLACE OF THE LEVEL CROSSING NEAR THE AMBALA CITY RAILWAY STATION.

461. **\*Lala Duni Ohand:** 1. (a) Is it true that owing to the proximity of the town of Ambala to the level crossing near the Ambala City railway station, in the direction of Ambala Cantonment and the courts being situated on the other side of the railway crossing an unusually large number of persons, conveyances, etc., pass through it?

(b) Is it also a fact that owing to the running of 16 passenger trains and a large number of goods trains the gate at the said railway crossing remains closed for long intervals and that the traffic is closed for a considerable time?

(c) Is it also true that at times accidents have taken place near the said level crossing on account of the pressure of the traffic?

2. (a) Are the Government prepared to order the construction of an overbridge in place of this level crossing?

(b) Is it true that several years ago Mr. King, Deputy Commissioner, Ambala, had moved the railway authorities to construct an overbridge in place of the said level crossing?

**The Honourable Sir Charles Innes:** 1. (a) Yes.

(b) The gates are worked under special arrangements and the railway authorities endeavour to make the interruption to road traffic as infrequent and as brief as is compatible with safety.

(c) The Government are not aware of any accidents that have occurred at this level crossing.

2. (a) No. The Government of India have not knowledge of the local conditions. I suggest that the question is one which can appropriately be brought up to the Agent of the Railway through his Advisory Committee.

(b) The Government have no information on this point.

TREATMENT ACCORDED TO THE HINDUS OF SIND IN THE MATTER OF  
APPOINTMENTS IN THE PUBLIC SERVICES.

462. \***Mr. Harchandrai Vishindas:** (a) Has the attention of the Government of India been drawn to the leading article entitled "Justice and its Price" in the *Hindustan Times* (Delhi) of the 19th December, 1925, and the editorial note entitled "a strange argument" in the *Indian Daily Mail* (Bombay) of the same date?

(b) If so will Government be pleased to state whether the policy referred to therein of giving preference in appointments to public services to the community whose representatives in the Legislative Council voted with Government and penalizing the community whose Members voted against Government is confined to the Government of Bombay only, or is it common to all the Governments in the country?

**The Honourable Sir Alexander Muddiman:** (a) The answer is in the affirmative.

(b) I am unable to draw the inference which has apparently been drawn by the Honourable Member from the documents referred to, which indeed appear to me to be clearly opposed to it.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether the Government of India have pursued to any extent the policy referred to in this question?

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

**Mr. N. M. Joshi:** May I know, Sir, if the Government of India have considered whether it will come under the Corrupt Practices Bill, which they have now before the House, to say that a community will be penalised for the particular manner in which certain Members voted in the Legislative Assembly?

**The Honourable Sir Alexander Muddiman:** That seems to me a speech, which the Honourable Member may make on the Corrupt Practices Bill.

TREATMENT ACCORDED TO THE HINDUS OF SIND IN THE MATTER OF  
APPOINTMENTS IN THE PUBLIC SERVICES AND THE GRANT OF  
CULTURABLE LANDS.

463. \***Mr. Harchandrai Vishindas:** Has the attention of Government been drawn to the address of the Sindhi Hindu Association to His Excellency the Governor of Bombay presented on the 17th December, 1925, complaining of the grave injustice of the treatment accorded to the Hindus of Sind in the matter of appointments in the public services and the grant of culturable lands?

**The Honourable Sir Alexander Muddiman:** The answer is in the affirmative.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether the Government of India will not consider the advisability of notifying the Provincial Governments that this policy of patting and treating with partiality particular communities is inconsistent with the pledges in the Proclamation of Queen Victoria?

**The Honourable Sir Alexander Muddiman:** I do not think that that arises out of this question. I was asked a question with reference to the address to the Governor of Bombay.

**Mr. A. Rangaswami Iyengar:** Attention has been invited to the fact that in that address the Governor of Bombay stated that in the matter of appointments patronage was extended to Muhammadans because they supported Government in the Legislative Council. May I know, Sir, whether the Government of India endorse that principle, and if so, whether they would say why it is so, and if not, whether they would notify the Provincial Governments not to pursue that principle?

**The Honourable Sir Alexander Muddiman:** I have not really understood the Honourable Member's question. The policy of the Government of India as regards appointments has frequently been laid down.

**Mr. A. Rangaswami Iyengar:** I am asking, Sir, whether there is any policy that has been laid down by the Government of India that in regard to patronage in respect of appointments, certain communities are to be favoured because they support the Government in the Legislative Council? I am asking whether any such policy has been laid down by the Government of India?

**The Honourable Sir Alexander Muddiman:** Certainly not, Sir. I think the debates of this House will show that if it had been it was remarkably unsuccessful.

**Mr. A. Rangaswami Iyengar:** In view of this answer, will the Honourable Member be pleased to notify all Provincial Governments that that policy is opposed to the policy of the Government of India?

**The Honourable Sir Alexander Muddiman:** I am not prepared to interfere with the discretion of the Provincial Governments with regard to their own appointments in so far as those appointments are in the discretion of the Local Governments. I am certainly not prepared, nor do I admit, from reading the papers that I have been referred to, that the Bombay Government have laid down any such policy.

**Maulvi Abul Kasem:** May I ask the Honourable Member if it is not a fact that, for whatever reasons it may be, appointments to the public services have to a very large extent gone to that community which has opposed the Government? (Laughter.)

**The Honourable Sir Alexander Muddiman:** I believe it is so, Sir.

**Mr. A. Rangaswami Iyengar:** We live and learn.

#### EXPENDITURE INCURRED IN CONNECTION WITH THE VISITS OF HIS EXCELLENCY THE VICEROY TO CALCUTTA, ETC.

464. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state:

- (a) what amount was spent by the Government in connection with the visit of His Excellency the Governor General to Calcutta during the years 1921 to 1925 and from what budget heads the amount was paid;
- (b) what is the monthly average of amount payable by the Government towards His Excellency's establishment while he is in Calcutta and what is it while he is in Delhi and Simla; and
- (c) what is the average expenditure incurred on account of each meeting of the Executive Council held in Delhi and Simla, and what is the average expenditure incurred on account of such a meeting held in Calcutta?



**The Honourable Sir Alexander Muddiman:** I am endeavouring to collect such information as I can in regard to the points raised in the Honourable Member's question, and, when obtained, the information will be laid on the table of this House in due course.

**DEFECTIVE LIGHTING OF THE ROAD BETWEEN THE STEAMER GHAT  
AND THE PLATFORM AT DIGA GHAT STATION ON THE EAST  
INDIAN RAILWAY.**

465. **\*Khan Bahadur Sarfaraz Hussain Khan:** (a) Are Government aware that light on the road between the steamer ghat and the platform where the Patna-Digha train stops at Diga Ghat Station, East Indian Railway (Diga Ghat Branch), is defective, and that there is no shed where passengers can take shelter during the rains?

(b) If the answer to (a) is in the affirmative, will Government please state if they are willing to issue necessary instructions to the railway authorities concerned to do the needful for the convenience and comfort of the passengers?

**Mr. G. G. Sim:** (a) and (b). The Honourable Member is referred to the reply given on the 18th September, 1924, to his question No. 2207, on the same subject. As promised therein the Government communicated the question to the Agent.

**Mr. B. Das:** Is it not another case of the Government of Bihar and Orissa being slighted by the Railways?

**Mr. G. G. Sim:** No, Sir.

**Mr. Gaya Prasad Singh:** Are Government aware that, since the reply was given by the Honourable Member, no improvement has been made with regard to the complaint which formed the subject-matter of the question?

**Mr. G. G. Sim:** The Government, Sir, have already informed the Honourable Member that they have no information whatsoever on the subject. It is a matter entirely for the Agent to settle with the Local Advisory Committee.

**Khan Bahadur Sarfaraz Hussain Khan:** Will Government get the information?

**Mr. G. G. Sim:** No, Sir.

**Mr. Gaya Prasad Singh:** May I know, Sir, why the Government do not obtain information on this point?

**PROHIBITION OF THE EXPORT OF BIRDS' FEATHERS.**

466. **\*Mr. B. Das:** (a) Will Government be pleased to state why they have placed feathers on the contraband list?

(b) Is it not a fact that there are large farms of cranes and other plumage birds in India?

(c) Do Government derive any revenue from plumage exported?

**The Honourable Sir Charles Innes:** (a) The object of the prohibition was to protect wild birds from extermination, of which there was considerable danger owing to their indiscriminate slaughter by persons interested in the sale and exportation of birds' skins and feathers.

(b) The Government understand that there are some egret farms in India.

(c) No.

#### APPOINTMENT OF MR. KENNEDY NORTH AS DESIGNER AND DECORATIVE ARTIST FOR THE GOVERNMENT BUILDINGS AT RAISINA.

467. **\*Maulvi Muhammad Yakub:** Are the Government aware that the appointment of Mr. North is inconsistent with the answers given during the last Session of the Assembly in reply to the starred questions Nos. 876, to 881 and 959 to 963 by Messrs. N. M. Joshi and B. Das?

**The Honourable Sir Bhupendra Nath Mitra:** I have nothing to add to the terms of my reply to question No. 234 by Lala Piyare Lal given on the 26th January, 1926.

**Mr. K. Ahmed:** Do Government propose to dispense with the services of Mr. North so as to bring peace and tranquillity into this House, inasmuch as there is no chance of the Honourable Member getting his Budget successfully passed by this House for his salary?

#### ENCOURAGEMENT OF THE MANUFACTURE OF RAILWAY APPLIANCES IN INDIA.

468. **\*Mr. B. Das:** (a) Have Government taken any steps to encourage the manufacture of railway appliances in India?

(b) Is it a fact that only a fractional part of railway materials (besides rails) are manufactured in India?

(c) Have Government any definite policy to encourage the manufacture of railway materials in India?

**The Honourable Sir Charles Innes:** (a) and (c). Yes. The attention of the Honourable Member is invited to the introduction to the "Rules for the supply of articles for the public services."

(b) No. The Honourable Member is referred to Appendix A of Volume II of the Annual Report by the Railway Board on Indian Railways for the year 1924-25 which shows the value of stores of Indian manufacture and of imported stores purchased by Railways during the year.

#### MANUFACTURE OF RAILWAY APPLIANCES IN RAILWAY WORKSHOPS.

469. **\*Mr. B. Das:** (a) With reference to the Government communiqué of the 30th November, 1925, regarding the appointment of the Raven Committee, will Government be pleased to state whether State-managed railway workshops manufacture parts or the whole of railway rolling-stock and appliances?

(b) Do Government propose to instruct this Committee to investigate the possibilities of the manufacture of railway appliances in such workshops?

**The Honourable Sir Charles Innes:** (a) The State-managed railway workshops do manufacture some parts of railway rolling stock but do not at present manufacture complete vehicles.

(b) The Honourable Member is referred to the terms of reference which are quoted in the communiqué referred to.

#### MANUFACTURE OF RAILWAY ROLLING STOCK IN THE WORKSHOPS OF STATE RAILWAYS.

470. **\*Mr. B. Das:** (a) Will Government be pleased to state whether the workshop of a particular State Railway manufactures its own requirements or caters for other State Railways for a certain article in which it specialises?

(b) Have the Railway Board thought it advisable to concentrate on the manufacture of certain spare parts in the workshop of one State Railway which will supply such specialised product to all the State Railways?

(c) What are the present views of the Railway Board on the standardisation of workshop products? Do they wish each Railway to have its completely equipped workshop or do they desire specialisation of certain standard parts in each railway workshop treating all the State Railway workshops as one unit?

(d) Will not specialisation and standardisation of manufacture of spare parts as indicated above lead to the eventual manufacture of railway appliances in Indian railway workshops?

**The Honourable Sir Charles Innes:** (a) It is the usual practice for workshops of State Railways to manufacture certain of their requirements. It has not been the general procedure hitherto for one railway to manufacture articles for another, though in special cases this is done when the railway requiring the item does not possess the necessary plant to manufacture it.

(b), (c) and (d). These matters are under investigation by a Committee recently appointed by the Railway Board.

**Mr. B. Das:** In view of the fact that the engineering workshops in India managed by private people are not properly developed, will Government consider the question whether the policy of the railway workshops should not be directed to manufacturing railway appliances?

**The Honourable Sir Charles Innes:** That, Sir, is a very large question of policy which I should prefer not to answer within the limits of a reply to a question. The Honourable Member must remember that there are a great many private workshops in India which depend on orders of this kind, and it might have very serious consequences for them if railway workshops extended their operations in the way he suggests.

#### SUBSTITUTION OF A PROVIDENT FUND IN PLACE OF PENSIONS FOR GOVERNMENT EMPLOYEES.

471. **\*Khan Bahadur W. M. Hussanally:** (a) With reference to the debate in the Council of State reported at page 244 *et seq* of Volume IV of the Council of State debates and question No. 169 in the Council of State of 25th March, 1925, will the Government be pleased to state what progress has been made in the matter of substituting a Provident Fund in place of pension?

(b) Do Government propose to lay before the Assembly any scheme in that direction during the current Session? If not, when may it be expected?

**The Honourable Sir Basil Blackett:** The question is still under consideration in correspondence with the Secretary of State.

# CONSUMPTION OF OPIUM IN ASSAM.

472. \***Lala Duni Chand:** (a) Has the attention of the Government been drawn to an article by the Rev. C. F. Andrews that appeared in "Young India" of the 24th December, 1925, under the heading: "The Assam Congress Opium Report"?

(b) Is it true that the excess of opium consumption in Assam ranges between 20 to 40 times the League of Nations' index figures for legitimate consumption?

(c) Is it also true that 50 per cent. of the opium used in Assam is smoked?

(d) Is it also true that the consumption of opium in Assam has only decreased in 45 years from 1,800 maunds to 1,700 maunds while the revenue in the same period has gone up from Rs. 12 lakhs to Rs. 44 lakhs? Do the Government accept the correctness of these figures? If not, will they give their own figures for the same period?

**The Honourable Sir Basil Blackett:** (a) Yes.

(b) According to latest official statistics the average consumption of opium in Assam is about 14 times the League of Nations' standard figure in Assam Valley Division and a little over the League's standard in Surma Valley. The consumption varies from district to district, the lowest being in Sylhet and Goalpara with  $\frac{1}{4}$ th of the League's standard and the highest in Lakhimpur with about 28 times the League's standard. The average for the whole province is about 8 times the League's standard.

(c) This is a point on which accurate statistics are necessarily absent.

(d) I give the following figures of consumption and revenue:

|                   | Consumption<br>(in maunds). | Revenue.<br>Rs. |
|-------------------|-----------------------------|-----------------|
| 1875-76 . . . . . | 1,874                       | 12,25,141       |
| 1924-25 . . . . . | 928                         | 39,45,735       |

The population of Assam has very nearly doubled during this period.

## DISCHARGE OF MR. S. S. REUBEN, HEAD TRAIN EXAMINER, NORTH WESTERN RAILWAY, AT AMBALA.

473. \***Lala Duni Chand:** (a) Is it true that Mr. S. S. Reuben, Head Train Examiner, North Western Railway at Ambala, drawing a salary of Rs. 275 a month was discharged from service on the 23rd March, 1925, after he had served as Train Examiner and Head Train Examiner for nearly 12 years, and if so, will the Government be pleased to state the reasons for the order of discharge passed against him?

(b) Is it true that no charge-sheet was framed against him and no opportunity was given to him to show cause before the order of discharge was passed against him?

(c) Is it true that he was not charged with any wrongful conduct in connection with his official duties or in the course of the discharge of his duties?

(d) Is it also true that he was liable to be put into a court of law for the acts alleged against him but that this course was not adopted in his case?

**Mr. G. G. Sim:** (a) to (d). Government have no information.

NUMBER OF CANDIDATES AT THE INDIAN CIVIL SERVICE EXAMINATION  
HELD AT ALLAHABAD IN JANUARY, 1926.

474. **\*Khan Bahadur Sarfaraz Hussain Khan:** With reference to the statement "The Indian Civil Service Competitive Examination commenced here yesterday, there were 132 candidates" published in the *Forward* of the 7th January, 1926, page 3, under the heading "I. C. S. Examination", will Government please state the number of candidates province by province?

**The Honourable Sir Alexander Muddiman:** 143 candidates were permitted to sit for the examination. The numbers from the different provinces were as follows:

|                             |    |
|-----------------------------|----|
| Madras . . . . .            | 40 |
| Bombay . . . . .            | 14 |
| Bengal . . . . .            | 21 |
| United Provinces . . . . .  | 26 |
| Punjab . . . . .            | 26 |
| Burma . . . . .             | 1  |
| Bihar and Orissa . . . . .  | 8  |
| Central Provinces . . . . . | 4  |
| Assam . . . . .             | 3  |

Government have no information as to the number who actually took the examination.

RECRUITMENT TO APPOINTMENTS IN THE CLERICAL GRADE IN THE  
OFFICE OF THE AUDIT OFFICER, INDIAN STORES DEPARTMENT.

475. **\*Mr. K. Venkataramana Reddi:** (a) Will Government be pleased to state:

(i) how many appointments in the clerical grade were made by the Audit Officer, Indian Stores Department, from 1st January, 1925,

(ii) the salary in each case; and

(iii) in what proportion, if any, the several provinces are represented in the said recruitment?

(b) Will Government be pleased to state the rules and the standard of recruitment for the various appointments in the clerical grade of that department?

**The Honourable Sir Basil Blackett:** (a) (i) Since January, 1925, 25 vacancies have been filled.

(ii) In the case of men recruited from other Accounts Offices the salary was fixed according to the Fundamental Rules. In the case of the outsiders, they were started on the minimum, which is Rs. 50, plus a special pay of Rs. 60.

(iii) The several provinces are represented as follows:

|           |          |
|-----------|----------|
| Bengal    | 14       |
| Punjab    | 8        |
| Madras    | 2        |
| Rajputana | 1        |
|           | <hr/> 25 |

(b) Most of the appointments are filled by obtaining trained men from other Accounts Offices, and when outsiders are taken special importance is attached to their educational qualifications and previous knowledge or experience in accounts work and the best men available are selected. No special rules have been laid down.

**'EXPENDITURE' ON THE TOURS OF THE AUDIT OFFICER, INDIAN STORES DEPARTMENT.**

476. **\*Mr. K. Venkataramana Reddi:** (a) Will Government be pleased to state:

(1) how many times the Audit Officer, Indian Stores Department, went on tour during the last two years; and

(2) the places visited, the time he stayed in each place and the nature of business transacted by the said officer in the several places during such time?

(b) What is the total expenditure incurred in connection with his tour for the last two years? To what head of the Indian Revenues is such expenditure debited?

**The Honourable Sir Basil Blackett:** (a) There was no whole-time Audit Officer for the Indian Stores Department during the period, and the supervision of the accounts work of that Department was entrusted to an officer employed under and paid by His Majesty's Imperial Government in connection with the disposal of surplus war stores in India. This was done with the approval of His Majesty's Imperial Government on the understanding that the work performed for the latter would not be hampered by the arrangement. As Auditor of the Indian Stores Department this officer went out on tour on four occasions during the period 1923-24 and 1924-25, visited Calcutta, Jamshedpur, Sambhar and Khewra and spent 3, 2, 4 and 3 days, respectively, at those places. The object of these visits was to inspect the accounts of the local organisations of the Indian Stores Department and the Northern India Salt Revenue Department. It is also one of his duties to supervise the work of his local auditors employed at various places.

(b) The total expenditure incurred in connection with his tours was Rs. 1,425-7-0. Such expenditure is debitable to the head "28—Audit".

**REFUSAL OF A FULL HOLIDAY TO THE PUNJABI AND MADRASSI  
ASSISTANTS IN THE AUDIT OFFICE, INDIAN STORES  
DEPARTMENT, ON THE SOLONA FESTIVAL.**

477. \***Mr. K. Venkataramana Reddi:** (a) Are Government aware that the Solona Festival which fell on the 4th August is one which is availed of by Government servants as a communal holiday?

(b) Is it a fact that some of the Punjabis and Madrasis employed in the Audit Office, Indian Stores Department, applied to avail themselves of this communal holiday?

(c) Is it a fact that the Audit Officer, Indian Stores Department, on such application referred to in part (b) passed an order to some such effect as the following?

"It is one of the conditions of service in this office that the assistants have to work on all holidays and Sundays except on very rare occasions when the nature of the work permits the office being closed—I have no objection to grant the holiday but shall remember this difficulty when the question of confirmation of the assistants concerned in this office is taken up."

(d) Do Government endorse the rule referred to above and will Government be pleased to state whether the taking of a communal holiday is a criterion which is taken into consideration when the confirmation of appointments is taken up?

(e) If the answer to (c) is in the affirmative, will Government be pleased to state whether it applies to all departments of the Government of India or whether it has a bearing on the particular department in question?

**The Honourable Sir Basil Blackett:** (a), (b) and (c) The work performed in this office is of a peculiar nature and does not ordinarily admit of delay. The 4th of August, 1925, happened to be a busy day and when therefore the whole staff of the Punjabi and Madrassi assistants wanted a full holiday the Audit Officer could not see his way to grant the request. He allowed them, however, to attend office two hours late, on the understanding that this concession met the requirements of the situation. The grant of local or other holidays is always subject to arrangements being made for the disposal of urgent work.

(d) The Audit Officer did not lay down any rule. The confirmation of temporary clerks is a matter entirely for the head of the office and he has to decide each case on its merits. Readiness on the part of a candidate to prefer the interests of Government to his own is a factor which is naturally taken into account in considering the question of his confirmation.

(e) This question does not arise.

**PAUCITY OF ANDHRA REPRESENTATION IN THE VARIOUS DEPARTMENTS  
OF THE GOVERNMENT OF INDIA.**

478. \***Mr. K. Venkataramana Reddi:** (a) Will Government be pleased to lay on the table a statement showing the number of Andhras employed in each of the various departments of the Government of India and the positions occupied by each of them with their present salaries?

(b) Are Government aware that there is a paucity of Andhra representation in the various departments of the Government of India and will Government be pleased to account for this?

(c) Are Government aware that there is not even one Andhra in the Imperial Secretariat Service?

(d) Will Government be pleased to state what steps have been taken to give adequate representation to Andhras in the various departments under the control of the Government of India, and what steps they propose to take in future in this respect?

**The Honourable Sir Alexander Muddiman:** (a) to (c) I am afraid I have no information in the matter, and I should not be justified in ordering it to be collected.

(d) I am not prepared to take any special steps. The examination for entrance into the Government of India Secretariat is open to all who are eligible to sit for it.

#### PROHIBITION OF THE MANUFACTURE OF FINE YARN IN INDIAN MILLS.

479. **\*Mr. K. Venkataramana Reddi:** (a) Will Government be pleased to state whether it is a fact that manufacture by Indian mills of finer yarn than 60 counts is prohibited? Does such prohibition apply to the import of the requisite machinery to manufacture finer yarn?

(b) Are there any rules, regulations, or orders which by implication make such manufacture of finer yarn or import of requisite machinery, prohibitory? If so, will Government be pleased to lay a copy of such rules, etc., on the table of the House?

**The Honourable Sir Charles Innes:** The answers to both parts of the question are in the negative.

#### INQUIRY INTO THE DEATH AS THE RESULT OF AN OPERATION OF MISS BHOJIBAI T. SIPAHIMALANI, A STUDENT OF THE LADY HARDINGE MEDICAL COLLEGE.

480. **\*Mr. Harchandrai Vishindas:** 1. Has the attention of the Government been drawn to the complaints which appeared in several Indian newspapers and among others in the *Notes of the day* of the *Bombay Chronicle* of the 24th December last, the *Hindu*, a vernacular daily of Hyderabad, Sind, of 7th January, 1926, in relation to the death of Miss Bhojibai T. Sipahimalani, a senior student of the Lady Hardinge Medical College, as the result of an operation performed on her at the College Hospital on the 8th August last?

2. If so, have Government noticed that the said death is on all hands attributed to the lack of proper care and watchfulness on the part of the operators?

3. If so, have Government held any inquiry to ascertain the accuracy of the complaints made?



4. If so, have Government been able to find out who the guilty party is?

5. If so, has such guilty party been awarded due punishment?

6. Is it a fact that owing to this unfortunate occurrence the College has greatly suffered in reputation and the confidence of the public in it has been impaired?

7. Do Government propose to take action to prevent such mishaps in the future?

**Mr. J. W. Bhore:** 1 and 2. Government can find no reference to the subject mentioned in the *Bombay Chronicle*, dated the 24th December, and have not seen the *Hindu*, dated the 7th January. They have however seen letters on the subject in other newspapers.

3 to 5. The attention of the Honourable Member is invited to the reply given by me to Mr. Chaman Lall's question No. 109.

6. Government believe that this is not the case.

7. Government consider that the Governing Body of the College can be trusted to take proper precautions.

**Mr. Harchandrai Vishindas:** Is it not a fact that if Dr. Campbell had been more watchful than she was, she would have noticed the swab which was the cause of the death.

**Mr. J. W. Bhore:** I must ask for notice of that, but I do not think that is the case at all, Sir.

**Mr. Harchandrai Vishindas:** Are the Government aware that such was the neglect actually attributed to Dr. Campbell in the newspapers?

**Mr. J. W. Bhore:** My Honourable friend must know that Dr. Campbell was the operating surgeon at the time and there was a separate anaesthetist. It is not the duty of the operating surgeon to attend to the condition of the patient under the anaesthetic. That is the anaesthetist's duty.

#### NUMBER OF INCOME-TAX ASSESSEES IN SIND, ETC.

481. **\*Mr. Harchandrai Vishindas:** I. Will Government be pleased to state for the years 1924 and 1925:

(a) what was the number of income-tax assesseees in each district in Sind:

(b) how many assesseees were Muhammadans and how many non-Muhammadans: and

(c) how much income-tax was paid by Muhammadans and how much by non-Muhammadans?

II. What was the net income-tax income of each district in Sind during the year ending 31st March, 1925, and what was the expenditure?

**The Honourable Sir Basil Blackett:** I (a) and II. A statement is laid on the table.

I (b) and (c) The Government have not the information asked for.

*Statement showing the number of assesseees, collections of income-tax and super-tax and expenditure in Sind during the year 1924-25.*

| Name of District.   | Number of assesseees. | COLLECTIONS. |            | Expenditure. |
|---|-----------------------|--------------|------------|--------------|
|   |                       | Income-tax.  | Super-tax. |              |
|   |                       | Rs.          | Rs.        | Rs.          |
| Karachi District . . . .  | 3,149                 | 9,89,267     | 31,837     | 94,047       |
| Thar and Parkar District . . . .  | 575                   | 47,437       | ...        |              |
| Hyderabad District . . . .  | 952                   | 1,82,892     | 17,203     | 22,498       |
| Larkana District . . . .  | 506                   | 40,598       | ...        | 14,128       |
| Nawabshah District . . . .  | 390                   | 37,078       | ...        | 86,016       |
| Sukkur and Rohri Tks. of the Sukkur District  | 480                   | 56,917       | ...        |              |
| Sukkur District excluding Sukkur and Rohri Talukas and Upper Sind Frontier District . . . . | 769                   | 61,087       | ...        |              |
| Total . . . . .   | 6,821                 | 14,15,276    | 49,040     | 1,66,689     |

INCOME-TAX OFFICERS IN SIND.

482. **\*Mr. Harchandrai Vishindas:** (a) Will Government be pleased to state if their attention has been drawn to the fact that the district of Thar and Parkar and the mofussil district of Karachi are in charge of the same Income-tax Officer?

(b) Will Government be pleased to state the area of the Thar and Parkar District and the area of the Karachi District as well as the area of all other districts in Sind separately?

**The Honourable Sir Basil Blackett:** (a) No.

(b) I would refer the Honourable Member to the Gazetteer.

INCOME-TAX OFFICERS IN SIND.

483. **\*Mr. Harchandrai Vishindas:** Will Government be pleased to state why it has been considered necessary to have two Income-tax Officers in the district of Sukkur, one with headquarters at Sukkur and the other at Shikarpur?

**The Honourable Sir Basil Blackett:** The question of posting one or more Income-tax Officers in a district depends on the volume of work and has been left to the discretion of the Commissioner of Income-tax who is the responsible Head of the Department.

APPOINTMENT OF A THIRD INCOME-TAX OFFICER FOR THE TOWN OF KARACHI.

484. **\*Mr. Harchandrai Vishindas:** (a) Will Government be pleased to state if they have received a representation from Mr. R. K. Sidhwa of Karachi that a third Income-tax Officer is necessary for the Karachi Town on account of the quantity of work?

(b) Do Government make the amount of assessments the basis for determining the number of Income-tax Officers to be appointed in any place?

**The Honourable Sir Basil Blackett:** (a) No.

(b) The number of Income-tax Officers is fixed with reference to the volume of work to be dealt with as indicated by the number of assessments to be made, due consideration being also paid to local conditions.

#### CONSTITUTION OF MUNICIPALITIES IN INDIA AND BURMA.

485. **\*Dr. K. G. Lohokare:** Will Government be pleased to state:

- (a) the number of towns having a population of 5,000 and over, not having yet got a municipality, in the various provinces, including Burma:
- (b) the number of municipalities, if any, in the various provinces, including Burma, which have not yet got an elected majority:
- (c) the municipalities, in the various provinces, including Burma, which have not yet got the right to elect their Vice-President:
- (d) the number of municipalities, in the various provinces, including Burma, which have not yet got the right to elect their President: and
- (e) the number of municipalities, in the various provinces, including Burma, which though having a right to elect their President, have elected an official for this post?

#### CONSTITUTION OF NOTIFIED AREA COMMITTEES, SANITARY COMMITTEES, VILLAGE AUTHORITIES AND VILLAGE PUNCHAYATS IN INDIA AND BURMA.

486. **\*Dr. K. G. Lohokare:** Will Government be pleased to state:

- (a) the number of notified area committees in the various provinces, including Burma:
- (b) the number of sanitary committees in the various provinces, including Burma:
- (c) the number of village authorities of any other nature not being Village Punchayats in the various provinces, including Burma:
- (d) the number of Village Punchayats, if any, in the various provinces, including Burma, that have not yet been put on an elective basis:
- (e) the number of Village Punchayats, if any, in the various provinces, including Burma, which have not yet got an elective majority:
- (f) the number of Village Punchayats, if any, in the various provinces, including Burma, which have not yet got the right to elect their President (*Sarpanch*): and
- (g) the number of Village Punchayats, if any, in the various provinces, including Burma, which though having a right to elect their President, have elected an official for this post?

CONSTITUTION OF TALUKA LOCAL BOARDS IN INDIA AND BURMA.

487. \*Dr. K. G. Lohokare: Will Government be pleased to state:—

- (a) the Talukas in the various provinces, including Burma, which have not yet got a separate Taluka local board:
- (b) the Taluka local boards, if any, in the various provinces, including Burma, which have not yet been put on an elective basis:
- (c) the Taluka local boards, if any, in the various provinces, including Burma, which have not yet got an elected majority:
- (d) the Taluka local boards in the various provinces, including Burma, which have not yet got the right to elect their Vice-President:
- (e) the Taluka local boards in the various provinces, including Burma, which have not yet got the right to elect their President: and
- (f) The Taluka local boards, if any, which though having a right to elect their President, have elected an official to this post?

CONSTITUTION OF DISTRICT LOCAL BOARDS IN INDIA AND BURMA.

488. \*Dr. K. G. Lohokare: Will Government be pleased to state:

- (a) the names of districts, if any, in India or Burma, which have not got a District Local Board so far:
- (b) the districts, if any, in India or Burma, where the local authority is not yet put on an elective basis:
- (c) the district local boards, in India and Burma, which have not got an elective majority:
- (d) the district local boards, in India and Burma, which have not got the right to elect their Vice-Presidents:
- (e) the district local boards, in India and Burma, which have not the right to elect their President: and
- (f) the district local boards, if any, which though having a right to elect their President, have elected officials for this post?

Mr. J. W. Bhore: The questions relate to a subject which is provincial and transferred. Statements embodying such information on the subject as is available in the Government of India are placed in the Library.

CONSTITUTION OF THE CIVIL MEDICAL SERVICES.

489. \*Dr. K. G. Lohokare: Will Government be pleased to say:

- (a) what items referred to in starred questions Nos. 459, 460, 461, 462 and 464 (Assembly Debates Report, Vol. VI, No. 5) have by now been decided upon:
- (b) what the recommendations of Government are to the Secretary of State in respect of the items covered by these questions:
- (c) if they had consulted Local Governments on the points involved. (If so, will a summary of replies from the Local Governments be placed on the table?): and
- (d) if they are prepared to consult the Legislature before final orders are passed on the question?

**Mr. J. W. Bhore:** (a) No decision has yet been arrived at.

(b) and (c) The matter being still under discussion, the Government of India are not prepared to furnish the information.

(d) The House has already had an opportunity of discussing the matter in connection with the Lee Commission's Report and the Government of India do not propose to consult it further.

**Mr. K. G. Lohokare:** Has the Honourable Member noticed an article in the *Hindustan Times* of the 24th January, on this subject?

**Mr. J. W. Bhore:** I do not know to what my Honourable friend refers. If he will produce a copy of the *Hindustan Times*, I shall be happy to give a reply.

**Dr. K. G. Lohokare:** I refer to a publication regarding the circular sent by the Government of India to Provincial Governments on this subject.

**Mr. J. W. Bhore:** I remember seeing some reference in the *Hindustan Times* but I am not prepared to say whether that is the publication to which my Honourable friend refers.

**Dr. K. G. Lohokare:** That is exactly what I refer to.

**Mr. J. W. Bhore:** If that is so, my attention has been drawn to it.

**Dr. K. G. Lohokare:** May I know if the contents of that publication are substantially correct?

**Mr. J. W. Bhore:** I am not prepared to disclose any information in regard to the subject matter of this question, and, if I told the Honourable Member whether the subject matter was true or not, I should be disclosing that information.

**Mr. A. Rangaswami Iyengar:** May I know if a circular has at all been sent to the Provincial Governments on this point?

**Mr. J. W. Bhore:** Yes, Sir, it has.

**Mr. A. Rangaswami Iyengar:** Will the Government be pleased to lay that circular on the table for the information of the Members?

**Mr. J. W. Bhore:** As I have already said, I am not prepared to disclose any further information at the present stage. We should have to consider that later.

**Mr. A. Rangaswami Iyengar:** May I know when it will be possible to let this House have the information so that it may express its views on it?

**Mr. J. W. Bhore:** We will be able to give the information as soon as a decision has been arrived at.

**Mr. A. Rangaswami Iyengar:** After you reach a decision or before you reach a decision?

**Mr. J. W. Bhore:** After we reach a decision.

**Dr. K. G. Lohokare:** Has the Honourable Member received representations from certain medical unions in this country?

**Mr. J. W. Bhore:** We have received representations from two such associations.

**TRANSFER OF INDIAN OFFICERS OF THE INDIAN MEDICAL SERVICE TO THE CIVIL SIDE OF THAT SERVICE.**

**490. \*Dr. K. G. Lohokare:** Will Government be pleased to say:

- (a) how many Indian officers in the Indian Medical Service are till now waiting for a transfer to the civil medical side of the Indian Medical Service:
- (b) how many European officers junior to these Indian officers have been so transferred during the last five years:
- (c) if it is a fact that Indian officers with over 10 years' service are still waiting for a transfer to the civil medical side: and
- (d) what steps the Government are prepared to take in the matter, so as not to violate the rights of the Indian officers already in the Indian Medical Service?

**Mr. E. Burdon:** (a) 74 Indian officers, who have elected for transfer to the civil side of the Indian Medical Service, are still in military employment.

(b) 82 European officers, who are junior to one or more of the Indian officers mentioned above, have been transferred to civil employ during the last five years. These officers are junior also to other European officers still awaiting transfer to civil. They have been transferred to special posts for which they possessed special qualifications, e.g., professorships, public health and research posts, employment under the Political Department and in Burma.

(c) Yes.

(d) Government are not in a position to make any statement at present pending a final decision on the Lee Commission's recommendations in so far as they relate to the Indian Medical Service. I may mention however that 58 Indian officers have been transferred from military to civil employ in the last 5 years.

**Dr. K. G. Lohokare:** May I know if it is possible for Government to notify these specialised probable vacancies in the I. M. S. a year or two before?

**Mr. E. Burdon:** I should like to have notice of that question.

**Dr. K. G. Lohokare:** I should like to know whether the Honourable Member is prepared to accept the procedure of notifying the probable vacancies in specialised lines, so that the senior officers may not be put to inconvenience.

**Mr. E. Burdon:** I have never considered that and I do not know whether it would be practicable.

**DIFFICULTY OF DISTINGUISHING THE NAMES OF INDIANS AND NON-INDIANS IN THE CLASSIFIED LIST OF STATE RAILWAY ESTABLISHMENT, ETC.**

**491. \*Dr. K. G. Lohokare:** Are Government aware that considerable difficulty is experienced in distinguishing from the Classified List of State Railway Establishment and Distribution Return of Establishment of all Railways the names of non-Indians from the names of Indians bearing foreign names? If so, do Government propose to provide in the future issues of the publication some means of distinguishing the names of non-Indians from those of Indians?

**Mr. G. G. Sim:** Government are not aware of the particular difficulty to which the Honourable Member refers. They propose in future publications to denote officers in receipt of sterling overseas pay by the use of a suitable symbol against their names, which is all that is necessary for the purpose which this publication serves.

#### DELAY IN THE ISSUE OF THE RAILWAY ADMINISTRATION REPORT.

492. **\*Dr. K. G. Lohokare:** Is it a fact that during the pre-war period the Railway Administration Report used to be published months earlier than now? If so, do Government propose to revert to the earlier date for the publication of the future issues of the Report?

**Mr. G. G. Sim:** The delay of two or three months in the issue of the Annual Reports by the Railway Board for the last two or three years as compared with the issues of Reports published before the War is mainly due to the large increase in the information supplied in these Reports, and to the arrangements under which the accounts of the Government of India, including the railway accounts, are not finally closed till about the end of September. It is hoped, however, to be able to arrange for an earlier issue of these Reports in future years.

#### STATEMENT SHOWING THE DETAIL OF CAPITAL OUTLAY ON STRATEGIC LINES.

493. **\*Dr. K. G. Lohokare:** Will Government kindly lay on the table a comparative statement showing the non-commercial (strategic) lines covered by the capital expenditure of Rs. 28,74,27,847 to end of 1921-22 and the strategic lines covered by the capital at charge of Rs. 27,49,10,057 to end of 1925-26, as shown in Appendix I to the Explanatory Memoranda of the Railway Budgets for 1924-25 and 1925-26?

**Mr. G. G. Sim:** The statement required by the Honourable Member is laid on the table.

*Statement showing the detail of capital outlay on strategic lines to end of 1921-22 and to end of 1925-26 as exhibited in Appendix I to the explanatory Memorandum of the Railway Budget for 1924-25 and 1925-26.*

| Name of strategic lines.   | Outlay to end of 1921-22. | Outlay during 1922-23. | Outlay during 1923-24. | Revised Estimate, 1924-25. | Budget Estimate, 1925-26. | GRAND TOTAL. |
|--|---------------------------|------------------------|------------------------|----------------------------|---------------------------|--------------|
|  | Rs.                       | Rs.                    | Rs.                    | Rs.                        | Rs.                       | Rs.          |
| Main Line (N.-W. Rly.)   | 19,44,48,979              | 11,66,859              | 8,51,249               |                            |                           |              |
| Kaur Khirgi . . .  | 14,40,883                 | 38,404                 | 638                    |                            |                           |              |
| Tank Murtaza . . .   | 10,30,972                 | —1,01,753              | —44,550                | 19,54,000                  | 18,50,000                 |              |
| Nushki Extension . . .   | 3,09,16,544               | 2,91,996               | 10,00,078              |                            |                           |              |
| Frontier Railway Reserve . . .   | 46,80,060                 | 4,49,479               | —13,581                |                            |                           |              |
| TOTAL . . .  | 28,74,27,347              | 18,65,075              | 17,98,684              | 19,54,000                  | 18,50,000                 | 24,49,10,056 |
| Adjustment of outlay on rolling stock relating to strategic lines held at charge of commercial lines . . . | ...                       | ...                    | ...                    | ...                        | ...                       | 2,00,00,000  |
| GRAND TOTAL . . .  | ...                       | ...                    | ...                    | ...                        | ...                       | 27,49,10,056 |

SURPLUS LOCOMOTIVES ON RAILWAYS.

494. \*Dr. K. G. Lohokare: With reference to the following statement occurring at page 8 of the Explanatory Memorandum of the Railway Budget for 1925-26:

" So far as State Railways are concerned, requirements for additional locomotive stock for some railways are being met by the transfer of 62 locomotives from other railways, where it has been found by experience, with improved methods of working, that locomotives are in excess "

will Government kindly state the names of the railways where locomotives are in excess and the extent of the excess on each of the railways referred to?

**The Honourable Sir Charles Innes:** The North Western Railway is the only Railway which has a surplus number of locomotives on the line. The number surplus at the end of the current year is approximately 188. This number will be still further reduced to 98 during 1926-27.

PROVISION OF ROLLING STOCK TO RELIEVE THE EXISTING CONGESTION ON RAILWAYS.

495. \*Dr. K. G. Lohokare: Is it a fact that a large proportion of the rolling stock provided in the Railway Budget for 1925-26, particularly of third class coaches, is on account of new lines and that only a small proportion remains for the relief of existing congestion? If not, what is the exact or approximate proportion?

**Mr. G. G. Sim:** The answer is in the negative. A large proportion of the additional stock is for the relief of congestion on existing lines. The programmes of construction of additional rolling stock are based on the needs of each railway system considered as a whole, including new lines added during the year. This has been found the most economical arrangement.

It is not possible therefore to give any reliable approximate division between existing and new lines. During 1925-1926 additional third class coaches are being provided as follows:—

|                        |     |
|------------------------|-----|
| 5'—6" Gauge . . . . .  | 655 |
| 3'—3½" Gauge . . . . . | 100 |

NUMBER OF OFFICERS IN THE RAILWAY BOARD.

496. \*Dr. K. G. Lohokare: With reference to the following statement made by Sir C. D. M. Hindley on February 25, 1925, during the discussion on Demand No. 1 of the Railway Budget for 1925-26:—

" Incidentally, Mr. Jamnadas Mehta made a misquotation in regard to the number of officers we have. The information I have before me is that the number of officers, including supervising officers, in the Railway Board is at present 23, and 7 of these gentlemen are Indians "



will Government kindly give the distribution of the 28 officers, under the following designations shown in the details of that Demand:

Chief Commissioner,  
Members,  
Directors,  
Secretary,  
Deputy Directors,  
Assistant Directors,  
Superintendents,

and also give the names of the 7 Indian officers?

**Mr. G. G. Sim:** A statement giving the information asked for is laid upon the table.

The distribution was as follows:—

[illegible]

There were in addition at that time 3 officers on special duty in the office of the Railway Board.

The names of the 7 Indian officers were:—

Mr. A. M. Hayman, O.B.E.  
Mr. Muzaffar Hussain.  
Mr. M. D. Sheikh.  
Mr. K. C. De.  
Rai Sahib B. D. Puri.  
Mr. F. C. Malhan.  
Khan Sahib Barkat Ali.

CONVERSION OF THE POSTS OF ASSISTANT SECRETARIES IN THE RAILWAY BOARD INTO THOSE OF DEPUTY DIRECTORS.

497. \***Dr. K. G. Lohokare:** With reference to the following statement made by Sir Charles Innes on February 25, 1925, during the discussion on Demand No. 1 of the Railway Budget for 1925-26:

" We are not making provision for any more appointments, and the point which has puzzled Mr. Neogy, about the number of Assistant Directors is merely accounted for by this fact. Formerly we had three Assistant Secretaries. We changed their names to Assistant Directors."

are Government aware that the Railway Administration Report for 1923-24 at page 84 states " the present posts of one Joint Secretary and four Assistant Secretaries were replaced by six Deputy Directors of similar status and one Assistant Director "?

If so, will Government kindly state whether as a matter of fact the posts of Assistant Secretaries were converted into those of Deputy Directors and not into those of Assistant Directors?

**Mr. G. G. Sim:** The reply given by Sir Charles Innes referred only to the provision in the Budget for 1925-26 of 4 posts of Assistant Directors. The Administration Report contrasted the organisation prior to 1st April, 1924, and the organisation introduced subsequently.

A statement is laid on the table showing the position on 31st March 1924 (prior to the creation of the new organisation), on 25th February 1925 (the date on which last year's Budget was discussed), and the present position.

*Statement showing the strength of officers of the Railway Board before and after the re-organisation, and as it stands at present.*

| Designation.                                | Position on 31st March, 1924. | Position on 25th February, 1925. | Present position. |
|---|-------------------------------|----------------------------------|-------------------|
| Chief Commissioner . . . . .                | 1                             | 1                                | 1                 |
| Members—Financial Commissioner . . . . .    | 3                             | 3                                | 3                 |
| Chief Engineers (Civil and Mech.) . . . . . | 2                             | Nil.                             | Nil.              |
| Secretary . . . . .                         | 1                             | 1                                | 1                 |
| Joint Secretary . . . . .                   | 1                             | Nil.                             | Nil.              |
| Assistant Secretaries . . . . .             | 4                             | Nil.                             | Nil.              |
| Registrar . . . . .                         | 1                             | Nil.                             | Nil.              |
| Directors . . . . .                         | Nil.                          | 4                                | 5                 |
| Deputy Directors . . . . .                  | Nil.                          | 7                                | 4                 |
| Assistant Directors . . . . .               | Nil.                          | 4                                | 2                 |
| Deputy Secretary (temporary) . . . . .      | Nil.                          | Nil.                             | 1                 |
| Total . . . . .                             | 13                            | 20                               | 17                |

**NON-STOPPAGE OF THE LUCKNOW PUNJAB MAIL AND THE BOMBAY PUNJAB MAIL AT AMBALA CITY RAILWAY STATION.**

498. **\*Lala Duni Chand:** (a) With reference to the reply to my starred question no. 285 given on 12th February, 1924, by the Honourable Sir Charles Innes regarding the non-stoppage of the Lucknow Punjab mail and the Bombay Punjab mail at Ambala City railway station, will the Government be pleased to state whether the railway authorities are prepared to reconsider the question of stoppage if not of both the mails at least of Calcutta mail at Ambala City railway station?

(b) If the reply to (a) be in the negative, will the Government please state the particular reasons for accelerating the Calcutta and Bombay mail trains between Lahore and Saharanpore at the sacrifice of the convenience of the travelling public from the Ambala City railway station and other railway stations that have been similarly treated?

(c) Is it true that since the non-stoppage of the two mails at Ambala City railway station from 1st September, 1922, representations have been made supported by the officials and public asking for the stoppage of the mails and that no action has been taken on them?

**Mr. G. G. Sim:** This matter has been thoroughly examined by the Railway Administration on more than one occasion and it has also been discussed with the Local Advisory Committee. The railway authorities cannot see their way to comply with the request.

## REDUCTION OF FARES ON THE DELHI-AMBALA-KALKA RAILWAY.

499. \***Lala Duni Chand:** (a) Is it true that while the railway fares on the North Western Railway and the Great Indian Peninsula Railway lines have been recently reduced, the railway fares on the East Indian Railway, particularly between Kalka and Delhi stations, are being retained at a very high level?

(b) If so, do the Government propose to take steps to give relief to the travelling public by reducing the fares on this line as well?

**Mr. G. G. Sim:** (a) The reply is in the negative.

(b) The North Western Railway propose to reduce passenger fares with effect from the 1st April 1926 and these fares will also apply over the Delhi-Ambala-Kalka Railway which is now worked by the North Western Railway.

## ISSUE OF RETURN CONCESSION TICKETS ON THE EAST INDIAN RAILWAY.

500. \***Lala Duni Chand:** (a) Is it true that while on the North Western Railway line and certain other railway lines return concession tickets are issued, no return concession tickets are allowed on the East Indian Railway line?

(b) If so, do the Government propose to issue instructions to the proper railway authorities to allow return concession tickets on this line as well?

**Mr. G. G. Sim:** (a) The reply is in the negative.

(b) Does not arise.

## APPOINTMENT OF INDIANS IN THE HIGHER GRADES ON THE EAST INDIAN RAILWAY.

501. \***Lala Duni Chand:** (a) Will the Government be pleased to state what steps they have taken since the East Indian Railway has been taken over by the Government to increase the number of Indians in the higher grades of service?

(b) Will the Government be pleased to place on the table a statement showing the number of appointments of Indians in the East Indian Railway made with a view to give effect to the principle of the Indianization of the Railway Service even to the limited extent recognized by the Government?

**The Honourable Sir Charles Innes:** (a) and (b) The Government of India are giving effect to the recommendation of the Lee Commission regarding Indianisation and during the short period since the East Indian Railway has been taken over by the State one Indian Assistant Executive Engineer has been recruited for the Railway and one Indian Assistant Electrical Engineer and four Indian Engineers appointed on short term covenants.

## REDUCTION OF FARES ON THE KALKA-SIMLA RAILWAY.

502. \***Lala Duni Chand:** Is it a fact that the railway fares of all classes on the Kalka-Simla Railway was increased some years ago, and do the Government propose to take steps to effect the reduction in the fares?

**Mr. G. G. Sim:** The reply to the first part of the question is in the affirmative. The financial results of working the Kalka-Simla Railway do not justify any reduction in the existing fares.

PROVISION OF A LADIES' WAITING ROOM AT BINDHACHAL ON THE EAST INDIAN RAILWAY.

508. \***Mr. Gaya Prasad Singh:** (a) Are Government aware that Bindhachal on the East Indian Railway is an important place of pilgrimage for the Hindus and that there is no ladies' waiting room at this station owing to the absence of which passengers are put to great inconvenience?

(b) Is it a fact that at Chunar station (East Indian Railway) there are separate waiting rooms for ladies and gentlemen?

(c) Do Government propose to have an inquiry made with a view to provide a ladies' waiting room at Bindhachal?

**Mr. G. G. Sim:** Government have no information.

This is a matter which should be brought to the notice of the Agent, East Indian Railway, through his Local Advisory Committee.

**Mr. Gaya Prasad Singh:** Are Government aware that the passenger traffic at Bindhachal is much heavier than that at Chunar?

**Mr. G. G. Sim:** No, Sir; Government have no information.

**Mr. A. Rangaswami Iyengar:** May I know whether it is Government's policy that, wherever a Local Advisory Committee has been formed, this House should be deprived of its jurisdiction to put questions in regard to railway administration?

**Mr. President:** The matter is one for the President to decide.

**Mr. Gaya Prasad Singh:** Are Government aware that there are some retired European railway employees who have settled down at Chunar, and it is for this reason that there are separate waiting rooms at Chunar and not at Bindhachal?

**Mr. G. G. Sim:** I have already informed the Honourable Member that Government have no information on the subject.

APPOINTMENT OF INDIANS IN THE POLITICAL SECTION OF THE HOME DEPARTMENT.

504. \***Mr. Gaya Prasad Singh:** (a) Will the Government be pleased to state how many sections there are in the Home Department of the Government of India, and what is the percentage of Indians employed in each of the sections?

(b) Is it a fact that in the Political Section of the Home Department there is not a single Indian Assistant or clerk?

(c) Is it a fact that frequent inter-transfers of those employed in the other sections of the Home Department take place, but not so in the Political Section? If so, why?

(d) Will the Government be pleased to state the reasons for keeping the Political Section a close preserve for non-Indians?

**The Honourable Sir Alexander Muddiman:** (1) The percentage of Indians in the Home Department is 75. The percentages in the seven sections vary from time to time and at the moment vary from 100 to 29.

(2) It is not a fact.

(3) Transfers from one section to another are made only as necessity arises and the staff of the Political Section is not excluded from such transfers.

(4) Does not arise.

**Mr. Gaya Prasad Singh:** How many Indians are now working in the Political Section?

**The Honourable Sir Alexander Muddiman:** I am not prepared to give my Honourable friend any more details of the interior economy of my office. This is a question which relates purely to the departmental arrangements of an office of the Government of India and I have already given my Honourable friend a very full reply. I can only say that the percentage cannot be more than 100 or less than 29.

**Mr. Gaya Prasad Singh:** Is it a fact that this Political Section was created in 1907, and in reply to a question which was asked on the 1st March 1921 the Government said that it has not been the practice to put Indians in the Political Section?

**The Honourable Sir Alexander Muddiman:** I have already told the Honourable Member that there are Indians in all sections of the Home Department and the percentage cannot be more than 100 and cannot be less than 29. He has heard my answer.

TELEGRAPHIC REPORT RELATING TO THE VOLUNTEERS' CONFERENCE HELD  
AT CAWNPORE DURING CHRISTMAS.

505. **\*Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to a report published in the *Amrita Bazar Patrika*, dated the 8rd January, 1926, in which it is stated that a telegraphic report dated the 25th December last of the Volunteers' Conference which was held at Cawnpore in Christmas week, was withheld by the telegraph authorities, on the ground that it was "objectionable"?

(b) Will the Government be pleased to state what the portion was that was so withheld?

**The Honourable Sir Bhupendra Nath Mitra:** The reply to the first part of the question is in the affirmative and to the second in the negative.

ISSUE OF GUARANTEED DEBENTURE STOCK BY THE LARCONA JACOBABAD  
(SIND) LIGHT RAILWAY.

506. **\*Mr. Jamnadas M. Mehta:** (a) Is it a fact that the Larcona Jacobabad (Sind) Light Railway has issued Rs. 4 lakhs of debenture stock at 7 per cent. per annum?

(b) Do the share-holders of this Railway enjoy a guarantee of dividend from the North Western Railway, which is a State Railway? Will Government state what the nature of this guarantee is?

(c) If the interest on the said Light Railway is guaranteed, will Government explain why they allowed the issue of such guaranteed debentures at 7 per cent., when Government are borrowing money at 5 per cent.?

(d) Was it not possible for Government to advance Rs. 4 lakhs to the said company at 5 per cent.?

(e) Do Government realise that the raising of these debentures in the Company's name vests the incremental value of these shares in the share-holders of the Company?

(f) Do Government realise that by permitting the said debenture loan to be raised at 7 per cent. the Indian tax-payer will have to pay a proportionately higher price to the shareholders of the Company, when the option to take over the line is to be exercised?

(g) Are Government aware that the Agents of the Company, Messrs. Forbes, Forbes and Campbell of Karachi are to be paid 2 per cent. as commission on this Government guaranteed issue?

(h) Have Government approved of such commission being paid to them and if so, will Government be pleased to say for what services?

(i) Are Government aware that the brokerage on the said debentures is to be 1 per cent.? Do not Government consider this as too heavy for a Government guaranteed issue? What is the usual rate of brokerage paid by Government on their loans?

**Mr. G. G. Sim:** (a) Yes.

(b) and (c). No firm guarantee for a fixed dividend has been given by Government, but if the net earnings of the Larkana Jacobabad Railway after payment of interest on debenture and other loans fall short of an amount equal to 5 per cent. of the paid up share capital, the deficiency is made up by Government by a payment so far as it can be met from the net earnings of the North Western Railway derived from traffic interchanged with the Larkana Jacobabad Railway.

(d), (e) and (f). The general question of financing future capital requirements of branch line companies is already under consideration of Government, and in this case Government have reserved the right to call upon the Company to exercise the option provided in the terms of issue of the debenture stock to repay the whole or any portion of the stock at any time on giving six months' notice on any interest date. The application of this reservation will protect the interests of the Indian tax-payer whether the line is purchased or not.

(g), (h) and (i). A commission of 2 per cent. to Messrs. Forbes, Forbes, Campbell & Co., as promotion money on the debenture issue and a brokerage of 1 per cent. on all debenture stock allotted on application forms bearing brokers' or approved agents' stamps have been sanctioned by Government in consideration of the services rendered by the Company in placing the debenture stock issue. It is usual to allow promotion commission in such cases.

As regards the rate of brokerage paid by Government on their loan of 1925, the Honourable Member is referred to the Government of India, Finance Department Notification No. F.-47-F., dated the 30th June, 1925.

#### CONSTRUCTION OF A RAILWAY BRIDGE OVER THE INDUS AT KALABAGH, ETC.

507. \***Sir P. S. Sivaswamy Aiyer:** Will the Government be pleased to state:

(a) whether a railway bridge across the River Indus at Kalabagh has been sanctioned and, if so, when the construction is likely to be taken in hand:

(b) whether the railway survey between Hindubagh and Fort Sandeman in Baluchistan was completed some time back, and if so, when its construction is likely to be sanctioned and taken in hand:

- (c) whether before the Great War in 1914, there was an office for over two years in Dera Ismail Khan, for the survey of the Zhob Dera Ismail Khan Railway, what route was surveyed, what the estimated cost was, what became of the scheme and when it is likely to be taken in hand :
- (d) whether before the evacuation of Wano in 1914, a tonga could go on the road between Dera Ismail Khan and Wano and whether the Government will be pleased to improve it like the Ghazni Khel Daraban road :
- (e) whether Fort Sandeman can be connected with Dera Ismail Khan by a metalled road specially through Wano or Sarwakai or any other station in the Mahsud territory, and if not, what other road is practicable and what will be its distance and estimated cost :
- (f) whether, notwithstanding the fact that the Tank Dera Ismail Khan Decauville Railway was made over to the North Western Railway, from the 1st of April last, and provided for in the Railway Budget, no steps have been taken so far to convert it into a proper gauge like the Lakki Pezu-Tank Railway and, if so, when the same will be carried out : and
- (g) what expert opinion has been obtained by the Government of India, regarding the success or otherwise of the Stone Bund constructed to protect the town and the cantonment of Dera Ismail Khan ?

**Mr. G. G. Sim :** (a) The project for a bridge over the Indus at Kalabagh is being revised. When the revised estimates are received, the construction of the bridge will be considered.

(b) Yes ; a report on the Hindubagh-Fort Sandeman Railway Survey has recently been submitted. A proposal to sanction the construction of the first section from Hindubagh to Kila Saifullah is under consideration and is expected to be settled shortly.

(c) The Dera Ismail Khan-Fort Sandeman section of the Zhob Valley Railway was surveyed in 1913-14. The cost of the line, 121 miles in length, on the 2' 6" gauge was estimated at Rs. 154.77 lakhs. The construction of this line was shelved indefinitely as the cost appeared disproportionate to the resulting advantages. Government do not contemplate taking up this project at present.

(d) Before the evacuation of Wano in 1919 (not 1914) wheeled vehicles did occasionally reach that place but as the road runs through shale for several miles and was not kept up during the War it became impassable. There is no present intention of improving it as suggested by the Honourable Member.

(e) Such connection would be practicable through Sarwakai.

(f) A report on the Tank Dera Ismail Khan Decauville Railway has only recently been received, and the question of converting the tramway is under consideration.

(g) The work is still in progress. It would be premature, therefore, to say to what extent it will be a success. The proposals were carefully examined and passed by the Consulting Engineer to the Government of India, before the estimates were sanctioned.

**Mr. K. Ahmed:** Do Government propose for the public safety not to construct any roads in the Mahsud country because people are kidnapped, taken away and maltreated, or do they consider that it is better for the country that roads for passers-by should be constructed so that people, Europeans particularly, may be kidnapped and maltreated?

**The Honourable Sir Charles Innes:** I do not think the Honourable Member heard the answer given by the Honourable Mr. Sim to part (d) of the question. If he wants any further information on roads in the North West Frontier Province he had better put the question down.

**SIR FREDERICK WHYTE'S BOOK IN FEDERAL CONSTITUTIONS.**

508. **\*Mr. C. S. Ranga Iyer:** (a) Was Sir Frederick Whyte's book on Federal Constitutions printed at the Government expense?

(b) What is the cost of printing and publishing?

(c) Will the Government be pleased to state the purpose of publishing such books if the Government do not subscribe to the opinions expressed therein?

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

(b) Approximately Rs. 2,000.

(c) The purpose of the publication was to provide material for the student of Indian Constitutional Reform. 'It was thought that, as similar questions may call for settlement in India in the future a statement in a readily available form of the relations subsisting between Central and Local Governments in the principal federal constitutions of the world would be valuable to public men in India.'

**Mr. C. S. Ranga Iyer:** What were the terms of reference of the investigation on which Sir Frederick Whyte was engaged?

**The Honourable Sir Alexander Muddiman:** I cannot recall them from memory. The book is the best answer to that.

**Diwan Bahadur T. Rangachariar:** Do Government propose to supply Members with copies of this book?

**The Honourable Sir Alexander Muddiman:** I have already referred to that in my answer to a previous question.

**Mr. C. S. Ranga Iyer:** What action do the Government propose to take on the publication?

**The Honourable Sir Alexander Muddiman:** I propose to read the book, Sir, and I hope the Honourable Member will do likewise.

**Mr. C. S. Ranga Iyer:** Is it a fact that the Home Member and the Finance Member collaborated with Sir Frederick Whyte in writing the book?

**Mr. President:** Order, order.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, what was the remuneration paid?

**The Honourable Sir Alexander Muddiman:** Yes, Sir, that appears in a subsequent answer to a question which is down on the paper.

**Mr. C. S. Ranga Iyer:** How was the payment made?



**The Honourable Sir Alexander Muddiman:** I am not sure whether it was in rupees or in notes.

**Mr. C. S. Ranga Iyer:** Was the payment made in advance?

**The Honourable Sir Alexander Muddiman:** Sir Frederick Whyte was paid as the work went on.

**Mr. C. S. Ranga Iyer:** Are the Government aware that a third-rate Professor of a University could have written a better book than that?

**The Honourable Sir Alexander Muddiman:** I am not aware of that Sir, and I think it is a very remarkable reflection on a very distinguished public man.

**MR. RUSHBROOK WILLIAMS' BOOK ON THE MORAL AND MATERIAL  
PROGRESS OF INDIA.**

509. **\*Mr. C. S. Ranga Iyer:** (a) Is it a fact that the Government do not subscribe to opinions expressed in Mr. Rushbrook Williams' book on the Moral and Material Progress of India?

(b) Is that book presented to the British Parliament on behalf of the Indian Government?

(c) What is the idea in presenting a publication which does not express Government's own opinion?

**The Honourable Sir Alexander Muddiman:** I invite attention to the reply I gave on the 26th January to Mr. Devaki Prasad Sinha's question No. 241.

**Mr. C. S. Ranga Iyer:** Will the Government be pleased to state if they propose hereafter to see to it that the Government of India publications contain the views of the Government of India and not of a publicity officer?

**The Honourable Sir Alexander Muddiman:** The point about that is this, and I would like to make it clear because the question does really seem to require some explanation. If you have a book prepared by a Government officer and every sentence in that book is vetted by the Government you get a very jejune and dull publication. If, on the other hand, you give a man general authority to write your book you may get something that people will read but, unless you put in a "caveat," it may involve Government to an unreasonable degree. That is the whole point of it. Government cannot possibly go through a large volume of matter and endorse not only the words but also the atmosphere. It is impossible to do that.

**Mr. K. Ahmed:** Do Government for the benefit of the country propose in future to publish such books after they have got the approval of this House?

**The Honourable Sir Alexander Muddiman:** I think, Sir, that in that case the book would be somewhat late in coming out.

**Mr. K. Ahmed:** Would the Honourable Member kindly take the opinion of this House before such a book is published?

**COMMUNIST PROPAGANDA AMONG INDIAN STUDENTS AT OXFORD.**

510. **\*Kumar Ganganand Sinha:** Has the attention of the Government been drawn to the Reuter's telegram published at the top of the last column in the first page of the *Hindustan Times* (Late Edition) of December 12th, 1925, entitled "Maligning Indian Students"? If so, will the Government be pleased to state the exact state of things with respect to Indian students in England?

**The Honourable Sir Alexander Muddiman:** I am not in a position to say more than that the Government of India have received information showing that Communists in England were carrying on undesirable activities among Indian students at Oxford.

**Mr. Chaman Lall:** Do I understand the Honourable Member to say that the Government of India have received this information?

**The Honourable Sir Alexander Muddiman:** Sir, I have received that information.

**Mr. Chaman Lall:** May I ask the Honourable Member whether he considers that information to be correct?

**The Honourable Sir Alexander Muddiman:** Yes, Sir, I consider it to be very correct.

**Mr. Chaman Lall:** Will the Honourable Member please place the information at the disposal of the Members of this House?

**The Honourable Sir Alexander Muddiman:** Not beyond the statement I have already made, Sir.

**Mr. Chaman Lall:** Do we take it that it is a matter of public policy that the Government should not place this matter before the Members of this House?

**The Honourable Sir Alexander Muddiman:** It would certainly not be in accordance with public policy that we should exhibit to this House the particular method and manner in which this very deleterious influence was being exercised over young and unguarded Indians.

**Mr. Chaman Lall:** Is the Honourable Member aware that the Secretary of the Oxford Mejliss has repudiated this charge in the Press in England?

**The Honourable Sir Alexander Muddiman:** I have seen it.

**Mr. Chaman Lall:** Has he not categorically denied that there is no such influence exercised?

**The Honourable Sir Alexander Muddiman:** I have not seen that. I could not indeed answer unless I had read the statement much more carefully than I have done.

#### CONTRACT FOR THE CARRIAGE OF MAILS WITH THE INDIAN STEAM RIVER NAVIGATION COMPANY.

511. **\*Kumar Ganganand Sinha:** Do the Government give any kind of pecuniary assistance to the Indian Steam River Navigation Company? If so, to what extent and on what condition?

#### CONTRACT FOR THE CARRIAGE OF MAILS WITH THE INDIAN STEAM RIVER NAVIGATION COMPANY.

512. **\*Kumar Ganganand Sinha:** What are the terms of the agreement between the Government and the Indian Steam River Navigation Company, if there is any, regarding the plying of steamers in Indian rivers by the latter?

**The Honourable Sir Charles Innes:** I will reply to questions Nos. 511 and 512 together.

Apart from a contract for the carriage of mails, there is no agreement between the Government and the Company referred to and no pecuniary assistance is given to the Company.

**Mr. K. Ahmed:** Are the Government of India aware that on the back of the tickets issued to passengers by the European Steamship Companies, there is a stipulation that the Companies do not undertake any responsibility for damage done to property or injuries caused to the passengers?

**The Honourable Sir Charles Innes:** No, Sir, I am not aware of that fact.

**Mr. K. Ahmed:** Do Government propose to take steps to relieve the public of the difficulty and give them the protection of the courts of law which they are entitled to seek in case of damage to goods or of injury done to passengers? Is it not against public policy if this sort of stipulation is not removed from the back of such receipts for goods and of passenger tickets?

**The Honourable Sir Charles Innes:** I am unable to see, Sir, what connection this supplementary question has with the original question.

**Mr. K. Ahmed:** It has with the question of the plying of steamers on Indian rivers.

#### RECOMMENDATIONS OF THE LEE COMMISSION REGARDING THE INDIANISATION OF THE SERVICES.

513. **\*Kumar Ganganand Sinha:** Will the Government please state when they propose to give effect to the recommendations of the Lee Commission regarding the Indianisation of the Services?

(No answer was given to this question.)

**Mr. Ohaman Lall:** What about the answer to question No. 513?

**The Honourable Sir Alexander Muddiman:** That has already been answered.

**Mr. President:** Honourable Members are expected to know what is going on in the House.

#### ADMISSION OF INDIANS INTO THE BRITISH NAVY.

514. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state whether Indians are eligible for admission to the British Navy? If so, what are the qualifications necessary for the same?

#### ADMISSION OF INDIANS INTO THE BRITISH NAVY.

515. **\*Kumar Ganganand Sinha:** Will the Government be pleased to lay on the table of the House a copy of the rules and regulations regarding the admission of Indians to the British Navy if there are any?

#### ADMISSION OF INDIANS INTO THE BRITISH NAVY.

516. **\*Kumar Ganganand Sinha:** Will the Government please state whether any Indian has been appointed to the British Navy so far? If so, how many? What are their ranks? If no Indian has been so appointed, why? Is it proposed to appoint any Indian in the near future?

**\*Mr. E. Burdon:** With your permission, Sir, I propose to reply to questions Nos. 514—516 together.

Indians are not eligible for admission to the commissioned ranks of the Royal Navy, and there are no rules or regulations on the subject. In consequence, no Indian has been appointed so far, and the Government of India are not in a position to say when an Indian will be so appointed, as they have no control over the administration of the Royal Navy, which is entirely in the hands of His Majesty's Government.

As regards other ratings I am making inquiries and will let the Honourable Member know in due course.

#### APPOINTMENT OF BIHARIS IN THE NORTHERN INDIA SALT REVENUE DEPARTMENT.

517. **\*Kumar Ganganand Sinha:** Is it a fact that no Bihari holds an appointment as Superintendent of Salt in the Indian Salt Department? If so, why? If not, how many Biharis hold such posts?

**The Honourable Sir Basil Blackett:** Assuming that the Honourable Member is referring to the Northern India Salt Revenue Department, the answer to the first part of the question is in the affirmative. The reason for there being no Bihari in the grade of Superintendents is no doubt the fact that the bulk of the operations of the Department extends over Rajputana, the Punjab and North-West Frontier Province, so that opportunities for the selection of Biharis for service in the Department are not very great.

#### TOTAL STRENGTH OF THE SUPERIOR SERVICES OF THE IMPERIAL BANK OF INDIA.

518. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state the total strength of the superior services under the Imperial Bank of India and the grades and scales of pay of such services?

#### APPOINTMENT OF BIHARIS IN THE SUPERIOR SERVICES OF THE IMPERIAL BANK OF INDIA.

519. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state the number of Indians appointed in the superior services under the Imperial Bank of India? How many of them are Biharis? If none of them is a Bihari, why is it so? Do Government propose to recommend to the Bank to make some appointments from Bihar candidates?

#### APPOINTMENT OF BIHARIS IN THE SUPERIOR SERVICES OF THE IMPERIAL BANK OF INDIA.

520. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state if they have any information as to how many candidates for the superior services under the Imperial Bank of India were Biharis and on what grounds they were rejected?

**The Honourable Sir Basil Blackett:** With your permission, I will answer questions Nos. 518, 519 and 520 together. The matters raised in these questions are not within the knowledge of the Governor General in Council.

**Mr. A. Rangaswami Iyengar:** Will the Government of India be pleased to obtain that "knowledge" by asking for the information from the Bank?

**The Honourable Sir Basil Blackett:** I see no reason why we should obtain this information any more than how many Biharis are employed by the Swaraj Party.

**Mr. A. Rangaswami Iyengar:** May I know whether Government think that they are not at all responsible for the conduct of the affairs of the Imperial Bank?

**The Honourable Sir Basil Blackett:** The question of the responsibility of the Government of India for the affairs of the Bank does not arise on this question; that is a question that must be answered with reference to the Act and rules. But I think that it must be obvious to Honourable Members of this House that the question of the appointment of Biharis or some other Indians to the Imperial Bank or the question of the exact details of a loan given by the Imperial Bank are things which could not possibly be dealt with by the Government of India or in which they could take any responsibility.

**Mr. Gaya Prasad Singh:** May I know if question No. 518 refers to the appointment of Biharis at all? It does not relate to the appointment of Biharis.

**The Honourable Sir Basil Blackett:** It relates to the total strength of the superior services, whatever that may mean, in the Imperial Bank of India. The Government of India have nothing to do with that.

**Mr. R. K. Shanmukham Chetty:** May I know whether besides the Imperial Bank of India Act there are any other documents which define the relations of the Government of India with the Imperial Bank?

**The Honourable Sir Basil Blackett:** I cannot answer that offhand, but so far as I am aware, the Imperial Bank of India Act, the rules thereunder, and the contract which has been laid on the table of this House between the Imperial Bank of India and the Government of India are the only documents.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether in regard to the administration of the Imperial Bank the Government do not possess the power even under the contract to prescribe to the Imperial Bank methods of administration which are fair and just to the people of this country whose monies are deposited with them?

**The Honourable Sir Basil Blackett:** If any question were to arise of the methods being unfair and unjust—it has never yet arisen—then some other question might possibly arise. The matter is entirely hypothetical. The Government of India do not run the Imperial Bank and have no intention of doing so.

#### RECRUITMENT TO THE INDIAN MEDICAL SERVICE.

521. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state when the competitive system of recruitment is going to be introduced in England for the Indian Medical Service, and will the Government be pleased to lay on the table a copy of the rules and regulations for the recruitment of Indians to the Indian Medical Service?

**Mr. E. Burdon:** The Government of India are unable to say when the competitive examination in England for recruitment to the Indian Medical Service will be reintroduced. A copy of the regulations for the recruitment of Indians to the Indian Medical Service will be found in the Library.

# RECRUITMENT OF INDIANS IN ENGLAND TO THE INDIAN SERVICE OF ENGINEERS.

522. \*Kumar Ganganand Sinha: Will the Government be pleased to lay on the table a copy of the rules and regulations for the recruitment of Indians to the Indian Service of Engineers, in England? How many of the said posts are guaranteed to the various Engineering Colleges in India?

**The Honourable Sir Bhupendra Nath Mitra:** As a result of the recommendations of the Lee Commission, recruitment in England to the Indian Service of Engineers has, with effect from the year 1925, been confined generally to European British subjects. Generally speaking, Indians are, therefore, no longer recruited for the Service in that country. With regard to the second part of the question the number of appointments hitherto guaranteed is approximately 10·6 per annum, but it has been decided that pending a final decision in regard to the system to be adopted for selection in India of candidates for appointment to the Indian Service of Engineers, no guarantee of appointments in that service can be given to students entering the Engineering Colleges in future.

## ELECTION OF MEMBERS TO THE COMMITTEE ON PUBLIC ACCOUNTS.

**Mr. President:** Non-official Members will now proceed to elect eight members to the Committee on Public Accounts. There are 13 candidates whose names are printed on the ballot papers which will now be supplied to Members in the order in which I call them.

Mr. Rangaswami Iyengar has withdrawn his candidature.

**Mr. K. Rama Aiyangar** (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): I also withdraw my candidature for the Public Accounts Committee.

**Mr. President:** Honourable Members were requested to give timely intimation if they desire to withdraw.

Mr. Rama Aiyangar also has withdrawn his candidature.

(The ballot was then taken.)

## ELECTION OF MEMBERS TO THE STANDING FINANCE COMMITTEE.

**Mr. President:** The Assembly will now proceed to elect 14 members to serve on the Standing Finance Committee. There are 16 candidates whose names are printed on the ballot papers which will be supplied to Honourable Members in the order in which I call them.

Mr. Shanmukham Chetty has withdrawn his candidature.

(The ballot was then taken.)

## APPOINTMENT OF Mr. T. C. GOSWAMI TO BE A MEMBER OF THE LIBRARY COMMITTEE.

**Mr. President:** I have to inform Members of this House that a vacancy having occurred in the personnel of the Library Committee by reason of the resignation of Mr. K. C. Roy from the Legislative Assembly, I have appointed Mr. T. C. Goswami to the Library Committee.

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## THE MADRAS CIVIL COURTS (AMENDMENT) BILL.

**Mr. H. Tonkinson** (Home Department: Nominated Official): Sir, I move that the Bill further to amend the Madras Civil Courts Act, 1873, be taken into consideration.

By this Bill, Sir, we propose to enable subordinate courts in Madras to be empowered to dispose of probate and administration matters in the same way as subordinate courts in other provinces may already be empowered. The general law in regard to probate and administration matters is now of course contained in the Indian Succession Act of 1925. Under that Act powers are given to the District Judges and to the District Delegates, but under such a provision as that contained in section 286 a District Delegate may not in any case in which there is contention grant probate or letters of administration. Contention is defined in the Explanation to that section as meaning the appearance of any one in person, or by his recognised agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding. The result, therefore, is that under the general law all contentious matters in connection with probate and administration must be disposed of by the District Court.

The principle of the present Bill is of course that of devolving powers from the District Judge so far as this can be done with safety, with the object of enabling the District Judge to devote more time to other work.

Turning to the Bill the only detail which I think I need mention when explaining the general provisions of the Bill is that in sub-section (8) of the proposed section 29. That sub-section, it will be seen, is an exception to section 13 of the Madras Act, which deals with the courts to which appeals lie. This sub-section is practically a verbatim copy of sub-section (1) of section 24 of the Bengal, Agra and Assam Civil Courts Act. If any Honourable Member would like to compare the two provisions I will read sub-section (1) of section 24 of the Bengal, Agra and Assam Civil Courts Act. That sub-section runs as follows:

"Proceedings taken cognisance of by, or transferred to a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of subject to the rules applicable to like proceedings when disposed of by a District Judge:

Provided that an appeal from an order of the Munsif in any such proceedings shall lie to the District Judge."

That is to say, we have practically copied the provisions now in force in Bengal in this proposed amendment of the Madras Act.

There is one other small point to which I think I should refer and that is that in the Acts governing the courts in other provinces, generally speaking, in provisions of this kind reference is made to the Indian Succession Act of 1885, and the Probate and Administration Act of 1881. Of course those two Acts have been repealed and re-enacted in the Indian

Succession Act of 1925, but that Act not only re-enacts the provisions of the two Acts of 1865 and 1881, but the provisions of several other Acts as well. That means that the possible devolution of powers under this provision will be somewhat greater than under the local Courts Acts in other provinces. As an example I may refer to the Succession Certificate Act of 1869. I think, however, Honourable Members will all agree that there is no reason why a specially empowered Subordinate Judge who may dispose of probate and administration matters in which there is contention should not be able to dispose of an application for succession certificate for the disposal of which of course the court merely has to find that there is a *prima facie* case that the man applying has the best title to the certificate.

**Mr. C. Duraiswami Aiyangar** (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, I rise not so much to oppose the motion, but to do as much as that. My first question is, is this Bill either necessary or expedient? In the Statement of Objects and Reasons it is stated that this Bill is intended to afford relief to the District Judges in the Madras Presidency, the Civil Justice Committee having recommended that a provision like this should be inserted in the Madras Civil Courts Act, 1873. Sir, considering the eagerness and enthusiasm with which the Civil Justice Committee, or the Laws Delays Committee as it is sometimes called, has been ushered through in this Assembly by His Excellency the Viceroy, it was thought that more substantial reforms would be introduced to put an end to the delays altogether; but instead we find Government taking a trifle here and a trifle there out of the Civil Justice Committee's Report and introducing in this Assembly a Bill of such a trifling nature as this. In the September Session you took up a trifle in extending the Religious Endowments Act, devolving certain powers on Subordinate Judges. To-day you want a devolution of certain powers under the Indian Succession Act, as though it was going to do a great deal. The principal question which Government ought to have considered in introducing a Bill of this nature was first to see what was the relief which was more urgent, which ought to have been given earlier than the relief to District Judges. Sir, before you give relief to the Subordinate Judges and the district Munsiffs in the Madras Presidency it is not wise to put some more work, some more burdens, upon these Subordinate Judges and Munsiffs in the Madras Presidency who are certainly more overworked than the District Judges. Sir, if authority is needed for that you will find it in the Civil Justice Committee's Report itself. You find at page 16 of the Report, where they deal with the seriousness of delays in the disposal of suits and when they give a table, they say that the figures of the District Judges' Courts are not of sufficient importance to justify their being included in that table. That is the remark which the Civil Justice Committee itself has passed at page 16 of their Report; and they have given detailed figures. There you find that the number of uncontested decisions which were passed by the Subordinate Judges, excluding their small cause jurisdiction, in 1922 was 122,007; the contested decisions were 64,745 and arrears pending for over a year 14,069. As against this you find that the arrears left by the District Judges was only about 422. Now, can you really say, Sir, in the face of these facts, in the face of these figures, which have been placed before us by the Civil Justice Committee, that it is the District Judges that require immediate relief and not the Subordinate Judges and the Munsiffs in preference to them? We have also got detailed figures about



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the Subordinate Judges and the Munsiffs, and you find that the decisions which have been passed by the Munsiffs were 118,080, of which 61,080 were contested; undecided at the end of the year 52,881 and pending over a year 12,012. Similarly, Sir, with the Subordinate Judges you find 8,927 decisions of which 3,056 were contested, undecided at the end of the year 4,264, and pending over a year 2,057. And what after all are the numbers of the staff of these officers? There are 24 District Judges, 31 Subordinate Judges and only 152 District Munsiffs. In the face of these figures, Sir, do you think it is justifiable to take away some more of the work of the District Judges before you have taken measures to relieve the District Munsiffs and the Subordinate Judges of their heavy work? I know, Sir, from my own experience that many District Judges come to court between 12 and 1, and leave court at 4 just to go from one court to another court, that is, the tennis court; whereas District Munsiffs have to work up till lamplight at a time when the District Judges are playing bridge at their clubs. In the face of this heavy work on the part of Munsiffs, the Government of India find it necessary to relieve the District Judges in the first place. Why has all this occurred? Because you are not prepared to put in Indian District Judges in larger numbers. You put in persons who have no experience of Munsiffs' work, who have no experience of subordinate judges' work. You recruit them directly when you do not want them in the executive line; you recruit them because they have been in the field for some time; and the result is that District Judges leave these arrears and you now want to throw all this extra burden upon the shoulders of Subordinate Judges and Munsiffs. I ask you, is this fair that you should take up the question of relieving the District Judges in the first place before you have thought of relieving the Subordinate Judges and Munsiffs? After introducing measures in that respect, this Bill will be in place in this Assembly; but I ask you, Sir, seriously to tackle that matter first. When I opened I said I was not really and fully opposing the Bill but doing as much as that. That is for the simple reason that the relief you are proposing to give to the District Judges in this matter and the probable additional weight you are going to throw on the Subordinate Judges will be a fleabite in either case. So far as my experience goes cases under the Indian Succession Act are very few, one in a year or one in two years. I shall not be sorry if this work is thrown on the District Munsiffs; but I ask you on principle to tackle this question first, as to how you can relieve the subordinate judiciary.

Now, so far as the Indian Succession Act is concerned, I do think that it is not proper that you should take it away from the jurisdiction of the District Judges and give it to the District Munsiffs with an appeal to the District Judges. The Honourable Mr. Tonkinson stated just now that he has made provision here for an appeal on an order of a District Munsiff when an application involving an estate worth even lakhs of rupees may be transferred for the simple reason that the District Judge wants to wash his hands of it; and then the only appeal he provides for is an appeal to the District Judge. It will be time enough to consider that question later. However, as the Honourable Member has stated it now, I may also ask him whether he implies thereby that in these proceedings he allows only one appeal and that from the District Munsiff to the District Judge. I do think that in cases arising under the Succession Act, complicated questions of succession, complicated

questions relating to wills and when applications are made for letters of administration, with the will annexed, will arise, and that will be a subject-matter for giving an appeal to the High Court itself. That is another hardship which you will have to consider. I may also point out to him that if an application is contested it is generally registered as a suit and if it is registered as a suit a decree follows. I do not see any necessity why you should make a provision like this that the order of a Munsiff should be appealable to a District Judge. Why not make it, as civil procedure allows in the case of a decree, appealable to the District Judge as well as to the High Court? That is another matter which I ask him to consider; but in the main I do think that this is neither necessary nor desirable, namely, that we should take away the jurisdiction of the District Judge in this small matter and put it as an additional burden upon the District Munsiff. I know there will be a tendency to shuffle the responsibility from one to another. The District Judge will put it on the Munsiff if the High Court only authorises him to make this transfer; and it is the Munsiffs who will suffer. I am not quite satisfied whether the local bars of the Munsiffs' Court will be able to tackle cases arising under the Succession Act; and after all it will be no advantage to the parties themselves that they should go to the Munsiffs' courts in matters affecting their succession. It often affects Christians especially as to the manner of succession that is provided for in the Succession Act, and it would be much better if these questions were allowed to be handled by the District Judge. By taking away this jurisdiction you are really giving no relief to the District Judge and therefore that is a matter which the Government should seriously consider. With these remarks I resume my seat.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): Sir, I am rather surprised at the attitude adopted by my Honourable friend from Chittoor. There are courts and courts. There are heavily worked courts like Tinnevely, where cases under the Succession Act are very large in number and the District Judges are not able to dispose of these cases. Oftentimes these petitions hang on for a long time to my knowledge. There are districts and districts. Chittoor is not a district with many cases under the Succession Act. This after all is an enabling Act, enabling the High Court to empower Subordinate Judges and District Judges to take cognizance of these cases. Under the law as it stands, Subordinate Judges and District Munsiffs are debarred from undertaking or disposing of these cases. The High Court will take care to see what Subordinate Judges and Munsiffs should be empowered, in what areas they should be empowered, in what districts District Judges are overworked or have a large amount of work they cannot cope with and where such transfers should be empowered; and I think it very desirable to have the provisions which this Bill introduces. My Honourable friend has apparently got his complaint that the other provisions of the Civil Justice Committee's Report have not been given effect to as speedily as he would desire. It is rather a very difficult task to go through that voluminous Report of the Civil Justice Committee; and I am glad that the Government are introducing Bills dealing with each subject separately. It focusses attention on those subjects and I do commend the action of Government in introducing these short Bills dealing with particular questions.

**Mr. C. Duraiswami Aiyangar**: Do you want a Legislature Delays Committee?

**Diwan Bahadur T. Rangachariar:** Not at all. On the other hand this will facilitate legislation by drawing particular attention to defects; by this method which the Government now adopt of introducing legislation on particular matters it focusses attention on those issues and draws our attention to them. Therefore, I welcome this piece of legislation; it is necessary, it is desirable and it is only an enabling measure and I do not see any mischief in it. I am surprised at the attitude adopted by my Honourable friend from Chittoor.

**Mr. H. Tonkinson:** Sir, after the very able speech of my learned friend, the Deputy President, I do not propose to say much. Indeed I do not think that there is really anything further to state in regard to the remarks of my Honourable friend, Mr. Duraiswami Aiyangar, so far as the work of the District Judges and of the subordinate courts is concerned. I must say, however, that I think that he has made quite unfair remarks in regard to the work of the District Judges. I will leave it at that.

**Mr. O. Duraiswami Aiyangar:** Did I hear my Honourable friend say that I made unfair remarks?

**Mr. H. Tonkinson:** Yes.

**Mr. O. Duraiswami Aiyangar:** Will he accept the truth of my remarks on the strength of my personal experience?

**Mr. H. Tonkinson:** Sir, I have nothing more to add than to commend the Bill to the House.

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

"That the Bill further to amend the Madras Civil Courts Act, 1873, be taken into consideration."

The motion was adopted.

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

"That clause 2 do stand part of the Bill."

**Diwan Bahadur T. Rangachariar:** May I suggest, Sir, that the proviso be taken up separately? I have something to say about the proviso. Why should not an appeal lie direct to the High Court?

**The Honourable Sir Alexander Muddiman** (Home Member): Is there any amendment on the paper?

**Diwan Bahadur T. Rangachariar:** I am sorry I have not tabled one.

**The Honourable Sir Alexander Muddiman:** I should have liked to have it looked up; it is rather a bit of a surprise. Would it satisfy the Honourable Member if I were to agree to consider it before it is passed in another place?

**Diwan Bahadur T. Rangachariar:** Very well, Sir.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**Mr. H. Tonkinson:** Sir, I move that the Bill be passed.

The motion was adopted.

## THE GUARDIANS AND WARDS (AMENDMENT) BILL.

**Mr. H. Tonkinson** (Home Department : Nominated Official) : Sir, I move that the Bill further to amend the Guardians and Wards Act, 1890, be taken into consideration.

By this Bill, Sir, we propose to substitute for certain provisions which occur in certain Courts Acts in different provinces, provisions in the general Act relating to guardian and wards. Under those provisions it will be possible for the High Court to take action by which district courts or their subordinate courts shall be empowered so that all the proceedings relating to a particular estate of a ward or particular proceedings relating to that estate may be disposed of by particular subordinate courts. The principle of the Bill is the same as that which has just been passed.

Turning to the Bill itself, it will be seen that in the first place the definition of Court which is now contained in the Guardians and Wards Act is extended. Then, we have a new section 4-A, which in the first place gives power to the High Court to empower District Judges and to empower judges of courts subordinate to District Judges. Then, in sub-sections (2) and (3) we give power to a District Judge to transfer from one court to another or back to his own court. Finally, in sub-section (4) we give a power to the District Judge by order in writing to declare that the court of the Judge to whom proceedings are transferred shall for all or any of the purposes of the Act be deemed to be the court which appointed or declared the guardian.

I should perhaps refer briefly to the reasons for the form which the draft of this Bill takes. At the present time, under section 46 of the Guardians and Wards Act, it is possible for the court to call upon any court subordinate to it for a report on any matter arising in any proceeding under this Act and to treat the report as evidence. Under the Bill we propose to enable the court in certain cases to transfer the proceedings for disposal to subordinate courts. Now, proceedings under the Guardians and Wards Act are many and various. In the first place, we have proceedings in regard to the appointment or declaration of a guardian. Then, after such a guardian has been appointed, there may be numerous proceedings in regard to a particular estate with reference to the acts of the guardian after he has been appointed. As an example, I would refer to the provisions of section 29 of the Guardians and Wards Act. When a person other than the Collector has been appointed as the guardian, then he may not without the previous permission of the court mortgage or charge or transfer by sale, gift, exchange or otherwise, any part of the immoveable property of his ward or again he may not lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor. There are numerous provisions of this description throughout the Act; that is to say, when once a guardian has been appointed, we have numerous cases where the guardian must come up to the court to get permission in regard to acts which he proposes to do with reference to the estate of the ward. Now, so far as these later proceedings are concerned, those proceedings can normally only be taken in the court which appointed or declared the guardian. Now, what will be the position under our Bill? A person will come up, we may assume, to the District Judge and ask that he may be appointed or declared to be the guardian of a ward. He must produce an application and it must contain

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all the numerous particulars specified in section 10 of the Act. The District Judge may decide that he himself will make an inquiry into this first application or he may decide that he will at once transfer that proceeding to the court of a Subordinate Judge. If he transfers the proceedings at once, then, that subordinate court will be the court which appointed or declared the guardian and therefore subsequent proceedings will all lie to and be heard by that court. If the District Judge has appointed the guardian himself,—and this will also of course apply in cases in which the guardian has been appointed before the amendment of the Guardians and Wards Act, which we propose by this Bill, is made—the District Judge is also to be empowered to declare by an order in writing that the court of a Subordinate Judge shall be deemed to be the court which appointed or declared the guardian.

Then again, all the proceedings in regard to the estate will lie to and be heard by that Court so long as the officer in charge of that Court is duly empowered.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): It may be a Munsiff's Court.

**Mr. H. Tonkinson:** Yes, the court subordinate to the District Judge may be a Munsiff's Court. In deciding as to whether all the proceedings in regard to the estate of a particular ward should be heard by a subordinate Court, we assume, Sir, that the District Judge would take into account such matters as those indicated in clause (c) of section 10 of the Act. That is to say, he would consider the nature, the situation and the approximate value of the property of the minor; he will also consider where the minor lives. If on a consideration of these questions and having regard to the pecuniary limits of the jurisdiction of the duly empowered officer in charge of the Subordinate Court in question he decides that there is no reason why that officer should not dispose of all the applications in regard to that estate, then there would be a *prima facie* case for transferring the proceedings in regard to that estate to such a duly empowered officer. The benefit which will follow from this Bill will of course depend entirely upon the extent to which the High Courts consider it will be safe to use the powers proposed to be confined by proposed section 4-A. As I have said already, such provisions are now in force in the Central Provinces, the Punjab and Oudh. The recommendation is made by the Civil Justice Committee, and it has received practically unanimous support from all Local Governments. Sir, I move.

**Mr. S. O. Ghose** (Bengal: Landholders): May I ask the Honourable Member one question? May I know, Sir, whether the Court which granted the order or any other Court other than that Court shall have jurisdiction to give permission to the guardian to sell or mortgage the properties of the minor?

**Mr. H. Tonkinson:** Sir, if under the provisions of sub-section (4) of proposed section 4-A of the Act, a Court other than the Court which did first appoint or declare the guardian is declared by an order in writing of the District Judge to be the Court which declared or appointed the guardian, then, obviously Sir, that Court will be able to give the permission required by section 29 of the Act which I assume is that referred to by my Honourable friend.

**Mr. K. Ahmed:** So, Sir, it comes to this, that there are certain other sections which will have to be amended because you cannot sell or purchase immoveable properties, and the only person who can give sanction to do so is the District Judge. You will have to amend many other sections of the Civil Procedure Code. Is that not so? Then again, you say that a Munsiff can be a Judge. Therefore, what about the Civil Procedure Code and the other sections under which the disposal of a property requires sanction, because it is a minor's property. That is the reason I am adding this question to my Honourable friend Mr. Ghose's query and asking for an explanation.

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

"That the Bill further to amend the Guardians and Wards Act, 1890, be taken into consideration."

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**Mr. H. Tonkinson:** I move, Sir, that the Bill be passed.

The motion was adopted.

#### THE SMALL CAUSE COURTS (ATTACHMENT OF IMMOVEABLE PROPERTY) BILL.

**Mr. H. Tonkinson:** Sir, I move that the Bill to resolve certain doubts as to the powers, in regard to the attachment of immoveable property, of Provincial Small Cause Courts, be taken into consideration.

When leave was given for this Bill to be introduced on the 21st of last month, I deliberately refrained from attempting to explain the somewhat obscure provisions in the Code of Civil Procedure applicable to the decision of the question of the powers of Provincial Small Cause Courts to order attachment of immoveable property before judgment. I did so because, on the occasion of the first reading of a Bill, it is the practice only to permit of a short explanatory statement of the provisions of the Bill. I am afraid that I shall not be able to follow that course on the present occasion. On that occasion I said that from 1859 to 1908, with the possible exception of the short period between 1877 and 1879, it is quite clear that the Provincial Small Cause Courts never had the power to order attachment of immoveable property before judgment. I am sure that no Honourable Member here desires that I should attempt to trace the changes in the law which have taken place during all that period. I think, however, that I should refer to the provisions of the Code of Civil Procedure, 1882. Under section 5 of that Code the Chapters and sections of the Code specified in the Second Schedule were declared to extend to Courts of Small Causes and also to other Courts exercising the jurisdiction of Small Cause Courts, and it was further provided in that section that no other Chapters and sections of the Code should extend to such Courts. We have thus a list in the Second Schedule of the Code of the Chapters and sections of the Code which extended under that

[Mr. H. Tonkinson.]

Code to Provincial Small Cause Courts. Under the Code of 1882 the question of arrest and attachment before judgment was dealt with in Chapter XXXIV of the Code. The entry in the Second Schedule in regard to Chapter XXXIV of the Code was as follows:

"Chapter XXXIV—Arrest and attachment before judgment except as regards immoveable property."

To turn to the question of the powers of the Court in regard to

1 P.M. execution of decrees, that was dealt with in that Code in Chapter XIX of the Code. Opposite the entry, "Chapter XIX" in the Second Schedule, there are various sections mentioned, for example, "section 266, except so far as relates to immoveable property", "section 278 so far as relates to decrees for moveable property", "section 284, so far as relates to moveable property", and so on. It is quite clear under the Code of 1882 that the Provincial Small Cause Courts neither had power to order attachment of immoveable property before judgment nor power to attach immoveable property in the execution of a decree after judgment. The position was exactly the same in the Bill which was referred to the Select Committee in 1908. In the Select Committee, however, the method of indicating the provisions of the Code which were applied to Provincial Small Cause Courts was entirely changed. In section 7 of the Code of Civil Procedure and in Order L so far as the Schedule is concerned, the drafters of the present provisions indicated those provisions in the body of the Code and the Schedule which would not extend to Courts of Small Causes. So far as the Schedule is concerned, in addition, of course, to the provisions in Order L, we have occasional provisions such as that in rule 10 of Order XVI, which indicates that a particular rule only applies in part to Provincial Small Cause Courts. But, although the Select Committee of 1908 made this change in the method of setting out the law, so far as we can ascertain, they never intended to effect any change of substance. Indeed, the Select Committee themselves in their remarks on clause 7 said:

"The provisions as to Provincial Small Cause Courts have been re-arranged in what is hoped a more convenient form."

The question is whether the Provincial Small Cause Courts have at the present time power to order attachment of immoveable property before judgment. This question is dealt with in the body of the Code in sections 94 and 95 and in the Schedule in Order XXXVIII. Taking the First Schedule first, we will find that there is no reference to Order XXXVIII in Order L, that is to say, *prima facie* the Small Cause Courts have powers under Order XXXVIII because it is not mentioned as one of those Orders which do not extend to Small Cause Courts. On the other hand, from the body of the Code and the First Schedule it is quite clear that the Provincial Small Cause Courts have no power with regard to the execution of decrees against immoveable property. Now, let us apply that point to the provisions under Order XXXVIII. If one looks at rule 7 in Order XXXVIII one will find that "save as otherwise expressly provided, an attachment shall be made in the manner provided for the attachment of property in execution of a decree". The Provincial Small Cause Courts, as I have indicated, have clearly no powers at all to order the attachment in execution of immoveable property. If attachment before judgment is to take the same course as attachment after judgment, then

obviously they have no powers to attach immoveable property before judgment. In the Calcutta High Court on the other hand a distinction was raised between the powers to attach and the powers to order an attachment and a majority of the High Court after very involved arguments came to the conclusion on a consideration of the provisions of sections 94 and 95 and the reference to those sections in section 7 that the Provincial Small Cause Courts had power to order the attachment of immoveable property before judgment, not the power to attach but the power to order the attachment. There is at any rate no doubt that the law in regard to such a point as this should be absolutely clear. When the Provincial Small Cause Courts have been established to deal with applications expeditiously it is most important that there should be no doubt as to the law which applies to them. Everybody whom we have consulted is unanimous upon this point. As to the merits of the course which we have taken in endeavouring to show clearly that the Courts do not have that power I think also that there is little doubt. It is true that some authorities whom we consulted thought there was a little objection but the Calcutta High Court, the Bombay High Court, the Bombay Government, the Punjab Government, the Rangoon High Court and other authorities all raised what we consider to be very substantial arguments against giving these powers which, it seems quite clear, were never intended to be given. I notice that there is on the agenda paper a motion for a reference of this Bill to a Select Committee. In regard to that notice, I shall listen to what my Honourable friend has to say. Personally it seems to me that, although the present provisions of the law are very obscure, there can be no doubt as to the effect, no doubt at all in fact as to the effect of this Bill which is a very simple Bill. We find great difficulty already in finding time for Select Committees, and I would submit to Honourable Members of this House that, if this Bill is referred to a Select Committee, it will only mean that we shall have less time for Select Committees on non-official Bills. Sir, I move.

**Khan Bahadur Sarfaraz Hussain Khan** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): I do not rise to oppose this motion actually. My simple desire is that it be referred to a Select Committee. I have heard the Honourable Member in charge of the Bill. From what I have heard I do not find that the Government have been able to make out a good case for withdrawing the power of attachment from the Courts of Small Causes. There is no doubt that there have been conflicting opinions in regard to this—whether they have or have not the power. From the Statement of Objects and Reasons it will be found that they have the power. I will read what it says:

"In view of conflicting decisions on the question whether such a court has jurisdiction to order an attachment of immoveable property before judgment, the whole question was considered in detail by a Full Bench of the Calcutta High Court in the case *Barada Kanta Shaha Ray v. Sheikh Majid-ud-di* (52 Cal. 275). The Honourable Judges constituting the Bench held by a majority that a Court of Small Causes has such jurisdiction but expressed a doubt as to the intention of the Legislature in the matter when the Code was passed in 1908."

So, it was only a doubt but the majority decided that Small Cause Courts had the power. Before 1908, except possibly for a short period, a Court of Small Causes never exercised any such jurisdiction and when the present Code of Civil Procedure was enacted in 1908 it appears that the Legislature did not intend to alter the pre-existing law. The Bill proposes to make it clear that a provincial Small Cause Court has not the



[Khan Bahadur Sarfaraz Hussain Khan.]

power referred to, and my submission, Sir, is that the Courts of Small Causes, as we mufassil people know, have done very good work and are very useful, and instead of strengthening the hands of such Courts this Bill intends to withdraw power from them. The contention is that before 1908 this power was not exercised except for a small period. We should know for how long the privilege was enjoyed, and furthermore the majority of a Full Bench of the High Court has given the verdict that the Small Cause Courts all along had the power though they might not have exercised it frequently. So I say it would be better if the whole question could be gone into by a Select Committee, who will have more time to go into the matter. I do not oppose the Bill and my only desire is to have the question looked into further. With these words I move the motion that the Bill be referred to a Select Committee.

**Mr. C. Duraiswami Aiyangar** (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, I also wish to say a few words upon the principle involved in this Bill. We are practically dealing with the courts already existing, subordinate judges and munsiffs, who are invested with powers under the Provincial Small Cause Courts Act and it is the judges who sit on the civil side in regular suits that are also exercising small cause powers. The question involved in this Bill is whether such officers should be entrusted with the powers of attaching immoveable property before judgment. Now Sir, side by side with this Bill there are also proposals to raise the pecuniary jurisdiction of Subordinate Judges and District Munsiffs in the matter of exercising jurisdiction under the Provincial Small Cause Courts Act. The original jurisdiction was the low figure of Rs. 50. Then it was raised to Rs. 100; then to Rs. 200 in the case of District Munsiffs and Rs. 500 in the case of Subordinate Judges. Now there are proposals to raise the pecuniary jurisdiction to Rs. 1,000 and even more. Now, as we go on raising the pecuniary jurisdiction under the small cause powers we are taking away suits in which the creditors would be entitled to recover their amounts under ordinary circumstances if they brought regular suits under the existing procedure. If instead of that creditors who are in a position to realize their amounts by attaching immoveable property either before or after judgment are prevented from doing so for the simple reason that the pecuniary jurisdiction of the small cause side is increased, then, Sir, a great hardship ensues. For instance, a plaintiff who can file a suit for Rs. 800 normally can attach before judgment the immoveable property of the defendant in cases in which the defendant has threatened to remove the property beyond the reach of the decree holder so as to prevent him from carrying out the decree. The Courts exercise their discretion; they take all the necessary precautions before granting such orders. Now what would be the effect hereafter if we introduced measures by which we raised the jurisdiction to Rs. 1,000 or 2,000? Then some persons who are entitled to the protection by way of attaching immoveable property will now be debarred from doing so? Therefore, Sir, it is a matter for serious consideration when you have got also those proposals side by side with this, whether you cannot even postpone the introduction of this Bill till after we have decided that question. Secondly, I would also agree as an alternative with my friend, Khan Bahadur Sarfaraz Hussain Khan, in saying that it may be referred to a Select Committee so that the Select Committee may at least say how far the power of attachment before judgment of immoveable

property may be limited—whether it may be to all cases or cases exceeding a particular amount; I mean a certain limit may be fixed by the Select Committee by which those who exercise small cause courts jurisdiction if they entertain suits above a particular pecuniary value, may be invested with jurisdiction for attachment of immoveable property under order 38. I do not very well see how the judge becomes small because he exercises small cause jurisdiction: the judge is competent to decide whether an attachment of immoveable property should be made or not. Why should not the same judge be trusted with the exercise of some discretion even when he exercises small cause powers? I hope, Sir, there is much room for considering this matter in Select Committee if once the House is agreed upon the principle of this Bill.

**Syed Majid Baksh** (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, I cannot understand why so much difficulty has been raised with respect to a small Bill like this. Nor do I think that the very easy provisions that are made there should be referred to a Select Committee. The whole question centres round this: what is the law that exists at present about small cause courts' powers? At the present moment a Provincial Small Cause Court, as it exists, has no power to attach immoveable property after the decree is passed. If some of my friends do not want that, they should bring in an amending Bill and say that the Small Cause Courts have the power of attaching and selling immoveable property as much as they like. I can understand that, but why should a court which has not the power to attach immoveable property after the decree is passed be competent to attach immoveable property before a decree is passed—I mean should have the power of attachment before judgment? The Bill refers to an anomaly that has been raised by a decision of the Calcutta High Court. Everybody knows that a Small Cause Court has no power to attach immoveable property after a decree is passed. Now, in this decision the Calcutta High Court laid down that, since there is no barring provision in the Act itself to attach immoveable property before judgment, it has the power, and therefore it laid down that the Small Cause Court has the power to attach immoveable property before judgment. This Bill clears this most anomalous decision. A court that has no power to attach immoveable property after the decree is passed cannot attach immoveable property before it is passed. What special grace is there in that it can do a thing before a decree is passed which it cannot do after the decree is passed? It is a very simple thing, and the Bill seeks to remove this legal anomaly in the various decisions which have given rise to it. Sir, I do not think that there is much in this Bill to make people put their heads together and evolve something in the Select Committee, and I think that the Bill should be passed in this House.

**Mr. K. Ahmed** (Rajshai Division: Muhammadan Rural): Sir, this House requires some elucidation from the Government Benches as far as this Bill is concerned. The motion to refer it to a Select Committee has been raised because there were certain doubts which could not be cleared up by my Honourable friend, Mr. Tonkinson. He knows that the procedure in the Calcutta High Court is exactly opposite to that which has been laid down in this Bill to the effect that the Provincial Small Cause Courts should not have this power. He knows also that there is a Presidency Small Cause Court where the procedure is also different. Why? What is the

[Mr. K. Ahmed.]

reason? Several members have asked that the whole situation may be explained. I ask the Honourable Member to explain to us and give us the reasons that he has for moving for the consideration of this Bill by this House without reference to the Select Committee.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I have no desire to detain the House for more than a moment. This Bill is to resolve a doubt. You can resolve it one way or another. If you do not like the way in which we resolve it, you can vote against the motion for consideration of the Bill. If you do like the way in which we resolve it, you can vote for the motion for consideration of the Bill. There is nothing in the Bill whatever which requires a reference to a Select Committee and I entirely agree with the Honourable Member in the back bench over there (Syed Majid Baksh) who made the position very clear. I therefore think that the House might come to a decision by either accepting the Bill or throwing it out.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadar Urban): Sir, as the Honourable the Home Member has said, the question before the House is a very simple one, namely, whether the Small Cause Court should have power to order attachment of immoveable property before judgment or not. (Mr. K. Ahmed: "Provincial Small Cause Courts.") Yes, Provincial Small Cause Courts. This Bill has been brought up because a doubt has been cast on the existing law by the Calcutta High Court that they have the power whereas the universal belief has been that they have no power. Nobody ever dreamt that the Small Cause Court has the power to order attachment of immoveable property, so that under the law as amended in 1908 some doubt has been created and that doubt is sought to be removed by this Bill. The whole question is this. Do we like that idea? Does this House relish the idea that Small Cause Courts should have power to order attachment of immoveable property? You know the consequences. (An Honourable Member: "Before or after judgment?") Whether it is before or after judgment I do not see any difference. It is immaterial. Questions of title at once arise. Claims to immoveable property are at once put forth and then those delicate questions have to be investigated. Is the procedure applicable to the Small Cause Court an apt procedure for considering such intricate questions? That is the short question before the House. Would you encourage Small Cause Courts to try intricate questions of title with the simple procedure that they have so that parties may get speedy relief? Would you apply that procedure to claims to immoveable property? Now, I do not think there can be any difference of opinion on that point. No lawyer who has any experience will relish the departure from the existing practice. We know how complicated titles to immoveable property are and how courts differ on that question. Would you introduce a complicated question into a Small Cause Court? Not that there is any reflection on the judges. It is the procedure which the judges have to adopt in the Small Cause Courts which stands against such questions being brought in. My Honourable friends who have spoken before me have referred to the question as if it is a privilege that you are taking away or conferring on the judges. The question has nothing whatever to do with that. It is a question purely of the procedure applicable. That procedure is not suitable to claims to immoveable property and that is why the Legislature has hitherto refrained from bringing attachment of immoveable property within the

jurisdiction of Small Cause Courts. Now, under the law as it stands, my Honourable friend Mr. Duraiswami Aiyangar has overlooked it. He thought that the question before the House was whether in execution of decrees of Small Cause Courts you can attach immoveable property. That is exempted already. There is no doubt about it. The only doubt is as to attachment before judgment and that doubt is sought to be removed. I do not think anything is going to be gained by reference to a Select Committee. It is a very short and simple question, and the House has to give its decision.

**Mr. K. Rama Aiyangar** (Madura and Ramnad *cum* Tinnevely: Non-Muhammadian Rural): Sir, the only reason why I rise to speak on this question is just to clear the position. My Honourable friend Mr. Rangachariar said that the powers of the Small Cause Courts cannot be used in detail for the purpose of going into titles of immoveable property. But the real point of this change in the Statute that we seek to bring about is that we find after some experience that the jurisdiction of the Small Cause Courts might suitably be raised. On the other hand, the question of attachment of immoveable property depends upon the average worth of the property of the people of India. These are the questions which must weigh with us. The power to attach immoveable property before judgment will depend upon the extent to which the rights of parties will be affected when that right to attach immoveable property is taken away from the courts. (*An Honourable Member*: "It was never given.") I am simply explaining the position, not that I want to alter your minds if formed. But Honourable Members must correctly understand what they are doing before they vote on this motion. What I wish to say is that we find that our Sub-Judges and Munsiffs are competent to deal summarily on the Small Cause Court side with suits which might involve more money than they do now. The question whether the court has a right to attach immoveable property to prevent creditors from losing whatever will be available stands on quite a different footing. So, in exercising your judgment on this motion that is now placed before you, the question that you will have to consider is not whether a Small Cause Court will not exercise a jurisdiction over higher amounts, satisfactorily but whether the citizens of India will be protected by the right to attach immoveable property which in the case of small holdings, when the jurisdiction of the court is increased to Rs. 1,000, may actually endanger the right of so many persons. The real question before the House is whether it would be safe to allow this attachment before judgment of courts when they get higher powers over the money suits. The object of the present Bill is practically to take away the right which has been declared to exist in the Small Cause Courts. You have got to consider whether it is better to continue that right which has been declared to exist by the Calcutta High Court when you put it on the Statute-book like that, especially when you raise the jurisdiction from Rs. 100 to Rs. 200 or from Rs. 500 to Rs. 1,000, or whether it is safe in the circumstances of the country to take away that right altogether. The question raised by Diwan Bahadur T. Rangachariar does not arise because once the attachment is allowed, the disposal of the property is prohibited and the parties are safe. But if you take away that jurisdiction till the Small Cause Court judgment ripens into a decree and till it is transferred to an original side and attachment is proceeded with, the parties are free to dispose of the little property that they may have. When you raise the jurisdiction from Rs. 500 to Rs. 1,000, you endanger the rights of the parties and that is the question upon which I want you to exercise your minds. I maintain that the matter is an important one and therefore it ought not to be disposed of in the way

[Mr. K. Rama Aiyangar.]

in which it has been treated. The question is whether in view of the qualification of immoveable property owners it is safe to take away this right from the Small Cause Courts which will enable the parties to dispose of their immoveable property until transferred to the original side. Therefore I maintain that it is a matter of importance and I do want the Members to exercise their minds.

(Several Honourable Members moved that the question be put.)

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

The motion was adopted.

**Mr. H. Tonkinson:** Sir, I do not desire to make any further remarks.

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

"That the Bill to resolve certain doubts as to the powers, in regard to the attachment of immoveable property, of Provincial Small Cause Courts, be taken into consideration."

Since which the following amendment has been moved:

"That the Bill be referred to a Select Committee."

The question is that that amendment be made.

The motion was negatived.

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

"That the Bill to resolve certain doubts as to the powers, in regard to the attachment of immoveable property, of Provincial Small Cause Courts, be taken into consideration."

The motion was adopted.

Clauses 2, 8 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. H. Tonkinson:** Sir, I move that the Bill be passed.

The motion was adopted.

## THE INDIAN LUNACY (AMENDMENT) BILL.

**Mr. H. Tonkinson** (Home Department: Nominated Official): Sir, I move:

"That the Bill further to amend the Indian Lunacy Act, 1912, be taken into consideration."

The reasons for this Bill are stated in the Statement of Objects and Reasons. We desire to remove an administrative difficulty in the working of the Indian Lunacy Act which arises from certain provisions of the Act. The proposal is made on a suggestion of a leading alienist in India, and it has the support of all the Ministers in India. It is made following a provision in the English Lunacy Act. Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 do stand part of the Bill."

**Khan Bahadur Sarfaraz Hussain Khan:** Sir, I move the amendment:

"That in clause 3 in sub-section (2) of the proposed section 11-A for the words 'from the sending of the notice' the words 'from the date of the receipt of the notice' be substituted and consequential amendments made wherever necessary."

I think, Sir, that it will be safe if we take the date from the date of the receipt of the notice. It is common experience that somehow or other people try to see that the notice is not received by the man. It is to avoid this contingency that I have moved my amendment. It is a very simple matter. The date must not be calculated from the time when the notice is sent. I wish to make this small change.

**Mr. H. Tonkinson:** Sir, in regard to the recommendation contained in the amendment which my Honourable friend has just moved I would invite attention to the fact that we are not dealing with such a question as, say, the *ex-parte* disposal of a civil suit when you must prove that notice has been served. In this case a reception order has been made and the magistrate after full inquiry has decided that the person in question is a lunatic and that it is desirable that he should be detained in a lunatic asylum. The purpose of the present clause is to enable a substitute to be appointed for the person in whose name a reception order has been issued. For such a purpose I submit there is no necessity to secure that the notice is received. We provide definitely, for example, in sub-clause (2) that notice shall be sent, and in sub-clause (6) also that "any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended." I submit it is entirely unnecessary to make the amendment which has been moved by my Honourable friend.

The motion was negatived.

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

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. H. Tonkinson:** Sir, I move that the Bill be passed.

The motion was adopted.

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

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

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#### THE INDIAN TRADE UNIONS BILL—contd.

**Mr. President:** The House will now resume consideration of clause 18 of the Trade Unions Bill. The question is:

"That clause 18 do stand part of the Bill."

**The Honourable Sir Bhupendra Nath Mitra** (Member for Industries and Labour): Sir, as a result of the discussion which took place on the floor of this House last Wednesday on a point of law connected with clause 18 (2)

[Sir Bhupendra Nath Mitra.]

of the Bill, we met the leaders of the parties opposite on Saturday last, and a formula of words was drawn up which, it was understood, would meet the point of law. I accordingly gave notice of certain amendments. These amendments which have been circulated were as follows :

"For the words 'no suit or other legal proceeding shall be maintainable in any civil court against a registered Trade Union in respect of any act done in contemplation or furtherance of a trade dispute by any person acting on behalf of the Trade Union', the following words shall be substituted, namely :

'A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union.'

And, to the sub-clause, the following proviso shall be added, namely :

'Provided that nothing in this sub-section shall affect the provisions of the Indian Contract Act, 1872.' "

The matter, Sir, was later on further considered by us, and we came to the conclusion that the amendments as drafted would not be suitable, and that as a matter of fact the proviso would defeat the object of that particular sub-clause. The amendment which I accordingly now propose to move with your permission, Sir, is as follows :

"For the words 'no suit or other legal proceeding shall be maintainable in any civil court against a registered Trade Union in respect of any act done in contemplation or furtherance of a trade dispute by any person acting on behalf of the Trade Union', the following words shall be substituted, namely :

'A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union.' "

I do not now propose to move the proviso which appears in the notice paper.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : May I know, Sir, if we can have copies of this amendment, so that we might follow the discussion ?

**Mr. L. Graham** (Secretary, Legislative Department) : Copies have been laid on the table, with the single exception that in the amendment between the words "any" and "act" the word "tortious" should be inserted.

**Mr. N. M. Joshi** (Nominated : Labour Interests) : Sir, when we were discussing this question the other day, we were discussing my amendment to sub-clause (2) of clause 18. The Honourable Member has now proposed another clause altogether. It therefore necessitates a change of plan also on my part. I therefore do not move the amendment which I had moved at that time to the clause proposed by the Honourable Member; but I propose an amendment . . . .

**Mr. President** : The Honourable Member must first withdraw his amendment.

**Mr. N. M. Joshi** : Sir, I withdraw my first amendment.

**Mr. L. Graham** : May I know, Sir, which amendment Mr. Joshi is withdrawing ?

**Mr. N. M. Joshi** : I am withdrawing amendment No. 44.

**Mr. President:** The question is that leave be given to Mr. Joshi to withdraw his amendment.

The motion was adopted.

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

**Mr. N. M. Joshi:** Sir, I move my amendment No. 45 . . . .

**The Honourable Sir Bhupendra Nath Mitra:** Sir, may I make a suggestion. I have already moved an amendment to sub-clause (2) of clause 19. In that sub-clause I have deliberately retained the words which are covered by Mr. Joshi's amendment No. 45. He will therefore have an opportunity to move his amendment No. 45 after the House has come to a decision in regard to the amendment I have just moved.

**Mr. N. M. Joshi:** Sir, if your ruling is that I shall still have the right to move my amendment No. 45, then I shall have no objection to the course proposed by the Honourable Member.

**Mr. President:** It is a very difficult position for the Chair, but what the Chair would suggest is this. The Honourable Member from Bombay might move his amendment, and both will be put to the vote and the decision of the House can be taken.

**The Honourable Sir Bhupendra Nath Mitra:** All I suggest is that, to clarify the issues, my amendment might be put first as it deals with certain words in sub-clause (2) of clause 18 which are not in any way affected by Mr. Joshi's amendment No. 45. That amendment refers to certain other words in sub-clause (2) of clause 18. My suggestion is merely intended to clarify the issues, and therefore I would again suggest that my amendment may be taken first and then we may proceed to discuss Mr. Joshi's amendment No. 45.

**Mr. Chaman Lall** (West Punjab: Non-Muhammadan): May I ask the Honourable Member to make the position quite clear, because, as far as I understand his amendment, it means that . . . . .

**Mr. President:** The House is not discussing the Honourable Sir Bhupendra Nath Mitra's amendment. The question before the House is whether Mr. Joshi should move his amendment now or after the amendment of the Honourable Sir Bhupendra Nath Mitra is disposed of.

**Mr. Chaman Lall:** If the amendment moved by the Honourable Sir Bhupendra Nath Mitra is disposed of, then it will include the words which Mr. Joshi wants to omit. If the Honourable Member limits . . . .

**The Honourable Sir Bhupendra Nath Mitra:** If he will kindly read my amendment, the Honourable Member will see that for the words from "no suit or other legal proceeding" down to "on behalf of the Trade Union" certain other words are proposed to be substituted. Mr. Joshi's amendment No. 45 does not touch those words.

**Mr. President:** That being so, the amendment of the Honourable Sir Bhupendra Nath Mitra should be taken up for discussion and disposed of before the Chair permits Mr. Joshi to move his amendment.



**Mr. N. M. Joshi:** Sir, I do not propose to oppose this amendment. But I want to say one thing, and that is, that Government by their amendment have taken away a great part of the immunity which the original clause had intended to give.

**Mr. L. Graham:** Which immunity?

**Mr. N. M. Joshi:** I am asked which immunity they are taking away. I will draw their attention to the word "tortious". I understand that there are three pronunciations for the word. Now, Sir, that word is newly introduced and brings into that clause a new idea which never existed in the clause as it stood. The clause as it stood, as proposed by the Government and as passed by the Select Committee, did not include the words "tortious acts". Now Government come forward to take away some rights which they had proposed to give to the Trade Unions. But, Sir, the question is a difficult question. Personally I do not understand law very much. I therefore do not propose to go into this question, but will allow it to be fought out by the lawyers in this House.

**Mr. Chaman Lal:** I just want to ask one question of the Honourable Member. What does he exactly mean by inserting the word "tortious"? What is the significance of inserting that particular word? I would like to be absolutely clear on that point.

**The Honourable Mr. S. B. Das (Law Member):** May I explain on behalf of the Honourable Member (the Honourable Sir Bhupendra Nath Mitra)? Sir, the intention is simply this. But for that word a Trade Union may be held to be not liable if an agent, for instance, on behalf of the Trade Union borrowed money. That is to say, if the agent contracted liabilities upon a contract, they might not be liable unless the immunity given by that section is restricted to tortious acts. As the Honourable Member will notice, originally the idea was to propose a second amendment excluding from the immunity contracts, but as the Honourable Member in charge of the Bill has explained, it is not intended to move that second amendment, because that second amendment, as it is worded here, might be in some matters contradictory to the first part. It is for that reason—in order to make it quite clear that this immunity is only with regard to tortious acts and not acts arising out of contracts—that the word "tortious" has been put in.

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

"That in sub-clause (2) of clause 18 for the words:

'No suit or other legal proceeding shall be maintainable in any Civil Court against a registered Trade Union in respect of any act done in contemplation or furtherance of a trade dispute by any person acting on behalf of the Trade Union.'

The following words shall be substituted, namely:

'A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union.'

The motion was adopted.

**Mr. N. M. Joshi:** Sir, I move the following amendment to the clause as amended by the amendment moved by the Honourable Member for Industries and Labour. My amendment is this:

"In sub-clause (2) of clause 18 the words 'and that the executive has repudiated such act at the earliest opportunity and by all reasonable means and with reasonable publicity' be omitted."

Sir, this amended clause gives a certain immunity to Trade Unions from the consequences of the tortious acts of its officers, if the Union proves that it had no knowledge and the act was done . . . . .

**The Honourable Sir Alexander Muddiman** (Home Member): "Or"; there are two defences.

**Mr. N. M. Joshi:** Or the act was done contrary to the express instructions of the executive of the Union. But, Sir, the clause goes still further. It also requires the Trade Union to prove that that tortious act was repudiated by the executive of the Trade Union. Not only must it be repudiated but the Trade Union must give reasonable publicity to its act of repudiation. I feel, Sir, that this is too heavy a burden to be placed on the Trade Unions. If you want to give immunity to Trade Unions do it in a generous way. The immunity which you are giving is not a very great immunity. The English law gives a much greater immunity than what you are proposing; but when you propose a certain immunity you also put down certain restrictions which will reduce the value of that immunity. I therefore think that it should be quite sufficient that the Union should prove that the act was done without its knowledge or that it was done against the express instructions of the executive of that Union. I know when one of the previous amendments was being discussed Mr. Sidney Webb was quoted as having favoured the proposals of the Government of India. Sir, I have some respect for Mr. Sidney Webb, there is no doubt about it, but you must remember that he is an individual, though belonging to the Labour Party it is true; but after all he is one individual and he has given his individual opinion. We are not bound to approve of it or support it. Moreover, if you quote Mr. Sidney Webb against me, why don't you quote the whole lot of the Labour Party who supported the English legislation. Suppose I do not accept the view of Mr. Sidney Webb, I am not committing a great crime in that. I will ask the Government of India one question. It is true that I repudiate Mr. Sidney Webb's opinion in this way. Do they stand by the opinion of the present chief of the Government of India? What I want to ask the Government of India is this: Do they accept the view expressed in 1906 by the present head of the Government of India? The English legislation was passed in the year 1906 not by an irresponsible Legislature like this Legislature, but by the responsible English Parliament. It was passed by the responsible Liberal Party, headed by Sir Henry Campbell Bannerman. Mr. Asquith was a Member of that Party, Lord Morley was a member; the present head of the Government of India was a prominent member of that Parliament and of that Party and he took a prominent part in the discussion on that Bill. He supported the English Trade Union Bill in 1906 and you do not stand by him now, but you expect me to stand by Mr. Sidney Webb: You are repudiating your present chief and you are repudiating what he supported in 1906. So, it is not possible for you to quote Mr. Sidney Webb's words to me and the House is not likely to attach any importance to that as long as it knows that you do not stand by the view taken by the present Head of the Government of India in the year 1906.

There is one more point. During the discussion on the Trade Union Bill the whole trend of opinion expressed on the other side was that the Unions must be protected against the mischief of the outsiders who guide

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the Trade Unions. It was said that these people are very clever, that they sometimes mislead the Trade Unions and it was thought that the Trade Unions should be protected against the mischief of their officers. Now, what do I ask? I ask for protection for the Trade Unions against the consequences of the mischief of their officers and you refuse to give them that protection. You refuse to protect Trade Unions against the mischiefs of their officers. (*An Honourable Member*: "No.") I want the Trade Union funds to be protected against the consequences of the actions of the officers of the Trade Unions. You refuse that protection. I stand for the protection of the Trade Unions and you are refusing it. I want the Trade Union funds to be protected against the consequences of the acts of their officers and, if you support my amendment, you certainly protect the funds of the Trade Unions. If you vote against my amendment, you want the Trade Union funds to be squandered in litigation over the acts of the officers of the Trade Unions.

**Mr. W. S. J. Willson** (*Associated Chambers of Commerce: Nominated Non-Official*): On a point of order, Sir. Is not the Honourable Member's amendment entirely on the question of repudiation or otherwise of an act? Is he entitled to go into the whole question of this clause?

**Mr. President**: The Honourable Member must confine himself to the amendment before the House.

**Mr. N. M. Joshi**: I want additional protection to be given.

**Mr. President**: The Honourable Member cannot raise the general question of protection.

**Mr. N. M. Joshi**: I am not raising the general question of protection. I am explaining why additional protection should be given to the Trade Unions in the matter of safeguarding their funds against the consequences of the acts of their officers. Moreover, Sir, it was also said that the outsiders are there and generally pleaders are the officers of these Trade Unions. I know that there are pleaders as officers of the Unions and if pleaders and well-to-do people are officers of the Trade Unions you have a remedy against the wrongful acts of those officers.

**Mr. W. S. J. Willson**: What have you got to do with repudiation?

**Mr. N. M. Joshi**: If you will listen to me patiently you will know. I want to give additional protection to the Trade Union and I am making out a case why that additional protection is necessary. The protection which you will give is not sufficient. The man who has suffered from the tortious act can get compensation if the Trade Union officers are pleaders and highly placed men. The House must protect the Trade Union against the mischievous acts of its officers.

Now, Sir, my amendment is that you should not ask the Trade Union to repudiate the acts of its officers. My reason is this. It should be quite sufficient if a Trade Union says that the act was done by the officer without its knowledge. It is not right to expect any employer to repudiate any act of his servants. Last time, Sir, I asked whether the Government of India every time repudiate the mistakes made by their officers. I do not very often see these repudiations. I know that mistakes are made by these officers several times but the repudiation does not come very often. The repudiation can only be obtained by very large agitation. Human nature

is the same. A Union may find that its officer has made a mistake but may not like to repudiate every wrong act the officer does. It is therefore not right to expect the Trade Union to repudiate every little mistake which its officer may make. Moreover, the Trade Union may not know that the act was done and after two or three months, if you file a suit, they may know that the act was done and they may repudiate it, but the repudiation may be said to be too late. You may say that you now repudiate it because the suit is filed and that the repudiation will not carry much weight. Moreover, there are other difficulties. The court may presume knowledge from certain circumstances, You yourself have now agreed that the present Trade Union consists of members who are not educated. Suppose one of their officers commits some act and that act is published in some paper which they do not read. Generally the working class people do not read newspapers. The judge may presume that members of the Trade Union knew what the officer had done. As a matter of fact they may not know and if they do not know, how do you expect them to repudiate it. I therefore think that by asking them to repudiate every mistake of their officers you are expecting too much of these people and throwing a very great burden on them. The clause does not stop there. It expects that the act of repudiation should be published in a reasonable manner. I do not know what "a reasonable manner" is, but, as I said, the court may hold that the repudiation ought to have been published in some papers. The papers may publish the act if it is a sensational one. If it is not a sensational one, the papers may publish after payment. You will be putting these Trade Unions to some financial loss also and I think it is going beyond human nature to expect any body of men to repudiate the small mistakes of its officers, not only to repudiate them but to publish that repudiation broadcast. I think that the burden placed upon the Trade Unions is very great and the immunity on account of the inclusion of these words is practically reduced to no immunity. I therefore hope that this House will accept my amendment.

**The Honourable Sir Alexander Muddiman:** Sir, if I intervene in this debate it is not because I am so immediately concerned as my Honourable friend who is in charge of the Bill. I have listened to the debate with great interest because it does raise an exceedingly difficult point, a point much agitated in England and elsewhere. We have now got somewhere near the real kernel of the debate. It is to what extent, if any, should Trade Unions be exempted from the tortious acts of their agents. I lay considerable emphasis on the word "tortious". We are not dealing with contract at all. *Ex hypothesi* we are dealing with tortious acts. In England as Mr. Joshi has pointed out, and, as he very reasonably contends from his point of view, a Trade Union rightly or wrongly, in my opinion quite wrongly, is exempted from the consequences of its tortious acts. And I am quite sure that this House, composed as it is of men who are not entirely trade union propagandists, will have some regard to the rights of the third party. After all what are you going to do? It is not merely the Trade Union you have to look at, or even the trade union agent; you have to think of the man who has suffered the wrong. And in your desire, your earnest desire, to promote the interest of the Trade Unions you must not entirely neglect the third party. If the agent is a rich pleader or zemindar, well and good; but in my experience rich pleaders or zemindars very rarely undertake the duties of agents to Trade Unions. Where indeed you have a rich pleader or zemindar as the agent, that may be all right. But this is a question which comes up

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in all cases concerning dealings with agents of principals. If you have a good fat agent there is no need to bother about the principal. But you have to consider the ordinary case, where a man has to see whether his remedy is secure, and, if the agent is not worth going for, he will be left entirely without a remedy unless you give him a remedy against the principal. Now this Bill does not go so far as the English Act, and I understand from the Honourable Member in charge of it that it is not the intention of the Government to go so far as that. But they do go a very long way. They say that if the Trade Union can prove that their agent acted without the knowledge of the Trade Union, or in the alternative against the express instructions of the Trade Union, and repudiation follows, then in that event the Union will have two extra defences. Well, that is a great deal. Now, my Honourable friend here will doubtless be able to put the legal point more clearly than I can, but let me put a practical point to the House. An agent of a Trade Union issues a libel. It is not within the scope of his instructions. He has been told to get out a pamphlet putting the case for the workers. In the course of that pamphlet he has in fact put up a libel. Well, it would be quite reasonable for the Trade Union in defence to say, "We do not approve of this; we do not ratify this and we have done what every honest man would do; we have come forward at the earliest opportunity and with reasonable publicity and we have said we disavow this libel." But under the law, as Mr. Joshi would have it, there would be no repudiation necessary. It would be sufficient to prove that it was without their knowledge, and during the whole time that the libel continued they would be enjoying the benefit from it, and without repudiation they would still have a perfectly good defence in law. Now, I ask the House, is that reasonable? That you would have difficulty in establishing the fact that it was without your knowledge, I agree. But why should you object to repudiation. It would be the right thing, for the Trade Union, mind you, is being given a defence which is not available to you or to me—I cannot go to court and plead that it was done without my knowledge and repudiate. We are giving the Trade Union a special defence, and I submit that in both these cases there is a very good reason why we should retain this repudiation clause. I go further. I say that the members of the Trades Unions themselves should find it at a very considerable advantage if, as I believe and trust, Trades Unions are really going to form an important part of the future industrial community of this country, it is more important not that they should steal, if I may say so, every advantage that the law gave them, but that they should establish a reputation for straightforwardness, for straight dealing, and the fact that they will be required to repudiate doubtful acts is to my mind not less to the advantage of the Trade Unions than it is to the advantage of the State as a whole. I, therefore, hope that my Honourable friend will see his way to withdraw his amendment.

**Mr. Chaman Lal:** I think, Sir, the Honourable the Home Member has not really grasped the significance of the liability that is imposed on Trade Unions. The real reason for granting complete immunity to Trades Unions is not this that there are third parties to be considered; the real reason is this, that a Trade Union, comprising as it does sometimes hundreds, sometimes thousands of people, have a certain responsibility to them, and it is obvious and just and equitable that the rights and liabilities of these members, thousands of them, who have no immediate concern in any particular trade dispute, should not be jeopardised; and it is on

that basis that the English law was brought in in order to give Trade Unions that immunity from civil liability which we are claiming for Indian Trade Unions. That was the real reason, that if a particular Trade Union through its agent injures a third party, that Trade Union should be in a position to protect the interests of thousands of unknown persons who happened to be members of the Trade Union but who had no voice in the commission of the particular injury. That was the real basis for this immunity.

Now, let me deal with the point raised by my Honourable friend, Mr. Willson, at once. What is demanded by this amendment is merely this that the words, "and that the executive has repudiated such act at the earliest opportunity and by all reasonable means and with reasonable publicity", be deleted. By adhering to these words you are giving Trade Unions not an additional defence at all. You are imposing an additional burden upon Trade Unions. You are being asked to exempt Trade Unions from civil liability, from tortious liability, provided that the Trade Union was not aware of the injury, had no knowledge of it or that its agent acted contrary to the express instructions of the Trade Union. And then you add a proviso. That proviso covers both these points of immunity which you grant to Trade Unions. The proviso asks a Trade Union to give complete publicity at the earliest opportunity in the most reasonable manner to its repudiation of acts of injury. Now under these circumstances, you are really placing an additional burden upon a Trade Union. Why should a Trade Union go out of its way to give publicity to its denial when the immunity that you are giving to the Trade Union is obvious? You are granting a certain immunity to Trade Unions, that immunity being that the person acting in a tortious manner did not act with the express instructions of the Trade Union or to the knowledge of the Trade Union. That is sufficient in itself. Why should you go on to state further that even in spite of the fact that the agent did not act with the knowledge of the Trade Union or under the express instructions of the Trade Union, nevertheless if the Trade Union does not publicly, openly, at the earliest opportunity repudiate that act, that Trade Union will be liable? I cannot under any circumstances read into this obligation to give publicity to denials an immunity granted to Trade Unions; I can only read an additional burden placed upon Trade Unions. We are asking you to follow the English principle of immunity from liability, and we are quite prepared to accept even the present limited principle of immunity that you are granting to Trade Unions in India. Indeed the principle of liability is a very simple matter. Under the English law there are three principal chains of thought that you can follow in the history of the principle of liability. You have the earliest principle, namely, that a man was liable for all his acts but that he was not liable for the acts of his servant. That was changed later on, in about the 17th century, when it was held that a man would be liable for the act even of his servant or of his agent, provided he had given express authority to that agent. And later on even that was changed. The express authority was changed into express authority or implied authority, the doctrine being derived from the Roman principle of quasi-delict and the decisions of the English Admiralty Courts. In modern times you find the new principle of employer's liability. All these changes that have taken place in the English law amount to this that the principle of liability remains throughout. A man is liable even for the acts of his agents or of his servants except in so far

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as he is not liable under the Master and Servant Act. But the point to note is this. In the case of Trade Unions special immunity has been created and the reason for the creation of special immunity is what I have stated in the opening remarks of my speech, namely, the interests of thousands of unknown persons who have no direct or indirect voice in the commission of a tort. In order to protect them special immunity is given to a Trade Union, placing it above the law in the matter of tortious liability. Now, what objection can there be, I ask, to accepting this amendment for the deletion of the obligation to give publicity to a denial of the Trade Union's liability? I have not the least doubt that we were all impressed by the speech made by the Honourable the Home Member, but I have not the slightest doubt that he too will realise that in saddling upon the back of Trade Unions these conditions, which are contained in the words which are sought to be omitted by Mr. Joshi's amendment, we will be making it very much more difficult for Trade Unions to claim immunity which you honestly and sincerely intend to grant to them. What objection can there be? Are you so enamoured of the fact that there must be publicity? Why should a Trade Union go and repudiate the act openly? If you think that under the principles of law Trade Unions ought to be immune for certain things, can the principles of law be furthered merely by the fact that a Trade Union goes and publicly disavows the acts of its agents? In what particular manner are you advancing the principles of law by merely imposing this condition upon a Trade Union? I cannot for the life of me see that any particular principles of law can be advanced by the insertion of the words which Mr. Joshi desires to delete. Look at the wording of this amendment: "and by all reasonable means and with reasonable publicity". The vagueness of those terms mean that you are really trying to make the general position very difficult for a Trade Union. Here are two distinct propositions which you have laid down in clause 18 (2). Those propositions are clear. To those two clear conditions, you are now adding a clause or a series of sentences which have no meaning at all. Which court of law is going to find out for you and lay down as a definite principle of law what is "reasonable means" or what is "reasonable publicity"? Which Court of law is going to adjudicate upon that? You are leaving that entirely vague. Will the courts be satisfied if a Trade Union goes and publishes an obscure paragraph of denial in an obscure weekly? Will that be considered reasonable publicity, or will the affairs of the Union, the financial affairs, have to be gone into to consider whether it has adopted reasonable means in giving reasonable publicity in accordance with its financial capacity to give wide or narrow publicity? Nothing could be more irregular in my opinion than a condition in these words added on to these two clauses. I myself am not at all prepared to accept the restrictions on immunity from civil liability which you are placing upon Trade Unions in India. I do not agree with that. I believe in the English principle and I stand by it. But nevertheless, if you are not willing to grant us the amount of civil immunity granted to Trade Unions in Great Britain, we ask you at least to omit these words which govern each of the two conditions that you have laid down of immunity applying to Trade Unions. You will gain nothing by your insistence. On the contrary you will add to the volume of litigation. A great deal of unnecessary trouble and bother will be created for Trade Unions throughout



India if you add those words which Mr. Joshi is attempting to omit. No reason or argument has been advanced to meet our arguments. We cannot agree to the inclusion of these words and I will certainly vote against the retention of these words in this clause. Under the circumstances, since it is not only a novel clause to add, since it will be imposing an extra burden, since the vagueness of these words is such that nothing material will be gained by the addition of these words to this clause, I would ask Honourable Members opposite to agree to the deletion of these three sentences.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): Sir, this discussion has made me reflect about this clause. It appears to me that the clause as it stands requires repudiation even where the act has been done contrary to the express instructions of the Trade Union. I do not know whether it is the intention of the Honourable Member for Government that there should be repudiation where an act has been done contrary to express instructions already given. I can understand requiring repudiation where an act has been done without instructions or knowledge, and after coming to know about it you repudiate it. You have repudiated beforehand. When a thing is done contrary to express instructions I do not see the point of insisting upon repudiating it again. It seems to me not quite sensible to insist upon such a clause.

The second difficulty which I feel in regard to this clause is that the repudiation should be at the earliest opportunity and by all reasonable means. I do not know whether it is necessary to insist upon retention of the word "all" there. Supposing there were four reasonable means of repudiation and the Trade Union adopted three of them and did not adopt the fourth. When we are giving immunity to Trade Unions let us not take away what we are giving by these vague expressions. Reasonable means are enough. To go on to provide for all reasonable means makes it very difficult for Trade Unions to substantiate their defence.

Again what is meant by "reasonable publicity". That is a matter for the courts to decide in each case. I am rather apprehensive about the language of this clause and it may lead to great difficulties. Trade Unions will rarely benefit by the immunity which you propose to give; in fact immunity will be destroyed by this clause, and I do ask Government to reconsider this position. I do not think you should insist upon repudiation where an act has already been expressly prohibited. Secondly, the word "all" should be omitted from the clause.

**Mr. L. Graham:** Does the Honourable Member move an amendment?

**Diwan Bahadur T. Rangachariar:** I will if the Chair permits me.

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): I object to any amendment being moved where notice has not been given.

**Mr. President:** The Chair will not allow any further amendment to be moved at this stage unless it is satisfied that the House as a whole wants it.

**Mr. M. K. Acharya** (South Arcot *cum* Chingleput: Non-Muhammadan): Sir, I want to put in just a word from what I would call the common sense point of view. There are just two difficulties for me. The Trade Union is asked, if it is to get any immunity, to repudiate something of



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which it has no knowledge. If something was done by my agent of which I was ignorant, how could I repudiate it? There is nothing said as to when this repudiation is to take place, except "at the earliest opportunity". My agent goes and does something; I know nothing about it. How then am I to repudiate it so that the third party is protected? Suppose some days after I come to know about it I express my regret. How is that going to help the third party? The act has already taken place, it has been committed and I come to know about it days after. I do not understand why sometime later I must repudiate something done without my knowledge. The aggrieved party may probably go to court and take action under the Tortious Act without waiting to see whether there has been any repudiation or not. Supposing such action is taken before the Trade Union came to know about it. How is the Trade Union to prove that it did not know about it? How is non-knowledge to be proved? How can I prove I never knew about the tortious act done by my agent? How can I repudiate an action of which I know nothing? It will be long after the act that I shall come to know about it, and therefore this clause appears to me to be very difficult for the Trade Unions. The words "against its express instructions" should be quite enough. Therefore, as my Honourable friend Mr. Rangachariar has already pointed out, all these fine words "reasonable means", "earliest opportunity" only afford pless for the lawyers to argue about. They do not help Trade Unions. And, as the opposite side is willing to give as much immunity as possible, I also urge that these words be removed, as my friend Mr. Joshi wants them to be removed.

**The Honourable Mr. S. R. Das:** Sir, I just want to say a few words to show why the Government think these words are necessary. I may mention, so far as I am personally concerned, that at one time I thought there was a good deal in the objections which have been taken to the inclusion of these words, but I will try and give you concrete reasons, a concrete example why these words are necessary, and what the effect would be in a certain class of cases if these words were deleted. The Honourable Mr. Rangachariar wants to know whether it was really the intention, when there was express instruction to the contrary, that repudiation is still required. I am going to give an illustration where that is particularly the case. Supposing an agent is appointed by a Trade Union and is given express instructions that he is not to borrow money. I am taking a very simple case, not a case of dishonesty. (*Some Honourable Members:* "That is not a tortious act.") Pardon me, if you will only have a little patience. Supposing that the agent finds it necessary to borrow money and he goes to a bank and says falsely, "I have got the authority of the Trade Union as agent to borrow money." That as my friends will admit is misrepresentation. (*An Honourable Member:* "Will that not be a criminal offence?") And on that false representation he borrows that money and utilises it to pay the workmen or to pay strikers. There undoubtedly he borrows money by a tortious act and the Trade Union has benefited by that, because it has been utilised for the purpose of a trade dispute. Now look at the clause as it stands without the last amendment. Without those words which the Honourable Mr. Joshi seeks to delete, it would read:

"A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union, if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union."

Now, assume for a moment that the words stood at that. The Trade Union has benefited by the money which has been borrowed by the agent, by the misrepresentation of the agent. If the clause stood there then the Trade Union could not be sued; they would not be liable for the tortious act of their agent. But I feel certain that no Member of the House would desire that in such a case the Trade Union should not repay the loan to the banker; but, if the clause stood without the words which the Honourable Mr. Joshi desires to delete, it would be open to the Trade Union, if it chooses, to repudiate the liability. On the other hand, the effect of including those words would be that they will have to repudiate the act; and Honourable Members will kindly bear in mind that a repudiation in such a case would be no repudiation, of course, if they merely published in the papers that this act was done without the authority or against the express instructions of the executive or without the knowledge of the Trade Union. Repudiation there would have to be by return of the money; a mere verbal repudiation would not be sufficient. I am only giving one illustration, but anybody looking at any book on the question of agencies will find there are numerous cases in which the principal has been held to be liable, so far as that principal has received some benefit from the tortious act of an agent, for the benefit which he has so received. I am giving you only one illustration. The Honourable the Home Member gave you another illustration with regard to a libel where you come to know of it, you get the benefit of the libel but you take no steps whatever to disavow the libel. It is because the Government feel that it would be rather dangerous to leave those words out that they have thought it right to insist on the inclusion of those words.

Now, a good deal of objection has been taken in regard to the words "reasonable means and reasonable publicity". I may say at once that there is a good deal in the objection taken by the Honourable Mr. Rangachariar and of course we do not insist on the words "all reasonable means". So far as "reasonable means" or "reasonable publicity" is concerned, you will find that the word "reasonable" is a legal term which has been used in the Contract Act over and over again. If it is doubted by any one I will give you one section; there are several. Section 212 says "The agent is always bound to act with reasonable diligence". There again that is a matter in which of course it is the Court that decides in a particular case whether the diligence exercised by the agent is reasonable or not. Similarly, here it is the Court which will have to decide whether the repudiation was by reasonable means and reasonable publicity having regard to the facts of that particular case. Therefore, I submit to the House that there is no objection at all to the word "reasonable". There may be objection to the words "all reasonable means", a technical objection which the Honourable Mr. Rangachariar has pointed out, and so far as the word "all" is concerned the Government will not insist on that word.

**Mr. M. A. Jinnah:** Sir, I have listened to the speech of the Honourable the Law Member with very great attention and I really regret that the Government do not see their way to accept Mr. Joshi's amendment. I will tell the House what I feel and what I think would be the consequences if this part of the clause is not dropped. The Honourable the Law Member gave an illustration to the House and I do not wish, Sir, to enter into legal arguments and to go deeply into the subject; but taking that very illustration that the Honourable the Law Member gave, I doubt that the Union would be obliged to return the money under this clause?

**The Honourable Mr. S. R. Das:** Undoubtedly; it would not be repudiation otherwise: it will be liable to be sued if it did not.

**Mr. M. A. Jinnah:** It is a misfortune, Sir, in this House that there is a direct contradiction on this side to the view of the other side. Now, let us see the words of the clause—if the Union has satisfied the court that it has repudiated the act. Repudiation of an act means that we had no knowledge, and that now that we have got the knowledge we say that that act was not authorised. That will be repudiation. The next repudiation is this: that if they gave express instructions to the contrary, they will say "We had given express instructions to the contrary, and we now take the earliest opportunity of saying so, and we say so by all reasonable means and with reasonable publicity."

**The Honourable Mr. S. R. Das:** Surely that is repudiating such acts.

**Mr. M. A. Jinnah:** Yes; but repudiating such an act does not mean that they are bound to pay up the money. The doctrine of restoration is different and not covered here. I have yet to learn that it is provided for in this clause. Can the Honourable the Law Member cite a single instance or any authority, since he is so emphatic that repudiation means that you have also got to pay back and that unless you pay back the repudiation is not complete within the meaning of the clause? Where is the authority for it? Therefore I say the illustration that the Honourable the Law Member gave is a misleading one. Here under this clause the Union, I submit, will not be obliged to pay; the Union has only got to say "We repudiate it." If that is the illustration, I say it does not help the Government at all; unless the Honourable the Law Member can satisfy the House that under this clause the Union will be obliged to pay back that money, I beg to differ from him.

But, Sir, apart from this legal quibble, I take my stand on a very different ground. My ground is this: I shall assume here that the illustration that the Honourable the Law Member has given is a sound one. I shall assume, for the purpose of my argument, that such a case is possible. On a particular possible but a rare case of that character, are you going to enact this clause, the consequences of which, I am going to submit to this House, will be very serious to perfectly innocent Unions? Now, under this, the Union has got to do three things; and if it fails to satisfy the court in any one of those three matters the Union will be held liable. The first thing they have to satisfy the court is this, that they repudiated such act at the earliest opportunity. Now, who is to decide what is the earliest opportunity?

**Mr. W. S. J. Willson:** When it is brought to your notice.

**Mr. M. A. Jinnah:** My Honourable friend says "When it is brought to your notice." But supposing it is not repudiated within twenty-four hours, and it takes forty-eight hours; will that be the earliest opportunity? Supposing it is more than forty-eight hours, will that be the earliest opportunity? The plaintiff will say—You came to know this on the 1st of February: why did you not repudiate it on that very day? Why did you wait till the next day? Or why did you wait till the 3rd February? Or why did you wait till the 4th February and so on? See the danger of it.

But suppose the Union is fortunate enough in satisfying the court that the repudiation, when it was made, was under all the circumstances of the case at the earliest opportunity, even that is not sufficient. It will have to go further and satisfy the court that it did so by all reasonable means. Now, Sir, what are those reasonable means? It is again for the court to go into all the evidence, to go into all the circumstances, and there will be a wrangle. There will be a dispute as to whether it was done by all reasonable means or not, and the Union will then have to satisfy the court that under the circumstances of that particular case they did by all reasonable means repudiate. But that is not enough. The plaintiff will say that it is not enough; you have to go further and show that it received reasonable publicity—not means only, but reasonable publicity. But what is reasonable publicity? Supposing a Union happens to be a poor Union and advertised it in only one or two small vernacular papers or in only one English paper. The plaintiff will say that it was not reasonable publicity, they should have advertised it in all the leading papers, both English and vernacular. Now, I ask this House whom do you want to catch under this clause? Let me tell you, Sir, that the Union that wants to do wrong and the Union that you want to catch will never be caught under this clause. It is the innocent, it is the poor Union, not very strong, which is not conducted by shrewd men, that will get into trouble under this clause. I am assuming now that the Honourable the Law Member is right, but from a practical point of view I say it will be very difficult. After all, that is not the only thing that we have got to consider in passing this measure. It will lead to a great deal of litigation. Of course, the Act can be amended later on if necessary. This is not going to be like the laws of the Medes and Persians, it is not going to be unalterable. The Act can be amended, if the Government can show that a certain amount of mischief or malpractice has been found in its working. And I can assure you that if you can satisfy us on this side of the House of that, so far as I am concerned, I shall be the first to support the Government and help them to amend the Act. I still request the Government, I appeal to them not to insist upon this clause. You have given two additional defences to the Union. Stop there and do not hedge them round again with the doctrine of repudiation.

There is only one more word I have to say. Now, I ask the Honourable the Law Member what happens in England?

**Mr. N. M. Joshi:** No case at all.

**Mr. M. A. Jinnah:** Yes, no case at all. Even if the Union gives an express authority to commit a tortious act, no action can lie. That is the English law. Therefore, if you wish to give, as you desire to give the Union two additional defences and you do not wish to give the Unions in this country the same right and immunity—if you really mean to compromise, let there be a fair compromise; let there be a reasonable compromise. I appeal to the Government once more not to ask for a division on this motion.

**Pandit Motilal Nehru** (Cities of the United Provinces: Non-Muhammaddan Urban): Sir, my learned friend Mr. Jinnah has gone into the question on the assumption that the proposition of law advanced by the Honourable the Law Member is a correct one—not that Mr. Jinnah admits it—because

[Pandit Motilal Nehru.]

he said in so many words that it was not a correct proposition of law. I do not wish to repeat any of the arguments of Mr. Jinnah, but I want to make one or two observations showing that the illustration which has been given by the Honourable the Law Member is a very weak illustration and that the principle of law which he deduces from it is not sound. In the first place, Sir, I have heard for the first time that a repudiation must always, or even in certain circumstances, be accompanied by the act of restoration. A repudiation in law is a repudiation by words either written or uttered or published. Let us examine this proposition. We are told that the Legislature is giving a special defence to Trade Unions which they would otherwise not have and that the special defence has to be hedged in by conditions which would avoid injury to third parties. The illustration is that an agent not authorised to borrow money induces a third party on false pretences to advance a loan to him saying that he has been authorised by the Union to borrow on its behalf. Some time after the Union comes to know that the agent has been misrepresenting it and borrowing money on false pretences. My friend says that it will not be enough in those circumstances, supposing the money has been used for the purpose of the Trade Union, for the Trade Union to say, "We never authorised this agent; we repudiate his act of borrowing money in our name and on our behalf." My friend says that that would not be a repudiation but that the declaration is to be accompanied by the actual return of the money. I would call the attention of the Honourable the Law Member to the case of an ordinary principal who is not a Trade Union. Can he contend that it is any part of the duty of an ordinary principal, who has not given an authority to the agent to borrow money, to either repudiate or to return the money when he comes to know that the money has been borrowed by the agent on false pretences?

**The Honourable Mr. S. R. Das:** I will give you any amount of authority that he has got to return the money. It was used for his benefit and he is liable.

**Pandit Motilal Nehru:** I do not know what authority the Honourable Member has in his mind.

**Mr. M. A. Jinnah:** He is liable but he has not got to repudiate. No question of repudiation arises in that case.

**Pandit Motilal Nehru:** My friend will take some time to find this wonderful authority . . .

**The Honourable Mr. S. R. Das:** I have got it here.

**Pandit Motilal Nehru:** But I have here the simple words of the Indian Contract Act, which must have been read by the Honourable the Law Member many times as they have been by me. I draw his attention to section 237, which says:

"When an agent has, without authority, done acts or incurred obligations to third persons on behalf of his principal, the principal is bound by such act or obligation if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority."

**The Honourable Mr. S. R. Das:** That is a different proposition altogether.

**Pandit Motilal Nehru:** I challenge my friend to show any authority either here or in England that, where the principal has not stood by and has not actively induced the belief in third persons that his agent has been acting for him, he would in any way be liable.

**Mr. M. A. Jinnah:** No question of repudiation arises there.

**Pandit Motilal Nehru:** Let me put another simple illustration to my Honourable friend. Suppose this agent had been supplied with enough money to carry on the business of the Trade Union. He misappropriates that money and borrows without authority. He commits a double offence, an offence against his employer, and an offence against a third person to whom he goes and makes a misrepresentation. He pockets the money received from both. Can it be said that the money borrowed has to be returned by the Trade Union with the declaration of the repudiation . . .

**The Honourable Mr. S. R. Das:** The Trade Union has received no benefit.

**Pandit Motilal Nehru:** Benefit, yes. Suppose he pockets the money given by the Trade Union and spends the borrowed money for the purposes of the Trade Union, will it not be for the benefit of the Trade Union though it knows nothing about it?

**The Honourable Mr. S. R. Das:** It is exactly the case in point.

**Pandit Motilal Nehru:** A number of cases can arise which would make my Honourable friend's proposition absurd when put to the test. I say, standing here without any books of reference, that there is no authority, and there can be none either in England or here or in America, to make the principal liable in respect of the act of his agent done admittedly beyond the scope of his authority to which the principal has not in any way been a consenting party or lent his support or with which he has not identified himself either expressly or impliedly. That being the case, you are depriving the Trade Union of the most obvious defence which a common principal has against third parties when the agent misbehaves himself while you profess to give a special and additional defence.

**The Honourable Mr. S. R. Das:** May I have your permission to say a few words?

**Mr. President:** Only in so far as it is necessary to answer the challenge thrown out by Pandit Motilal Nehru?

**The Honourable Mr. S. R. Das:** I will read Bowstead on Agency, page 348:—

"Where, by any wrongful or unauthorized act of an agent, the money or property of a third person comes into the hands of the principal"—that is, benefited by him,—"or is applied for his benefit, the principal is liable jointly and severally with the agent to restore the amount or value of such money or property."

The illustration that I gave on this is taken from four reported cases but I will not trouble the House with them. But with regard to the illustration which Pandit Motilal Nehru gave as the last one, I will read this case:

"The Secretary of a company forges and discounts certain bills of exchange, and pays the proceeds to his own account, upon which he draws cheques in favour of the company. The company is liable to the discounter to the extent that the proceeds of the bills have been applied for its benefit."

**Mr. President:** I think that this question has been sufficiently discussed and I therefore put the question. The question is:

"That in sub-clause (2) of clause 18 the words 'and that the executive has repudiated such act at the earliest opportunity and by all reasonable means and with reasonable publicity' be omitted."

The Assembly divided:

AYES—57.

Abdul Karim, Khwaja.  
Acharya, Mr. M. K.  
Ahmad Ali Khan, Mr.  
Ahmed, Mr. K.  
Aiyangar, Mr. C. Duraiswami.  
Aiyangar, Mr. K. Rama.  
Alimuzzaman Chowdhry, Khan Bahadur.  
Chaman Lall, Mr.  
Chanda, Mr. Kamini Kumar.  
Chetty, Mr. R. K. Shanmukham.  
Das, Mr. B.  
Datta, Dr. S. K.  
Dutt, Mr. Amar Nath.  
Ghazanfar Ali Khan, Raja.  
Ghose, Mr. S. C.  
Ghulam Bari, Khan Bahadur.  
Goswami, Mr. T. C.  
Gulab Singh, Sardar.  
Hla. U.  
Hussanally, Khan Bahadur W. M.  
Hyder, Dr. L. K.  
Ismail Khan, Mr.  
Iyengar, Mr. A. Raugaswami.  
Jinnah, Mr. M. A.  
Joshi, Mr. N. M.  
Kasturbhai Lalbhai, Mr.  
Kidwai, Shaikh Mushir Hosain.  
Lajpat Rai, Lala.  
Lohokare, Dr. K. G.

Majid Baksh, Syed.  
Malaviya, Pandit Krishna Kant.  
Malaviya, Pandit Madan Mohan.  
Misra, Pandit Harkaran Nath.  
Murtuza Sahib Bahadur, Maulvi Sayad.  
Mutalik, Sardar V. N.  
Narsain Dass, Mr.  
Nehru, Dr. Kishenlal.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Pal, Mr. Bipin Chandra.  
Piyare Lal, Lala.  
Purshotamdas Thakurdas, Sir.  
Ramachandra Rao, Diwan Bahadur M.  
Rangachariar, Diwan Bahadur T.  
Ranga Iyer, Mr. C. S.  
Ray, Mr. Kumar Sankar.  
Samiullah Khan, Mr. M.  
Sarfaraz Hussain Khan, Khan Bahadur.  
Singh, Mr. Gaya Prasad.  
Sinha, Mr. Ambika Prasad.  
Talatuley, Mr. S. D.  
Tok Kyi, U.  
Venkatapatiraju, Mr. B.  
Vishindas, Mr. Harchandrai.  
Yakub, Maulvi Muhammad.  
Yusuf Imam, Mr. M.

NOES—41.

Abdul Qaiyum, Nawab Sir Sahibzada.  
Abul Kasem, Maulvi.  
Akram Hussain, Prince A. M. M.  
Bajpai, Mr. R. S.  
Bhore, Mr. J. W.  
Blackett, The Honourable Sir Basil.  
Bray, Sir Denys.  
Burdon, Mr. E.  
Carey, Sir Willoughby.  
Clow, Mr. A. G.  
Cocke, Mr. H. G.  
Crawford, Colonel J. D.  
Donovan, Mr. J. T.  
Gidney, Lt.-Col. 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.  
Naidu, Rao Bahadur M. C.  
Neave, Mr. F. R.  
Owens, Lieut.-Col. F. C.  
Rahman, Khan Bahadur A.  
Raj Narain, Rai Bahadur.  
Reddi, Mr. K. Venkataramana.  
Roy, Mr. G. P.  
Sim, Mr. G. G.  
Singh, Rai Bahadur S. N.  
Stanvon, Colonel Sir Henry.  
Tonkinson, Mr. H.  
Vernon, Mr. H. A. B.  
Vijayaraghavacharyar, Sir T.  
Willson, Mr. W. S. J.

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clauses 19, 20 and 21 were added to the Bill.

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

"That clause 22 do stand part of the Bill." Dr. Datta.

**Dr. S. K. Datta** (Nominated: Indian Christians): Sir, I beg to move the amendment which stands in my name, namely:

"That in clause 22 for the words 'one-third' the words 'one-half' be substituted."

Sir, as the Bill was introduced in this House the proportion appeared as two-thirds. The Select Committee reduced it to one-third, and

4 P.M. I now propose that it should again be raised to the higher figure of one-half. It may be, Sir, that there are, both within and without the House, many to whom it would appear that if we allow the figure one-third to stand, it might be a direct incitement to others, namely, "outsiders", to dabble in the affairs of Trade Unions for their own purposes. I presume that will not be the case, but in order to obtain an atmosphere of confidence in which this whole Act may be worked, I hope and trust (the House will acknowledge that there are a great number of people, important people, inside and outside this House who entertain this apprehension) that no cause will be given to their fears. My first argument then is that in working this Act, we should therefore change one-third to one-half. But that is not my whole argument. I believe I have a more solid argument than that, and which may be called, if I may so put it, an educational argument. Here for the first time we are recognizing these bodies. These registered Trade Unions will now be formed, and probably they will be formed, in very large numbers and in most of the large industries in India. That is to be a feature of the new industrial life in this country. We have another feature, a parallel feature in the agricultural life of this country, namely, the co-operative societies. Here then are these two movements, the co-operative movement among the agricultural classes, the trade union movement among the industrial classes. Now, we desire that these two movements should become self-operating, that they should become a part of the life of the working classes of India. Furthermore, I think it should be acknowledged, as the principle of this Bill acknowledges, that of all those who can protect their own interests best, the working man is really the best person to protect his own interest. Now we may examine for a moment what these Trade Unions will consist of, that is very largely of members who are illiterate. Furthermore, there will be those who are dependent, dependent on the advice and on the guidance of others and will be tempted to shirk their responsibility. An important principle of education is that if you overload an organization such as these Trade Unions are with those who are much better educated, you will never get that life growing up in these Unions which we so much desire. Take, for example, a "school-boy" society. If a "school-boy" society were overloaded with a majority of school masters, it would never function. So I believe it is with the Trade Union. There are some of us in this House who have had experience both of primitive and uneducated people, and we believe that they must be compelled to undertake the responsibility within the organizations that are created for their benefit. For that solid reason, Sir, I trust that the House will accept this proportion of one-half in the Trade Union, first, because I believe it will give confidence in this trade union movement,



[Dr. S. K. Datta.]

and we require all the confidence that we can gain from all classes of people, and secondly, because we believe in the educational effect of insisting on a certain proportion, and a very substantial proportion, of the officers of the Trade Union being men who are themselves in this movement. If you permit me, Sir, I do not know whether I am in order in referring to the proviso which comes next.

**Mr. President:** Will the Honourable Member go on.

**Dr. S. K. Datta:** I do not know whether I am in order in referring to the proviso which comes later on, Sir.

**Mr. President:** Will the Honourable Member go on?

**Dr. S. K. Datta:** The proviso says:

"Provided that the Local Government may by special or general order declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order."

There obviously will be cases and there are cases where it may be necessary for a larger proportion of outsiders to take part in the affairs of a Trade Union. Particularly I am told that this is the case of seamen's unions. Naturally most of the effective members of the seamen's union probably will be afloat, and therefore not at hand to conduct the affairs of the Trade Union. But I give the privilege to the Trade Unions under very stringent conditions and it will be for the Local Government to ensure that those circumstances exist which justify them in giving a particular Trade Union this particular privilege of having one-half of its officers recruited from "outsiders". I present this amendment together with that proviso. I notice that my friends Mr. Joshi and Mr. Chaman Lal have still further amendments to move, and I therefore resume my seat.

**Mr. B. Das** (Orissa Division: Non-Muhammadan): I rise to support the amendment moved by my friend Dr. Datta. I do not know what made the Select Committee alter this figure from two-thirds to one-third. I do not understand why there is this idea that Indian workmen are illiterate and ignorant. (*An Honourable Member:* "They are.") They are not. Those of us who know the country people know that they have good sense, a certain amount of religious training and a large amount of truthfulness and honesty. Well, that is a great asset the lack of which we at times deplore among the so-called educated classes. In Calcutta there are about two lakhs of Oriya people who belong to the working classes and I am sincerely interested in their welfare. They are both skilled and unskilled labourers, but I know that the average Oriya labourers are quite efficient, quite able and fully cognisant of their position to be in the executive bodies of their Trade Unions. I regret to find that the two representatives of labour on the Select Committee, Mr. Devaki Prasad Sinha and Mr. Tulsi Charan Goswami, did not point this out in their minute of dissent. Everywhere we find, whether it is in the Government of India or in other kinds of executive Government, parasitic bodies are trying to retain control in their own hands. We do not want Trade Unions controlled by parasitic bodies who want to get political ascendancy in the country as labour leaders. Let Trade Unions be controlled for the good of the workers and let the executive, as far as possible, be elected from the working classes. That is my submission.

**Mr. N. M. Joshi:** I am quite indifferent whether this amendment is carried or not. (Hear, hear.) I think, Sir, that the whole clause is a wrong one and my friend Dr. Datta, according to his own ideas, is trying to improve it. It is not the business of the Legislature to lay down whom the Trade Unions shall elect as their officers. If it suits a Trade Union to elect all outsiders as officers, as some Trade Unions do, it is their business. If some Trade Unions do not want outsiders, it is also their business. It is not our business to lay down in the Bill how many outsiders there shall be, or whether there shall be any outsiders, or whether there shall not be any outsiders. I therefore think that the whole clause is drawn with this suspicion of the officers of the Trade Unions. The suspicion that we have seen here throughout the discussion is there, that the officers of the Trade Union will defraud the Trade Union, will take wrong advantage of their position in the Union, and, therefore, the members of the Trade Union must be protected. This is the spirit of the Government of India of protecting people against themselves. They do not give self-government to the people of India because, they say that the people of India must be protected against themselves. And in the same manner the Trade Union will not have the free choice of electing their own officers because the Trade Union must be protected against its own officers. Sir, it is this spirit of suspicion that is running throughout the whole discussion. I do not care, therefore, for this amendment or even for the clause as it is drafted by the Select Committee. I support the amendment of my friend Mr. Chaman Lal that the whole clause be omitted.

**The Honourable Sir Bhupendra Nath Mitra:** Sir, I do not know on whose behalf Mr. Joshi spoke when he wanted to delete this clause.

**Mr. N. M. Joshi:** I have spoken on my own behalf. Have you any objection to it?

**The Honourable Sir Bhupendra Nath Mitra:** I am in possession of the House at the present moment and I hope my friend will excuse me.

For my part, I support fully the amendments moved by my friend Dr. Datta and I fully endorse his reasons on behalf of his amendments. Reading through the papers which we collected in connection with the Bill, I find a certain expression of opinion by the Kangar Hitwardhak Sabha, Bombay, which, I take it, is an Association of workmen.

**Mr. N. M. Joshi:** Will you tell me how many members this Sabha has got?

**The Honourable Sir Bhupendra Nath Mitra:** I have no personal knowledge of the genuineness of these so-called labour leaders or of their Associations. (Laughter.)

**Mr. N. M. Joshi:** When you are quoting from an authority, you ought to know what that authority is.

**The Honourable Sir Bhupendra Nath Mitra:** The passage in the statement submitted by the Sabha runs as follows:

"With reference to section 20 regarding majority of officers of Trade Unions to be persons actually engaged or employed in the industry with which the Trade Union is concerned, the Sabha submits that the word 'majority' is vague. It would be better if some definite provision is made so as to insure a minimum number of outsiders taking part in trade union. In many respects the Sabha thinks it would be better if a definite list of trade union office-holders be mentioned to which outsiders could be eligible."

[Sir Bhupendra Nath Mitra.]

That particular Sabha therefore wanted Government to go beyond the provision made by them in the Bill. I have also got here numbers of criticisms in the press in regard to the amendment made by the Select Committee in this particular clause of the Bill. They are from various parts of the country. There is one, for example, from the "*Justice*" which, I believe, represents the non-Brahmins and working classes in the Madras Presidency.

**Mr. N. M. Joshi:** Where did you get that knowledge from?

**The Honourable Sir Bhupendra Nath Mitra:** Apparently all my knowledge in these matters is wrong and there is only a limited number of prophets who can advise this House in matters of this sort. Anyhow, I can deal with facts as I find them, and that being so I fully endorse the views of Dr. S. K. Datta and support his amendments.

**Mr. Chaman Lal:** Sir, as far as this amendment goes, I am of opinion that there is no necessity whatsoever for inserting any provision with regard to outsiders. People who talk of percentages of outsiders are not aware of the fact that in actual working Trade Unions cannot afford to have more than a couple or at the outside three outsiders. In actual experience we find that they themselves manage their own affairs. I will give you instance after instance of this if you will only examine the constitution of the big Unions in India or, for the matter of that, of small Unions in India. You will find that the outsiders are either the President or the Secretary and all the rest of the executive happen to be workers themselves. Take the North-Western Railway Union. There are just one or two outsiders in a body which has a membership of nearly seventy thousand. Take the Ahmedabad Mills Unions. You find just one or two outsiders, all the executive members being workers themselves. In the case of the Bombay Tramway Union the only outsider was the General Secretary, all the members being actual workers. Throughout India, whether in Madras, Bombay or Northern India, you will find the workers themselves as members of the executive, and you will find that workers are everywhere in an overwhelming majority. There are not enough outsiders who take such keen interest in these matters.

I quite realise that the Honourable Member is not supposed to know the working of these organisations. Some are good and some are bogus ones. The one referred to by the Honourable Member, the Kamgar Hitwardhak Sabha, is one of the bogus ones as I know from my own personal experience, and as the Honourable Member would have known himself if he had read through the report. There is the cloven hoof displayed in its statement opposing a political fund. The Union reports to the Government as follows:

"It is such a relief to find that this organisation excludes politics."

**The Honourable Sir Bhupendra Nath Mitra:** Is that of a bogus character?

**Mr. Chaman Lal:** It adds to its bogus character. Any legitimate trade unionist who really understands the problem of the future destiny of trade unionism would never put his signature to a document like this. If the Independents can have their own politics, if the Government can have their own politics, if the Swarajists can have their own politics, why

cannot the Labour Party have its own politics? Have you any objection to that? People in India who do not know what trade unionism is are always willing to subscribe to a doctrine like this. If you really mean that outsiders should be limited by all means limit them. We are not going to oppose that. What we claim is that there is no necessity to put this restriction in the body of the Bill itself. It is not necessary to tie Trade Unions to the apron-strings of legislation by limiting the number of outsiders in the clauses of the Bill. It is a very vicious principle which shows suspicion on the part of the Government. Speaking on behalf of a large number of people here, I would not be willing to oppose a provision of this kind if Government thought it a very essential part of the Bill. It does not matter in the least whether you make it 99 or 50 per cent., because in any case outsiders are only a handful of the Union executive in any part of India that you choose to name. I therefore personally believe that there is no necessity for any provision of this nature. At the same time, if Government do not make it a point of importance in the Bill I would request them to support us in deleting this clause from the Bill.

**Mr. W. S. J. Willson:** Sir, I most heartily support the amendment moved by Dr. Datta. The Chambers of Commerce throughout India are unanimously of the opinion that the majority of the voters should come from the workers. If that be accepted, it will not alter the fact that the Unions will be led by leaders, but if Trade Unions are to be a success in this country, it appears to us to be absolutely necessary that the workers of those Trade Unions shall be educated up to the power of exercising their vote and exercising control of their own Union. It will be for the leaders to advise them, but the ultimate voting power should be with the workers themselves. We are firmly of opinion, as laid down in the original Bill, that the persons actually engaged or employed in an industry with which the Trade Union is connected should constitute the majority of the officers, and the amended clause of the Select Committee grants too much latitude for the intervention of outside agitators.

**Pandit Shamlal Nehru:** What is the English law?

**Mr. N. M. Joshi:** There is no section in the English law on this subject.

**Mr. W. S. J. Willson:** I think the clause and the amendment moved are so sufficiently obvious that no long speeches are necessary and I will only say once more that I most strongly support the amendment of the Honourable Dr. Datta.

**Diwan Bahadur T. Rangachariar:** Sir, if I intervene it is to say a word in support of the majority of the Select Committee who made the change. The speakers who have spoken up to now have been either supporting the amendment or supporting it under the notion that the whole clause should be deleted. Now what is the principle underlying this clause? We are now creating Trade Unions and educating people to form Trade Unions, and this clause seeks to interfere with the judgment of people who form Trade Unions. Now, interference with the judgment of people who have to decide for themselves should be as small as possible; so the majority of the Select Committee thought that, if you are going to interpose your own judgment for the judgment of the people who have to select their own officers, that interference should be to a minimum extent.

[Diwan Bahadur T. Rangachariar.]

If you follow the language of the clause we do not fix a maximum limit—it is not less than one-third, it may be possible for them if they are able to find competent people from among themselves to manage their affairs to secure their officers, they may have all of them. All that we say is not less than one-third of the total number shall be persons engaged—and mark also the qualification they must be persons actually engaged or employed in the industry concerned. Supposing in a cognate industry, on the other hand, they find people to assist them, people engaged in some other industry. The word “outsider” does not necessarily import labour leaders; they may be people employed in another industry who may be more experienced in the matter, who may be better experienced in worldly affairs and who will be taken in as officers and members of the executive. After all what is it we are doing? Not less than one-third of the total number of the officers of every registered trade union shall be so and so. The Legislature is imposing a fetter upon the judgment of Trade Unions. I quite agree we ought not to impose any fetter, but when you do impose a fetter it ought to be to the minimum extent, and that is why the majority of the Select Committee came to this figure. The difference after all between one-third and one-half is so small. Not that I quarrel with it. What would be the strength of the officers in a Trade Union? There are small and big Trade Unions. The strength, say, will be 10 or 12 or more. You expect it to be more. It will be one-third or one-half of 12. Therefore, on the whole, I commend the decision of the majority to the House. Why should we interfere unnecessarily, why should we not trust to their own judgment? And as in the earlier initial stages we want to impose this restriction, let the restriction be to a minimum extent. I quite agree with the principle, that there should be no restriction, but when we do decide to impose a restriction let us not interfere too much with their own judgment. If they think that their welfare will be best secured by persons from another but a cognate industry, why should you not leave it to their judgment? It does not compel them to do anything. We cannot say that the whole body should be men in their own industry. I expect they will do so if they find the men; but if not, why should they not have the assistance of neighbours who are perhaps better versed in affairs? Therefore, I would leave it as passed by the majority of the Select Committee.

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

“That in clause 22 for the words ‘one-third’ the words ‘one-half’ be substituted.”

The motion was adopted.

**Dr. S. K. Datta:** I move, Sir:

“That to clause 22 the following proviso be added, namely:

‘Provided that the Local Government may by special or general order declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.’”

The motion was adopted.

**Mr. President:** I may mention that the Government ought to explain their position in regard to amendments of this character, before they are pressed to a division.

**The Honourable Sir Bhupendra Nath Mitra:** Sir, may I rise to a point of personal explanation? When Dr. Datta moved his amendment No. 48, you allowed him to move his amendment No. 49 as well, and he explained his reasons for his amendment No. 49. Therefore, in speaking on behalf of the Government, I supported both the amendments Nos. 48 and 49.

**Mr. President:** The Chair accepts the explanation.

Clause 22, as amended, was added to the Bill.

Clauses 23, 24, 25, 26, 27 and 28 were added to the Bill.

Clause 29 was added to the Bill.

Clauses 30 to 33 were added to the Bill.

Clause 2 was added to the Bill.

**The Honourable Sir Bhupendra Nath Mitra:** I have got a small amendment to make, Sir, in clause 1. It is a purely formal one, namely, that for the figures "1925" the figures "1926" be substituted. The amendment needs no explanation.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Bhupendra Nath Mitra:** I do not propose at this stage, Sir, to make the further motion that the Bill be passed.

## THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) BILL.

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

Sir, this is a familiar friend. It was included in the Bill which I brought before the House last Session. The three clauses of that Bill, which were of less importance, the House was good enough to let me pass, but this clause, which is more important, they did not allow me to pass. I had an alternative. I could have moved an amendment in the Council of State and then brought the Bill back to this House. On the whole I decided not to adopt that course, because I regarded the decision of the House on the last occasion as in the nature of a snap division. The majority against me was 1. I am informed—and I have reason to believe it—by those who sit behind me that the majority against me was mainly due to the careless way in which I handled the case on the last occasion. I propose to handle it more carefully on the present occasion, and I hope the House will allow me to introduce the Bill. At this stage I need say nothing more than this. The Bill is intended to restore the discretion of the Magistrate to give either simple or rigorous imprisonment to a person bound down under section 109. I have had prepared a very careful paper which I commend for the perusal of all the Members of the House. It will give them a great deal of information. In the first place, there are extracts from practically every Local Government

[Sir Alexander Muddiman.]

pointing out the necessity for this amendment. Furthermore, in case the House should think that we do not desire to put everything we have before them, there are extracts from most of the jail reports. Last of all, there is a most valuable but rather complicated table which I have no doubt the House will understand better than I do. On all these grounds I move for leave to introduce the Bill.

**Pandit Motilal Nehru** (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I do not rise to oppose the motion, but I wish simply to inform my Honourable friend on the opposite side that this Bill will be opposed. In pursuance of a convention, which I hope is now established, that we are not to oppose any Bill at the stage of introduction, we do not oppose it now.

**The Honourable Sir Alexander Muddiman**: I had a suspicion that the Bill would be opposed.

The motion was adopted.

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

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### THE GOVERNMENT TRADING TAXATION BILL.

**The Honourable Sir Basil Blackett** (Finance Member): Sir, the motion which I have now to make is, I think, an entirely non-controversial one. It is to move that the Bill to determine the liability of certain Governments to taxation in British India in respect of trading operations be taken into consideration.

This is the outcome of one of the resolutions of the last Imperial Economic Conference. That Conference invited the several Parliaments to enact at the earliest opportunity a declaration that the general and particular provisions of its Acts or Ordinances imposing taxation shall be deemed to apply to any commercial or industrial enterprise carried on by or on behalf of any other such Government in the same manner in all respects as if it were carried on by or on behalf of a subject of the British Crown. The Government of India consulted the Local Governments, and after obtaining their views, they informed the Secretary of State that they would consider the introduction of such legislation as soon as they saw the form that the corresponding legislation took in the United Kingdom. One clause of the Finance Act of 1925 passed in the United Kingdom in the last year enacted legislation of the kind proposed by the Imperial Economic Conference, and following that model it is now proposed to enact similar legislation in India. The effect of this Bill is to make Governments trading in India liable to same income-tax as companies or persons. I do not think there is any opposition in any quarter to this Bill, and I will not therefore prolong my explanation. I beg to move.

The motion was adopted.

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

"That clause 2 do stand part of the Bill."

**The Honourable Sir Basil Blackett:** I beg to move:

"That in clause (a) of sub-clause (1) of clause 2, after the word 'manner' the words 'and to the same extent' be inserted."

This is purely a drafting amendment in order to improve the Bill.

The motion was adopted.

**The Honourable Sir Basil Blackett:** I beg to move:

"That sub-clause (2) of clause 2 be renumbered as sub-clause (3) and after sub-clause (1) the following sub-clause be inserted, namely:

'(2) For the purposes of the levy and collection of income-tax under the Indian Income-tax Act, 1922, in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly'."

As I said when moving that the Bill be taken into consideration, we have followed the model of the clause in the Finance Act of 1925 of the United Kingdom Parliament. But on a careful study of the Bill after it had been introduced we came to the conclusion that, even if it became law, it would not give us the powers we required, because it would in practice be impossible to levy any income-tax under it as a foreign State cannot be identified with any of the classes of assessee specified in section 3 of the Indian Income-tax Act, 1922, and the Bill did not provide, as it stood, any special machinery for assessing the profits of businesses conducted by or on behalf of foreign Governments in British India. The purpose of my amendment is to give us the machinery required for effecting the assessment. I beg to move.

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 2nd February, 1926.

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