

# LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 3rd FEBRUARY, 1926

Vol. VII—No. 9

## OFFICIAL REPORT



### CONTENTS

Questions and Answers.

Unstarred Questions and Answers.

The Indian Tariff (Amendment) Bill—Introduced.

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

The Government Trading Taxation Bill—Passed as amended.

Resolution *re* Enhancement of the Salaries of the two Members of the Judicial Committee of the Privy Council possessing Indian Experience—Negatived.

The Contempt of Courts Bill—Considered.

DELHI  
GOVERNMENT OF INDIA PRESS  
1926

*Price Five Annas.*

# LEGISLATIVE ASSEMBLY.

Wednesday, 3rd February, 1926.

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

## QUESTIONS AND ANSWERS.

### IMPROVEMENT IN THE FINANCIAL SITUATION.

592. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state to what extent the improvement in the financial situation referred to by the Governor General in the notification suspending the levy of the cotton excise duty has been sustained or has improved since, and will the Government be pleased to give some particulars in connection therewith both under revenue as well as expenditure heads?

**The Honourable Sir Basil Blackett:** I would request the Honourable Member to await the presentation of the Budget.

**Mr. A. Rangaswami Iyengar:** Is it not possible for the Honourable Member to say exactly on what materials the Viceroy made that statement?

**The Honourable Sir Basil Blackett:** I shall be able to give the information when I introduce the Budget.

**Mr. A. Rangaswami Iyengar:** I am asking for information which must already be in the possession of the Government, and upon which the Viceroy based his statement.

**The Honourable Sir Basil Blackett:** The question as to how far the financial situation has improved since December is one which I shall be able to answer in the Budget. I am afraid I cannot give any additional information now.

### THE PROVINCIAL LOANS FUND.

593. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state to what extent the scheme constituting the Provincial Loans Fund has been put into operation in the current year?

**The Honourable Sir Basil Blackett:** As the Honourable Member is aware, the Provincial Loans Fund started on the 1st April 1925. The total amount of outstanding capital liabilities of Provincial Governments to the Government of India on that date transferred to it under the terms of the scheme is 106.48 crores. During the year 1925-26, the amount of advances from the Fund to Provincial Governments will, it is estimated, be 9.82 crores, against which there will be repayments by the latter on account of previous loans to the extent of 1.22 crores, the balance of 8.60 crores being borrowed by the Fund from the Government of India.

## THE MADRAS LAND REVENUE BILL.

594. \***Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state:

- (a) whether they are still considering the draft Land Revenue Bill submitted by the Government of Madras more than a year ago;
- (b) if so, when the Bill may be expected to reach Madras; and
- (c) whether there is any intention on the part of the Government of India to expedite the carrying out of the recommendations of the Joint Committee in 1919, regarding land revenue legislation in the Provinces?

**Mr. J. W. Bhore:** (a) and (b). The draft Bill referred to was received from the Government of Madras in June, 1925. It raised certain important questions of principle which are the subject of correspondence between the Government of India and the Government of Madras.

(c) The matter is primarily one for the Local Governments, and is receiving their attention.

**Mr. A. Rangaswami Iyengar:** The Honourable Member has not answered part (b) of the question.

**Mr. J. W. Bhore:** I have indicated to the Honourable Member that we are still in correspondence with Madras and until a conclusion is reached in regard to the matters which are under correspondence, I cannot inform the Honourable Member when either sanction will be given or a decision taken in regard to it.

**Mr. A. Rangaswami Iyengar:** May I take it that the decision is likely to be announced during the life of the present Legislative Council in Madras or the Assembly here?

**Mr. J. W. Bhore:** It is impossible for me to say, Sir.

**Mr. A. Rangaswami Iyengar:** I am asking whether this Bill is likely to be ready for presentation to the existing Legislative Council in Madras?

**Mr. J. W. Bhore:** I have already replied to that. It is quite impossible for me to say.

## TRANSFER TO THE GOVERNMENT OF INDIA OF THE OWNERSHIP OF CERTAIN DISTRICT BOARD RAILWAYS IN THE MADRAS PRESIDENCY.

595. \***Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state:

- (a) what steps have been taken in the Railway Department to settle the disputes pending between the District Boards in the Madras Presidency, the Companies and the Government in respect of—
  - (i) the construction and working of new lines;
  - (ii) the proposals for depriving them of the ownership or working of existing lines;
  - (iii) the construction of lines already sanctioned for execution as part of their existing system;

- (b) whether any conditions and terms have been settled as to the ownership, capital invested and working of the Mayavaram-Tranquebar line now being laid on behalf of the Tanjore District Board;
- (c) whether the Government of India have taken legal advice as to the rights of the District Boards and Local Governments and the Government of India as to these lines, existing and projected; and
- (d) whether any efforts have been made or any steps taken to assist local authorities in the Madras Presidency with advice and guidance as to the development of light railways and tramways from out of the cess funds at their disposal for the development of district communications and opening up of productive areas in pursuance of the duty which has specially developed on local authorities under the Devolution Rules?

**Mr. G. G. Sim:** (a) and (b). The general question of transfer to the Government of India of the ownership of certain District Board Railways in the Madras Presidency, including the Mayavaram Tranquebar line, is still under the consideration of Government.

(c) No.

(d) The Government of India are always prepared to give advice on the subject of development of light railways and tramways whenever it is asked for by a Local Government. Attention in this connection is invited to paragraphs 14 and 15 of the Resolution No. 2131-F., dated 19th February, 1925, of the Government of India, in the Railway Department.

**Mr. A. Rangaswami Iyengar:** May I know why, when the whole of this question is actually under the consideration of the Government of India, the construction of the line is proceeded with, and whose money is being spent for the purpose of the Mayavaram Tranquebar line?

**Mr. G. G. Sim:** We have agreed to the construction being proceeded with because the local authorities in Madras were very anxious that it should be proceeded with. The line is at present being financed from funds supplied by the Government of India. The question of the utilisation of District Board funds in connection with that line will be settled when the general question is settled.

**Mr. Rangaswami Iyengar:** May I take it that the funds already placed at the disposal of the Railway Board by the Tanjore District Board in respect of the construction of this line have not been utilised, or have been kept apart?

**Mr. G. G. Sim:** They have supplied no funds. Their funds are still lying in their accumulated cess balances.

**Mr. A. Rangaswami Iyengar:** I want to know exactly what has happened, from what fund has the actual construction of the line been financed just at present, and whether any part of the funds which the District Board has already paid into the hands of the Railway Board for the construction of this line has been used by the Railway Board in respect of the construction of this line at all?



**Mr. G. G. Sim:** The District Board originally paid for certain expenditure in connection with this line some years ago. The construction of the line was then suspended and when I was asked in Madras the other day by the Chairman of the District Board about this line, I put to him the suggestion that when we came to a final solution regarding the general question the point might be considered of whether the District Board, if it came into line with the general solution, should take its money back with interest or should invest it in the manner I had suggested as a solution of the general question. As the local authorities were anxious that the construction of the line should be proceeded with, I agreed on behalf of the Government of India to the construction being proceeded with, the additional funds being found from the Government of India money.

**Mr. A. Rangaswami Iyengar:** May I take it that the fact that the Government of India found this money to construct this line will not be urged against the District Board when it claims its rights in that line?

**Mr. G. G. Sim:** I do not see that it at all prejudices the question. The line has got to be built and the question of whether the ultimate ownership should vest with the District Board or with the Government of India can be settled later.

**Mr. A. Rangaswami Iyengar:** I want to know whether the Government will not claim hereafter on account of the fact that they provided the funds for the construction of this line and whether this will prejudice the claims of the District Board?

**Mr. G. G. Sim:** There will be no prejudice whatsoever in this case.

#### RAILWAY DISASTER NEAR PATUKOTA ON THE TANJORE DISTRICT BOARD RAILWAY.

596. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state:

- (i) whether they have received the joint inquiry report into the causes of the recent railway disaster near Patukota on the Tanjore District Board Railway and, if so, whether they will lay the same on the table; and
- (ii) whether it is a fact that the train was run at a high speed, on a second-class permanent way during abnormal rain without a searchlight, and that the line was below the standard of the South Indian Railway Company's adjacent branch line in that its ballasting was inferior and that it was provided with insufficient vents and culverts for the passage of rain water on both sides without accumulating or flooding so as to wash away the line, and, if so, whether any steps have been taken to enforce the responsibility of the Company in this matter in future?

**The Honourable Sir Charles Innes:** (i) Government have received the report referred to. The attention of the Honourable Member is invited to the communiqué issued by the Agent and published in the Press which gives the substance of the report.

(ii) The accident was due to an unprecedented volume of water coming from an unexpected direction and Government have no reason to consider the Railway Administration responsible for neglect in the maintenance of the permanent way or failure to provide sufficient bridging. The train was running at normal speed and was not fitted with a searchlight. The Railway Board are in correspondence with the Agent regarding the equipment of locomotives with electric headlights.

**Mr. A. Rangaswami Iyengar:** May I know whether it is a fact that this permanent way is a second class permanent way, is below the standard of the Railway on the main line?

**The Honourable Sir Charles Innes:** I must ask for notice.

#### STATUTORY RULES.

597. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to lay on the table a list of the statutory notifications since the coming into force of the Government of India Act, 1919, making, altering or cancelling the original Statutory Rules framed by the several competent authorities in 1919, showing (a) which of these rules were made in draft and laid before Parliament before bringing them into force, and (b) which were brought into force at once and laid on the table of the Houses of Parliament subsequently?

**The Honourable Sir Alexander Muddiman:** I presume that the Honourable Member's question relates to rules to the making of which the provisions of section 129A of the Government of India Act apply. Information is being collected and will be laid on the table of this House in due course, showing such rules made since the original Statutory Rules were framed in 1920, and which were laid in draft before both Houses of Parliament before they were made. The Government of India consider no useful purpose would be served by collecting information in regard to the similar rules which were laid before both Houses of Parliament after they were made.

**Mr. A. Rangaswami Iyengar:** Will the Government of India consider the advisability of compiling that statement and giving it to the House, because, though it may not be useful to the Government of India, it will be very useful to us on this side of the House?

**The Honourable Sir Alexander Muddiman:** My Honourable friend will gather that if a rule is not included in the statement I propose to lay on the table, therefore it was made after it was laid. So he is really getting the information.

**Mr. A. Rangaswami Iyengar:** I have not followed the Honourable Member.

**The Honourable Sir Alexander Muddiman:** I will lay on the table a statement of the rules which were placed before the House before they were made. Therefore the Honourable Member by a very simple process of reasoning will deduce that any rule not included in that statement was made after it was laid.

**Mr. A. Rangaswami Iyengar:** I want to have a complete list of the rules which were so enacted without being laid on the table.

**The Honourable Sir Alexander Muddiman:** I am not prepared to do that. It involves unnecessary labour.

**Mr. A. Rangaswami Iyengar:** May I know why the Government should be anxious to give the House only those rules in regard to which they have conformed to the normal requirements of the Statute, and why they will not give us a list of cases in which they proceeded abnormally under the Statute.

**The Honourable Sir Alexander Muddiman:** That is exactly what I am doing. I am giving the Honourable Member the information. The only thing I am not doing is I am not having a long statement prepared for all rules in which neither the Honourable Member nor I have any interest. The Honourable Member knows perfectly well that if it was not in the first statement, therefore it was laid after it was made.

**Mr. A. Rangaswami Iyengar:** I want to be perfectly clear on the matter. If my Honourable friend will give me a list of all Statutory Rules and then mark therein those which were enacted after being laid before Parliament, that will suffice for my purpose.

**The Honourable Sir Alexander Muddiman:** I have no doubt it will. That is exactly what the Honourable Member asks for.

STATEMENT OF GRANTS REJECTED BY THE ASSEMBLY AND RESTORED  
BY THE GOVERNOR GENERAL FROM 1920-21 TO 1925-26, ETC.

598. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to lay on the table a list of grants in the Budgets of the Government of India from 1920-21 to 1925-26 rejected by the Assembly and restored by the Governor General and to obtain and lay on the table of the Assembly similar lists in respect of the Provincial Councils?

**The Honourable Sir Basil Blackett:** A statement of grants rejected by the Assembly and dealt with by the Governor General in Council under section 67-A (7) of the Government of India Act is laid on the table. The Government are not in possession of full information in respect of action taken by Provincial Governments.

*List of Demands for Grants relating to the expenditure of the Government of India for 1921-22 to 1925-26 rejected by the Assembly and restored by the Governor General in Council under section 67-A (7) of the Government of India Act.*

| Budget year. | No. of Demand and Service to which Demand relates.                   | Amount restored. |
|--------------|--|------------------|
|              |  | Rs.              |
| 1921-22      | } Nil.   |                  |
| 1922-23      |  |                  |
| 1923-24      | { 8—Railways—Working Expenses . . . . .                              | 1,14,00,000      |
|              | { 44—Miscellaneous—Public Services Commission . . . . .              | 3,00,000         |
|              | { 1—Customs . . . . .  | 71,84,000        |
|              | { 2—Taxes on Income . . . . .  | 61,82,000        |
| 1924-25      | { 3—Salt . . . . .   | 1,08,55,000      |
|              | { 4—Opium . . . . .  | 2,07,81,000      |
|              | { 8—Railways—Capital—Open Line Works . . . . .                       | 10,00,000        |
| 1925-26      | { 16—Customs—Cotton Excise establishment . . . . .                   | 77,000           |
|              | { 28—Executive Council—Tour expenses of Members of Council . . . . . | 62,000           |

**Mr. A. Rangaswami Iyengar:** Will the Government obtain the information and lay it on the table?

**The Honourable Sir Basil Blackett:** Yes, I will consider that.

CASES SINCE 1920 IN WHICH THE GOVERNOR GENERAL HAS EXERCISED  
THE POWER OF CERTIFICATION UNDER SECTION 67-B OF THE  
GOVERNMENT OF INDIA ACT.

599. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to lay on the table a list of cases since 1920 in which the Governor General has exercised the power of certification under section 67B of the Government of India Act, showing the cases in which the Governor General acted under the proviso to that section and brought the certificated measure into force at once and the cases in which he laid such a measure before Parliament and waited for the statutory period before bringing it into force?

**Mr. L. Graham:** A statement is laid on the table.

*Statement showing the cases since 1920 in which the Governor General has exercised the power of certification under section 67-B of the Government of India Act.*

|   |  |
|---|--|
| 1. The Indian States (Protection against Disaffection) Act, 1922. | Action not taken under the proviso to sub-section (2) of Section 67-B. |
| 2. The Indian Finance Act, 1923                                   | Action taken under that proviso.                                       |
| 3. The Indian Finance Act, 1924                                   | Ditto.   |
| 4. The Bengal Criminal Law Amendment (Supplementary) Act, 1925.   | Ditto.   |

CASES IN WHICH ACTION HAS BEEN TAKEN UNDER SECTION 52 (3) OF  
THE GOVERNMENT OF INDIA AND THE PROVISIO TO RULE 6 OF THE  
DEVOLUTION RULES, ETC.

600. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to obtain and lay on the table of the House a statement showing the cases in which action has been taken in the several provinces in pursuance of the provisions of section 52(3) of the Government of India Act and the proviso to rule 6 of the Devolution Rules and of the provisions of proviso (b) of section 72D (2) of the Act?

**The Honourable Sir Alexander Muddiman:** I lay on the table a statement giving such of the information asked for as is in the possession of the Government of India.

*Statement showing the cases in which a Governor has taken action under section 59 (3), etc., of the Government of India Act.*

(a) The cases in which a Governor has taken action under the Transferred Subjects (Temporary Administration) Rules have been as follows :

- (i) by the Governor of Bombay on the 15th of December 1923 when the Ministers in that province resigned on the occasion of the second general election for the local Council;
- (ii) by the Governor of the Central Provinces in March 1924 on the resignation of the Ministers in that province;
- (iii) and (iv) by the Governor of Bengal in August 1924 and March 1925 on the resignation of the Ministers in that province.

(b) The only occasion on which the Governor General in Council has taken action under the proviso to rule 6 of the Devolution Rules has been in the case of Bengal where the transfer of all the transferred subjects was suspended with effect from the 13th of June 1925.

(c) The Government of India have no detailed information in regard to the cases in which the Governors of the various Provinces have exercised their powers under proviso (b) to sub-section (2) of section 72D of the Act, and they do not consider that any useful purpose would be served by obtaining it at present.

#### ACTION TAKEN ON THE RECOMMENDATIONS OF THE REFORMS INQUIRY COMMITTEE.

601. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to lay on the table of the House a statement showing the action that has already been taken on the recommendations of the majority of the Muddiman Committee and the action that remains to be taken on those recommendations?

**The Honourable Sir Alexander Muddiman:** Recommendation No. 6. I moved a Resolution in this House in September last and the discussion of the Resolution was postponed at the request of Honourable Members. The discussion of that Resolution will doubtless be resumed shortly.

Recommendations Nos. 12, 13, and 24 (c) have already been given effect to.

Recommendation No. 14 is pending in the form of a Bill which has been referred to a Select Committee of this House.

On other recommendations, Local Governments have been consulted and their replies have been received and are receiving due attention. In the case of certain recommendations, the Government of India have made their final proposals to the Secretary of State and his decision is awaited.

#### NEW OR REVISED RAILWAY PROJECTS APPROVED OF BY THE STANDING FINANCE COMMITTEE FOR RAILWAYS.

602. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state whether any new railway projects or alterations of old railway projects have been sanctioned by the Railway Finance Committee since the last Railway Budget and, if so, when supplemental estimates for these projects will be brought up before the Assembly?

**Mr. G. G. Sim:** The Honourable Member is referred to Volume II, Nos. 1—6 of the Proceedings of the Standing Finance Committee for Railways, which give particulars of all projects approved of by the Committee in the current financial year. Particulars of these projects, and

of all other projects approved by the Committee in the programme for capital expenditure of each railway for next year, will appear in the budget estimates for Railways to be shortly presented to the Assembly. Where expenditure has been incurred during the current year on any new or revised project it has been met by reappropriation within the grant voted by the Assembly, and consequently the question of a supplementary demand does not arise.

# REORGANISATION OF AUDIT AND ACCOUNTS ON RAILWAYS.

608. **\*Mr. A. Rangaswami Iyengar:** Will the Government be pleased to state what progress has been made in the scheme of separation of audit and accounts in Railway Finance and whether any regulations and rules have been framed for the purpose; and, if so, whether the same will be laid on the table of the House?

**Mr. G. G. Sim:** The scheme for the reorganisation of Audit and Accounts on Railways on the lines indicated in the Resolution passed by this House in the last Simla Session has been introduced as an experimental measure on the East Indian Railway with effect from the 1st December, 1925. As regards the second part of the Honourable Member's question there is no immediate need to frame fresh rules and regulations of a comprehensive nature as the duties to be performed by the newly organised accounts staff under the scheme are largely identical with those hitherto undertaken on State-worked Railways by the audit and accounts staff under the Auditor General and by the Audit and Accounts Department of the late East Indian Railway Company.

# NOMINATED NON-OFFICIALS IN THE CENTRAL AND PROVINCIAL LEGISLATURES, ETC.

604. **\*Mr. A. Rangaswami Iyengar:** 1. Will the Government be pleased to state whether the Government of India make recommendations or suggestions to the Governor General for the filling up of seats reserved for nominated non-officials in the Indian Legislature? If so, what are the principles or the guiding policy upon which such recommendations are made?

2. Have the Government of India issued any set of instructions, suggestions or advice to the Local Governments or Governors of Provinces to guide or help them in the making of nominations to the non-official seats in the several Legislatures?

3. Have the Government of India at any time accepted the principle of permitting the nomination of a defeated candidate to the Councils or the extension of any such principle to nominations in Municipal and Local Boards?

4. Have the Government of India indicated at any time to Local Governments the general policy in regard to nominations to popular bodies where defeated candidates seek nomination thereto?

**The Honourable Sir Alexander Muddiman:** 1. The nomination of persons to be Members of either Chamber of the Indian Legislature is within the sole discretion of His Excellency the Governor General.

2. No, beyond a suggestion made unofficially in 1920 that in making nominations for the Chambers of the Indian Legislature it would be necessary to consider the correction or mitigation of inequalities disclosed by election returns in the representation of classes and communities.

3. The answer is in the negative.

4. No general statement on the lines apparently conceived by the Honourable Member has been issued. There are, however, some remarks on nomination in the Resolution of the Government of India on Local Self-Government, dated the 16th May 1918, but they do not seem to be connected with the point which is presumably troubling the Honourable Member.

**Mr. K. Ahmed:** Are the Government aware that they have taken a sinister step . . . . .

**Mr. President:** Order, order. The Honourable Member must not use the word "sinister".

**Mr. K. Ahmed:** Very well, may I use the word "bad". Are the Government aware that they have taken a bad step against the liberty and freedom of the Press by nominating a newspaper man, an Associated Press man, who, as a matter of fact, does not give publicity to anything against the Government and who, as a matter of fact, supports the Government in season and out of season? And is it not a fact that this practice is followed not only in the Central Legislature but all over the provinces as well?

**The Honourable Sir Alexander Muddiman:** I am not sure that I fully apprehend the Honourable Member's rather lengthy question, but if he is making an attack on the Press I can leave the Press to defend itself.

**Mr. K. Ahmed:** Is that not the reason why the Associated Press here and in the provinces do not accurately report what they ought to, for which purpose the liberty and freedom of the Press was given by the decision of the Judges of the High Court?

**The Honourable Sir Alexander Muddiman:** I can well understand why my Honourable friend's supplementary questions are not perhaps adequately reported.

#### MOPLAH COLONISATION IN THE ANDAMANS.

605. **\*Mr. A. Rangaswami Iyengar:** Have the Government of India received the report of the non-official committee appointed to inquire into the question of Moplah colonisation in the Andamans? If so, will they place the same on the table of the House?

**The Honourable Sir Alexander Muddiman:** I understand that the reference is to the visit, for which Government granted facilities, of four gentlemen to the Andamans to examine the conditions and circumstances of the Mappilla villages there. Government have received the views of one of them, but not of the others. I cannot, of course, arrive at any conclusions until the complete reports are in my possession, unless they are very unduly delayed.

**Mr. K. Ahmed:** Are the Government aware that in the report of the Central Jail Committee of 1919 it is clearly stated that the Andamans is an insanitary and unhealthy place for human habitation and that convicts should not remain any longer on the Island?

**Mr. President:** Order, order. The Honourable Member has apparently not understood the question and answer.

TRANSFERS OF HINDU POSTAL CLERKS IN THE PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

606. **\*Mr. Ohaman Lall:** (a) Will the Government be pleased to state whether they are aware of the fact that the Postmaster General, Punjab and N.-W. F. Circle has issued orders stopping the transfers of Hindu clerks in the time-scale of pay from one Division or Head Office to another where the recruitment of Hindus is stopped, even though they want transfer at their own expense or they secure an exchange note with an official other than a Hindu?

(b) If this is a fact, do the Government propose to cancel these orders?

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

(b) I have asked the Postmaster-General, Punjab and North-West Frontier to forward a copy of his orders, which I shall then carefully consider.

COLLECTION OF COTTON EXCISE DUTIES IN BOMBAY AND THE PUNJAB AND UPPER INDIA.

607. **\*Mr. W. S. J. Willson:** (a) Are Government aware that different practices prevailed in Bombay and the Punjab and Upper India in regard to the collection of cotton excise duties?

(b) Will Government please state how they propose to deal with the matter so that all mills may be put in the same position?

**The Honourable Sir Basil Blackett:** (a) and (b) Representations on the subject have been received and are now being considered by the Government of India. When a decision has been reached, I will communicate it to the Honourable Member.

**Mr. B. Das:** Is it a fact, Sir, that the Ahmedabad mills pay a cotton excise duty of 4 per cent. instead of  $3\frac{1}{2}$  per cent.?

**The Honourable Sir Basil Blackett:** No, Sir.

VISIT OF HIS MAJESTY THE KING EMPEROR TO INDIA, ETC.

608. **\*Haji Wajihuddin:** Will the Government be pleased to state:

(a) whether it is true that the Government of India intend to invite His Majesty the King Emperor to pay a visit to India next year; and

(b) whether His Majesty is expected to announce on arrival at the Imperial Capital (Delhi) further instalments of the Reform Scheme?

**The Honourable Sir Alexander Muddiman:** (a) No such question has arisen.

(b) Does not arise.



## ENLARGEMENT OF THE DELHI PROVINCE.

609. \***Haji Wajihuddin**: Will the Government be pleased to state:

- (a) whether it is proposed to extend the Delhi Province by the inclusion of three adjacent Divisions, namely, Agra, Meerut and Umballa; and
- (b) whether Delhi will be made one of the largest military headquarters?

**The Honourable Sir Alexander Muddiman**: (a) and (b) No such proposals are under consideration.

## ABOLITION OR REDUCTION OF THE GARRISON OF MEERUT.

610. \***Haji Wajihuddin**: Will the Government be pleased to state whether the Cantonment of Meerut is to be abolished altogether or reduced to a great extent?

**Mr. E. Burdon**: Government have no intention of either abolishing or reducing the garrison of Meerut.

## PROHIBITION AGAINST GOVERNMENT SERVANTS BECOMING MEMBERS OF THE HINDU SABHA.

611. \***Pandit Nilakantha Das**: Will the Government please state whether they have issued prohibitory orders or circulars to their public servants against becoming members of the Hindu Sabha?

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

## ALLEGED UTILISATION OF THE SERVICES OF A GOVERNMENT CHAPRASI AS HIS MOTOR DRIVER BY MR. BOOTH, POSTMASTER GENERAL, PUNJAB.

612. \***Mr. Chaman Lal**: (a) Is it a fact that while Mr. Booth was Deputy Director General one Bidhu Chaprasi of the Postmaster General's office worked as his motor driver and continued to draw his pay as Chaprasi of the Postmaster General's office? If so, for how long did this arrangement continue and what amount was drawn from the Government treasury as Bidhu's pay although he was in Mr. Booth's private employment?

(b) Is it a fact that this man Bidhu worked as Mr. Booth's motor driver throughout the period he was Postmaster General, Punjab, during his first appointment in that circle? If so, is it a fact that Bidhu was throughout shewn as Chaprasi, Postmaster General's office, and used to draw his pay as such? Will the Government please state the amount so drawn by Bidhu?

**Mr. G. P. Roy**: (a) and (b) The answer is in the negative.

## CASES REPORTED TO THE POLICE BY THE SUPERINTENDENT OF POST OFFICES, GUJRAT DIVISION.

613. \***Mr. Chaman Lal**: (a) Will the Government please state how many cases were reported to the police during the year 1924-25 by the Superintendent, P. O., Gujrat Division? How many of them were sent up for trial and what number were successful in the courts and what amount had the Government to incur?

(b) How many officials were suspended, dismissed and removed from service and how many were reinstated in due course and on appeal and what amount of pay was given to them?

**Mr. G. P. Roy:** The information is being collected and will be furnished to the Honourable Member in due course.

#### TRANSFERS OF PERMANENT SUPERINTENDENTS OF THE PUNJAB POSTAL CIRCLE.

614. **\*Mr. Chaman Lal:** Will the Government please lay on the table of the House a statement shewing names of permanent Indian Superintendents of the Punjab Postal Circle transferred to other circles in the ordinary course of business during the last ten years excepting those who arrange their mutual exchange?

**Mr. G. P. Roy:** There have been two such transfers in the period stated; the names are Mr. Ganpat Rai and Mr. Ramzan Ali.

#### ALLEGATIONS MADE BY MR. J. N. CHINYOY AGAINST CERTAIN OFFICIALS OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

615. **\*Mr. Chaman Lal:** (1) Are Government aware that one Mr. J. N. Chinoy has been issuing open letters and that three such have already been issued to Sir J. E. Jackson, Agent of the Bombay, Baroda and Central India Railway, making serious allegations against Mr. T. Robinson, General Traffic Manager, Mr. W. H. Green, Deputy Traffic Manager, Claims Department, and other European and Indian Railway officers with regard to alleged bribery, corruption, illegal gratification, jobbery and nepotism in the Bombay, Baroda and Central India Railway?

(2) Do Government intend to institute any inquiry into the allegations of Mr. Chinoy?

(3) What steps have so far been taken by Government to put a stop to such corruption and undesirable practices in the said Railway?

(4) Do Government propose to take any action against the writer of those open letters?

**The Honourable Sir Charles Innes:** (1) Government have seen a copy of one such letter addressed to Sir J. E. Jackson.

(2), (3) and (4). It is understood that the Agent is taking legal advice regarding the action to be taken against the writer of those letters.

#### SHOOTING, COURSING, HAWKING OR HUNTING ON THE RIDGE IN RAISINA.

616. **\*Baba Ujagar Singh Bedi:** (a) Is it a fact that shooting, coursing, hawking or hunting is prohibited on the Ridge in the suburbs of the New Cantonment Road, Raisina, which is hedged by wire fencing and is under the Public Works Department or some other similar department? If so, for what reasons?

(b) Can anybody shoot, hunt or hawk in the above-mentioned area with official permission? If so, from whom and how may such permission be secured?

**Mr. J. W. Bhore:** (a) and (b) The area referred to was constituted a reserved forest under section 19 of the Indian Forest Act, 1878, by Chief Commissioner's Notification No. 5591, dated August, 8th, 1914. The action was taken to facilitate the afforestation of the Southern Ridge. Hunting, shooting and setting traps or snares in the area was prohibited except with the written permission of the Forest Officer by rule made under Section 25 (1) of the Act notified in Chief Commissioner's Notification No. 2563-R. & A., dated 2nd April, 1917. The Superintendent of Horticultural Operations, Public Works Department, Delhi, has been invested with the powers of a Forest Officer for this purpose and applications for permits should be made to him. The above action was taken to prevent damage being done to young trees, the plantation of which is highly desirable and expensive.

#### ABOLITION OF THE APPOINTMENTS OF BRAKESMEN ON THE OUDH AND ROHILKHAND SECTION OF THE EAST INDIAN RAILWAY.

617. **\*Khan Bahadur Sarfaraz Hussain Khan:** (a) Will Government please state if it is a fact that many posts of brakemen have been abolished on the Oudh and Rohilkhand section of the East Indian Railway and that the guards alone are working the passenger trains?

(b) If so, do Government propose to re-introduce the practice of engaging brakemen for the safety and convenience of the travelling public?

(c) If not, why not?

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

(b) and (c) No. The matter is within the competence of the Agent who found that brakemen were not required on these sections.

#### PAY OF STATION MASTERS AND ASSISTANT STATION MASTERS ON THE OUDH AND ROHILKHAND SECTION OF THE EAST INDIAN RAILWAY.

618. **\*Khan Bahadur Sarfaraz Hussain Khan:** (a) Will Government please state if it is a fact that the maximum pay of "A" class station masters and assistant station masters on the Eastern Bengal, North-Western and East Indian Railways is Rs. 80 and Rs. 76, respectively, whereas on the Oudh and Rohilkhand section of the East Indian Railway the pay of the station masters and assistant station masters has been revised to Rs. 75 and 55, respectively?

(b) If so, do Government propose to raise the scale of the Oudh and Rohilkhand Railway staff also according to the sister Railways' scale?

(c) If not, why not?

**Mr. G. G. Sim:** (a), (b) and (c) I would refer the Honourable Member to the reply given to a similar unstarred question No. 90 asked by Maulvi Muhammad Yakub.

HYPOTHESES ADVANCED BY MEMBERS OF THE ARCHÆOLOGICAL DEPARTMENT REGARDING THE PRE-HISTORIC RACES OF INDIA.

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

- (i) what the functions are of the Department of Archæology;
- (ii) whether the Department has advanced the following hypotheses:
  - (a) that the whole of India in pre-historic times was inhabited by a dark race which later on came to be called Dravidian,
  - (b) that the Dravidians in Northern India were conquered and driven into South India by an alien white-skinned Aryan people,
  - (c) that the bulk of the people in South India even now excepting the Brahmans are all Dravidian,
  - (d) that the depressed classes particularly are Adi-Dravidas or earliest among the Dravidians;
- (iii) whether these hypotheses have received official recognition; and
- (iv) whether any Government Order has been issued that the depressed classes in Madras or any other province should be officially designated as Adi-Dravidas?

**Mr. J. W. Bhore:** (i) The functions of the Department of Archæology are set forth in the Resolution on Indian Archæological Policy issued by the Government of India on the 22nd October 1915, to which the attention of the Honourable Member is invited.

(ii) and (iii) Various hypotheses have been advanced by different members of the Archæological Department regarding pre-historic races of India. But all hypotheses are necessarily tentative and each represents the views only of the officer publishing it.

(iv) The Government of India are not aware of any such order having been issued.

**Mr. B. Das:** May I inquire, Sir, if the hypothetical question that all Brahmans in Southern India are non-Dravidians is true?

**Mr. J. W. Bhore:** I did not quite follow the Honourable Member's question.

**Mr. B. Das:** May I inquire if the hypothetical question that all Brahmans in Southern India are non-Dravidians is true?

**Mr. J. W. Bhore:** My Honourable friend may draw his own conclusions.

**Mr. M. K. Acharya:** In respect to paragraph 4, will Government inquire whether such an order has not been issued in Madras?

**Mr. J. W. Bhore:** I have already answered that. I have said that the Government of India are not aware of any such order having been issued. If the Honourable Member will bring to my notice any such order I shall be very happy to look into it.

EXPENDITURE ON THE TRAVELLING EXPENSES OF THE HIGH COMMISSIONER FOR IRAQ AND ON A MISSION TO THE SULTAN OF NEJD.

620. **\*Mr. Jamnadas M. Mehta:** (i) Has the attention of Government been drawn to the telegram from London in the Indian press, dated 21st December, 1925, quoting the observations of the Public Accounts Committee there in respect of two payments of £2,801 and £47,338, to the Government of India?

(ii) Is it true that the first amount is half the travelling expenses of the High Commissioner for Iraq and the second, half the cost of a mission to the Sultan of Nejd?

(iii) Is it correct as reported in that telegram that the Government of India first bear the whole cost and then recover half of it from the British Government?

(iv) Will Government state why they have agreed to pay any part of the expenditure on these two items?

(v) Has India anything to do with the said journey and the said mission? If so, what?

(vi) Will Government state whether the idea of sending a mission to the Sultan of Nejd originated with them or with the British Government?

**The Honourable Sir Basil Blackett:** I would invite the Honourable Member's attention to the reply already given by me to a similar question by Mr. Venkatapatiraju.

**Mr. K. Ahmed:** Though I had a similar supplementary question then to which I received no reply from the Government, may I ask why, if the Indian people, Sir, are not allowed to select their delegate to the League of Nations, they should pay the cost of all these expenses against the wishes of the country and their representatives?

**The Honourable Sir Basil Blackett:** If Mr. K. Ahmed has got a lot of supplementary questions on a question which has nothing to do with the one actually answered, is there any need for the Member to reply?

#### RECEIPTS FROM DUTIES ON MATCHES, SPLINTS AND VENEERS.

621. **\*Mr. K. Rama Aiyangar:** (a) Will the Government be pleased to state the comparative receipts from customs on matches and on constituents going into matches for 1923-24, 1924-25 and 1925-26?

(b) Will the Government be pleased to state if they have received any representations from the Swedish Match Company in India to compensate them for the loss of customs?

**The Honourable Sir Basil Blackett:** (a) The comparative receipts from customs on matches, splints and veneers are as follows: in 1923-24, 186 lakhs, of which 106 lakhs were collected in the first 8 months of that year; in the first eight months of 1925-26, 85 lakhs. Figures for duty receipts on constituents other than splints and veneers, as for example, uncut timber, chemicals and paper, are not available.

(b) If I understand the question aright, the answer is in the negative.

#### NUMBER OF COPIES OF THE SWARAJYA, MADRAS, SUBSCRIBED FOR BY THE GOVERNMENT OF INDIA.

622. **\*Mr. C. Duraiswami Aiyangar:** (a) Is it a fact that the *Swarajya* of Madras has a large circulation?

(b) Are the Government of India subscribing for copies of the *Swarajya*? If so, for how many copies? If not, why not?

**The Honourable Sir Alexander Muddiman:** (a) The Government of India understand the circulation was about 5,000 copies in 1924, but they are unable to vouch for the accuracy, or otherwise, of this information.

(b) The information is being collected and I shall cause it to be supplied to the Honourable Member in due course.

**The Reverend Dr. E. M. Macphail:** Is it a fact, Sir, that the paper in question indulges in writing which is meant to be offensive but is merely inaccurate?

**The Honourable Sir Alexander Muddiman:** Sir, that would be a matter of opinion.

**Mr. Ohaman Lall:** May I ask if the Honourable Member is in order in casting a reflection upon a very valuable Nationalist daily?

GRANT OF OVERTIME ALLOWANCES TO INDIAN SUBORDINATES OF THE  
EAST INDIAN RAILWAY FOR WORK ON SUNDAYS AND GAZETTED  
HOLIDAYS.

623. **\*Khan Bahadur Sarfaraz Hussain Khan:** (a) Will Government please state if it is a fact that the Anglo-Indian and European subordinates on the East Indian Railway are granted an extra allowance for working on Sundays and gazetted holidays?

(b) If so, do Government propose to extend the same privilege to the Indian subordinates also?

**Mr. G. G. Sim:** (a) and (b). I would refer the Honourable Member to the reply given to a similar question No. 559 asked by Maulvi Muhammad Yakub.

DISCHARGE OF HARI PADA DEY, A WRITER OF THE P. W. I. IKRAH,  
EAST INDIAN RAILWAY.

624. **\*Khan Bahadur Sarfaraz Hussain Khan:** 1. Will Government be pleased to state:

(a) if it is a fact that one Hari Pada Dey, writer of the P. W. I. Ikrah, East Indian Railway, was discharged after putting in 18 years' service under paragraph 2 of his agreement:

(b) if it is a fact that the S. D. E. Ondal entered into the quarter of this man in his absence on the 17th August, 1925, where his family was stopping, and he reported the matter to the Chief Engineer for necessary action:

(c) if it is a fact that for this very reason the man was discharged by the Divisional Superintendent, Asansol, on the recommendation of the S. D. E.:

(d) if it is a fact that the Chief Engineer ordered the reinstatement of this man in his letter No. 26828-G. E.-86, dated the 13th October, 1925, but the Divisional Superintendent was not disposed to carry out the orders of the Chief Engineer as per S. W. W., Asansol, letter No. 14216-P. F., dated the 4th November, 1925: and

(e) if it is a fact that his gratuity has also been forfeited?

2. If so, do Government propose to call for an explanation from the Divisional Superintendent for ignoring the orders of the Chief Engineer?

3. If not, will Government please state the reason?

**Mr. G. G. Sim:** 1, 2, and 3. Government have no information and cannot undertake to inquire. A copy of the question has, however, been sent to the Agent, East Indian Railway, and he will doubtless take such action as is required.

#### FLOODS IN ORISSA.

625. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state whether or not the Government of India was consulted in any matter concerning the recent Orissa floods by the Government of Bihar and Orissa? If so, with what results?

#### GRANT BY THE GOVERNMENT OF INDIA FOR RELIEF WORK IN CONNECTION WITH THE FLOODS IN ORISSA.

626. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state whether or not any pecuniary help was given to the Government of Bihar and Orissa by the Government of India for relief work in connection with the Orissa floods? If so, to what extent?

**Mr. J. W. Bhore:** With your permission, Sir, I will answer questions Nos. 625 and 626 together. The answer is in the negative.

**Mr. B. Das:** May I just inquire if the Government are aware of the fact that the Orissa floods are due to the utter neglect by the Bihar and Orissa Government of the Oriya people?

#### EXCAVATIONS AT MOHENJO-DARO.

627. **\*Kumar Ganganand Sinha:** Is it a fact that the head of the Archaeological Department is seeking for support from archaeological institutions abroad in the matter of carrying out excavations at Mohenjo-daro and other places in India? If so, how far has the matter proceeded?

**Mr. J. W. Bhore:** The whole matter is under the consideration of the Government of India.

#### DEPUTATION BY THE VARENDRA RESEARCH SOCIETY OF ITS CURATOR TO LEARN EXCAVATION WORK AT MOHENJO-DARO.

628. **\*Kumar Ganganand Sinha:** Is it a fact that the Varendra Research Society has deputed its curator to learn excavation work at Mohenjo-daro where excavations are now going on on a colossal scale with the permission of the Archaeological Department? If so, on what condition has he been allowed to learn?

**Mr. J. W. Bhore:** Yes. No conditions have been made.

#### APPOINTMENT OF INDIANS TO HIGHER POSTS IN THE INDIAN STORES DEPARTMENT.

629. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state with reference to starred question 57 of the 25th of August, 1925, whether the question of further appointments of Indians in the Indian Stores Department has been further considered since that date? If so, with what results; if not, why?

**The Honourable Sir Bhupendra Nath Mitra:** The attention of the Honourable Member is invited to the statement laid on the table in reply to Mr. B. Das's starred question No. 379 on the 28th January 1926, from which it will be seen that the policy of appointing Indians to the higher posts in the Indian Stores Department whenever practicable is observed.

#### APPOINTMENT OF INDIANS TO HIGHER POSTS IN THE INDIAN STORES DEPARTMENT.

630. **\*Kumar Ganganand Sinha:** How many higher appointments have been made since the 25th August, 1925, in the Indian Stores Department? How many of the persons appointed are Indians and how many Europeans?

**The Honourable Sir Bhupendra Nath Mitra:** Since the 25th August, 1925, six additional appointments have been made to posts the pay or maximum pay of which exceeds Rs. 500. Of these, five have been filled by Indians (including statutory Indians) and one by a European.

#### INCREASE OF EXPENDITURE ON THE ALL-INDIA SERVICES.

631. **\*Kumar Ganganand Sinha:** Have the Government collected the information wanted by Diwan Bahadur M. Ramachandra Rao in his starred question 77 asked on the 25th of August, 1925, regarding the increase of expenditure on the All-India Services? If so, will the Government be pleased to lay it on the table?

**The Honourable Sir Basil Blackett:** The statement has already been placed on the table.

#### SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

632. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state whether they have arrived at any decision regarding the separation of the judicial from the executive functions? If so, will they be pleased to make a statement on the subject? If not, why?

**The Honourable Sir Alexander Muddiman:** I have nothing to add to the statement already made on this subject in reply to several other questions on previous occasions.

#### INCLUSION OF GUJRATI AS ONE OF THE LANGUAGES IN WHICH ACCOUNT BOOKS CAN BE KEPT IN TANGANYIKA.

633. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state how far the negotiations with the Colonial Office regarding the admission of Gujrati as one of the languages in which account books can be kept in Tanganyika has progressed?

**Mr. J. W. Bhore:** The Government of India are still awaiting information regarding the report of the committee appointed by the Governor of Tanganyika to investigate the question of trade licenses and the possibility of raising by alternative methods the revenue at present accruing from the profits tax.



## THE PROFITS TAX IN TANGANYIKA.

634. **\*Kumar Ganganand Sinha:** Are the Government aware whether any committee to investigate the question of trade licenses and the possibility of raising by alternative taxation the revenue at present accruing from the profits tax has been appointed in Tanganyika at the instance of the Governor of the territory with the approval of the Colonial Office? If so, has that committee made any report? If so, will the Government be pleased to place a copy of the report in the Library of the House?

**Mr. J. W. Bhore:** The reply to the first part of the question is in the affirmative. As regards the second and third parts, the attention of the Honourable Member is invited to the reply given by me to Khan Bahadur Sarfaraz Hussain Khan's question No. 146.

## AGRICULTURAL INDEBTEDNESS.

635. **\*Kumar Ganganand Sinha:** (a) Will the Government be pleased to state whether a record of agricultural indebtedness in the country is kept? If not, why not?

(b) Has the matter ever engaged the attention of the Government? If so, when and with what results?

**Mr. J. W. Bhore:** (a) No complete record of agricultural indebtedness has been undertaken owing mainly to the great difficulties in the way of collecting complete and trustworthy statistics on this subject. A good deal of information is available in the Records of Rights maintained in some provinces and other sources of information are indicated in paragraph 66 of the Indian Economic Inquiry Committee's Report.

(b) The question is engaging the constant attention of Local Governments who are primarily concerned in the matter. Some indication of the various lines of action considered or adopted by the Government of India from time to time will be found in a note by Sir Edward Maclagan, of which I hope to place a copy in the Library of the House in a few days.

**Mr. B. Das:** May I ask the Honourable Member to direct the different Provincial Governments to have inquiries made about agricultural indebtedness and write books similar to the one written by Mr. Darling of the Punjab Civil Service?

**Mr. J. W. Bhore:** It is not for the Government of India to direct Local Governments to take any action in this matter.

DECISION ARRIVED AT BY THE GOVERNMENT OF INDIA ON THE VARIOUS  
POINTS URGED BY THE DEPUTATION OF THE ALL-INDIA POSTAL  
AND RAILWAY MAIL SERVICE UNION.

636. **\*Kumar Ganganand Sinha:** (a) Have the Government considered the various points urged by the deputation of the All-India Postal and Railway Mail Service Union?

(b) If so, will they be pleased to state the decision at which they have arrived? If no decision has been arrived at, when is the consideration of the matter likely to be finished?

**The Honourable Sir Bhupendra Nath Mitra:** The Honourable Member is referred to the reply given by me on 26th January to question No. 182 asked by Khan Bahadur Sarfaraz Hussain Khan.

**ELECTRIC RAILWAY CONNECTION BETWEEN CALCUTTA AND ITS SUBURBS.**

637. **\*Kumar Ganganand Sinha:** Is there any scheme of having Calcutta connected with its suburbs by electric railways under the consideration of the Government? If so, will the Government be pleased to give detailed information regarding the nature of the scheme?

**Mr. G. G. Sim:** The reply is in the affirmative. It is not possible to give detailed information on the subject at present.

**UNEMPLOYMENT IN INDIA.**

638. **\*Kumar Ganganand Sinha:** Has any attempt ever been made by the Government to study the question of unemployment of Indians? If so, when and with what results? If not, why?

**The Honourable Sir Bhupendra Nath Mitra:** I refer the Honourable Member to the report of the debate, in which a resolution on the subject was recently discussed. As he will find from the record, the question has been the subject of investigation in Bengal and further inquiries are about to be made in Madras and the United Provinces. I need hardly remind the Honourable Member that the subject is one which primarily concerns the Provincial Governments.

**RECRUITS FROM GREAT BRITAIN AND INDIA TO CERTAIN INDIAN SERVICES DURING THE YEARS 1920-25.**

639. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state the number of recruits from Great Britain and India to (a) the Indian Civil Service, (b) Indian Medical Service, (c) Indian Forest Service, (d) Indian Educational Service and Indian Service of Engineers during the years 1920-25?

**The Honourable Sir Alexander Muddiman:** The information is being collected and will be supplied to the Honourable Member in due course.

**INVESTIGATION OF THE OPIUM PROBLEM.**

640. **\*Kumar Ganganand Sinha:** With regard to my starred question no. 613 answered on the 8rd September, 1925, will the Government be pleased to state whether the views of the Local Governments regarding the investigation of the opium problem in the country have been received by the Government? If so, how far has the matter progressed?

**The Honourable Sir Basil Blackett:** I would refer the Honourable Member to my reply to Dr. Datta's question No. 315, given on the 27th January last.

The answer to question No. 643 is the same.

**TRAINING OF INDIANS AS WIRELESS OPERATORS.**

641. **\*Kumar Ganganand Sinha:** With reference to the reply given to starred question No. 753, part (c) answered on the 7th September, 1925, regarding the training of Indians as wireless operators, etc., will the Government be pleased to lay a copy of the scheme on the table and state how far the Government have considered it?

**The Honourable Sir Bhupendra Nath Mitra:** The details of the scheme are still under investigation.

## EAST INDIAN RAILWAY COMPANY SCHOOLS.

642. **\*Kumar Ganganand Sinha:** Have the Government made inquiries regarding the information wanted in unstarred question 109 answered on the 7th September, 1925? If so, with what results; if not, why?

**Mr. G. G. Sim:** The reply to the first part of the question is in the affirmative. With regard to the second part a copy of the letter addressed to Haji Wajihuddin, dated the 26th October, 1925, giving the requisite information, is being sent to the Honourable Member.

## PROPAGANDA FOR THE DISCOURAGEMENT OF OPIUM SMOKING.

†643. **\*Kumar Ganganand Sinha:** With reference to the answers given to starred question 742 (b) will the Government be pleased to state whether or not they have received replies from the Local Government regarding the propaganda for the discouragement of opium smoking? If so, what are they?

## AMENDMENT OF THE ELECTORAL RULES.

644. **\*Kumar Ganganand Sinha:** (a) Have the Government considered and come to any decision on the Resolution of this House regarding the amendment of the rules for elections to the Indian and Provincial Legislatures passed on the 16th September, 1925?

(b) If so, will the Government be pleased to state its decisions regarding the same? If not, when is the consideration likely to be completed?

**The Honourable Sir Alexander Muddiman:** The Honourable Member is referred to the statement showing non-official resolutions adopted by the Assembly during the Simla Session, 1925, and action taken by Government thereon, laid on the table by my friend Mr. Graham on the 21st instant.

## FLOODS IN ORISSA.

645. **\*Kumar Ganganand Sinha:** (a) Have the Government of India received any authoritative information regarding the last Orissa floods? If so, will they be pleased to lay it on the table?

(b) Have the Government of India inquired independently of the Provincial Government or not? If so, with what results; if not, why?

(c) Did the Government of India make any suggestions to the Provincial Government regarding the inquiry instituted by them? If so, what were the suggestions?

**Mr. J. W. Bhore:** (a) The Government of India have seen in the Press a statement recently made on behalf of the Government of Bihar and Orissa in the local Legislative Council. As it has already received wide publicity, they do not consider it necessary to lay it on the table.

(b) Yes; the Local Government's reply is awaited.

(c) The answer is in the negative.

---

†For answer to this question, see answer to question No. 640.

CRIMINAL CASES INSTITUTED BY NAND RAM OF HAZARA AGAINST  
MR. MUFTI MUHAMMAD YAKUB KHAN, BARRISTER, AND OTHERS.

646. **\*Kumar Ganganand Sinha:** (a) With reference to the answer given to my starred question No. 928 on the 15th September, 1925, will the Government be pleased to state whether they are now in a position to answer the question fully or not?

(b) If so, will they lay the information wanted on the table? If not, why are they not in a position to reply?

**Sir Denys Bray:** I would refer the Honourable Member to the statements I laid on the table on the 21st January, 1926.

CONDUCTORS IN THE ROYAL INDIAN MARINE.

647. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state whether the vacancies of Conductors in the Royal Indian Marine are advertised or not? If so, how?

**Mr. E. Burdon:** No, Sir. Vacancies are filled by promoting Sub-Conductors.

CASE OF ARUN CHANDRA GUHA, A STATE PRISONER.

648. **\*Kumar Ganganand Sinha:** Will the Government be pleased to lay a copy of the reply wanted in answer to starred question 939 of the 15th September, 1925, on the table?

**The Honourable Sir Alexander Muddiman:** I invite the Honourable Member's attention to the reply given by me on the 26th January to question No. 183 asked by Khan Bahadur Sarfaraz Hussain Khan.

ORGANIZATION OF THE INDIAN STORES DEPARTMENT.

649. **\*Kumar Ganganand Sinha:** Will the Government be pleased to state how far the process of the organisation of the Indian Stores Department has progressed?

**The Honourable Sir Bhupendra Nath Mitra:** Full details of the development of the organisation of the Indian Stores Department to the end of 1924-25 will be found in the Administration Report of the Department for that year, which has been published and to which I refer the Honourable Member. During the year 1925-26 a purchasing agency has been established at Karachi and the staff of most of the previously existing organisations has been strengthened to enable them to cope with the expanding business of the Department. Proposals are now under consideration for a small further expansion of the Department, more particularly in the technical branch in view of the further increase of work anticipated in 1926-27. The Department is now represented both on the purchasing and inspection sides at the principal industrial and commercial centres in India as well as at headquarters.

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

650. \***Kumar Ganganand Sinha:** With reference to the answer given to the starred question 200 (c) on the 27th August, 1925, will the Government be pleased to state whether they have considered the question of the equalisation of the travelling and halting allowances of the Members of the Council of State and the Legislative Assembly? If so, with what results; if not, why?

**Mr. L. Graham:** The attention of the Honourable Member is invited to the reply to starred question No. 161 asked at the meeting of the Legislative Assembly held on the 25th January, 1926, by Khan Bahadur Sarfaraz Hussain Khan.

**Diwan Bahadur T. Rangachariar:** I understood on the last occasion from Mr. Graham that the matter would be considered when the new Council of State comes into existence. The new Council of State is now coming into existence. Is the matter being considered?

**Mr. L. Graham:** The matter was being considered but notice of a Resolution has been received.

**Diwan Bahadur T. Rangachariar:** May I know what attitude the Government are going to take?

**Mr. L. Graham:** The attitude of the Government will be revealed during the debate.

**Mr. A. Rangaswami Iyengar:** Am I to take it, Sir, that the Resolution, of which notice has been given, has held up the action of the Government?

**Mr. L. Graham:** Not at all, Sir. Government welcome the co-operation shown by moving the Resolution.

**THE SUB-DEPUTY INSPECTOR OF SCHOOLS, AJMER-MERWABA.**

651. \***Maulvi Muhammad Yakub:** (a) Is it a fact that the Sub-Deputy Inspector of Schools at Ajmer has passed only the Vernacular Middle Examination in Hindi and has got no other educational qualifications and that he does not know English?

(b) What is his present pay?

(c) Is it proposed to promote this unqualified man to a higher post in the Educational Department carrying a monthly pay of Rs. 600?

(d) Is there no other qualified man available in the Educational Department of Ajmer? If not, is it not possible for the Government to import a qualified man from outside?

**Mr. J. W. Bhore:** (a) This officer does not know English, but he is a trained certificated teacher with an excellent record of service both as a teacher and as a Sub-Deputy Inspector of Schools.

(b) Rs. 150 a month in the scale of Rs. 100—10—150.

(c) No.

(d) The question does not therefore arise.

APPOINTMENT OF A MUHAMMADAN INSPECTOR OF SCHOOLS IN THE  
EDUCATION DEPARTMENT, AJMER-MERWARA.

652. \*Maulvi Muhammad Yakub: (a) Is there any Musulman inspecting officer in the Educational Department at Ajmer?

(b) Do the Government propose to appoint a Musulman inspecting officer in the Educational Department of Ajmer holding an independent charge?

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

(b) The Local Administration is considering the question.

Lala Duni Chand: Is it really necessary that an inspecting officer should belong to any particular community?

Mr. J. W. Bhore: The Local Administration is considering the question and no doubt they will also consider the question which the Honourable Member has just now put.

EDUCATIONAL QUALIFICATIONS OF EMPLOYEES OF THE METEOROLOGICAL  
DEPARTMENT.

653. \*Maulvi Muhammad Yakub: (a) What are the educational qualifications of each of the persons employed in the Meteorological Department at Simla? What is the pay of each of them?

(b) Do the Government propose to improve the Department by importing into it some persons possessing high educational qualifications?

The Honourable Sir Bhupendra Nath Mitra: (a) The information asked for is given in the statement laid on the table.

(b) Government have always maintained the policy of appointing men with high educational qualifications to the Department.

*Statement showing the educational qualifications and pay of the gazetted staff of the Meteorological Department at Simla.*

| Name.              | Designation.                       | EDUCATIONAL QUALIFICATIONS. |                                 | PAY.                                   |                        |
|--------------------|------------------------------------|-----------------------------|---------------------------------|--|------------------------|
|                    |                                    | University.                 | Academic Degrees.               | Rate of pay.                           | Present pay.           |
| J. H. Field        | Director General of Observatories. | Cambridge London            | M. A. B. Sc.                    | Rs. 1,780—100—2,230<br>+ O. P. £12-3-3 | Rs. 1,850<br>+ £12-3-3 |
| C. W. B. Normand   | Meteorologist                      | Edinburgh                   | M. A. (I Class Hons.)<br>D. Sc. | 1,250—50—1,500<br>+ O. P. £30          | 1,350<br>+ £30         |
| V. V. Sohoni       | Do.                                | Bombay                      | B. A.<br>B. Sc. (I Class Hons.) | 400—50—1,250                           | 550                    |
| B. N. Banerjee     | Do.                                | Allahabad Cambridge         | M. Sc.<br>Ph. D.                | Do.                                    | 600                    |
| S. N. Sen          | Do.                                | Calcutta London             | M. Sc.<br>M. Sc. Ph. D.         | Do.                                    | 600                    |
| K. R. Ramanathan   | Temporary Meteorologist.           | Madras                      | M. A.<br>D. Sc.                 | 550                                    | 550                    |
| M. G. Subrahmanyam | Assistant Meteorologist.           | Madras Bombay               | B. A.<br>LL. B.                 | 250—25—500                             | 050                    |
| V. D. Iyer         | Do.                                | Madras                      | B. A.                           | Do.                                    | 450                    |
| M. V. Unakar       | Do.                                | Bombay                      | B. A.                           | Do.                                    | 400                    |

TRAINING GIVEN TO RAILWAY EMPLOYEES IN THE RAILWAY SCHOOL,  
CHANDAUSI.

654. \***Maulvi Muhammad Yakub**: Will the Government be pleased to state:

- (a) what sort of training is given to the railway employees at the Railway School, Chandausi in the Moradabad District:
- (b) what is the period of the training:
- (c) what is the number of the subjects in which the training is given:
- (d) how much time is allotted for each subject, or branch of work, in which the training is given:
- (e) how many students may be trained at one time:
- (f) what is the number of the students under training at present:
- (g) what is the amount of the annual expenditure on the school:
- (h) whether this institution is meant for Indians only or for Anglo-Indians and Eurasians as well: and
- (i) whether it is proposed to reserve the Chandausi School for Indians only and to open another school on the same lines at Dehra Dun for Anglo-Indians and Eurasians?

**The Honourable Sir Charles Innes**: (a), (b), (c), (d) and (e). The training relates to the different phases of the work of the railway employees but primarily to actual train, station and yard operation and telegraph signalling. The period of the course of training varies for different classes of employees. The total number of employees who can be received at the school at one time is:

|                    |    |
|--------------------|----|
| Officers           | 10 |
| Upper subordinates | 20 |
| Lower subordinates | 75 |

- (f) Government have not got this information.
- (g) About Rs. 87,000.
- (h) The institution is meant for Europeans, Anglo-Indians and Indians.
- (i) No.

REPORT OF THE NORTH-WEST FRONTIER INQUIRY COMMITTEE.

655. \***Maulvi Muhammad Yakub**: What is the reason for the delay in giving effect to the recommendations contained in the Report of the Frontier Inquiry Committee?

**Sir Denys Bray**: I would refer the Honourable Member to the replies I gave yesterday to Khan Bahadur Alimuzzaman Chowdhry's question No. 580.

COMMUNAL REPRESENTATION IN THE GOVERNMENT OF INDIA SECRETARIAT.

656. \***Raja Raghunandan Prasad Singh**: Will the Government be pleased to say whether they have yet decided about the policy of communal representation in the Government of India Secretariat offices? If so, what percentage has been fixed?

**The Honourable Sir Alexander Muddiman**: We hope to arrive at a decision in the matter very shortly now.

IMPROVEMENT OF CLERKS' QUARTERS AT RAISINA.

657. **\*Raja Raghunandan Prasad Singh:** Will the Government be pleased to say whether they have come to any decision on the question of improvement in clerks' quarters at Raisina, which was under the consideration of the Government as stated by the Honourable Sir B. N. Mitra in reply to starred question No. 662 of the 3rd September, 1925?

**The Honourable Sir Bhupendra Nath Mitra:** I refer the Honourable Member to the reply given by me to a similar question No. 298 asked by Khan Bahadur Sarfaraz Hussain Khan on the 27th January, 1926.

UNSUITABILITY OF THE "D" CLASS CLERKS' QUARTERS AT RAISINA  
FOR FAMILIES WHICH OBSERVE PURDAH.

658. **\*Raja Raghunandan Prasad Singh:** (a) Are the Government aware that "D" quarters in Raisina are most unsuitable for those families who observe purdah?

(b) Is it a fact that the quarters have no male servants' room or guests' room?

(c) Are the Government aware that purdah ladies observe purdah from their guests, unless they be close relatives, as well as from their servants?

(d) Do Government propose to remove those grievances of their employees?

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

(b) and (d). The quarters consist of one sitting room, one bed room and two smaller bed rooms, one of which is intended for a servant, besides a kitchen and a bath room. The accommodation provided can be used in any manner the tenants desire, and Government do not consider that there is any legitimate grievance.

(c) Yes.

SEPARATION OF BURMA FROM INDIA.

659. **\*Raja Raghunandan Prasad Singh:** Will the Government be pleased to say whether there is under the consideration of Government any scheme for the separation of Burma from India?

**The Honourable Sir Alexander Muddiman:** No.

EXEMPTION OF EX-MEMBERS OF THE INDIAN LEGISLATURE FROM THE  
OPERATION OF THE INDIAN ARMS ACT.

660. **\*Raja Raghunandan Prasad Singh:** Are the Government considering the question of the exemption of ex-Members of the Indian Legislature from the operation of the Indian Arms Act?

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

INDEBTEDNESS OF GOVERNMENT SERVANTS.

661. **\*Raja Raghunandan Prasad Singh:** (a) Are the Government aware of the state of indebtedness of Government servants? If not, do they propose to appoint a committee consisting of the Members of the Legislative Assembly, Government servants and the public to inquire into the causes of such indebtedness and to take steps to remove such causes?



(b) Are the Government aware that such indebtedness of Government servants affects the efficiency of service?

**The Honourable Sir Alexander Muddiman:** (a) Government have no reason to believe that habitual indebtedness is widespread among Government servants and they are not prepared to undertake an inquiry on the subject.

(b) I invite the Honourable Member's attention to rule 16 of the Government Servants' Conduct Rules which deals with the question of insolvency and habitual indebtedness of persons in Government employ.

#### ADULTERATION OF SUGAR IN DELHI.

662. **\*Lala Duni Chand:** (a) Are the Government aware that a certain factory in Delhi mixes country gur or shakkar with pure sugar and passes off the adulterated sugar as pure sugar?

(b) If what is stated above is true, what action do Government propose to take in the matter?

**Mr. J. W. Bhore:** (a) There are factories in Delhi City which make a mixture as described by the Honourable Member. Government are advised that its colour is such that it could not be passed off as pure sugar.

(b) Under these circumstances no action by Government seems called for, as it is quite clear to purchasers what they are buying.

#### SALE OF BELGIUM OIL AS *GHI* IN DELHI.

663. **\*Lala Duni Chand:** (a) Is it a fact that imported Belgium oil is sold as Indian *ghi* in Delhi and other places?

(b) Do Government propose to take steps to prevent the import of this oil or prevent its being sold as Indian *ghi*?

**Mr. J. W. Bhore:** (a) The Chief Commissioner, Delhi, reports that there have been some complaints of this being done and consequently the public in Delhi have been duly warned by notices in English, Urdu and Hindi. Government have no information if similar complaints have been made in other places.

(b) In cases where this oil, which is usually sold under the name of "Vanaspati" (vegetable oil), is fraudulently represented to be *ghi*, section 150 of the Punjab Municipal Act appears to provide the necessary remedy.

**Mr. B. Das:** Are Government aware that this "Vanaspati" is a pure vegetable oil and is far better than the adulterated *ghi* which is being sold in Calcutta mixed with animal fats such as the fat of serpents from Nepal?

**Mr. J. W. Bhore:** I believe the Honourable Member is quite correct.

#### PENALTY LEVIED ON IMPOUNDED CATTLE AT RAISINA.

664. **\*Lala Duni Chand:** (a) Is it true that recently the amount of the penalty levied by the police officers in charge of the cattle pound at Raisina for the seizure of cattle under the Cattle-trespass Act has been increased from Re. 1 to Rs. 4 in the case of cows, buffaloes, and horses and from annas 4 to Re. 1 in the case of goats and sheep and, if so, what are the reasons for this increase?

(b) Is it also true that besides the amount of penalty to be paid by the owner of the cattle seized, he also renders himself liable to be prosecuted?

(c) Are the Government aware that the above change has led to the abuse of law, namely, (1) that Public Works Department peons make unauthorized seizures of cattle, (2) that the policemen in charge of the cattle pound at Raisina do not enter all the cattle seized and allow the owners of the cattle not so entered to take them back after extorting blackmail from them?

(d) Do the Government in view of the above propose to take steps to restore the *status quo* as before or to direct the more immediately concerned authorities to stop the abuse referred to above?

**The Honourable Sir Alexander Muddiman:** (a) Under Chief Commissioner's Notification No. 7490-Home, dated 17th December, 1925, the scale of fines prescribed for certain classes of animals within the limits of the Imperial Delhi Municipality has been quadrupled. It is not however a fact that the fine for horses is Rs. 4 and that for goats and sheep is Re. 1. They are respectively Rs. 2 and annas eight. The action was taken because the old scale was insufficient to prevent owners of cattle from deliberately allowing their cattle to stray and commit damage in private and public gardens.

(b) It is not true that in the area of the Imperial Delhi Municipality the owner of straying cattle is liable to be prosecuted. Such a liability is only incurred within the limits of the Civil Lines Notified Area, Delhi, under Chief Commissioner's Notification No. 1524, dated the 24th of March, 1924, issued under the provisions of Section 26 of the Act.

(c) Government are not aware that these abuses, if and so far as they exist, are due to these changes in the law.

(d) In view of the complaints made of the havoc caused by straying cattle the Chief Commissioner is not prepared to cancel the Notification increasing the scale of fines but will take steps to draw the attention of the authorities immediately concerned to the allegation that the abuses mentioned occur with a view to steps being taken to prevent them as far as possible.

#### NUMBER OF CANDIDATES SELECTED FROM THOSE APPEARING FOR THE INDIAN CIVIL SERVICE EXAMINATION HELD IN INDIA.

665. **\*Mr. S. Sadiq Hasan:** (a) Is it a fact that only five candidates are normally selected at the Indian Civil Service examination held in India every year?

(b) Is it a fact that 36 candidates were selected at the Indian Civil Service examination held in England last year?

(c) Are the Government prepared to raise the number of candidates to be selected at the Indian Civil Service examination held at Allahabad?

**The Honourable Sir Alexander Muddiman:** (a) No. The number varies. Thus, the actual number selected after competitive examination in India in 1922 was 13 and in 1923, 11.

(b) The answer is in the affirmative.

(c) Selection is at present based on the principle indicated in part (d) of my answer to Lala Duni Chand's question No. 256 given on 26th January, 1926, and there is no present intention to depart from it.

REPRESENTATIVES OF THE NORTH WESTERN RAILWAY ON THE ADVISORY  
COMMITTEE OF THE MACLAGAN ENGINEERING COLLEGE,  
LAHORE.

666. \***Mr. S. Sadiq Hasan:** 1. Will the Government please state whether the North Western Railway has any nominees on the Advisory Council of the MacLagan Engineering College, Lahore?

2. (a) Do the officers' class (A class) students get their 2 years' practical training in the North Western Railway workshops at Mughalpura?

(b) Will the Government please state whether these students are paid any sort of stipend during the two years' period of their apprenticeship? If not, why?

**The Honourable Sir Bhupendra Nath Mitra:** 1. The Government of India understand that there are three representatives of the North Western Railway on the Advisory Committee of the College.

2. (a) It is believed that "A" class students are given two years' practical training which may be in the railway workshops or in any other approved engineering works at the discretion of the college authorities.

(b) Government have no information.

RECRUITMENT OF QUALIFIED MECHANICAL AND ELECTRICAL ENGINEERS  
FROM THE MACLAGAN ENGINEERING COLLEGE TO THE SUPERIOR  
SERVICES OF THE TECHNICAL AND STORES DEPARTMENTS OF  
STATE RAILWAYS.

667. \***Mr. S. Sadiq Hasan:** Have the Government considered the desirability of recruiting qualified mechanical and electrical engineers from the MacLagan College into the superior services of the Technical and Stores Departments of the State Railways?

**Mr. G. G. Sim:** The Honourable Member is referred to the reply given to a similar unstarred question No. 95 asked by Mr. Abdul Haye on the 2nd February, 1926.

APPOINTMENT OF STUDENTS OF THE MACLAGAN ENGINEERING COLLEGE,  
LAHORE, AS CHARGEMEN AND FOREMEN ON THE NORTH WESTERN  
RAILWAY.

668. \***Mr. S. Sadiq Hasan:** 1. (a) Will the Government be pleased to state whether the training given to the mechanics class of the MacLagan Engineering College, Lahore, is sufficient to qualify them for appointment in the North Western Railway workshops as chargemen and foremen to start with?

(b) If not, do the Government propose to make arrangements for special training required for such appointments and to stop the recruitment of covenanted men?

2. Will the Government be pleased to state whether they propose to allot or reserve certain vacancies for these men every year?

**The Honourable Sir Charles Innes:** 1. (a) No.

(b) The reply to the first part is that the matter has been taken up by the Agent, North Western Railway, with the College authorities. With regard to the second part steps are being taken, as far as possible, to recruit the class in India but it is impossible at present to rule out entirely the recruitment of covenanted staff.

2. The reply is in the negative.

**PAY OF EUROPEAN AND ANGLO-INDIAN AND INDIAN APPRENTICES ON THE NORTH WESTERN RAILWAY.**

669. **\*Mr. S. Sadiq Hasan:** Will the Government be pleased to say if the Indian apprentices of the Mughalpura workshops are given a daily rate and European and Anglo-Indian apprentices a monthly rate of pay, and is it a fact that there is a great disparity between the two rates although they all receive the same training and work for equal hours? If so, are the Government prepared to remove this racial distinction by increasing the emoluments of the Indian apprentices?

**The Honourable Sir Charles Innes:** The arrangements at Moghalpura Workshops for training apprentices are the result of a mutual arrangement with the authorities of the MacLagan Engineering College.

The Railway gives practical training to 200 apprentices, 100 Europeans and Anglo-Indians and 100 Indians who all receive their theoretical training at the College. Half of each class are nominated by the Railway and half by the College, the Europeans and Anglo-Indians being housed in a hostel provided by the Railway and the Indians in a hostel provided by the College. The rates of pay given to each class are based on the cost of board and lodging *plus* equal remuneration for work done in the Workshops and are as follows:

Europeans and Anglo-Indians Rs. 50—10—80—20—120 per mensem.

Indians Rs. 1/8—2/-2/ per day.

The arrangement having been agreed upon by the College authorities and the Railway, the Railway Board do not see any reason to interfere but are considering whether the whole arrangement for apprenticeship training is not susceptible of improvement.

**INTRODUCTION OF REFORMS IN THE NORTH-WEST FRONTIER PROVINCE.**

670. **\*Mr. S. Sadiq Hasan:** (1) Are Government aware that a representative provincial deputation waited upon the Honourable the Chief Commissioner, North-West Frontier Province, and presented an address to him? If so, is it a fact that the deputation criticised the whole administration?

(2) Did the deputation ask in explicit terms for:

- (i) the immediate introduction of reforms in the Province in no respect less than what is enjoyed by the rest of India;
- (ii) the grant of elective rights in all local bodies;
- (iii) communal representation in proportion to the strength of each community in the population; and
- (iv) the repeal of the Frontier Crimes Regulations and all other repressive laws?

(3) (a) Is it a fact that a copy of the draft address was submitted to the Honourable the Chief Commissioner many days before the 25th November last (the date of the formal presentation of the address)?

(b) Did the Honourable the Chief Commissioner inform the Government of India of the demands contained in the said draft address before the presentation of the address on the 25th November?

(c) Did any consultation take place between the Government of India and the Honourable the Chief Commissioner about the contents of the address and the reply to be given to it?

(4) Will the Government be pleased to state what the difficulties are in the way of granting a measure of reform with protection for minorities?

(5) Is it a fact that not one of the municipalities in that Province has been given the right of election and if so, will the Government be pleased to state the objections to the grant of this elementary right with protection for minorities?

(6) Will the Government be pleased to lay on the table copies of the said address and the reply thereto, as given by the Chief Commissioner, North-West Frontier Province, for the information of the Members.

**Sir Denys Bray:** (1) and (2). The facts are substantially correct.

(3) (a) Government have no information.

(b) and (c). No, Sir, Government were neither informed nor consulted.

(4) I would refer the Honourable Member to the replies I gave on February 2nd in connection with the Khan Bahadur Alimuzzaman Chowdhry's question No. 580.

(5) Yes, Sir. Chiefly communal tension.

(6) I would gladly let the Honourable Member have a copy. It would however seem hardly justifiable to go to the expense of printing the papers.

**Mr. Chaman Lall:** Is it not a fact that the very Reforms Scheme which the Honourable Member would like to introduce into the North-West Frontier Province has been condemned by this Assembly as unsatisfactory?

**Sir Denys Bray:** No, Sir.

**Mr. Chaman Lall:** Is the Honourable Member aware that the Reforms Scheme has been condemned by this Assembly as unsatisfactory?

**Sir Denys Bray:** No, Sir.

**Mr. Chaman Lall:** Is the Honourable Member aware that the fact that the Reforms Resolution was passed by this Assembly on two separate occasions asking for a revision . . . . .

**Sir Denys Bray:** I beg the Honourable Member's pardon. I thought his question was completely different.

**Mr. Chaman Lall:** What I am driving at is this. Is it not a fact that the very Reforms Scheme which the Honourable Member is trying to introduce in the North-West Frontier Province has been condemned by this Assembly as unsatisfactory?

**Sir Denys Bray:** That, Sir, is too dialectical a question for me to attempt to answer.

ALLEGED BOYCOTT OF MUSLIM PAPERS BY THE IMPERIAL BANK OF INDIA IN THE MATTER OF ADVERTISEMENTS.

671. \***Mr. S. Sadq Hasan:** (1) Is it a fact that the Imperial Bank authorities have, except casually, refrained from sending advertisements to Muslim papers while they give huge advertising contracts to non-Muslim papers?

(2) Will the Government state reasons for the ignoring of Muslim papers by the Imperial Bank when the Bank has a large number of Muslim clients?

(3) Do Government propose to issue instructions against this apparent boycott of Muslim papers by the Imperial Bank?

**The Honourable Sir Basil Blackett:** The Government have no information on the subject.

UNSTARRED QUESTIONS AND ANSWERS.

RECRUITMENT OF DIVISIONAL ACCOUNTANTS IN THE LATE MILITARY WORKS SERVICES.

96. **Mr. Ohaman Lall:** (a) Is it a fact that the recruitment of divisional accountants in the late Military Works Services was made by selection from:

- (1) clerks in the Divisional Office,
- (2) clerks in the Audit Office, and
- (3) graduates of Indian Universities, or other persons possessing superior and special qualifications considered suitable for direct appointment,

and that it is analogous to the recruitment of the accountants of the Military Accounts Department?

(b) Is it also a fact that divisional accountants were members of the "Subordinate Accounts Service" in the late Military Works Services?

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

(b) The answer is in the negative.

EXAMINATIONS FOR DIVISIONAL ACCOUNTANTS.

97. **Mr. Ohaman Lall:** Is it a fact that persons belonging to the class of divisional accountants before their admission to the grade of divisional accountants were required to pass two examinations, one of the Thomason Civil Engineering College, Roorkee, and the other in Regulations scoring, in each, the minima of 66 per cent of the aggregate marks to pass, and that the accountants of the Military Accounts Department had to pass a single examination scoring only 50 per cent. of the aggregate marks?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

## STATUS OF DIVISIONAL ACCOUNTANTS.

98. **Mr. Chaman Lall:** Is it a fact that divisional accountants are considered superior and senior to the clerical establishment of the Military Works Services and therefore paid higher rates of pay?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

## STATUS OF DIVISIONAL ACCOUNTANTS.

99. **Mr. Chaman Lall:** Is it a fact that divisional accountants were considered the senior members of the office establishment of the Division?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

## POSITION OF DIVISIONAL ACCOUNTANTS IN THE MILITARY ACCOUNTS DEPARTMENT.

100. **Mr. Chaman Lall:** Is it a fact that on the amalgamation of the Military Works Accounts with the Military Accounts, the divisional accountants have been brought down and absorbed in the roster of clerks of the Military Accounts Department and deprived of their designation as "Divisional Accountants" without any reduction in pay? If so, will the Government please state reasons for this anomaly?

**The Honourable Sir Basil Blackett:** Divisional accountants have been given the position and standing of 4th grade clerks which was the highest grade in the old clerical service of the Military Accounts Department. They are allowed to draw their old rates of pay and allowances as divisional accountants and they are still designated as such in the Establishment Lists of the Military Accounts Department.

## UNSUITABILITY OF ACCOUNTANTS OF THE MILITARY ACCOUNTS DEPARTMENT FOR THE WORK OF DIVISIONAL ACCOUNTANTS IN CERTAIN MILITARY WORKS SUB-DISTRICTS.

101. **Mr. Chaman Lall:** Is it a fact that the accountants of the Military Accounts Department were posted to discharge the duties of divisional accountants in certain Military Works Sub-Districts and that they were not considered suitable for the work by the Military Engineering Services authorities?

**The Honourable Sir Basil Blackett:** The Government have no information on this point.

## PAY OF DIVISIONAL ACCOUNTANTS SERVING IN SOUTH INDIA IN 1919.

102. **Mr. Chaman Lall:** Is it a fact that in 1919 the scale of pay of a divisional accountant serving in South India was from Rs. 80 (with a duty allowance of Rs. 20) to Rs. 150 by an annual increment of Rs. 7 and that of a third grade accountant of the Military Accounts Department in the same area was Rs. 90—6—120? If so, will the Government please state when these scales were so fixed?

**The Honourable Sir Basil Blackett:** The scales of pay of divisional accountants and the accountants of the Military Accounts Department were as follows and were fixed in 1864 and 1880, respectively.

PAY OF DIVISIONAL ACCOUNTANTS.

103. **Mr. Chaman Lall:** Is it a fact that the scale of pay of divisional accountants was higher than that of a third grade accountant of the Military Accounts Department, serving in Southern India, and superior to that of a 4th grade clerk of the Military Accounts Department?

**The Honourable Sir Basil Blackett:** A third grade accountant of the Military Accounts Department belonged to the Subordinate Accounts Service whereas a divisional accountant of the Military Works Services who was not a member of that service held a position analogous to that of a 4th grade clerk in the Military Accounts Department. Each Department had its own rates of pay and conditions of service.

PAY OF DIVISIONAL ACCOUNTANTS IN THE PUBLIC WORKS DEPARTMENT.

104. **Mr. Chaman Lall:** Is it a fact that the scale of pay of divisional accountants in the Public Works Department was the same as that of divisional accountants in the late Military Works Services before amalgamation with the Military Accounts Department?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

REVISION OF THE PAY OF DIVISIONAL ACCOUNTANTS IN THE PUBLIC WORKS DEPARTMENT.

105. **Mr. Chaman Lall:** Will the Government please state whether the scale of the pay of divisional accountants in the Public Works Department has been recently revised?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

PAY OF DIVISIONAL ACCOUNTANTS OF THE LATE MILITARY WORKS SERVICES.

106. **Mr. Chaman Lall:** Will Government please state if the divisional accountants of the late Military Works Services who have not elected the Military Accounts rates of pay will be paid the revised rates of pay sanctioned for the divisional accountants in the Public Works Department? If not, why not?

**The Honourable Sir Basil Blackett:** The question has not so far been considered.

POSITION OF DIVISIONAL ACCOUNTANTS IN THE MILITARY ACCOUNTS DEPARTMENT.

107. **Mr. Chaman Lall:** Is it a fact that certain Divisional Accountants have been placed in the seniority lists below those clerks who are junior to them prior to 1st April, 1922, and who are still in receipt of lower scale of pay? And if so, is Government prepared to restore their seniority?



**The Honourable Sir Basil Blackett:** Divisional accountants have, as stated in the reply to question No. 417, been allowed a position in the highest grade in the old clerical service of the Military Accounts Department and no clerks who were junior to them prior to 1st April, 1922, have been allowed to supersede them.

#### RESTORATION OF THEIR FORMER DESIGNATION TO DIVISIONAL ACCOUNTANTS.

108. **Mr. Chaman Lall:** (a) Have Government received any memorial from the divisional accountants praying for the restoration of their old designation, and if so, what orders have been passed thereon?

(b) Will the restoration of their original designation mean any extra expense to the Government?

**The Honourable Sir Basil Blackett:** (a) Yes. The former designation of "Divisional Accountant" has been continued.

(b) The question does not arise.

#### PAY OF DIVISIONAL ACCOUNTANTS.

109. **Mr. Chaman Lall:** Is it a fact that the divisional accountants of the late Military Works Services have been given the option to be brought on the same scale of pay as the clerks of the Military Accounts Department who have passed the Subordinate Accounts Service Examination in the revised scale of pay recently sanctioned for the Military Accounts Department?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

#### PAY OF DIVISIONAL ACCOUNTANTS.

110. **Mr. Chaman Lall:** Is it a fact that divisional accountants of the late Military Works Services with substantive appointments on the old grade of Rs. 80—10—270 have been given the option to elect the revised scale of the Military Accounts Department—(passed S. A. S.) clerks, i.e., Rs. 115—10—225?

**The Honourable Sir Basil Blackett:** The answer is in the affirmative.

#### PAY OF DIVISIONAL ACCOUNTANTS.

111. **Mr. Chaman Lall:** Is it a fact that there is no divisional accountant (with substantive appointment) who is already drawing less than Rs. 120 per mensem in the Military Accounts Department, on the old grade, and if so, will Government please state reasons why a scale lower than the existing one has been offered to this class of establishment?

**The Honourable Sir Basil Blackett:** The reply to the first part is in the affirmative. The option was given in order to allow the benefit of local allowances

## THE INDIAN TARIFF (AMENDMENT) BILL.

**The Honourable Sir Charles Innes** (Member for Commerce and Railways): Sir, I move for leave to introduce a Bill further to amend the Indian Tariff Act, 1894.

The House will see that in the Statement of Objects and Reasons I have given very fully the explanation of each and every item in this Bill. In these circumstances I do not think that I need take up the time of the House by explaining the Bill in detail. It is partly intended to remove obscurities in our Tariff Schedule, partly to remove certain administrative difficulties and partly to confer certain small benefits upon Indian trade and industry. I would draw the special attention of the House to a clause relating to handlooms and parts thereof. We are proposing to reduce the duty upon these handlooms and their parts. The Government have been unfortunate enough to find themselves in opposition to our many friends on the opposite side and I hope that they will accept this clause as an olive branch.

**Mr. A. Rangaswami Iyengar:** Bring up spinning!

**The Honourable Sir Charles Innes:** I only say now as regards our further action on this Bill, that I propose to consult some of my friends opposite as to the procedure to be adopted. Sir, I move.

The motion was adopted.

**The Honourable Sir Charles Innes:** Sir, I introduce the Bill.

---

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

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

As Honourable Members will observe the Statement of Objects and Reasons is considerably longer than the Bill itself. The reasons for this Bill have been very carefully set out in the Statement of Objects and Reasons. They are technical and I do not think that I can really assist the House by attempting to repeat them in other words. All the important proposals in this Bill have been incorporated in it as the result of very careful discussion and consultation with the Chambers of Commerce and the Local Governments. I think I had better leave Honourable Members to study the Statement of Objects and Reasons and not try to add anything in my speech now.

Sir, I beg to move.

The motion was adopted.

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

---

## THE GOVERNMENT TRADING TAXATION BILL.

**The Honourable Sir Basil Blackett** (Finance Member): Sir, I beg to move that the Bill to determine the liability of certain Governments to taxation in British India in respect of trading operations, as amended, be passed.

The motion was adopted.

RESOLUTION *RE* ENHANCEMENT OF THE SALARIES OF THE  
TWO MEMBERS OF THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL POSSESSING INDIAN EXPERIENCE.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I beg to move the following Resolution:

"That this Assembly recommends to the Governor General in Council to take steps to secure:

- (1) in the case of future appointments the enhancement of the salaries paid to the two members of His Majesty's Privy Council with Indian experience who sit on the Judicial Committee under the provisions of the Judicial Committee Act of 1833 to hear Indian appeals;
- (2) that they shall be persons possessed of recent knowledge of Indian law and practice;
- (3) that their salary shall be £4,000 per annum each, half of which shall be paid from Indian revenues; and
- (4) that during any period when the salary is enjoyed, any pension payable to either of them from Indian revenues shall lapse."

Sir, it is a particular pleasure to me that the opportunity of moving this Resolution has occurred within the period of my term of office. Looking back over the old papers I see I have been concerned in this matter for something like twelve or fourteen years. The matter has been delayed, as much needed improvements so often are, partially by the war and partially by circumstances not arising where favourable hearing was likely to be obtained. Of course the difficulties of obtaining the necessary approval in all quarters, as also, as must appear to you from the terms of my Resolution, from Parliament itself must be obvious. To obtain those concurrent factors at any one time must be always a matter of great difficulty. Therefore it is with great satisfaction that I feel that a time has arrived when this scheme can usefully and opportunely be brought forward for the consideration of this House.

I will not weary the House with a long dissertation on the historical origin, the interesting history of the jurisdiction of the King in Council. To many Members it is probably far better known than it is to me. But to some of the Honourable Members it will be interesting to recall very briefly how that jurisdiction has grown in so far as it affects India and what it actually means. I think some of you certainly have attended meetings of the Judicial Committee and must have been impressed by the sight of the four gentlemen without robes or any paraphernalia sitting in a room in Whitehall deciding questions which come from every part of the Empire. In that room there may be mooted questions of Roman Dutch law, very complicated questions emanating from this country, possibly the rights of a Hindu deity, and questions that have arisen under the complicated Canadian constitution. Indeed you may in that small room obtain a very far survey of our widespread Empire. I think possibly when our Empire ends—as all human Empires must end—(*An Honourable Member*: "Hear, hear") at any rate I am glad to think that it is in the hands of a higher power even than this House to decide the fate of Empires—I think when the Divine Providence decrees that the end should take place we shall leave an eternal mark in the history of mankind, which is only equalled by that left by another great Empire, the Roman Empire. As the Praetor still speaks to the civilization of half the world, so when Lord Chancellors have passed for ever

the rules of English equity will speak to the other half, and the English law will still afford its guidance to civilised men if there is any civilisation still left in the world.

It is interesting to recall that the very earliest Charter which established courts in this country of ours established the right of appeal to the Privy Council. The first Charter of 1726 established a Mayor's court and gave a right of appeal to the Privy Council. Again this right of appeal was continued by the Charter of fifty-three. When the Supreme Court was constituted the appeal was still provided for. When the Sadar Diwani Adalat was constituted both in Calcutta and Bombay the right of appeal was continued: The year 1883 is an important date in the history of the Privy Council. It was the first time then that the permanent exercise of the judicial powers of the King in Council were provided for, and throughout the legislation that has given us our own Civil Procedure Code we have continued the provisions dealing with the regulation of appeals to the Privy Council right down in fact to our last Act in 1908. The appeal therefore of the Charter of 1726 is the direct ancestor of the existing law. I have very briefly referred to these facts to show the long time that has united litigation in India with that secluded room in Whitehall.

Now I again ask the indulgence of the House if I bring to its notice what is already known to many Members, the actual present constitution of the Judicial Committee. I think it is of importance, though it may take a few minutes. I am quoting from the Law List of 1925 where the facts are given exceedingly concisely and in a personal form which is not without its advantages. "The Judicial Committee of the Privy Council consists of the Lord Chancellor, Lord President, ex-Lords President, six Lords of Appeal in Ordinary" and then the names are given, "and such other members of the Privy Council as shall from time to time hold or have held 'High Judicial Office' within the meaning of the Appellate Jurisdiction Acts, 1876 and 1887." Among the last are included the Earl of Birkenhead, Viscount Haldane, Viscount Finlay, Lord Buckmaster, Lord Wrenbury, Lord Phillimore, Lord Trevethin, Lord Darling and Lord Salvesen. (Those names, I think, to lawyers, at any rate, must excite respect and admiration.) Lord Parmoor is a member by virtue of section 1 of the Act, and Sir John Edge and Syed Amir Ali are members by virtue of section 80 of the Judicial Committee Act, 1883.

By virtue of the Judicial Committee Amendment Act and another amendment Act, the following Judges of the Dominions beyond  
12 NOON. the seas are members:

Sir Charles Fitzpatrick (Canada),  
Sir James Rose-Innes (South Africa—Supreme Court),  
Sir Lawrence Jenkins (Bengal),  
Mr. Justice Duff (Canada—Supreme Court),  
Sir Adrian Knox (Australia—High Court),  
Sir Robert Stout (New Zealand), and  
Chief Justice Anglin (Canada—Supreme Court).

I have read the extract to draw your attention to the constitution of a Court which, I think the House will admit, contains a wealth of judicial talent and knowledge, unrivalled in the Empire and possibly in the world.

[Sir Alexander Muddiman.]

Now the most important part of the story from the point of view of India is the representation of India on that Judicial Committee. You will have observed that there are three Judges of Indian experience on the Judicial Committee. Two of them sit under section 80 of the Judicial Committee's Act of 1833, and I think I must really take up the time of the House for a short moment by reading that section, because it makes the position of these judges so clear. Section 80 runs as follows:

"Two Members of His Majesty's Privy Council who shall have held the Office of Judges in the East Indies or any of His Majesty's Dominions beyond the Seas, and who, being appointed for that purpose by His Majesty, shall attend the Sittings of the Judicial Committee of the Privy Council, shall severally be entitled to receive, over and above any Annuity granted to them in respect of having held such Office as aforesaid, the Sum of Four hundred Pounds for every Year during which they shall so attend as aforesaid, as an Indemnity for the Expense which they may thereby incur; and such Sum of Four hundred Pounds shall be chargeable upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland."

That is to say that the Indian representatives who are at present on the Judicial Committee, in so far as they are salaried representatives, are paid the sum of four hundred pounds a year, rather less than the salary of a Sub-Judge. It is true it is said to be paid as an indemnity. I agree it could not be regarded as anything but an indemnity. The third member who sits, Sir Lawrence Jenkins, so far as I am aware, receives no salary. The present salaried members of the Committee are Sir John Edge and Mr. Amir Ali. These eminent Judges have been discharging their functions on this, in my judgment, very inadequate indemnity for many years, and the thanks of the Government and all of us are due to men who, at a very advanced age, continue to discharge duties of a public nature when most of us would be glad to retire to peace and repose. I make that clear because it is essential that, in considering the future, we should not forget the services that have been rendered in the past. The Government of India, as I said, have had this question of new arrangements in the Privy Council under their consideration for many years. In that connection it gives me great satisfaction to think that this proposal that I am now bringing forward would certainly have had the support of my old master and my present friend, Sir George Lowndes. There was a time when the Indian Legislature was much concerned as to the possibility of establishing a Supreme Court for appeals for India. That was debated at length and there was a good deal of opinion in favour of it, but this House, as every one knows, pronounced a very decisive judgment on that question on the 17th February 1925, when, by a very large majority, they rejected the proposal, a majority of 56 to 15 . . . .

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): With the support of the Government.

**The Honourable Sir Alexander Muddiman:** Certainly with the support of the Government, but not against the sense of the House. That, therefore, may be regarded as no longer a live issue. I think, before I go further, I ought to give the House some information as to the amount of Indian work which is done in the Privy Council for India as compared with the other work. I am quoting now from information which has been extracted from that given to the Imperial Conference by the Lord Chancellor and Sir Robert Borden in 1918.

The days for hearing in the Committee in 1916, were given as follows:

|                                       |     |     |           |
|---------------------------------------|-----|-----|-----------|
| Indian appeals                        | ... | ... | 107 days. |
| Other appeals, excluding Prize Courts | ... | 68  | „         |
| House of Lords appeals                | ... | 112 | „         |

That is to say Indian appeals occupied 86 per cent. of the days for hearing in both Courts and 68 per cent. in the Judicial Committee. The number of appeals before the Judicial Committee from 1911 to 1917, excluding the Prize Court appeals, were, Indian appeals, 514; other appeals, 365. That is to say 59 per cent. or more than half the appeals before the Judicial Committee were Indian appeals. Now those are very striking figures indeed, and I hope the House will weigh them carefully. I ought perhaps to explain that I am bringing this Resolution before the House with the object of obtaining the opinion of the House upon it, and I am bringing it at this particular moment because we have reason to believe that if it is approved in this House and in another place, it may be possible that Parliamentary legislation might be introduced comparatively rapidly to give effect to this Resolution. Of course, as I stated, or rather indicated in the commencement of my speech, you have in a matter of this kind to strike when the iron is hot, when you have got people who are in a position to put forward your legislation in a place where it is necessary at the time to do so, and to have your own Legislature in agreement with you. It seems to me that the House here really has an opportunity which, if taken, might result in very great benefit to the disposal of the judicial business of India. The first part of my Resolution refers to the enhancement of the salaries. You may dislike or you may not dislike, you may approve or you may not approve, you may want a Supreme Court or you may not want a Supreme Court, but I think you will all agree that to give £400 a year and to expect Judges of recent experience and of the highest eminence to sit is outside practical politics. Therefore, I do not think I need say anything on part (1).

Part (2) suggests that the Judges appointed should be persons with recent knowledge of Indian law and practice. Now, I should think that most of us would feel that that was a very important factor in making appointments. For one thing men fresh from the courts are in a better position to appreciate any changes that may have been made in the law in recent times. They are in touch with the rules of practice, and, speaking generally, would be the best fitted to discharge the very difficult duties that fall to the Supreme Court of Appeal.

Our ideas—I do not wish to develop them more than that—our ideas were not only should persons who have held judicial office in India be available as a recruiting ground but also that men of a high standing at the Indian Bar would not be excluded. Indeed if we did not take that view we might otherwise be deprived of the chance of considering men of very great eminence. On the other hand, that has an important bearing on the salary because members of the Indian Bar in distinguished practice, in leading practice—so I am told and from observation I have reason to believe that to be true—are in receipt of princely salaries, the figures of which to me have really very little meaning so large are they.

Now, there is an amendment on the paper which I hope very much will not be moved that in this Resolution which I presume the Honourable Member in whose name the amendment stands otherwise approves—that in

[Sir Alexander Muddiman.]

this Resolution a racial discrimination should be introduced. Now, Sir, I beg of the House not to do that for this reason. These are appointments of the very highest judicial importance. They are important appointments which will be made by the Crown. I can naturally sympathise with the view that this House would desire an Indian to occupy a position of that kind; but I am perfectly sure that this House would not desire an Indian who was not fit for that position to occupy that position. To take such a view would be I think really to lower this country in the estimation of the world, which I am sure is the last thing you want to do. We should be sending those men to sit not only with the best brains of England, with great lawyers whose names are already famous, but with the greatest lawyers from the Colonies, and India, I think you will agree, should send to sit with them of its best, where you can get them and when you can get them, but of its best. (*An Honourable Member*: "What about the Executive of the Government of India?")

I was going to mention one other point but perhaps it is hardly worth mentioning. If I thought that my appeal would not be listened to I should have developed it, but it is a matter of material importance that such considerations should not be quite outside the minds of the House. It is this. The Indianisation of the judicial services is proceeding fast and the Indian Bar has become entirely—I think I may say almost entirely—Indian. When I came to this country there were—there are still no doubt a few—there were a large number of Englishmen who practised at the Bar in India and attained high fame and one was led to believe the respect of those who now maintain the high traditions of the men whose pupils they were.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Indians are advancing now.

**The Honourable Sir Alexander Muddiman**: Then, Sir, the next proposal is that their salary should be £4,000 a year, half of which should be paid from Indian revenues. Now, at present India is getting the services of the Privy Council entirely as regards judicial salaries at the expense of the English Government. The great advantage and I believe one of the most important advantages of the Privy Council why people like an appeal there is that they do get some of the greatest Judges of England to sit. They usually sit at least two though sometimes there has been only one, and I think most of us feel we would like there should always be two men of English reputation sitting with our two representatives on the Court.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): May I know what the position is with regard to the Colonial Judges?

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): South Africa, Canada and Australia have got courts of their own.

**The Honourable Sir Alexander Muddiman**: The Colonial Judges are in the same position as Sir Lawrence Jenkins. They are appointed under the Amending Act and they receive no pay as neither does Sir Lawrence Jenkins who also of course comes under that Act.

**Mr. A. Rangaswami Iyengar**: I mean I want to know whether the Colonial Governments pay anything.

**The Honourable Sir Alexander Muddiman:** I have told the Honourable Member that they do not pay anything. Of course they do not sit with anything like the frequency that the Indian Judges do, because fifty per cent., more than half, of the appeals come from India alone. In many cases I do not suppose there is a single appeal from any of these Courts.

**Mr. M. A. Jinnah:** Then why not have a Supreme Court here?

**The Honourable Sir Alexander Muddiman:** I will meet my Honourable friend's point later when I have an opportunity of replying. I should like to take his point now but perhaps he will permit me to proceed in the order in which I was doing. I was on the point of salary. It is a matter for this House to consider whether it is prepared to provide the money for this salary. If it is not then the question is at an end. On the other hand, if you do provide it, I do not think it can be said it is too high, for this reason. We contemplate the possibility, I certainly contemplate the possibility, of men going to England for a comparatively short time. There would be either an age limit or a time limit of some kind. They would go to England for a comparatively short time and then return to India to spend the evening of their days here, and I think you would find it very difficult to get men who would first of all *ex hypothesi* give up either a leading practice or a high judicial office to establish themselves in a country with which they may or may not be familiar and incur those expenses which are, as we all know, unfortunately incidental to a stranger in any country, unless you pay them a reasonable salary. There may be doubts as to the amount of the salary, but I put it to the House that on the understanding that you are going to get a first class man, you will not get him much under that. It should also be noticed that at the end of the operative part of the fourth clause of my Resolution is the usual sting that so often lurks in Government statements as to pay. That is to say, the unfortunate person who enjoys a pension is to forfeit that pension during the period he is re-employed. That, Sir, of course makes it somewhat more favourable to my Honourable friends from the Bar and distinctly less favourable to Judges who have retired.

Now really this to my mind is a golden opportunity. The House has a chance of getting what I do not think anybody really can believe is not an improvement on the existing position. I think on the whole the Home Government are giving us generous treatment. Under my Resolution half the salary would obviously have to be met from revenues other than those of India and the only revenues available would be the consolidated funds of the United Kingdom. I doubt if you could ever hope to get a court better constituted from our point of view than the court which would then exist in England. The House will no doubt pronounce its verdict as to that. I see there is an amendment on the paper by an Honourable gentleman who was connected with a previous Resolution regarding a Supreme Court for India, and I presume he would approve of the proposition if the Judges sat in India. Well, it is not probable that either the Lord Chancellor or any other of the eminent English Judges, who sit on the Privy Council or even those Judges who have ceased their connection with it would come out to India even for the pleasure of hearing my Honourable friend argue before them.

**Mr. T. O. Goswami** (Calcutta Suburbs: Non-Muhammadan Urban): Who ever wants them to come out here?



**Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): May I know from the Honourable Member whether this proposal emanates from the British Government?

**The Honourable Sir Alexander Muddiman:** I will answer the Honourable Member's question in a second. I would prefer him not to disturb the course of my argument. There is at least the possibility that if this Resolution is not accepted we shall never get so good a chance again. I believe myself that is certain. My Honourable friend asks where this proposal originated. It originated originally in the Government of India and as I said myself—perhaps the Honourable Member has forgotten, I have been speaking for so long—I stated myself that it was under consideration nearly 10 years ago. It was then powerfully supported by Sir George Lowndes. One of the things that His Excellency was able to effect during his visit to England was a discussion with the highest authorities regarding this very important question. That is the history, I may perfectly frankly state, of these proposals.

Now, before I sit down, I should like to refer to one other aspect of the case. It is this. I hope the House will accept this proposal in a generous way because—as a mere matter of expediency, it is still an important point for those who like myself are anxious to see this go through,—the debates in this House and elsewhere will be carefully scrutinised. We have to get Parliamentary Legislation enacted, and you know that Parliaments, like other people, are difficult, when they have to put their hands into their pockets. I think it would be a great pity to arouse undue opposition by adopting an attitude which would operate against what might be the real wishes.

Now, I have endeavoured to put the case as fairly and as clearly as I can to the House, and I hope and trust they will give it their earnest consideration. This is not a matter of politics; this is not a matter that can arouse, I should have thought, any of those passions that are so easily aroused. It has, in my judgment, a chance of effecting a real and enduring benefit to the litigant public in this country, and I do hope the House, will warmly support this Resolution.

**Sir Hari Singh Gour:** Sir, as a protagonist of a similar Resolution for the establishment of a Supreme Court in this country, I feel it my duty to say a few words on the Honourable the Home Member's Resolution. He says he has read all the literature on the subject. I have no doubt . . .

**The Honourable Sir Alexander Muddiman:** I never said anything of the sort.

**Sir Hari Singh Gour:** I am glad, Sir, he has not done so, because if he had done so, this Resolution would not have been brought up before this House at all. In the first Assembly I was the humble author of a Resolution asking this House to take steps to establish an ultimate Court of Appeal in this country. I then traced the origin and history of His Majesty's Privy Council, and I gave my authority in support of my view. That statement was not contradicted by the then Law Member, Dr. Sir Tej Bahadur Sapru, and he promised to consult public opinion on the advisability of establishing an ultimate Court of Appeal in this country. Opinions were collected, and, as the Honourable the Home Member has pointed out to this House, there is a good deal of opinion in favour of the establishment of a Supreme Court in this country. The present Governor of Burma . . .

**Mr. President:** The Honourable Member must understand that we are not discussing the question of the establishment of a Supreme Court in India.

**Sir Hari Singh Gour:** These are the reasons why I am opposing this Resolution. I am giving the reasons.

**Mr. President:** The Chair notices that the Honourable Member has got an amendment for the establishment of a Supreme Court in India, and it appears to the Chair that the Honourable Member is arguing to make out a case for the establishment of a Supreme Court of Appeal in India which is not the question before the House. The Honourable Member will remember that last year he raised that question, and he is now trying to raise the very same question again within one year, and the Chair cannot permit it.

**Sir Hari Singh Gour:** I am moving my amendment, Sir, and that is, that whatever be the constitution of the Judicial Committee of the Privy Council, it should hold its Court in India, and I am trying to show that . . .

**Mr. President:** What is the Honourable Member's amendment?

**Sir Hari Singh Gour:** That at the end of the Resolution, the following be added:

"(5) That the judicial work of His Majesty's Privy Council is done in India."

**Mr. President:** It is substantially the same as the Resolution moved by the Honourable Member in this House last year.

**Sir Hari Singh Gour:** No, Sir. The last Resolution was for the establishment of a Supreme Court here, and this is for the doing of that work here. It is quite different.

**Mr. President:** The Honourable Member is very ingenious, but the Chair will not allow him to discuss substantially the same question once again.

**Sir Hari Singh Gour:** Very well, I will not raise that question, I will oppose the Resolution, and in the circumstances I need not do anything more for the present than to oppose the Resolution as it stands. In doing so I wish first to traverse the facts upon which the Honourable the Home Member has appealed to this House. I wish to point out to this House that the Judicial Committee of the Privy Council is not a Court; it is a purely advisory body which advises the King and the decrees are made out by the King and in his name, and any person who has studied the English constitution will bear me out when I say that this Court was established because there was not a regularly constituted Court, and as justice had to be done in the newly acquired Dominions of His Majesty, this Court *ad hoc* or this advisory body was called upon to advise His Majesty, and upon the advice given by the Judicial Committee of the Privy Council His Majesty acted. But in all the major Colonies such as Canada, South Africa, and Australia, they have established independent Supreme Courts of their own. The Supreme Courts now do work which was done before by the Privy Council whose jurisdiction is practically superseded, though in one or two colonies the litigant is given the option of either appealing to His Majesty's Privy Council or to the local Courts. Lord Bryce in his famous book on

[Sir Hari Singh Gour.]

the democracies of the world,—a book which records his actual experience,—mentions that these Courts have completely done away in practice with the jurisdiction of the Privy Council, that they are giving great satisfaction and the administration of justice in these Colonies by the local Supreme Court is receiving popular confidence. Now, Sir, I wish to ask why a similar step is not taken in this country. In the opening speech of His Excellency the Viceroy published at page 9 of the official Reports, I find that it is stated that in order to perpetuate the benefits of this scheme, it is desired in future appointments to secure persons from India of eminent qualifications. The object is to perpetuate the present system of appeals in the Privy Council, being heard and determined in England, and, if this House supports the motion moved by the Honourable the Home Member, let the House remember that it stands committed to the perpetuation of a system for the maintenance of the Privy Council for all time in England. Is the House prepared to do that? That is a short question. I submit, Sir, that in the fulness of time—and I hope in the near future—it will be necessary to establish a Supreme Court in this country. Only yesterday the Honourable the Home Member referred to a brochure written by the late President of this Assembly, Sir Frederick Whyte. In one of the paragraphs he points out the necessity of having a Supreme Court in this country. What country having a federal constitution can do without a Supreme Court? The Supreme Court, I submit, is the interpreter and upholder of the written constitution of the land. Difficulties arise every day. Is this a transferred subject or is it a reserved subject? Is it an Imperial subject or is it a Provincial subject? Is it a Provincial reserved or a Provincial transferred subject? Conflicts between the Legislature and the Executive arise every day. We want, Sir, an independent tribunal to deal with these constitutional questions. I, therefore, submit that, if you are to perpetuate the system of the Privy Council, you will by your vote be depriving yourself for all time to come, of the possibility of the establishment of a court of your own.

Sir, I have not dealt with one very important question to which I referred and in which I am strongly supported by the provinces, that it is an anomaly that this is the only country in the British Empire where there is really no appeal against the final verdict of a sentence of death. Honourable Members are aware that persons tried for murder are usually tried by the Sessions Court and the Sessions Court. . . .

**The Honourable Sir Alexander Muddiman:** I do not want to interrupt the Honourable Member but I wish to point out that I am not asking the House to do anything with the jurisdiction of the Privy Council. I am only asking them to do something with the personnel of the Privy Council.

**Sir Hari Singh Gour:** I am simply pointing out that this House should throw out this Resolution on the ground that the Privy Council is not the Privy Council that you want. Let it continue if the Honourable Member desires it to continue, but we are not going to contribute to its funds and I am giving my reasons.

To resume. This is the only country, Sir, where, when a man is convicted for murder and sentenced to death, and the sentence is confirmed by the High Court, there is no right of appeal. The Honourable the Home Member is aware that within the last few years in England a Court has been established known as the Court of Criminal Appeals, and that Court is given power to revise all sentences passed by the regularly constituted

tribunals. I do not wish to give the reason for this strange anomaly in this country, but I only wish to point out that we are not satisfied with the present jurisdiction of the Privy Council. The Privy Council have time and again enunciated the principle that they are not a court of appeal or a court of criminal revision and have refused to exercise jurisdiction except in cases which fall within the very narrow principle which they enunciated in what is known as ~~the~~ *Dillet's case*. Further, Sir, I submit that, so far as the present Privy Council is concerned, their Lordships have again and again said that because they have to try cases in London, they are precluded from making local inspections in cases of right of way, of easements, of assessment of mesne profits and other profits. Where local inspection is necessary they say they are unable to do so. In cases of Hindu law and Muhammadan law and indeed in cases of all personal laws, their Lordships have often confessed the difficulty of administering justice in conformity with those laws. I, therefore, submit that a court situated six thousand miles away does not satisfy the growing aspirations of the people of this country and if we were to approve of this Resolution, we shall be perpetuating a system which we know to be deficient and which we want to replace by a better and more efficient system. The Honourable the Home Member was right in saying "Let us strike while the iron is hot". I know the genesis of this Resolution. In fact, I had a shrewd suspicion of what must have been the genesis of this Resolution. The unfortunate fate which my Resolution suffered at the hands of this Assembly seems to have encouraged the Government into a belief that this House was enamoured of the present constitution and powers of the Privy Council. Let this House by its verdict to-day show that it never intended anything of the kind. If this House supports the Resolution of the Honourable the Home Member it will lend itself to the view, stated by His Excellency in his opening speech, that he has been greatly impressed with the very high regard and esteem in which the Judicial Committee of His Majesty's Privy Council are universally held in this country in connection with their Indian appellate work. Sir, I do not wish for a single moment to minimise the importance and the value of the work done by their Lordships of the Privy Council. I am not here decrying the Privy Council. But I am asking the House to take long views and not to commit itself to a proposition which will embarrass it in future as the fate of my Resolution may embarrass it at the present moment. They have committed one mistake—let them not commit another. Let Members of this House consider what will be the result of lending their support to the Resolution of the Honourable the Home Member and let them then vote accordingly. Sir, I oppose the Resolution.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): Sir, I am not at one with my Honourable friend Sir Hari Singh Gour in this matter. I have to pay my tribute to that great and august tribunal which is the final court of appeal in deciding Indian issues. Sir, with the experience we have had, and I have had, in the profession, I cannot but pay that tribute. Although some times we have reason to be dissatisfied with the advice tendered to His Majesty by the Judicial Committee of the Privy Council, on the whole the Judicial Committee all these years have done signal service to this country in the matter of judicial work. Sir, I appreciate and welcome the proposal contained in the Honourable the Home Member's Resolution. The Honourable the Home Member's Resolution aims really at one thing, namely, how best to secure

[Diwan Bahadur T. Rangachariar.]

the Indian element in the Privy Council, whether we should not take steps to facilitate the getting of competent men of experience of the judicial system of this country to sit on the Judicial Committee of the Privy Council. As Honourable Members are aware, by the Act of 1906 provision was made that any person having been a Chief Justice or Judge of any High Court in British India or of the High Courts of Bengal, Madras, Bombay or the North-West Provinces (the United Provinces as it is now) is a member of the Privy Council, and he may be appointed a member of the Judicial Committee and not more than two persons shall be members of the Committee at one time by virtue of this section. It is under that provision that the two learned gentlemen, Sir John Edge and Mr. Amir Ali now sit on the Privy Council.

**Mr. H. Tonkinson** (Home Department: Nominated Official): I think my Honourable friend is mistaken. It is not under that provision that they sit there. They sit under section 30.

**Diwan Bahadur T. Rangachariar:** They are receiving a very inadequate remuneration, I do not think you can call it remuneration at all. The work they have to do is very responsible and onerous work and they have to sit there for several days in the year and hear complicated questions of law and fact, so that I welcome the proposal to increase the remuneration of these Judges. But on the question of amount I have suggested a figure, not that I would stick to it if the Honourable the Home Member thinks that £4,000 is really needed. My own view is that to men who have attained the position to be able to sit in the Privy Council it is more an honour to be called to advise His Majesty in these matters of appeals and therefore the question of remuneration should only be such as to enable them to live comfortably in London. My estimate of it is £3,000 per annum, but I do not know what figures the Honourable the Home Member has in order to support his figure of £4,000. I am not very particular about the figure, whether it is £3,000 or £4,000, but Honourable Members will have noticed in my amendment two matters of substance. I am sorry that my Honourable friend thinks that my amendment raises a racial issue at all. Far from that. The Privy Council is composed of eminent English Judges who have had considerable knowledge and experience of the work of the Courts in their own country, and these two gentlemen who have to assist in the hearing of the Indian appeals are intended to afford that assistance from the point of view of India, Indian knowledge, Indian experience, knowledge of Indian customs, knowledge of the people of the country, knowledge of the laws administered in this country and knowledge of the practice. That being so, whatever may have been the state of affairs years ago I do not think that any one will be bold enough to assert that you cannot find two Indians all over India to be sent to the Privy Council. My Honourable friend contemplates recruitment from retired Judges and also from prominent persons practising at the Bar. As he has himself admitted, the Bar in most places has been Indianised and the persons whom he mentioned as making fabulous incomes, incomes which he cannot dream of,—those persons are mostly now Indian, and therefore, I quite agree that you must send your best men from India. but to suggest that in selecting two people for the Judicial Committee you will not be choosing the best men by confining the choice to Indians . . . . .

**The Honourable Sir Alexander Muddiman:** I did not say that. What I said was that you may not necessarily get the best.

**Diwan Bahadur T. Rangachariar:** I think the best, with due respect, can be had from amongst the Indians in the legal world. I yield to none in my respect for my English friends at the Bar, but at the same time what is meant by the best? The best for the job. And what is the job they are going to be asked to do? To sit in the Privy Council and hear Indian appeals and assist the other learned Judges of the Privy Council with their knowledge of the customs, habits, law and practice of this country. For that purpose I consider that Indians are the best fitted for the job and therefore I am not in any way influenced by my Honourable friend's remark. It is not raising a racial issue at all, it has nothing whatever to do with the racial element. My view is you can get the best advice on Indian matters, Indian customs, Indian manners, and Indian law and procedure from Indians more than from English Judges who have been in this country. Therefore, I have introduced the word "Indians" in clause 2.

The other matter of substance by which I seek to improve this Resolution is this question that half the salary shall be paid from the Indian revenues. That the mighty British Government should enter into a pecuniary discussion in a matter of this kind seems to me most absurd. Here is the golden link which binds the Empire, this Judicial Committee of the Privy Council as has often been remarked. It is His Majesty's Privy Council, appeals really lie to His Majesty. His subjects petition His Majesty against the injustice done to them by the courts in his lands and when they come and lodge those petitions, when Indian subjects go to His Majesty complaining of the injustice and wrong done to them by his courts in this land, it is extraordinary that England should say, "Very well, we are not paying an adequate salary to the people whom we want to man the Privy Council with." And what is it that the Government propose to pay? Half. Why not two-thirds, why not one-third, why not the whole? What is the object of this half? Is it that England is so poor that she cannot pay this £4,000 out of the millions of pounds that she spends on other objects? I am ashamed that I should be speaking on the floor of this House about this. I do not think that any Member of the British Parliament could be so lost to his sense of dignity which attaches to this Empire that he is going to bargain with India, "Please pay the half of £4,000." You are receiving benefits in other ways. If England is to go and count it in the shape of rupees, annas and pies or pounds, shillings and pence, you are receiving it in a hundred and one ways if not a thousand and one ways—the material benefits you are enjoying and you have been enjoying for so long. Now all these years the Privy Council has gone on and you have been paying £400 each to these learned gentlemen who now adorn the Judicial Committee. And if you think that their remuneration is not adequate, it is His Majesty's Court. These are the advisers of His Majesty and why should not His Majesty's subjects in England pay for them. It is a bad precedent—not that this £4,000 is too much for our country, but England ought to pay for them. It is part of her business to keep this Privy Council, and so long as she has got an Empire, so long as she wants to be proud of her Empire, and so long as she wants to maintain her connection with her Dominions, she must pay for this just as she maintains the Crown. The Crown's accessories must be maintained

[Diwan Bahadur T. Rangachariar.]

by her. Then why not say, "As regards the King's Civil List you should also contribute to the King's ordinary expenses." He is our King just as he is their King, and why not put on the estimates of this House half his expenses. Why not come to us with that? It seems to me ridiculous that this proposal should emanate at all, but I hope it did not emanate from the British Government.

**The Honourable Sir Alexander Muddiman:** I should like to say it did not.

**Diwan Bahadur T. Rangachariar:** I hope that if the proposal is put to them they will reject it with scorn. It is more the Indian way of looking at the matter, to pay half. Therefore I would ask that that clause should be dropped out. By all means increase the pay if you like. What did my Honourable friend say speaking about the adequacy of the salary? He contemplates Indians going there. Only he objects to my putting it in the Resolution. He said that eminent men from the Bar and retired Judges of the High Court will go to England and sit on the Privy Council and then return to India and spend the evening of their life here. That is what he contemplates. When he asks us to pay them £4,000, he contemplates that they will be Indians but if it is English Judges who go to England and spend the evening of their life there it is not necessary that they should receive such a high salary. Therefore £4,000 contemplates Indians being recruited. I do not want these things to be left ununderstood. We often have experience of the way in which the solemn assurances given on the floor of this House are not taken notice of. Only the other day we had an instance. We were given a solemn assurance that when the time came the scales will be weighted in favour of an Indian, but when the actual time came for carrying out this promise some other considerations prevail. If you want really to have Indian advice, why shut our eyes to the fact? If you want Australia to advise, would not Australia send its own men? If you want South Africa to send men there, would they not send their own men? So also in the case of India. If you want men to assist His Majesty in Council in Indian appeals, why not send Indians? It is the one Department in which Indians have distinguished themselves. It is in the domain of law that Indians have earned a world-wide name. You will be sending only two out of several that will be sitting on the Judicial Committee. I do insist, Sir, that the two gentlemen who have to sit and give advice on Indian matters should be Indians. As I have already stated, I am not very particular whether you pay £3,000 or £4,000, so long as the money comes from Britain, but I do object that any portion of the money should come from Indian revenues. I do not look at it from the point of view of money at all. Let that be clearly understood. I object to the character of the claim that we should contribute to His Majesty's Privy Council. I do not think the Indian revenues should be taxed with it. In the second place it is not consistent with the dignity of the Empire that England should claim any portion of the salary. Therefore, Sir, I move my amendment to this Resolution as it stands:

"That in clause (2) for the word 'persons' the word 'Indians' be substituted."

"That in clause (3) for the figures '£4,000' the figures '£3,000' be substituted (I do not want this to be pressed to a division if my Honourable friend will not accept it) and that the words 'half of which shall be paid from Indian revenues' be deleted."

I do say that it is my most emphatic conviction that the time has not come for having a final court of appeal in this land. Let us not hide the facts from ourselves. What is it you witness every day on the order sheet—Look at the questions asked! What is the proportion of Sikhs, what is the proportion of Biharis, what is the proportion of Muhammadans and of people from this province and that province? Now, I have to make a sorry confession. I make it with the greatest pain and regret, and it is that we do not trust each other. There is no going away from that fact. I do not trust Muhammad Yakub and Muhammad Yakub does not trust me.

**Maulvi Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): I do trust you, Sir.

**Diwan Bahadur T. Rangachariar**: That is all right. But there it is, that is a sorry fact we have to recognize. It occurs unfortunately and it is a thing which is really troubling us, and at this moment to talk of establishing an ultimate court of appeal here appears to me chimerical and foolish.

**Colonel Sir Henry Stanyon** (United Provinces: European): I rise to oppose the amendment. It may be put under three heads, substitution of "Indians" for "persons" in clause (2), substitution of "£3,000" for "£4,000" in clause (3), and deletion of the words "half of which shall be paid from Indian revenues". I will make my submission under each of these three heads in the order given. First, as to the substitution of "Indians" for "persons". This amendment takes me by surprise. That surprise is not caused by any shadow of a suspicion that the amendment is dictated by any racial bias. I know my Honourable and esteemed friend much too well to entertain any suspicion of that kind. My surprise is due to the fact that so capable a Member of this House should have over-looked a very obvious fact, namely, that any recommendation made to His Majesty for the appointment to His Majesty's Privy Council of a member with Indian experience must be governed only by a consideration whether the person recommended is the one best fitted to discharge the duties of the high office. He must be a person possessed of recent knowledge of Indian law and practice. Surely my friend will admit that on the Benches and at the Bars in British India there are both Europeans and Indians possessed of such knowledge. The task would be to choose the best, or the best available, from among them. The law administered by the Judicial Committee of the Privy Council is not merely the personal law of India. If that had been the case I would still have pointed out that such Europeans as John Mayne West and Buhler, Macnaughten and others have been recognized as authorities even on personal law. But in point of fact the Judicial Committee has to deal with a large volume of Statute law founded on principles of English law. I do not claim that European lawyers can understand and apply that law any better than Indian lawyers. Indeed the contrary is often the fact. But I do claim that an Indian, merely as such, is in no better position than a European to understand and apply Indian law as a whole. Therefore, I maintain that the only principle governing a recommendation to the Privy Council should be the fitness of the individual recommended regardless of his race or creed. Next as to emoluments. In India bargaining is a habit. We have had examples of it before in this House.



**Mr. T. C. Goswami:** The habit is there in the Resolution itself.

**Colonel Sir Henry Stanyon:** If the Honourable the Home Member had put £5,000 in his proposal, he might have got a vote in 1 P.M. favour of £4,000. But in this case the Honourable Mover of the amendment has realized that he is bargaining—if we take the terms of his whole amendment—for the British Government: because he does not want any part, even of the £3,000, to be paid out of Indian revenues. But, Sir, what is the real point? It is manifest that we want the best man we can get, European or Indian, to sit in final judgment on the Privy Council. Surely such a man should have an emolument not less than that of a provincial High Court Judge. As regards the money coming out of Indian revenues, I have not much to say. It is of the first importance to India that Indian law, and, if the necessity should arise as it sometimes does, Indian evidence, should be correctly understood and applied in the Judicial Committee; and that is an advantage which, it seems to me, with all deference to my friend's opinion and the opinions of others of my friends in the House, is one for which, on an ordinary principle of justice, India should pay. The fact that she has not paid for her justice so long does not seem to me to affect the position. So much the better for India. It does not take away from the justice of the proposition that where India asks to be supplied with a specially gifted and qualified man to give a final judgment on her administration of justice, she should pay for him. It must be remembered that in the terms of the Resolution this contribution will be controlled by the addition that the gentleman appointed shall cease to be a pensioner from Indian revenues during the time of his holding the appointment. I have said that it is of the first importance in very many cases that Indian evidence, e.g., the construction of vernacular documents, should be properly appreciated and understood in a final judgment like that of His Majesty in Council. We know that what the Judicial Committee of the Privy Council have before them are mere translations. It is all very well to say that the original record is there, but if you have Judges who do not know India and its conditions . . . .

**Sir Hari Singh Gour:** The original record is never sent out of the country. It is never sent.

**Colonel Sir Henry Stanyon:** That makes my position still stronger. They have nothing but translations.

**The Honourable Mr. S. R. Das (Law Member):** It is sent.

**Sir Hari Singh Gour:** My impression is that it is not; only the transcript.

**Colonel Sir Henry Stanyon:** Let me illustrate the danger of judging by translations only with a short story. I hope I will not be accused of levity in dealing with a serious subject, but I think it is a good illustration. I was at a banquet with some of my esteemed Indian friends, and one gentleman, an Indian, whose mother-tongue was Urdu or Hindi, being asked to make speech was anxious to make the point that it was a splendid banquet and that he had thoroughly enjoyed himself. His thoughts may be put in Hindustani in these words: *Kya tofa khana! méra to péth bhar gaya.*

What he actually said was this. "It is a fine banquet. I am thoroughly fed up". (Laughter.) Well, Sir, no one who knows India would have any difficulty or make any mistake in construing that English sentence. But a Judge unacquainted with India or with Indian habits of this kind might easily fall into the error of thinking that this really pleased and satisfied gentleman meant only to be sarcastic. Turning to the serious side of it, I say that an error in the construction of a document by the Judicial Committee might work grievous injustice in India. It is for protection against this danger that it is of the first importance to India to have Judges who know the country, who know the people and who know the law and practice. I oppose the amendment of my friend "lock stock and barrel".

As regards my friend Sir Hari Singh Gour's opposition, his state of mind on the subject, I think, is fairly evident from the terms of his speech; that he should feel hurt at the way in which his proposal, a serious and well-considered and hard-worked proposal, was treated is natural. But I think he has been carried away into rather overstating the case. In my address on the occasion in February last, when Sir Hari Singh's Bill was before this Honourable House, I pointed out in detail that while the British Empire exists as a British Empire no local Court in any part of it can forcibly displace the jurisdiction of His Majesty in Council. Supreme Courts have been set up; final courts have been created; but they are final only in the Dominion or other part of the Empire, where they have been established. Let me mention only the case of Australia. There we have Federal Courts and we have a Supreme Court called the High Court. Appeal lies from each Federal Court to this High Court, but every appellant from a Federal Court has the option, if he prefers, to go direct in appeal to His Majesty in Council. I think that if the constitution of these various courts is studied, it will be found—I think in Halsbury's Laws of England—that in no case is the jurisdiction of the Privy Council necessarily ousted: that is to say, not as of right. No doubt where there is a Supreme Court, the Privy Council does itself make rules against the admission of appeals which have been dealt with by the Supreme Court. But the jurisdiction is there. I hear for the first time to-day that His Majesty the King in Council is not a court. We speak of the Judicial Committee of the Privy Council.

**Sir Hari Singh Gour:** I have never said that His Majesty the King in Council was not a court. I only said that the Judicial Committee of the Privy Council was not a court, but only an advisory committee to His Majesty.

**Colonel Sir Henry Stanyon:** I may be wanting probably in intelligence, but I am unable to understand how a part of a court cannot be a court at all.

**Sir Hari Singh Gour:** Advisers are not a court.

**Colonel Sir Henry Stanyon:** I ask the House not to be misled with these arguments urged against the Resolution relating to the Privy Council, because my friend's proposed Supreme Court did not find approval with this House. The House showed its sense of responsibility and appreciation in not consenting to set up a tribunal for which this country is not yet ripe. The time may come, when it will be so. I do not want to go over the whole of that ground again. Let this golden opportunity,

[Colonel Sir Henry Stanyon.]

as the Honourable the Home Member has rightly called it, be judged on its merits. So far as the financial side is concerned, others will speak with greater authority and ability than I can do, but there is no question about it that to have Judges who know India on the Judicial Committee of the Privy Council is a decided advantage and an urgent necessity (with all respect to the existing tribunal) for this country.

**Diwan Bahadur M. Ramachandra Rao** (East Godavari and West Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, I regret I am unable to agree either with the Resolution moved by my Honourable friend Sir Alexander Muddiman or with the amendment of my friend Diwan Bahadur Rangachariar. I think, Sir, that this is one of those subjects which ought not to be considered for the present at any rate till the broader question of constitutional reform relating to India (Hear, hear) assumes some practical shape. Sir, the question of the constitution of a Supreme Court has been raised more than once in this House by my Honourable friend, Sir Hari Singh Gour, and I regret very much that the subject has not received as yet that consideration which it deserves. The Honourable Member says that this is a golden opportunity and that we should accept the present proposal for placing the recruitment of Judges with Indian experience on the Privy Council on a much better footing than it is at present. He said that the proposals embodied in the Resolution require Parliamentary legislation. I oppose these proposals for this very reason. My ground is that once his proposal is crystallised and put into a Parliamentary Statute, it is our experience that it is exceedingly difficult to secure a modification of those provisions if it is hereafter desirable to do so. We have had many instances where India is now being adversely affected by Parliamentary enactments such as the British Nationalities and Status of Aliens Act, the Merchant Shipping Act and other Acts, and it is exceedingly difficult to secure an alteration of any Act of Parliament. This Legislature has no voice in the matter and it has no power to modify or alter an act of Parliament. This House will therefore be well advised in not consenting to any proposal involving any Parliamentary legislation in regard to this matter.

**The Honourable Sir Alexander Muddiman:** How does my Honourable friend propose to advance constitutionally on the path of Reforms if he objects to all Parliamentary legislation?

**Diwan Bahadur M. Ramachandra Rao:** I do not say that there should be no Parliamentary legislation at all about India. Till the broader question of constitutional reform is settled, this question of the payment of salary for the Judges of the Privy Council must wait.

As regards the financial aspect of this question, I am not concerned with the small amount involved in this proposal; but I feel however that this question has to be viewed also from a wider aspect. We have had a continuous agitation for 25 years for the purpose of placing the salary of the Secretary of State and his establishment on the British estimates. It has been our contention for a long time that the machinery of Government in Great Britain should not receive any financial help from Indian revenues and that we should be placed in regard to this matter in exactly the same position as other self-governing Dominions and Colonies. Sir, one

of the reforms carried out by the Government of India Act is that the cost of the India Office is placed on the British estimates. My Honourable friend is now asking for a contribution for the maintenance of the final court of appeal in Great Britain. It seems to me, Sir, that if the present proposal is conceded I do not see any reason why the Army Council should not come up and ask for a contribution for doing some work on behalf of India or why the British Cabinet should not ask for a contribution also for attending to that portion of their work which relates to India. (*An Honourable Member*: "They would welcome it though.") Yes, they would. Therefore, Sir, on the question of a contribution for the salary of the members of the Privy Council it seems to me that while it may be unobjectionable in itself it may lead to complications. If we adopt this proposal it will be pointed out as an instance in which we have consented to make contributions from Indian revenues to Imperial establishments in Great Britain. On that one ground I have very strong objections to consenting to any contribution for the Indian Judges who sit on the Privy Council.

I should also like to ask my Honourable friend, if Judges of Indian experience are required in the Privy Council, why we should not consider the scheme which was adopted at one time in regard to the self-governing Colonies. In the case of the self-governing Dominions, by a Statute of 58 and 59 Victoria, it was provided that:

"If any person being or having been chief justice or a judge of the supreme court of the dominion of Canada, or of a superior court in any province of Canada, of any of the Australasian colonies mentioned in the schedule to this Act, or of either of the South African colonies mentioned in the said schedule, or of any other superior court in her majesty's dominions named in that behalf by her majesty in council, is a member of her majesty's privy council, he shall be a member of the judicial committee of the privy council."

It seems to me that some arrangement like this may secure suitable Judges in service from India for the Privy Council.

**The Honourable Sir Alexander Muddiman**: I may point out that the Judge does not get any pay at all. In the next place the Colony is deprived of a Judge for that period. (*An Honourable Member*: "That is poor consolation to the individual judges.") It is great consolation to the British tax-payer.

**Diwan Bahadur M. Ramachandra Rao**: Some arrangement like the one I refer to will improve the status of the Judge of the High Court in India by being appointed to the Privy Council. One or two of the Judges actually in service in India will then be sitting on the Privy Council. Why should a Judge of the High Court not be appointed to the Privy Council instead of appointing a retired Judge who may not be in touch with the law in India.

**The Honourable Sir Alexander Muddiman**: Do you suggest that a Judge who is still a Judge in court here should go to the Privy Council to hear appeals?

**Diwan Bahadur M. Ramachandra Rao**: That is exactly what was done in the Colonies some time ago.

**The Honourable Sir Alexander Muddiman**: What would be the result of that? You would have to get another Judge to replace him.

**Diwan Bahadur M. Ramachandra Rao:** It may be that that is the better system. You would then have a Judge in living touch with the law in India, sitting on the Privy Council. He will come back after some time and resume his place here. That was the colonial system at one time. I am not at all enamoured of the proposal that at the end of his service one of His Majesty's Judges in India should be selected to serve on the Privy Council. It might be quite a nice billet for a retired Judge to get a salary of £4,000, but if it is a question of having living touch with the laws of India, I would rather take a Judge from one of the High Courts and ask him to serve on the Privy Council there for a certain period of time.

I do not know whether the question of having colonial Judges on the Privy Council received any attention from any of the Colonies. It seems to me that the question, judging from what is stated by Keith, was discussed by some of the Colonies. There were difficulties in asking either the British Parliament to pay for their service or in asking the Colonies to pay for their services. It appears to have been considered also from the point of view of the actual selection of the Judge being left to the Colony. In these circumstances I think the question is premature. I therefore oppose both the amendment as well as the Resolution moved by my Honourable friend Sir Alexander Muddiman.

**Mr. T. O. Goswami:** Sir, the Honourable Sir Henry Stanyon has informed this House that bargaining is an Indian habit. May I ask him that he might look again at the Resolution itself, which, happily, is not from an Indian, to see if, as proposed by my Honourable friend the Home Member, there is not an attempt at bargaining . . .

**The Honourable Sir Alexander Muddiman:** Certainly there is. I am trying to make the best possible bargain for India, and it is my duty to do so.

**Mr. T. O. Goswami:** I am glad the Home Member admits what I stated.

I certainly congratulate Sir Henry Stanyon on a capacity which I do not possess, namely, of being able to anticipate a speech and write out an answer to it before the speech has been delivered. So much for the Honourable Sir Henry Stanyon . . .

**Colonel Sir Henry Stanyon:** May I point out that I wrote out nothing in anticipation of any speech?

**Mr. T. O. Goswami:** I hope so.

Sir, the Home Member pointed out and reminded this House of the greatness of the English system of law. I should be the last man to say anything in derogation of that great system. Equally would I refrain from anticipating the future historian. Whether, after, as the Honourable the Home Member predicted as a necessary and inevitable end, the British Empire has ceased to exist, that historian is to give a greater place to the English system of law or to the Roman system of law, I am at one with the Home Member in saying that the system of law which has been evolved in Great Britain during several centuries is a system of law which commands the respect, and will always command the admiration, of all foreigners. He has said also that there have been eminent English Judges, that there are to-day, sitting on the Judicial Committee of the

Privy Council, eminent British Judges. Far from disputing that statement, again, I agree with him. But immediately afterwards Sir Alexander Muddiman came out with the suggestion that if some of these eminent judges were asked to come out to India, they would not care to do so, even for the satisfaction of hearing eminent lawyers like my friend Sir Hari Singh Gour. There I think Sir Alexander Muddiman as usual was very frank and candid. My answer to that is,—Who ever wants these eminent British judges to come out to this country?

**The Honourable Sir Alexander Muddiman:** I quite agree.

**Mr. T. C. Goswami:** There are, and there have been great judges in England; there are and there have been great and eminent lawyers and judges in this country. Within their very limited scope, we have had in the latter part of the 19th century and in the first quarter of the 20th, judges in India who, as regards intellect and subtlety of perception, were inferior to no judges, no Chancellors in Great Britain. Beginning with the great Dwarkanath Mitter and Sir Muthuswami Aiyer, and coming down to the late Sir Ashutosh Mukerjee . . . . .

**Sir Hari Singh Gour:** Sayid Mahmood.

**Mr. T. C. Goswami:** We too have had eminent judges. Sir, we have to-day even,—why, if we look round this House just now—eminent lawyers; and would the Honourable the Home Member say that they are not fit to take their seats on the Judicial Committee of the Privy Council?

**Pandit Motilal Nehru:** Are they in the running?

**Mr. T. C. Goswami:** My Honourable friend, the Leader of the Swaraj Party, says, are they not in the running for it. He says: Are they in the running? I am sure the Honourable Pandit Motilal Nehru is not in the running.

**Mr. M. A. Jinnah:** Question, question!

**Mr. T. C. Goswami:** And I am equally sure that some others among the galaxy of legal luminaries present here on both sides of the House would not mind taking their seat on the Judicial Committee of the Privy Council.

**Mr. M. A. Jinnah:** It would not pay us.

**Mr. T. C. Goswami:** Sir, I do not like the Privy Council to be the final court of appeal for India; and I think I am right in saying that most of my friends who voted against Sir Hari Singh Gour's Resolution on the establishment of a Supreme Court for India did so because they thought that, if a Supreme Court were to be established to-day in India, it would be filled with retired Chief Justices and retired Judges most of whom would not be Indians.

**The Honourable Sir Alexander Muddiman:** That was not the argument used any way.

**Mr. T. C. Goswami:** Sir, the Honourable the Home Member's reluctance to accept the amendment proposed by Diwan Bahadur Rangachariar as regards confining these appointments to Indians (as distinguished from 'persons with Indian experience') shows that comfortable "billets"—I think that was a word used this morning—comfortable billets—were

[Mr. T. C. Goswami.]

being prepared for retired Chief Justices. His Excellency the Governor-General in opening the Legislative Assembly is reported to have said—I was not present there to hear it—that the idea behind this proposal was to perpetuate the “system” of the Privy Council being the final court of appeal for India. (*Honourable Members on the Government Benches*: “No, no!”) That has already been pointed out by my Honourable friend Sir Hari Singh Gour. Well, I for one would do nothing that would encourage the perpetuation of a system of appeals to the Privy Council.

These, Sir, are the remarks I would put before this House in opposing the Honourable Sir Alexander Muddiman’s Resolution.

**Maulvi Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, although I am opposed to the establishment of a final court of appeal or a branch of the Privy Council in India for reasons stated by me in my speech on the Resolution of Sir Hari Singh Gour last year. I am also opposed to the Resolution proposed by the Honourable the Home Member this morning. Sir, India has for a long time been subjected to a great injustice in the matter of the home charges. It has already been burdened with many charges which might, in fairness, have been borne by the British Exchequer. It was probably in 1874, during the Viceroyalty of Lord Northbrook, when the Committee known by the name of the East India Finance Committee was appointed to investigate the matter of home charges upon this country. The Committee after exhaustive inquiry reported that India was saddled with many charges which ought to have been paid by the British Treasury. Since then in spite of strong protests by the leaders of public opinion, like the late Dadabhai Naoroji and the late Mr. Gokhale, instead of giving any relief to India more and more burdens of home charges have been laid upon its revenues. We have to pay the home military charges. We have to pay the charges of the Secretary of State for India and his Council, unlike other Colonies under the British Empire. We have to pay the charges of the High Commissioner for India. We have to pay an increased amount of pensions and allowances to British officers as a result of the recommendations of the Lee Commission. And now we are called upon to pay half the salaries of the Judges of the Privy Council who will hear appeals from India, and I am sure that after some time the word “full” will be substituted in place of the word “half”! When the Judges of the Privy Council hear appeals from other parts of the British Empire, they do not receive emoluments from the revenues of those countries, and so there can be no justification in charging poor India with the salaries of the two Judges, in charge of Indian appeals, in the name of the King Emperor.

Sir, the financial condition of India is far from being satisfactory, and many a pressing reform cannot be effected in the country for want of funds. There is no system of sanitation in the villages and the physical condition of the people of this country is going from bad to worse every day. The normal age of the Indian is decreasing from day to day and no measures can be taken to stop these evils for want of money. The rate of death among the children is simply appalling, and nothing has yet been done to establish child welfare institutions in the country for want of money. Millions upon millions of people are sinking in the depth of

poverty and misery on account of taxes far beyond their means, and instead of giving her any relief, poor India is being overburdened with fresh charges every day.

There is also another aspect of this question, and it is this, that the Privy Council is supposed to be the adviser of His Majesty the King Emperor, the fountain-head of justice, and therefore the Judges of the Judicial Committee of the Privy Council are not allowed any salaries but they receive only a small honorarium. This is the distinction between them and the ordinary judges, and this is the distinction which lends an air of superiority to their judgments. You degrade them to the level of ordinary judges if you give them high salaries, and you take away that superiority which they claim as the honorary advisers of His Majesty . . . .

**Mr. H. Tonkinson:** May I point out that most of the Judges who sit on the Judicial Committee of the Privy Council draw £6,000 a year?

**Maulvi Muhammad Yakub:** Sir, the Honourable the Home Member has just pointed out that they are paid £400, that it is not a salary but it is paid as an honorarium or as an indemnity for the time which they have to spend in England.

Sir, it is a matter of profound regret that the Government of India should ever have thought of introducing such a Resolution in the Assembly, which is calculated to degrade its position in comparison with the other parts of the British Empire even in the matter of the administration of justice. If we are asked to co-operate with the Government, which the bulk of the population of this country has never refused to do, if we are asked to extend the hand of friendship towards the Government, we are also entitled to the same consideration on the part of the Government and the Government should try to carry the public with them in all important acts of administration. They should also show a change of heart without which a response on the part of the people of this country is impossible. With these observations, Sir, I oppose the Resolution.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Sir, I oppose this Resolution, and if the House is not inclined to agree with me in opposing this Resolution, I shall accept as a lesser evil the amendment of my Honourable friend Diwan Bahadur T. Rangachariar. I would have also supported the amendment of my Honourable friend Sir Hari Singh Gour if that had not been disallowed. He would have been allowed to move it, if this Resolution had been brought before this House a month or so later because then there would not have been any bar under the Standing Orders. I have a shrewd suspicion that the Government have brought forward this Resolution a little earlier to take advantage of this bar, so that the irrepressible Nagpur Knight may not trouble them with his arguments for the establishment of a Supreme Court. My reason for opposing the Resolution is this. Making due allowance for the observations made by my Honourable friend Diwan Bahadur T. Rangachariar regarding the quality of the judgments of the Privy Council, I am bound to state that the Privy Council have not been of any use to us in protecting our lives and liberties against judicial aberrations here in India, for, after all, they deal with civil cases but cannot afford any relief in criminal cases even in the case of a sentence of death. The



[Mr. Amar Nath Dutt.]

invariable reply which their Lordships of the Privy Council give, whenever there is an attempt to appeal in criminal cases, is "We cannot interfere". This is exemplified by a very recent case which has been wired by Reuter from London only yesterday. One Bilas Chandra Banerjee went to London to appeal against a sentence of one year's imprisonment and His Lordship Lord Dunedin said, "We are very sorry we are unable to help you". He explained that the Privy Council was not the criminal court of appeal. Now, Sir, it is probably consistent with conceptions of western civilisation that wealth and riches are more valuable than the life and liberty of a human being and hence we have been allowed to appeal in cases where wealth and property are concerned but not in the case of our lives and liberties. With that view we orientals certainly cannot agree. Our lives and liberties are more valuable to us than anything under the Sun,—millions of pounds or a thousand million acres of land. This case exemplifies that we do not get any relief in cases of this type from the Privy Council. Of what use then is the Privy Council to us? Why should we maintain this system? I know certainly that the amendment of my Honourable friend Diwan Bahadur T. Rangachariar that for the word "persons" the word "Indians" be substituted will not be accepted at least by the Treasury Benches. I will read one other line from the observations of their Lordships of the Privy Council and then sit down. This poor appellant went personally before the Privy Council and said, "My Lords, I had no justice anywhere". Feeling himself aggrieved by the judgment of some courts in India he went there in the hope of getting justice "I had no justice anywhere" sobbed the appellant to which Lord Dunedin replied, "We are very very sorry". Now, Sir, if that be the attitude of their Lordships of the Privy Council, and that cannot but be, under the present law as it stands, I beg to submit that we are bound to oppose this Resolution of my friend.

**\*Maulvi Abul Kasem** (Bengal: Nominated Non-Official): Sir, when such distinguished men as the Honourable the Vice-Chancellor of the Delhi University and the leaders of the Bar from Madras disagree it looks foolhardy on my part to rise to speak. (*An Honourable Member*: "It is.") I believe it is, Sir, but I think that in the discussion of legal aspects, at least the opinion of the man in the street should also have some consideration. Sir Hari Singh Gour said that from the Viceroy's speech and from the terms of this Resolution, if we accept it, we are going to perpetuate the establishment of the Privy Council and bar for ever the establishment of a Supreme Court in this country. Without going into the merits of this question I am afraid that my reading of the Viceroy's speech differs a little from his. I think that what the Viceroy meant was that the Privy Council has been of great benefit and advantage to the people of the country and it was meant not to perpetuate the Privy Council but to perpetuate the benefits thereof. Sir, I would remind Sir Hari Singh Gour that so far back as 1896 he associated himself with a resolution which was placed before a large gathering of my countrymen in Calcutta which demanded that Indian lawyers of eminence should have a place in the Judicial Committee of His Majesty's Privy Council. We in this country have been agitating for a long time for the appointment of eminent Indian lawyers to His Majesty's Privy Council because our lawyer friends felt that

\*Speech not corrected by the Honourable Member.

however eminent British judges may be they were not conversant with the personal law and the habits and customs of the people of this country to be in a position at least to understand and adjudicate on the evidence before them or on the laws under consideration. Sir, my reading of the Resolution is—of course I have not the subtlety of a lawyer—that His Majesty's Judges on the Privy Council, as my Honourable friend. Mr. Muhammad Yakub remarked, receive only a little honorarium for their work on the Privy Council and not a salary. It is beneath their dignity to receive any salary. But it is very difficult to secure eminent Indian lawyers to leave their country and go and stay in England for the purpose of having the dignity and honour of being a member of the Privy Council. It is true that one Indian gentleman has the honour of being a member of the Judicial Committee of His Majesty's Privy Council, but that gentleman did not go to England for that purpose. He went to England to make it his home and as he was available there he was appointed a member of the Judicial Committee. (*An Honourable Member*: "He does not require it.") Because he has gone there, but how many eminent people are prepared to do the same or for whom the fascination of residing in England is greater than that of living at home. I understand that the idea is to appoint distinguished lawyers, Indians, to sit on the Privy Council and therefore, if they are not to be paid a salary they must be paid so that they can live there comfortably as Diwan Bahadur Rangachariar said, and living there comfortably includes coming home occasionally.

Sir, the Resolution as placed before us has got the word "persons" and it has been said by my Honourable friend Sir Henry Stanyon and the Honourable the Home Member that the very best persons are to be appointed and that there is no need to limit it to Indians. I submit that while we want men with knowledge and experience of the Indian law they should be Indians themselves. I do not deny that there are English lawyers who understand our laws, our personal as well as statute laws, but I think nobody will deny that there are Indians who understand them as well if not better. Whatever the failings of my countrymen in other walks of life, there is no denying that in the field of law they have cut a brilliant figure. Many names have been mentioned and many more can be mentioned, but there is no need. I will, therefore, ask the House to accept the Resolution with the amendment that the word "Indians" should be substituted for the word "persons", because I think that, specially with reference to personal laws, Indians will certainly be more capable of understanding them. My Honourable friend Sir Henry Stanyon has given an illustration that a man who was wealthy said he was a beggar. That was because Englishmen who do not know the customs of the country or the language of the country, could not understand it. I submit that no British judge, however learned, however eminent he may be, will be able to realise fully the evidence and the technicalities of the personal law of Indians because he will not have that intimate insight into the life, customs and habits of the people of his country as the Indian lawyers themselves have. I would therefore insist that the term "Indians" should be substituted for the word "persons" for the very simple reason that there may be occasions when it may be necessary under certain circumstances to provide for non-Indians. British Judges who go to England after their retirement will get an honorarium. They require no special allowance when they sit on the Privy Council because they will live at their home. It is only in the case of Indian gentlemen

[Maulvi Abul Kasem.]

who have their home in India and have an attachment for their home that money is required to enable them to keep themselves in comfort in London and to meet the expenses of the journey to India and back. For these reasons I support the Resolution as amended by Diwan Bahadur T. Rangachariar.

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

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

**The Honourable Sir Alexander Muddiman:** Sir, it is with some regret, indeed with some sorrow, that I find I have to rise in a House where there are only a handful of Members to reply to a subject of this importance.

**Mr. B. K. Shanmukham Chetty:** On a point of order, is there a quorum now?

(On a count being taken by the Secretary it was found that there was no quorum and the bell was rung and a quorum obtained.)

**The Honourable Sir Alexander Muddiman:** Sir, when I previously rose to address this House I expressed any regret that on a matter of this importance I should have to address empty Benches. This has in some degree been remedied by my Honourable friend opposite who very rightly pointed out that there was no quorum. I address the House suffering under a sense of extreme depression. The Resolution I brought forward, whatever its merits or demerits may be, is certainly on a matter of the very highest importance to India. That it should be a matter of such indifference to this House that a quorum was not present when it is under discussion is a matter which will doubtless be noticed by others besides myself. Sir, I am accustomed to Parliamentary defeat. I think the House will bear me out that I bear it with neither anger nor irritation. It is part of every one's business to do so. But when I see a debate which appears to me to fail to grasp the importance to India of the proposition I put forward I assure the House it is in no sense of personal pique that I feel depressed. It is in no sense because what I ventured to put forward will apparently be rejected. It is from the deep sense that if the House rejects this Resolution they will be doing a grave injury to India and to the interests of the people of India. Throughout this remarkable debate—I say remarkable debate for it is a matter for comment that two at any rate of the Members of this House who I should have thought would have felt it their duty to express their opinion on a matter of extreme interest have not done so. The opposition to the Resolution has hardly been less remarkable than the amendments which have been proposed. The opposition has been based on various grounds, so different, so peculiar, so remarkable that I cannot help feeling that the opposition to the Resolution is not based on the merits of the Resolution but because of the person who proposed it. I am deeply grieved if that is the case. (*Several Honourable Members:* “No, no, not at all.”) I would like to bring the House back to one point. There has been a general suggestion throughout this debate that the Dominions are better treated in the matter of the Judicial Committee than this country, and the House has generally been led by some speakers on

that line. Now let me state quite plainly and frankly the facts. What are the facts? The Government of England, His Majesty's Government, have never contributed one farthing towards the cost of judges for hearing appeals from the Dominions, nor do they do so at this moment. In so far as the Dominions are concerned, the British Government has never paid a penny. (*An Honourable Member*: "What about the Colonies?") The position is the same. On the other hand on behalf of India there have been payments from the Consolidated Fund of the United Kingdom for the purpose of retaining Indian experience in the Privy Council since the year 1833. The Home Government have been paying two Judges £400 as an indemnity, a miserable indemnity I agree, but the payment has been made—what for? For the purpose of seeing that Indian experience is represented on the Privy Council. No such payment has ever been made on behalf of any Dominion, nor, as far as I know, has any Dominion ever asked for such payment. Another point was made to me by an Honourable Member for whose opinion I have great respect. He said that in my opening speech I created a doubt by not replying to a question from an Honourable Member opposite me (*Mr. Chetty*). He said that that has led to some misconception in the House. There is some idea apparently that this is a proposal that has been foisted on the Government of India by the Secretary of State. That is entirely erroneous. This proposal was taken up by the Government of India from the conviction that we should have to do something to secure a more satisfactory position, not in regard to the personnel—I have already paid a great tribute to the learned judges who have for many years ably discharged their functions—but in regard to changed arrangements for the hearing of Indian appeals. We took it up at this end. It was not in any way thrust on us; and when we took it up at this end, what was our position? His Majesty's Government had been paying for India what they had not done for anybody else; they had been paying since 1833 £400 per judge. A question was raised as to bargaining. As I told my Honourable friend opposite, I am proud to say that I . . .

**Mr. T. C. Goswami**: On a point of personal explanation, I did not raise the question of bargaining. I was only referring to a statement which fell from my Honourable friend, Sir Henry Stanyon.

**The Honourable Sir Alexander Muddiman**: I am not reproaching the Honourable Member. He is quite right. I think it was the duty of the Government of India to bargain. When you want something more if you are a sensible man, you generally bargain. What was the position of the Government of India? They were receiving a benefit, they wanted more, they wanted a good deal more, they wanted Judges, instead of on £400, on £4,000 a year. That was our view, right or wrong. Very good. That would impose a charge on the English revenues ten times what had been previously paid for nearly a hundred years. Therefore I think it was not unreasonable that we should endeavour to show that we did appreciate to some extent the fact that it was not entirely the business of the English tax-payer to secure this representation, or at any rate not to the full extent of what we were suggesting: I said in my opening speech, our proposals were received in what I consider, and in what I would ask the House to consider, a fair and reasonable way. In substance the answer was, "Well, we also have got to consider the position. We had paid this money, we are prepared to go on paying the money, but if you want a change, let us see what you can do about it."

[Sir Alexander Muddiman.]

Is not that the principle which you always have in any business transaction? What other system can you proceed upon?

**Diwan Bahadur T. Rangachariar:** It is not a business proposition.

**The Honourable Sir Alexander Muddiman:** I will come to my Honourable friend in a minute. That was the proposition I put forward, and the House is under an entire misapprehension therefore if they think that we are having something forced down our throats against our will. We have tried to persuade the Home Government that it is necessary to do something about it. They are inclined to take our view and for that reason I say we have the chance of a good bargain. If this House rejects it, I greatly fear that it is finished. I greatly fear that the opportunity may not recur again. Let me take another point. What is the proportion of work that is done on behalf of India there? I told the House this before but I must have been speaking very badly or not listened to. I told the House that 59 per cent. of the total appeals that go to the Privy Council go from India.

**Mr. T. O. Goswami:** They ought not to be so much. That in itself is a wrong.

**The Honourable Sir Alexander Muddiman:** That is quite another proposition. I quite agree that my Honourable friend has been consistent in denying the advantages of any existing institution. I give him the credit for that consistent attitude. The other Members of the House I hope are not perhaps so consistent on that view. In the period between the years 1911 to 1917—I repeat these facts because they were apparently not understood—there were 514 Indian appeals and from the whole of the rest of the Dominions there were 365 appeals, that is, 59 per cent. of the work came from India. What did the Home Government do for that? For these 365 appeals that came from other parts of the Empire they did not contribute anything beyond the Judges who heard them. For our appeals they paid £800 a year.

**Mr. S. O. Ghose** (Bengal: Landholders): Appeals are increasing.

**The Honourable Sir Alexander Muddiman:** Appeals no doubt are increasing. My Honourable friend is connected with the Court and he knows it. It may be so. In my time they were decreasing. It depends on the Judges. (Laughter.)

**Mr. M. A. Jinnah:** Why not have a Supreme Court?

**The Honourable Sir Alexander Muddiman:** May I proceed in my own way? That is my point. Therefore so far from India being in a worse position—that is the point which was really urged—than the Dominions, so far from our being asked to do something which the Dominions do not do, so far from the British Government treating India worse than it does the Dominions, we are in a far better position. My Honourable friend, Diwan Bahadur Ramachandra Rao took the line that it was an atrocious thing that India was not treated as well as the Dominions. I have shown conclusively that, so far from the treatment to India being worse, we have been better treated financially.

The next point I want to make is this. My Honourable friend seemed to think that there was some curious constitutional objection to the change affected being made by an Act of Parliament. He argued apparently that nothing should be done in that way till the constitutional changes he desires have been given effect to. He would not invoke Parliamentary legislation

to assist the better hearing of appeals. Surely, that is very much overstating the point if there is any point in it at all. You have got to invoke Parliamentary assistance in what respect? Simply to provide for proper payment to men who represent your own country. Now, so much on that point.

Then, it was said "Why not have a Supreme Court?" My answer to that is this. The House had the matter before it for a considered decision. It was debated at great length on the 17th February 1925 and they rejected the Resolution and when my Honourable friend Mr. Goswami gave the reasons why he voted for the rejection of that Resolution, all I can say is that they were not the reasons given by the Honourable gentleman under whose flag, I understand, he serves. His reasons were that he did not like any existing institutions if I gathered him rightly.

**Mr. T. C. Goswami:** It comes practically to the same thing. Doesn't it?

**The Honourable Sir Alexander Muddiman:** My statement of the case is, I see, correct. I do not intend to take up the time of the House by digging skeletons out of the debates in the Resolution which was rejected, because I am not one of those who believe in trying to pin people to consistency not if I want their votes. I do recognise that people change their views and I do recognise that it is unfortunately the necessities of the case that make them change their views.

**Mr. M. A. Jinnah:** Why not show the same respect to other Resolutions of this House?

**The Honourable Sir Alexander Muddiman:** My Honourable friend is perfectly right in his point. This is a Resolution to which we do desire to pay respect. It happens to be one which he will not vote for and therefore he desires to pay no respect to it.

**Mr. M. A. Jinnah:** It is a wrong opinion.

**The Honourable Sir Alexander Muddiman:** In your opinion, not in mine.

Now, I have dealt with that point. Sir, sometimes my supporters give me nearly as much trouble as those who definitely say that they disagree with me entirely. (Laughter.) My Honourable friend Diwan Bahadur Rangachariar I confess surprised me immensely. As to his first point about economy, I need not refer to it because his second amendment makes it perfectly clear that economy will not begin at home and that he attaches little point to it as he has been economical with other people's money. I need not carry that point further because Sir Henry Stanyon has already dealt with it.

The second point was the insertion of the word "Indian". Now, I have tried to meet it in advance because I knew it would cause trouble if moved. Of course, I get the usual reproaches that unless you have the word "Indian" in the Statute, Indians will not be appointed. I really need not argue that point. I do not think my Honourable friend believes it nor do I intend to argue it. But what was his curious statement at the end of his speech. "He and his Honourable friend Maulvi Muhammad Yakub did not trust one another." He really would like further racial distinctions,—one a Hindu and the other a Muhammadan. What else could it mean? (*An Honourable Member:* "Why not have both?")

The next point that was raised was the question of money. I have disposed of it sufficiently by pointing out that we were in a position of asking for further English expenditure and in order to support that we had to offer to do something on our side. It is a good maxim "*do ut des*". My sole and

[Sir Alexander Muddiman.]

only object is—and I believe there are many Honourable Members who have the same object at heart—that our proposals if agreed to would secure great advantages to India in the shape of a strengthened court. Notwithstanding the legal hair-splitting of my Honourable friend Sir Hari Singh Gour it is a court. It may give its advice to the King but for all practical purposes and for all practical men it is a court. By adopting this Resolution you would secure a court which would dispose of your litigation better. I am surprised, I confess, at the attitude which this House has taken because we have in it merchants and other persons to whom it is essential that judgments should be passed after the full understanding of the case. I cannot understand for example how a great Bombay merchant could refuse to support a proposal of this kind where recent Indian experience may decide the difference between a right and wrong decision on a trading contract. Sir, I appeal to the House to pass this Resolution. If it does not do so, it will be doing great harm to the people of India, who look upon the Privy Council with justice as a court which has done great things for India. This House ought to be careful before it rejects this Resolution, because it will subsequently be sorry if it adopts that unfortunate course.

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

“That this Assembly recommends to the Governor General in Council to take steps to secure:

- (1) in the case of future appointments the enhancement of the salaries paid to the two members of His Majesty's Privy Council with Indian experience who sit on the Judicial Committee under the provisions of the Judicial Committee Act of 1833 to hear Indian appeals;
- (2) that they shall be persons possessed of recent knowledge of Indian law and practice;
- (3) that their salary shall be £4,000 per annum each, half of which shall be paid from Indian revenues; and
- (4) that during any period when the salary is enjoyed, any pension payable to either of them from Indian revenues shall lapse.”

Since which the following amendment has been moved:

“That in clause (2) for the word ‘persons’ the word ‘Indians’ be substituted.”

The question is that that amendment be made.

The motion was negatived.

**Mr. President:** The following further amendment has been moved:

“That in clause (3) for the figures ‘£4,000’ the figures ‘£3,000’ be substituted and the words ‘half of which shall be paid from Indian revenues’ be deleted.”

The question is that that amendment be made.

The motion was negatived.

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

“That the following Resolution be adopted:

“That this Assembly recommends to the Governor General in Council to take steps to secure:

- (1) in the case of future appointments the enhancement of the salaries paid to the two members of His Majesty's Privy Council with Indian experience who sit on the Judicial Committee under the provisions of the Judicial Committee Act of 1833 to hear Indian appeals;
- (2) that they shall be persons possessed of recent knowledge of Indian law and practice;
- (3) that their salary shall be £4,000 per annum each, half of which shall be paid from Indian revenues; and
- (4) that during any period when the salary is enjoyed, any pension payable to either of them from Indian revenues shall lapse.”

The Assembly divided:

**Diwan Bahadur T. Rangachariar:** May I ask if the clauses may be put separately?

**Mr. President:** The Honourable Member is too late now.

(While the division was proceeding.)

**Mr. President:** Order, order, no canvassing within the Assembly Chamber is permissible, at any rate within the hearing of the Chair.

#### AYES—40.

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.  
Calvert, Mr. H.  
Carey, Sir Willoughby.  
Clow, Mr. A. G.  
Cocke, Mr. H. G.  
Donovan, Mr. J. T.  
Gidney, Lieut.-Colonel H. A. J.  
Gordon, Mr. R. G.  
Graham, Mr. L.  
Hezlett, Mr. J.  
Hira Singh Brar, Sardar Bahadur  
Captain.  
Hudson, Mr. W. F.  
Innes, The Honourable Sir Charles.  
Jatar, Mr. K. S.

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

#### NOES—50.

Abdul Karim, Khwaja.  
Acharya, Mr. M. K.  
Ahmad Ali Khan, Mr.  
Aiyangar, Mr. C. Duraiswami.  
Aiyangar, Mr. K. Rama.  
Alimuzzaman Chowdhry, Khan  
Bahadur.  
Ariff, Mr. Yacoob C.  
Badi-uz-Zaman, Maulvi.  
Chaman Lall, Mr.  
Chanda, Mr. Kamini Kumar.  
Chetty, Mr. R. K. Shanmukham.  
Das, Mr. B.  
Das, Pandit Nilakantha.  
Datta, Dr. S. K.  
Duni Chand, Lala.  
Duft, Mr. Amar Nath.  
Ghose, Mr. S. C.  
Goswami, Mr. T. C.  
Gour, Sir Hari Singh.  
Ismail Khan, Mr.  
Iyengar, Mr. A. Rangaswami.  
Jinnah, Mr. M. A.  
Joshi, Mr. N. M.  
Kidwai, Shaikh Mushir Hosain.  
Lalpat Rai, Lala.  
Lohokare, Dr. K. G.

Majid Baksh, Syed.  
Misra, Pandit Harkaran Nath.  
Misra, Pandit Shambhu Dayal.  
Murtaza Sahib Bahadur, Maulvi  
Sayad.  
Mutalik, Sardar V. N.  
Narain Dass, Mr.  
Nehru, Dr. Kishenlal.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Pal, Mr. Bipin Chandra.  
Purshotamdas Thakurdas, Sir.  
Ramachandra Rao, Diwan Bahadur M.  
Ranga Iyer, Mr. C. S.  
Ray, Mr. Kumar Sankar.  
Reddi, Mr. K. Venkataramana.  
Samiullah Khan, Mr. M.  
Sarfaraz Hussain Khan, Khan  
Bahadur.  
Singh, Mr. Gaya Prasad.  
Sinha, Mr. Ambika Prasad.  
Talatulev, Mr. S. D.  
Tok Kyi, U.  
Venkatapadiraju, Mr. B.  
Yakub Maulvi, Muhammad.

The motion was negatived.



## THE CONTEMPT OF COURTS BILL.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I move that the Bill to define and limit the powers of certain Courts in punishing contempts of Courts, as reported by the Select Committee, be taken into consideration.

I have no observation to make beyond what I shall have to say on the amendments.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, in regard to the amendments of which I have given notice, so far as No. 1 is concerned I find, re-reading clause 2 of the Bill as amended by the Select Committee, that it is unnecessary to make the amendment. I do not move that amendment, Sir.

**Mr. President:** The House is not considering the amendments at present. It is considering the motion that the Bill be taken into consideration.

The question is:

"That the Bill to define and limit the powers of certain Courts in punishing contempts of Courts, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

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

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

**Mr. A. Rangaswami Iyengar:** Sir, I do not move the first amendment that stands in my name to insert the word "Presidency" as I think it unnecessary. Then I move the second amendment that stands in my name, namely:

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

That clause, Sir, is in the following terms:

"Subject to the provisions of sub-section (3) a Chief Court shall have and exercise the same jurisdiction, powers and authority in accordance with the same procedure and practice in respect of contempt of itself as a High Court referred to in sub-section (1)."

You will notice, Sir, that in the report of the Select Committee my leader Pandit Motilal Nehru, Mr. Kelkar and myself have clearly explained the reasons why we think this amendment is necessary. It is unnecessary for me to add many words in support of that minute. We notice, Sir, that the Select Committee have themselves accepted the proposition that a Chief Court does not possess either the same status or the same authority as the High Courts and therefore they ought to be treated differently; because you will find, Sir, that in sub-clause (2) the Chief Courts are not given the power to punish contempts of subordinate courts which clause 2, sub-clause (1) gives to the High Courts. Therefore, Sir, it being admitted that the Chief Courts are inferior courts, it is obvious that they should not be armed with the power which this Bill proposes to confer on the Presidency High Courts. As has been explained in our minute, this

power to punish for contempt is a summary power, is a power which is in its nature very sweeping, and in entrusting it into the hands of the highest courts we have desired only to limit it to that extent and to that extent only to which it has been considered by the decisions of High Courts in this country to belong to the High Courts in India. So far as the Presidency High Courts are concerned, Sir, it has been decided that the Presidency High Courts do possess the power to punish for contempts as courts of record, not because they are courts of record, Sir, but because, by a process of reasoning adopted by the Privy Council, they are analogous courts in this country to the Courts of King's Bench which administer the Common law of contempt. Therefore, Sir, so far as the Presidency High Courts are concerned, their power to punish for contempts is admitted; but so far as their power to punish contempts of subordinate courts is concerned, there has been a conflict of decisions in the High Courts themselves, the Calcutta High Court holding that the High Court of Calcutta has no power to punish for contempts of subordinate courts, while the Madras and Bombay High Courts have held the contrary view. The object of the Bill, as was stated in the Preamble, is to set this doubt at rest by taking the view of the Madras and Bombay High Courts. So far as that part is concerned, the Select Committee have agreed to insert the same in clause 2, sub-clause (1). But, Sir, no reason whatever has been shown why that power should be extended beyond the scope to which it was limited by the decisions of Courts and also by the history of the matter. As I said, Sir, the power to punish for contempt is a peculiarly dangerous power to use, and it will not be proper, so far as this House is concerned, for us to entrust such a sweeping power into the hands of Chief Courts in this country whose composition and status by no means would warrant the exercise of such a power.

Then, Sir, the whole position comes to this. We are here, so far as the law is concerned, not to take away any power which is possessed by the High Courts; but we are not here to create new powers in Chief Courts, much less in Judicial Commissioner's Courts which will give into the hands of Judges the duties of prosecutor and judge at the same time and also give them power to exercise sweeping punishments upon those who may be subject to the wrath of these Courts or of petty Courts under them. I therefore, Sir, move this amendment.

**The Honourable Sir Alexander Muddiman:** Sir, I will imitate my Honourable friend in his brevity, though perhaps I cannot follow him in his reasoning. Perhaps I have become despairing from failure to convince this House on more important matters. I would, however, point out in the first place, as my Honourable friend rightly pointed out, that if the Bill stood as it was, it would be illogical. But he has omitted to notice, or perhaps he has noticed it and he prefers not to mention it, that I have an amendment on the paper, which will cure the logical defect which he pointed out and which will restore the Chief Court to the position of having the power to protect its subordinate Courts.

**Mr. A. Rangaswami Iyengar:** More illogical.

**The Honourable Sir Alexander Muddiman:** Now, I made the position perfectly clear to the House when I originally secured the reference of his Bill to the Select Committee. In my last speech I formulated three

[Sir Alexander Muddiman.]

principles, which I will read in the very language I used when I spoke just before the division. I said three questions of principle were involved in the Bill. "One was that doubts should be resolved. The second principle was that the Courts, not now empowered, which are in the same position as High Courts, should get the powers of a Court of record. And the third principle was that the power of punishment of the High Court should be restricted to six months." Of course, it is perfectly open to the House to revise the deliberate decision which it came to. But I merely point out that that was the decision which they came to, as a result of a vote of the House on a perfectly plain issue. I observe that it was one of the largest divisions in favour of Government that have ever taken place in this House. Those who supported me were 82 and against me were 8. It is very difficult for me to proceed on a Bill of this kind or indeed on any Bill except on a consideration of what the House itself decided. Of course, my Honourable friend is perfectly in order in trying to get his own views put into effect. But I would point out to him, if I am not mistaken, he voted for me on that reference on the very distinct point I put to the House. Therefore, on the merits,—I do not propose to take up the time of the House by arguments at any length,—there is no ground for differentiating the Chief Court from a High Court in respect of their power to punish contempts of their own authority. Sir Sivaswamy Aiyer deals with this point in his minute of dissent. He says: "I do not approve of the amendment restricting the power of a Chief Court to cases where the contempt relates to the Chief Court itself." That is to say, he strongly supports my view. There was considerable support for my view in the Select Committee. In my judgment the House itself has once affirmed that proposition. Of course one cannot tell—I notice changes (and can guess the reasons of them)—whether I shall be supported in this House. I oppose the motion, Sir.

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

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

The Assembly divided:

AYES—38.

Acharya, Mr. M. K.  
Aiyangar, Mr. C. Duraiswami.  
Aiyangar, Mr. K. Rama.  
Ariff, Mr. Yacoob C.  
Chaman Lall, Mr.  
Chanda, Mr. Kamini Kumar.  
Chetty, Mr. R. K. Shanmukham.  
Das, Mr. B.  
Das, Pandit Nilakantha.  
Duni Chand, Lala.  
Dutt, Mr. Amar Nath.  
Ghose, Mr. S. C.  
Goswami, Mr. T. C.  
Gour, Sir Hari Singh.  
Ivengar, Mr. A. Rangaswami.  
Kidwai, Shaikh Mushir Hosain.  
Lajpat Rai, Lala.  
Lohokare, Dr. K. G.  
Majid Baksh, Syed.  
Malaviya, Pandit Krishna Kant.

Misra, Pandit Harkaran Nath.  
Misra, Pandit Shambhu Dayal.  
Narain Dass, Mr.  
Nehru, Dr. Kishenlal.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Pal, Mr. Bipin Chandra.  
Ramachandra Rao, Diwan Bahadur M.  
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.  
Talataley, Mr. S. D.  
Tok Kyi, U.  
Venkatapatiraju, Mr. B.

## NOES—44.

Abdul Qaiyum, Nawab Sir Sahibzada.  
 Abul Kasem, Maulvi.  
 Ahmad Ali Khan, Mr.  
 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.  
 Calvert, Mr. H.  
 Carey, Sir Willoughby.  
 Clow, Mr. A. G.  
 Cocke, Mr. H. G.  
 Donovan, Mr. J. T.  
 Ghulam Bari, Khan Bahadur.  
 Gordon, Mr. R. G.  
 Graham, Mr. L.  
 Hezlett, Mr. J.  
 Hira Singh Brar, Sardar Bahadur  
 Captain.  
 Hudson, Mr. W. F.  
 Hussanally, Khan Bahadur W. M.  
 Innes, The Honourable Sir Charles.  
 Jatar, Mr. K. S.

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

The motion was negatived.

**The Honourable Sir Alexander Muddiman:** Sir, in view of the decision of the House on the previous motion, I move:

"That in sub-clause (2) of clause 2 for the words 'contempt of itself' the words 'contempts of itself and of Courts subordinate to it' be substituted."

The object of my amendment is perfectly simple. It was very logically explained by the Mover of the last amendment. He said that if you give a Court power to punish contempts of itself you ought to give it power to punish contempts committed before its subordinate Courts. Therefore, I think he will vote with me on this matter. The case is very clearly put by Sir Sivaswamy Aiyer in his minute. I prefer to quote his very words. Sir Sivaswamy Aiyer says:

"I am unable to appreciate the logic of allowing a Chief Court to take cognizance of, and punish, contempts of its own authority where it may be supposed the Chief Court may have a bias against the person in contempt and refusing to allow it to take notice of contempts committed before a Subordinate Court where the Chief Court is not likely to have any bias at all."

That is very reasonable. If you give the Chief Court power to protect itself I think you ought to follow the logical consequence and give it power to protect the courts subordinate to it. As has been pointed out, there can be no question of bias. Chief Courts have the power of superintendence over their subordinate courts and, if you give them powers of superintendence and the power to protect themselves, I really cannot see any logical reason why you should not give them power to protect courts which they supervise. It seems to me absolutely on the same lines as the previous amendment. I quite see my Honourable friend's point in trying to get rid of the power of the Chief Court to protect itself. If he had succeeded I would naturally not have moved this amendment but since he has been defeated, I have no doubt he will support me in this.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadian Urban): Sir, an appeal has been made to logic in support of this amendment. I am reminded of a famous saying of a Lord Chancellor that law is never logical. Logic is not a ground which appeals to me. The point of view I took in the Select Committee and which I wish to present to the Assembly is this. After all we must remember that the power we are to give to courts is an exceptional power and we must be very careful in clothing the courts with powers and therefore we have chosen the highest courts in giving powers for contempt. As regards contempt of itself, we thought it necessary that the Chief Court should be clothed with that power but in the case of contempts of subordinate courts, oftentimes what happens? Really it is the executive in the district who take a violent view as regards these writings or utterances. In the case of contempts of subordinate courts, the executive head of the district is the man who moves in the matter, not so much the court itself as perhaps the head of the police or the district magistrate who wishes to bring it up and haul up the person for contempt. So there will be a lot of executive bias thrown into the matter and in such cases we thought it right that the Chief Courts as they are not manned by His Majesty's Judges should not have the power to deal with such cases of contempt. The appointment in the case of these Chief Courts is technically made no doubt by the Governor General in Council but the local authorities have got a great deal of voice in the matter. Therefore the judges who man the Chief Courts cannot be expected to be above the executive in the same way as His Majesty's Judges of High Courts established by Letters Patent. Once Judges are appointed to His Majesty's High Courts the public have learnt to have great confidence in them, but I am sorry to say that the same confidence is not extended rightly or wrongly to people who are not so recruited. I do not mean any disrespect to them. I do not mean to cast the slightest reflection on these gentlemen. My point is this. Such cases are likely to create a great deal of executive bias in the district. Such cases ought to be left to the ordinary law. You can prosecute him for an offence committed under the ordinary law of the land. It is an exceptional power which a court takes to punish persons who commit contempts of the authority of the courts. This being an exceptional power and the ordinary law being available, the Legislature ought to be very careful in clothing these Chief Courts with these powers. I strongly oppose this amendment, though I supported the Government in the previous amendment. The Honourable the Home Member should not expect as a matter of logic that I should support this amendment. There is no logic here. It is a question of reason and common sense. Our knowledge of these affairs leads us to the conclusion that in these cases the Chief Courts should not be entrusted with these powers. I see that my Honourable friend Sir Sivaswamy Aiyer has fallen into the same error in his minute of dissent. He thinks there is no reason why this distinction should be made. Only he did not appreciate the reason which weighed with the majority in throwing out this suggestion. Now in the case of contempts of itself, the court itself will take notice. There will be no question of any head of the province taking notice of it because the Chief Court will itself take notice. And there will be more than one Judge to hear it; the Chief Judge may constitute a Bench to hear such cases. Although the particular Judge who feels hurt by the comments complained of may be the one who initiates the proceedings I take it that under the rules of procedure laid down a Bench of two or three Judges

will have to hear such applications. Therefore there is no danger at all in clothing the Chief Court with powers of dealing with contempts of itself. But to go beyond that I submit will be dangerous; it is not necessary; they have gone on all right without it and the Legislature should not extend it, especially as the opposition to this Contempts of Courts Bill has been very voluminous and strong in the country. We will be acting wisely in restricting the power only to contempts of itself and not go beyond that. Sir, I oppose the amendment.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, the Honourable the Home Member pointed out that in piloting this Bill he had three objects in view and the first and foremost object he had in view was to resolve some doubts which existed as to the powers which the High Courts in India possessed in punishing for contempts of subordinate Courts. Now, Sir, I quite concede that there is some doubt as to whether the Chartered High Courts in India do or do not possess the power to punish for contempt committed in respect of proceedings pending before the subordinate courts. On the last occasion when I had the honour of addressing this House on the subject I pointed out that Judges like Sir Lawrence Jenkins and Sir Ashutosh Mukherji have in a very considered judgment reported in 41 Calcutta at page 252 pointed out on a review of all the case law on the subject, English and Indian, that the High Court of Calcutta did not possess such power. It is perfectly true that the Madras High Court in a published judgment have held that they possessed the power to punish for contempt committed in respect of offences pending before the lower courts and that they derived that power from the Common law. But I venture to submit that the decision of the Madras High Court was a pure *obiter dictum*, in view of the fact that the counsel who appeared on behalf of the accused before their Lordships tendered his apology and declined to argue the question of jurisdiction. They nevertheless called upon him to argue that question as an *amicus curiæ*. His arguments are not reported, and I, therefore, submit that in view of the fact that the apology was tendered, that the accused threw himself on the mercy of the court and he was only called upon to argue the case probably at a moment's notice as *amicus curiæ* and his arguments are not reported, the judgment of the Madras High Court is not of the same value as the considered judgment of the Calcutta High Court. Then, Sir, there was another case in the Bombay High Court and that is a most instructive case. There the Honourable the Chief Justice preferred to follow the Madras ruling, whereas no less a Judge than Sir Lalubhai Shah on a consideration of all the case law on the subject agreed with the Calcutta High Court and said that so far as the Bombay High Court was concerned that power did not exist in that High Court. We have therefore, Sir, the preponderance of authorities in favour of the view that the Presidency High Courts in India do not inherit the power to punish for contempt committed in respect . . . . .

**The Honourable Sir Alexander Muddiman:** I am sorry to interrupt the Honourable Member, but is this relevant to the point before the House? The Chief Courts have power to protect subordinate Courts.

**Sir Hari Singh Gour:** High Courts are not Chief Courts. Sir, the preponderance of authority was therefore in favour of the view that even the Chartered High Court had no power to punish for such contempts. I have therefore grave doubts whether the Legislature should intervene at this

[Sir Hari Singh Gour.]

juncture when the law of contempt is not understood in England; and I have given quotations from learned authors in support of the view that even in England trained judges are not in a position to define what a contempt of court means. Honourable Members who were present here when the Bill was introduced for the first time will remember that the original Bill contained a definition of the offence.

**Mr. President:** The Honourable Member is opening up a big question. There is an amendment standing in his name which will in due course be reached. At present he must confine himself to the amendment moved by Sir Alexander Muddiman, namely, whether a Chief Court should have power to punish contempts of Courts subordinate to it.

**Sir Hari Singh Gour:** That is the very thing I am trying to establish.

**Mr. President:** Order, order. The Honourable Member is not doing so.

**Sir Hari Singh Gour:** I am trying to show that the definition of contempt of court has never been formulated. The question is a very difficult one. Nobody knows what a contempt of court really is; and in view of this difficulty, would it be wise to confer this large power upon the Chief Courts in India? If you take the risk, take at least the least risk of conferring this power upon the Presidency and other Chartered High Courts. Do not go too far, and do not confer the power upon the Chief Courts, for the reasons which I want to show, first, because the definition of contempt of court which has been omitted from the Bill leaves the High Court to formulate its own views of what constitutes the offence. Sir, I have always been against punishing a person for an undefinable act. I first ask him not to do it, and if he contravenes my order, then I punish him; whereas this Act says, "I will punish you". And then if the poor offender says, "For what", the Legislature says, "I do not know, but still I wish to punish you". Well, I submit, Sir, in view of this uncertainty of the law, in view of the difficulty expressed by responsible authorities, in view of the fact that the Legislature here has itself expressed its inability to formulate any workable definition of the offence, I would certainly not trust this large, plenary, uncontrolled, unfettered, summary power, without any right of appeal, to a Chief Court in India. I would have gone further and refused this power even to the High Court in this country, because I submit the law of contempt of court is in a state of flux and evolution; and studying the case law as far as I have been able to study it, no two judges really agree as to what a contempt of court really means. . . .

**Mr. President:** The Honourable Member is repeating the same thing.

**Sir Hari Singh Gour:** Therefore, in view of the difficulty of defining the offence, in view of the summary powers conferred upon the Courts, in view of the fact that there will be no trial and no right of appeal, I submit, Sir, that it would be most dangerous to confer this power upon the Chief Court in respect of offences committed in Courts subordinate thereto. We have gone far enough, and I therefore support the recommendation of the Select Committee on this point and hope this House will support it too.

**Colonel Sir Henry Stanyon** (United Provinces: European): Sir, it seems fairly obvious—I say it with all respect to the last speaker—that my

Honourable friend has not clearly understood the amendment which is before the House. His speech was directed to support a refusal of power to punish contempt of Court to Chief Courts generally. May I draw attention to the point in this Bill which we have reached? No amendment has been proposed to clause 2, sub-clause (1). By that sub-clause jurisdiction is recognised as existent in the High Courts of Judicature established by Letters Patent, and the doubt whether or not that jurisdiction extends to contempts committed against Courts subordinate to them is resolved. Sub-clause 2, by reason of a vote which has just taken place, now stands and it confers power on a Chief Court to exercise the same jurisdiction, powers and authority with the same procedure and practice in respect of contempts of itself as a High Court referred to in sub-clause (1). What is in consideration now is whether power should be given to a Chief Court over contempts committed against Courts subordinate to such Chief Court. The Honourable the Home Member has pointed out that if the enactment follows this Bill as it stands it will be illogical. My esteemed friend Diwan Bahadur Rangachariar has met that by saying that law is always illogical. I concede that there are provisions of law which it is difficult to reconcile though extremely good grounds exist for the presence of that apparent irreconcilability. But what is the case here? If we pass this Bill as it stands, let me give one concrete example of what we shall commit ourselves to. A is on his trial for his life before the Sessions Court in Allahabad. B is also on his trial for his life before the Sessions Court of Lucknow. A reactionary, let us say a bureaucratic, newspaper comments on these cases which are *sub judice* in a manner which, though not an offence under the Indian Penal Code, distinctly tends to prejudice the chances of the accused getting fair trials. Comment with respect to the man under trial in Allahabad could be dealt with as a contempt. Comment with respect to the man under trial in Lucknow could not be so dealt with. Could there be greater inconsistency, want of logic, and, if I may say so, of common sense, than legislation which has that effect?

**Diwan Bahadur T. Rangachariar:** What were you doing till now?

**Colonel Sir Henry Stanyon:** I say that this amendment of the Honourable the Home Member is almost consequential and this Honourable House will do well to support it.

**Pandit Motilal Nehru** (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I would beg the House to realise fully what they would be doing if they accepted this amendment. In order to show what it means I shall have to go into the considerations into which my friend Sir Henry Stanyon has entered. He has given the instance of Lucknow and Allahabad, the Sessions Judge of Allahabad being subordinate to the High Court established by Letters Patent and the Sessions Judge of Lucknow being subordinate to a Chief Court not so established. He has pointed out the anomaly that if the accused in both the courts are prejudiced in their trial, the one in Allahabad gets the protection of the High Court and the other in Lucknow cannot avail himself of the protection of the Chief Court. Well, we have got to probe a little deeper to find out the real cause. The whole jurisdiction of contempt of Court is a creation of the Common law of England. It has been exercised by certain High Courts and it has been held by the Privy Council that those High Courts have that jurisdiction because they inherited it from the Supreme Courts who had most of the powers that



[Pandit Motilal Nehru.]

the Common law of England gives to the King's Bench. Now, Sir, in the first place, it is not true that all the High Courts of Judicature are the inheritors of that jurisdiction, as my friend Mr. Rangaswami Iyengar explained when he withdrew his amendment No. 1 as unnecessary. The simple reason is that all that sub-clause (1) of clause 2 says is :

"That the various High Courts of Judicature established by Letters Patent shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to them as they have and exercise in respect of contempts of themselves."

Now, that clause leaves it open, as I pointed out in the Select Committee, to any person to argue in the High Court of Allahabad that that High Court had no jurisdiction to punish for contempt of itself and consequently no jurisdiction to entertain a case of contempt of a subordinate court. All that the clause says is that the High Court shall have the same jurisdiction to punish contempts of subordinate courts as it has in respect of contempts of its own authority. Therefore, I say that the illustration given by my friend Sir Henry Stanyon does not help him, because I am prepared to argue and I hope others are prepared to argue any day in the High Court of Allahabad that that High Court does not possess any such jurisdiction for the simple reason that that High Court has not succeeded a Supreme Court but only the Sudder Diwani Adalat. It has never been contended that the Sudder Diwani Adalat had any jurisdiction to administer the Common law of England. Now, Sir, that being the case, I submit it is neither logic nor reason that because certain High Courts have that particular jurisdiction, it should also be extended to the Chief Court. Other reasons have been adduced by my friends Mr. Rangachariar and Dr. Gour, and I do not wish to repeat them. But I would again impress upon the House that what they would be doing if they accepted the amendment would be to give jurisdiction to the party aggrieved to try the party who has offended it. That is a jurisdiction which must not be given to every court. If the history of the establishment of particular court justifies that court in exercising that jurisdiction it is not in the power of this House to take away that jurisdiction.

**Sir Hari Singh Gour:** It is in the power of this House to take away any jurisdiction.

**Pandit Motilal Nehru:** I should think not. They may give the High Courts jurisdiction in certain cases but the jurisdiction which the High Courts exercise in virtue of their Charter is not to be taken away.

**Sir Hari Singh Gour:** There is a statutory authority for that.

**Pandit Motilal Nehru:** However that may be, when the time comes for us to take away a particular jurisdiction we shall consider the point. The question does not arise now. The question which does arise is that some of these High Courts claim to have the jurisdiction to punish for contempt of their own authority. They may or may not have that jurisdiction. We are not going into that. We say that they will continue to exercise such jurisdiction as they have; all we are doing is that we are giving them power to exercise such jurisdiction as they have to deal with

contempts of themselves also in respect of contempts of their subordinate courts. Let the matter rest there, but when you talk of Chief Courts you are creating for the first time a jurisdiction for which I submit there is absolutely no justification. For these reasons I submit that the amendment of my friend is not sound, and that the House will vote it down.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhanunadan Rural): Sir, I think this House is convinced after hearing my leader that this hydra-headed monster is intended only for the three provinces which unfortunately are under the Presidency High Courts, namely, the provinces of Bengal, Bombay and Madras, because he has made it clear to everyone of us here that this enactment only gives the same power which they already possess, not any additional power; and it has been held that the Presidency High Courts have inherent jurisdiction to punish for contempt. Although the Calcutta High Court has expressed in no unmistakable language that it has no powers to punish contempt of courts subordinate to it, yet the Bill proposes to extend such powers with respect to such Courts. Now this Bill, if I am right, is intended to curb the freedom of the press, and the press in Bengal, Madras and Bombay I think lead the public opinion of this country, and with that end in view I think Government have introduced this Bill. I do not wish that this provision should be extended to other provinces where there are only Chief Courts or where there are High Courts which are not Presidency High Courts. I therefore oppose the amendment.

**Mr. W. F. Hudson** (Bombay: Nominated Official): I move that the question be now put.

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

"That in sub-clause (2) of clause 2 for the words 'contempt of itself' the words 'contempt of itself and of Courts subordinate to it' be substituted."

The Assembly divided:

#### AYES—42.

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.  
Calvert, Mr. H.  
Carey, Sir Willoughby.  
Clow, Mr. A. G.  
Cocke, Mr. H. G.  
Donovan, Mr. J. T.  
Ghulam Bari, Khan Bahadur.  
Gordon, Mr. R. G.  
Graham, Mr. L.  
Hezlett, Mr. J.  
Hira Singh Brar, Sardar Bahadur  
Capt'n.  
Hudson, Mr. W. F.  
Hussanally, Khan Bahadur W. M.  
Innes, The Honourable Sir Charles.  
Jatar, Mr. K. S.

Lindsay, Sir Darcy.  
Lloyd, Mr. A. H.  
Macphail, Rev. Dr. E. M.  
Mitra, The Honourable Sir Bhupendra  
Nath.  
Muddiman, The Honourable Sir  
Alexander.  
Muhammad Ismail, Khan Bahadur  
Saiyid.  
Naidu, Rao Bahadur M. C.  
Neave, Mr. E. R.  
Owens, Lieut.-Col. F. C.  
Reddi, Mr. K. Venkataramana.  
Roffey, Mr. E. S.  
Roy, Mr. G. P.  
Sim, Mr. G. G.  
Singh, Rai Bahadur S. N.  
Stanyon, Colonel Sir Henry.  
Tonkinson, Mr. H.  
Vernon, Mr. H. A. B.  
Vijayaraghavacharvar, Sir T.  
Willson, Mr. W. S. J.  
Yakub, Maulvi, Muhammad.

## NOTES—43.

Abdul Karim, Khwaja.  
 Acharya, Mr. M. K.  
 Aiyangar, Mr. C. Duraiswami.  
 Aiyangar, Mr. K. Rama.  
 Ariff, Mr. Yacoob C.  
 Chaman Lall, Mr.  
 Chanda, Mr. Kamini Kumar.  
 Chetty, Mr. R. K. Shanmukham.  
 Das, Mr. B.  
 Das, Pandit Nilakantha.  
 Duni Chand, Lala.  
 Dutt, Mr. Amar Nath.  
 Ghose, Mr. S. C.  
 Goswami, Mr. T. C.  
 Gour, Sir Hari Singh.  
 Ismail Khan, Mr.  
 Iyengar, Mr. A. Rangaswami.  
 Kidwai, Shaikh Mushir Hosain.  
 Lajpat Rai, Lala.  
 Lohokare, Dr. K. G.  
 Majid Baksh, Syed.  
 Malaviya, Pandit Krishna Kant.  
 Misra, Pandit Harkaran Nath.

Misra, Pandit Shambhu Dayal.  
 Murtuza Sahib Bahadur, Maulvi  
 Sayad.  
 Mutalik, Sardar V. N.  
 Narain Dass, Mr.  
 Nehru, Dr. Kishenlal.  
 Nehru, Pandit Motilal.  
 Nehru, Pandit Shamlal.  
 Neogy, Mr. K. C.  
 Pal, Mr. Bipin Chandra.  
 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.

The motion was negatived.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, in view of the decision of the House I do not move my next amendment:

"That in sub-clause (3) of clause 2 after the words 'High Court' the words 'or Chief Court' be inserted."

Clause 2 was added to the Bill.

**The Honourable Sir Alexander Muddiman**: Sir, I do not propose to take up the time of the House in moving this amendment\* at any length. The present position is that in contempt the High Court's jurisdiction to punish either by imprisonment or fine is unlimited. We have limited the imprisonment which may be imposed to six months. It is now proposed by the Select Committee's Report to limit the power of fine to Rs. 2,000. I entirely agree with my Honourable friend Sir Henry Stanyon that such a limitation is almost an insult to the High Court. If you cannot trust the power of fine to your High Court, whom can you trust it to? Two thousand rupees in my opinion is an entirely inadequate penalty for an offence which might be committed under this Bill if it becomes an Act. As a matter of fact High Courts have in the past in India imposed larger sums than that and of course if you have a bad case the High Court will be driven to imprisonment instead of resorting to fine. I therefore propose that the limit on the power of the High Court to fine be omitted.

**Mr. S. C. Ghose** (Bengal: Landholders): Sir, I oppose the amendment moved by my Honourable friend the Home Member. In support I would mention the opinion of the Judges of the United Provinces. Mr. Justice Mukharji of the Allahabad High Court says that he would fix the maximum sentence at one month's simple imprisonment with or without a fine not

\*"That in clause 3, the words 'which may extend to two thousand rupees' be omitted."

exceeding Rs. 500. The District Judge, Hyderabad, desires that the nature of imprisonment should be mentioned. The Judicial Commissioner, Central Provinces, thinks that the maximum punishment should be imprisonment for six months or a fine of Rs. 1,000, or both. Nobody says that the sentence of fine should exceed Rs. 1,000. I moved in the Select Committee that the sentence should not exceed Rs. 1,000, but the Leader of the Swaraj Party thought that it would be better to increase it to Rs. 2,000. Therefore, I oppose this amendment.

**Pundit Shamlal Nehru** (Meerut Division: Non-Muhammadan Rural): Sir, I was just going out but as you have called on me to speak, I should like to say a few words. The Honourable the Home Member has just mentioned that it is an insult to the High Courts to fix the amount of fines. But how is it, I ask him, that the punishment for every crime has been fixed in the Indian Penal Code.

**The Honourable Sir Alexander Muddiman**: If my friend's premise were true it would be a question worth putting.

**Pandit Shamlal Nehru**: If fixing of fines is an insult then I say the fixing of any punishment at all is an insult to the High Court. I can assure the Honourable the Home Member that if he will take off all the punishments for all offences in the Indian Penal Code he shall have my entire support. It will give High Courts power to give unlimited punishment and under section 3 of the Indian Criminal Law Amendment Act prisoners can be given unlimited punishment and not let off after a few months.

**The Honourable Sir Alexander Muddiman**: I do not think the Honourable Member has caught my point. I said that for most of the offences in the Indian Penal Code the fine is unlimited.

**Colonel Sir Henry Stanyon**: Sir, I am responsible for the expression that to place a limit on the amount of fine would be little short of an insult to the High Courts. The reference to the Indian Penal Code is irrelevant because in this particular case of Contempt of Court, it is not a right or a power of punishment that is being granted for the first time. The Bill as now framed proposes to take away from the High Courts an unlimited power which they have exercised with sound discretion up to the present day. Not one single case has been produced in which the High Court has abused its power to impose fine to an unlimited extent, and therefore, I say . . . .

**Mr. A. Rangaswami Iyengar**: Mr. Kelkar's case, Rs. 5,000 for nothing.

**Colonel Sir Henry Stanyon**: Therefore, I say that to limit that power would be suggestive of a want of confidence in the High Courts as to their exercise of that power. That is what I mean by these words as to insult. Therefore, what my friend Pandit Shamlal Nehru said has nothing whatever to do with the case.

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

"That in clause 3 the words 'which may extend to two thousand rupees' be omitted."

The Assembly divided :

AYES—40.

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.  
Calvert, Mr. H.  
Carey, Sir Willoughby.  
Clow, Mr. A. G.  
Cocke, Mr. H. G.  
Donovan, Mr. J. T.  
Ghulam Bari, Khan Bahadur.  
Gordon, Mr. R. G.  
Graham, Mr. L.  
Hezlett, Mr. J.  
Hira Singh Brar, Sardar Bahadur  
Captain.  
Hudson, Mr. W. F.  
Innes, The Honourable Sir Charles.  
Jatar, Mr. K. S.

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

NOES—49.

Abdul Karim, Khwaja.  
Acharya, Mr. M. K.  
Ahmed, Mr. K.  
Aiyangar, Mr. C. Duraiswami.  
Aiyangar, Mr. K. Rama.  
Alimuzzaman Chowdhry, Khan  
Bahadur.  
Ariff, Mr. Yacoob C.  
Badi-uz-Zaman, Maulvi.  
Chaman Lall, Mr.  
Chanda, Mr. Kamini Kumar.  
Chetty, Mr. R. K. Shanmukham.  
Das, Mr. B.  
Das, Pandit Nilakantha.  
Datta, Dr. S. K.  
Duni Chand, Lala.  
Dutt, Mr. Amar Nath.  
Ghose, Mr. S. C.  
Goswami, Mr. T. C.  
Gour, Sir Hari Singh.  
Ismail Khan, Mr.  
Ivengar, Mr. A. Rangaswami.  
Joshi, Mr. N. M.  
Kidwai, Shaikh Mushir Hosain.  
Lajpat Rai, Lala.  
Lohokare, Dr. K. G.

Majid Baksh, Syed.  
Malaviya, Pandit Krishna Kant.  
Misra, Pandit Harkaran Nath.  
Misra, Pandit Shambhu Dayal.  
Murtuza Sahib Bahadur, Maulvi  
Sayad.  
Mutalik, Sardar V. N.  
Narain Dass, Mr.  
Nehru, Dr. Kishenlal.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Ramachandra Rao, Diwan Bahadur M.  
Rangachariar, Diwan Bahadur T.  
Ranga Iyer, Mr. C. S.  
Ray, Mr. Kumar Sankar.  
Reddi, Mr. K. Venkataramana.  
Samiullah Khan, Mr. M.  
Sarfaraz Hussain Khan, Khan  
Bahadur.  
Singh, Mr. Gaya Prasad.  
Sinha, Mr. Ambika Prasad.  
Talatuley, Mr. S. D.  
Tok Kyi, U.  
Venkatanatiraju, Mr. B.  
Yakub, Maulvi, Muhammad.

The motion was negatived.

**Khan Bahadur W. M. Hussanally** (Sind: Muhammadan Rural): I move:

"That in clause 3 for the words 'two thousand' the words 'five thousand' be substituted."

(Cries of "Withdraw"). I will not withdraw. Sir, I purposely did not vote on the last amendment because I wanted the fine to be limited whereas the last amendment sought to make it unlimited, and I put in a minute of dissent in the Select Committee as well from that point of view. The fine that is now proposed is very small and may induce the High Court in a serious case to award a substantive sentence of imprisonment, and in order to avoid that, I have proposed a larger amount of fine and I wish the fine to be raised to Rs. 5,000, so that the High Court may have no inducement to award a substantive sentence of imprisonment. (*An Honourable Member*: "You are not a printer.") A fine of Rs. 2,000 in the case of important and well-circulating papers like the *Times of India* or the *Pioneer* will be a fleabite. Mr. Rangaswami Iyengar ejaculated a little while ago that Mr. Kelkar was fined Rs. 5,000 for merely nothing. But I would like to ask him a question as to how he knows that it was not a fleabite to Mr. Kelkar.

**Mr. A. Rangaswami Iyengar**: Certainly not. Mr. Kelkar is one of the poorest men in this country.

**Khan Bahadur W. M. Hussanally**: I do not know that, but that is not the question. My object in proposing this increased fine is to prevent the High Court from imposing a substantive sentence of imprisonment instead of a sufficiently deterrent sentence of fine.

**Mr. Narain Dass** (Agra Division: Non-Muhammadan Rural): In a poor country like India I would not mind if for a fine of Rs. 1,000 one is given a sentence of imprisonment for one year. The amendments standing in the names of my Honourable friends really take me by surprise. From Rs. 2,000 a jump to Rs. 5,000 is really wonderful. Merely weighing this amendment by no other consideration than that of pecuniary capacity, I would say that for a country like India imprisonment and imprisonment alone is the fittest punishment. In no case would I barter it away for a pecuniary punishment. Really a fine of Rs. 2,000 will kill many a paper. We know what a hand to mouth existence some of the newspapers are having. Most of them are working on a deficit and a fine of Rs. 2,000 will send many of them into liquidation. Such being the case, I do not know why the House which claims to be a representative House should press for a far heavier punishment. I would rather prefer imprisonment to a heavy pecuniary punishment.

**Mr. A. Rangaswami Iyengar**: I should have thought it unnecessary to offer my observations on my friend's amendment because the House has already virtually given its verdict. As my friend apparently has been a magistrate and has been a servant of the Government, I think he will appreciate the circular which has been again and again issued by the departments of the Government of India that the habit of fining subordinates is a most pernicious thing because it immediately injures the man and his family far more heavily than any disciplinary action. Perhaps my friend, while he was in service, must have resorted to this practice of fining indiscriminately and he thinks nothing of putting up the fine to Rs. 5,000.

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

"That in clause 3 for the words 'two thousand' the words 'five thousand' be substituted."

The Assembly divided:

AYES—40.

Abdul Qaiyum, Nawab Sir Sahibzada.  
Abul Kasem, Maulvi.  
Ahmad Ali Khan, Mr.  
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.  
Calvert, Mr. H.  
Carey, Sir Willoughby.  
Clow, Mr. A. G.  
Cocke, Mr. H. G.  
Donovan, Mr. J. T.  
Gordon, Mr. R. G.  
Graham, Mr. I.  
Hezlett, Mr. J.  
Hira Singh Brar, Sardar Bahadur  
Captain.  
Hudson, Mr. W. F.  
Hussanally, Khan Bahadur W. M.  
Innes, The Honourable Sir Charles.

Lindsay, Sir Darcy.  
Lloyd, Mr. A. H.  
Macphail, Rev. Dr. E. M.  
Mitra, The Honourable Sir Bhupendra  
Nath.  
Muddiman, The Honourable Sir  
Alexander.  
Muhammad Ismail, Khan Bahadur  
Saiyid.  
Naidu, Rao Bahadur M. O.  
Neave, Mr. E. R.  
Owens, Lieut.-Col. F. C.  
Roffey, Mr. E. S.  
Roy, Mr. G. P.  
Sim, Mr. G. G.  
Singh, Rai Bahadur S. N.  
Stanyon, Colonel Sir Henry.  
Sykes, Mr. E. F.  
Tonkinson, Mr. H.  
Vernon, Mr. H. A. B.  
Vijayaraghavacharyar, Sir T.  
Willson, Mr. W. S. J.

NOES—50.

Abdul Karim, Khwaja.  
Acharya, Mr. M. K.  
Ahmed, Mr. K.  
Aiyangar, Mr. C. Duraiswami.  
Aiyangar, Mr. K. Rama.  
Alimuzzaman Chowdhry, Khan  
Bahadur.  
Ariff, Mr. Yacoub C.  
Badi-uz-Zaman, Maulvi.  
Chaman Lall, Mr.  
Chanda, Mr. Kamini Kumar.  
Chetty, Mr. R. K. Shanmukham.  
Das, Mr. B.  
Das, Pandit Nilakantha.  
Datta, Dr. S. K.  
Duni Chand, Lala.  
Dutt, Mr. Amar Nath.  
Ghose, Mr. S. C.  
Goswami, Mr. T. C.  
Gour, Sir Hari Singh.  
Iyengar, Mr. A. Rangaswami.  
Joshi, Mr. N. M.  
Kidwai, Shaikh Mushir Hosain.  
Lajpat Rai, Lala.  
Lohokare, Dr. K. G.  
Majid Baksh, Syed.  
Malaviya, Pandit Krishna Kant.

Misra, Pandit Harkaran Nath.  
Misra, Pandit Shambhu Dayal.  
Murtuza Sahib Bahadur, Maulvi  
Sayad.  
Mutalik, Sardar V. N.  
Narain Dass, Mr.  
Nehru, Dr. Kishenlal.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Pal, Mr. Bipin Chandra.  
Purshotamdas Thakurdas, Sir.  
Ramachandra Rao, Diwan Bahadur M.  
Rangachariar, Diwan Bahadur T.  
Ranga Iyer, Mr. C. S.  
Ray, Mr. Kumar Sankar.  
Reddi, Mr. K. Venkataramana.  
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.  
Yakub, Maulvi Muhammad.

The motion was negatived.

**Mr. A. Rangaswami Iyengar:** I move, Sir, the amendment that stands in my name, namely:

"That for the proviso to clause 3 the following proviso be substituted, namely:

'Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court.'"

I understand, Sir, that the wording of the proviso in the revised Bill has been due perhaps to an inadvertence, but we took it, Sir, that the proviso

as to apology followed the procedure in all contempt proceedings, that whenever a man has been called upon to show cause why he should not be committed, he generally makes a submission to the Court, and in most cases his submission and the apology to the Court are taken as sufficient for the purposes of justice and he is discharged. As the proviso in the Bill now stands, Sir, it reads:

"Provided that such punishment may be remitted on apology being made to the satisfaction of the High Court or Chief Court, as the case may be."

Therefore any apology that he may make before the punishment will become inoperative, and the man otherwise called upon to show cause will have not the opportunity of taking the pardon of the Court and thereby obtaining the discharge which he is usually given in contempt proceedings under the present circumstances. In each case therefore in which an apology is tendered, Sir, in order that the apology may operate, he must get convicted—that is as the proviso now reads. I therefore think, Sir, that the proviso as redrafted by us in the dissenting minute is the only proper thing that should be inserted in the Bill, subject of course to any changes in a small way which may be made. I move, therefore, Sir, that the proviso be inserted so as to make it clear that it is open to an accused in contempt proceedings to apologise and that it should be open also for the court to discharge him without any punishment, and that he may also similarly be given an opportunity to apologize after conviction and to have a remission of his punishment.

**The Honourable Sir Alexander Muddiman:** Sir, I need not make a long story. I am perfectly willing to accept the substance of my Honourable friend's proposal. I reserve the right merely to move any drafting changes that may be necessary. I am prepared to accept the amendment.

The motion was adopted.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Alexander Muddiman:** Sir, I move that the Bill be passed.

**U. Tok Kyi (Burma: Non-European):** Sir, if there be any measures that have ever been introduced into this House and that require obstruction on our part, I think this present Bill is one. Sir, I know that the present measure has come out of the Select Committee with some improvements, and yet I am not prepared to give my support to it. We know very well, Sir, that High Courts of Judicature already wield immense power, and unless there is a separation of judicial and executive functions, I would hesitate to give any more power even to the High Courts. The measure, Sir, I think, is neither necessary nor desirable. In our part of the country no paper or no public man ever comments or criticises proceedings that are *sub judice* and I hope that the same practice is followed in other parts of the country. We know that the subordinate courts in India and Burma, though restricted in powers, are sometimes liable to exercise their powers rather arbitrarily and, though tempted to criticise their actions, both the public and the press usually refrain from doing so. The present measure is undesirable and unnecessary. With these few words, Sir, I oppose this Bill, though at this last stage of its third reading.



**Mr. C. Duraiswami Aiyangar** (Madras ceded districts and Chittoor: Non-Muhammadian Rural): Sir, I also wish to say a few words in support of those that have fallen from my friend from Burma. Sir, the very idea of having a Bill to protect some Courts against contempt as it is called, by a Contempt of Court Bill, is itself obnoxious. Sir, I can very well understand that the acts and dignity of a court must be protected in certain ways and I believe that the existing provisions of the Indian Penal Code and also the provisions of the Civil Procedure Code to prevent disobedience of orders of courts in certain circumstances are mostly sufficient in themselves to protect the dignity of courts. But if going beyond that the courts or the judges who preside over these Courts are to feel so sensitive, so thin-skinned, that they cannot bear even the slightest comment that may be made against their acts by any newspaper editor or by any other individual I think such judges ought not to sit in these courts. If it is said that by any unfair comment, as it is called, upon the merits of a case that is *sub judice* the court is likely to be influenced by any remark which is made by one newspaper or another or by some other person; if the court is going to be so easily influenced by such remarks in the decision of the cases, such judges do not deserve to be judges. I think, Sir, the very idea of contempt of court is only borrowed from elsewhere and there is absolutely no reason why there should be an Act on the Indian Statute-book which is called the Contempt of Courts Act. I feel, Sir, that if it is only for vindicating the dignity of a court or the dignity of a person who presides over a court then the Honourable the Home Member was perfectly right in saying that the fines should be unlimited, because the dignity of such courts seems to be very invaluable and so precious that it cannot be valued at Rs. 1,000 or Rs. 2,000. But if, on the other hand, it is to be used, as it is apprehended it will be used, always against the press as a vindictive measure, then certainly it is not a measure that should be encouraged by an Assembly like this.

Sir, I have been seeing all along that Members who have been discussing this Bill or those who brought about the existence of this Bill itself have always been thinking of one thing and one thing only, namely, an action against the newspapers, and those on my side were thinking of Indian newspapers more than English journalists. But I think, Sir, that there is another important point which they have failed to notice, namely, those cases of contempt which often arise in the imagination of a judge who thinks that if any receiver is appointed by the court and thereby becomes an officer of the court, and if there is the least interference with him by any other man, however *bona fide* his intention may be, in the discharge of his duties that becomes a contempt of court. That comes more often before courts than even newspaper comments. If the Government of India will consider the matter and protect the courts against these by suitable provisions in the Civil Procedure Code itself, then alone such interferences with the courts of justice will be protected. Every other idea of protecting a court against an infringement of its mere dignity is merely sentimental and, if one insists upon it, I beg to state that this country is not prepared to entertain Bills like that on the basis of a contempt of the dignity of a court. I think it is proper to provide against interference with the administration of justice in courts by a suitable provision in the Civil Procedure Code, or in the Indian Penal Code and not by a measure which has till now been unknown in this country. Let

us not, therefore, help the Government in putting on the Indian Statute-book a Bill under this nomenclature. On these grounds, Sir, I strongly oppose the passage of this Bill into law.

**Sir Hari Singh Gour:** Sir, I have also the misfortune to oppose this Bill and in doing so I shall very briefly recapitulate my reasons. I appeal to my Swarajist friends to support the opposition because I will point out to them that this Bill makes a dangerous inroad on the liberties of the people and will be a menace to the liberty of the press. (Hear, hear.) The Honourable Pandit Motilal Nehru in his speech which he made on this Bill pointed out that it will be perfectly open to an advocate to explain to the High Court that they have no jurisdiction in accordance with the provisions of this Bill. With the utmost respect to my learned friend let me point out that under section 106 of the Government of India Act all the High Courts of India have been constituted as courts of record and the meaning of a court of record is that they are entitled to punish for contempts committed in respect of their own courts.

**Pandit Motilal Nehru:** That is under the Common law of England.

**Sir Hari Singh Gour:** Now, that being the statutory authority given to the High Courts of India, that authority has been extended by this Bill to contempts of subordinate courts. Therefore, I say that it is an extension of the existing rights which the High Courts claim for themselves, and the Legislature, I submit, should not be a party to extending the jurisdiction of the High Courts.

I say further that cases of contempt are few and far between and the reported cases show that not a few of them were dealt with by the judges with the greatest hesitation, and in several of them the judges differed as to whether the act complained of was or was not contempt. I am opposed to this Bill because it does not define the offence, I am opposed to this Bill because I fear that it will operate as a menace to the liberty of the people and the press, I am opposed to this Bill because I submit that all legislation should be *ex post facto*, and no *prima facie* case has been made out why this piece of legislation should have been brought before this House. I am opposed to this Bill, Sir, to quote the language of a distinguished predecessor of the present Home Member, Sir Reginald Craddock, who in a speech said:

"Moreover even judges are human, and it is well to guard against the possibility—I will say the remote possibility—that the outraged feelings of a judge might lead to somewhat hasty or severe treatment of contempt of judicial authority. The Bill, therefore, contemplates that offences of this kind should be ordinary offences."

Well, Sir, I commend these words to the attention of the Honourable Home Member, and while there is time I hope he will not press forward this motion for its passage through this Chamber. If there is desire to legislate, let the offence be constituted and made a part of the ordinary criminal law of the land. That was attempted in 1914, and I do not see why the summary jurisdiction is now being conferred upon the High Court to punish for contempt which in 1914 was considered unnecessary and inexpedient. On these grounds I oppose the motion.

**Pandit Motilal Nehru:** Sir, it is my misfortune to disagree with my learned friend, Sir Hari Singh Gour, on the interpretation he has put on the section of the Government of India Act, which he has just cited before us. It does speak of the High Courts being courts of record, but where

[Pandit Motilal Nehru.]

is the law in India which gives all courts of record the right to punish for contempt? That is a thing I want to see. I say again what I said in my previous speech, that the jurisdiction is not derived from anything but the Common law of England, and the Common law of England is not in force in India in its entirety. However I am at one with the Honourable Sir Hari Singh Gour in opposing the passage of this Bill, and my reason for opposing it is also the reason for my differing from him. Had this Bill given any new jurisdiction to the High Courts I should have opposed it at the very beginning, but my reading of the Bill is that it leaves the jurisdiction of the High Courts untouched whatever it is. Such High Courts as have jurisdiction from other sources will continue to have that jurisdiction. Such of them as do not already have that jurisdiction are not given any new jurisdiction by this Act. The whole object of the Bill which I was willing to support was to remove the doubts that had arisen about the jurisdiction of the High Courts admittedly having jurisdiction to commit for contempt of themselves in cases of contempt of their subordinate courts.

5 P.M. Now that was because there was a difference of opinion between the different High Courts in the country and it was advisable in the interests of the administration of justice that there should be no doubt about the jurisdiction of the various High Courts. It will not do to have one law in Bengal and another law in Madras. For that reason I was willing to support the Bill if the jurisdiction of the High Courts remained where it was without any addition being made to it. But what do I find? The rejection of the amendment proposed by my friend Mr. Rangaswami Iyengar leaves the High Courts where they are and gives an entirely new jurisdiction to the Chief Courts. That is a position, Sir, that we cannot accept, and we are bound to oppose the passage of this Bill.

**Diwan Bahadur T. Rangachariar:** Sir, we are to take stock of what we have done on this Bill and calculate the net gains and losses. It is true, as my Honourable friend Pandit Motilal Nehru has said, that new jurisdiction has been given to the Chief Courts against contempts committed against itself; but the improvement we have made in the law is as regards the High Court itself. We have removed existing doubts as he has pointed out. Further the High Courts had unlimited powers of punishment . . . .

**Sir Hari Singh Gour:** Question. They never had any jurisdiction.

**Diwan Bahadur T. Rangachariar:** If my Honourable friend Sir Hari Singh Gour's view of the law prevailed! Their power has been curtailed . . . .

**Mr. A. Rangaswami Iyengar:** We accept that.

**Diwan Bahadur T. Rangachariar:** My Honourable friend Mr. Rangaswami Iyengar was referring to the fine imposed upon Mr. Kelkar. It is no longer possible for a High Court to impose such extravagant fines . . . .

**Mr. C. Duraiswami Aiyangar:** May I know from the Honourable Member whether the High Court may not yet say that this provision which has been made by this Bill is *ultra vires* because of the extraordinary powers they already possess?

**Diwan Bahadur T. Rangachariar:** I do not think any sane lawyer alive can have a doubt about that position (Laughter). If you read the Government of India Act, and the Schedule thereunder, there is no doubt as to the power of this Legislature to modify the jurisdiction of the High Courts. That is one thing, and also as regards the power of imprisonment which is unlimited, they could impose rigorous imprisonment. In the exercise of their powers over contempt they could have done it. Now what have we said? You shall not impose rigorous imprisonment. Imprisonment could be for any term. Now we say you cannot impose imprisonment for more than six months. Are these not substantial advantages? If they are substantial advantages, what is the loss? What is on the debit side?

**Pandit Motilal Nehru:** The Chief Court.

**Diwan Bahadur T. Rangachariar:** The Chief Court. And how many are they? With the help of my Honourable friend Pandit Motilal Nehru and his Party we have even there limited the jurisdiction of the Chief Court. Now unless you want to vote it down on some excuse or other, I do think, on a reasonable consideration of the measure, it is a measure which we ought to welcome in so far as we have put it right. I hope the House will carry this Bill.

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): Sir, I have taken no part in the discussion of this Bill or the various amendments that were moved, and the reason was that I left it to my Party to take part in the discussion and vote as they thought proper. Now we are told that there are fatal objections. The objections which find a place in the rhetoric of my friend Sir Hari Singh Gour are that it will destroy the liberties of the press, it will destroy the rights and liberties of the people. . . .

**Sir Hari Singh Gour:** I never said anything of the kind. I said threatens to be a menace.

**Mr. M. A. Jinnah:** Threatens to be a menace to what? To destroy the liberties, the freedom of the press, the liberty and the very existence of every human being in this country! Sir, that is mere rhetoric and eloquence, which is of course very nice to listen to, but beside the point. My friend Pandit Motilal Nehru, speaking on behalf of his Party, raises only one objection. He says everything else is well with this Bill, but this House rightly or wrongly—according to him wrongly—has extended the power to the Chief Courts to punish a case of contempt of itself. Well, Sir, are we going to throw out this Bill on that point alone?

**Pandit Motilal Nehru:** Yes, that is my point.

*An Honourable Member:* Why not?

**Mr. M. A. Jinnah:** Why not? It seems to me that some Honourable Members on this side think that if on one single point we cannot agree, then everything must be destroyed, Sir, I appeal to them . . . .

**Mr. R. K. Shanmukham Chetty:** Destroy the Government first.

**Mr. M. A. Jinnah:** I may assure my learned friend it will be a long time before that happens. But let us consider the principle of this Bill which was this, that it has been found that there is a conflict of decisions in this country whether the High Court has jurisdiction or power to punish

[Mr. M. A. Jinnah.]

cases of contempt of subordinate courts, and as we found there was a conflict, I, Sir, for one hold that it was necessary to put that question at rest. In England there is not the slightest doubt that the High Court has got power to punish cases of contempt of subordinate courts. Now that really was the fundamental principle of this Bill. But we happen to have in this country Chief Courts and Chief Courts have got extensive powers.

**Diwan Bahadur T. Rangachariar:** There is only one Chief Court I understand.

**Mr. M. A. Jinnah:** No, more than one. They have got extensive powers and they exercise jurisdiction over very extensive areas and over a number of subordinate courts. Now, should a court of that position which is almost equal to the High Court, should such a court, a court of such status, of such position, be allowed the power to punish a case of contempt of itself? What serious or dangerous inroad have you made by extending that power to the Chief Courts? Is that the only ground on which you propose to throw out this Bill?

**Pandit Motilal Nehru:** Yes, and that is a very potent ground.

**Mr. M. A. Jinnah:** You have accepted the principle of the Bill. Now, Sir, I am not prepared and I hope this House will not be led away to wreck this Bill purely on that ground. I could understand if there were any serious grounds. . . . .

**Pandit Motilal Nehru:** Is it not serious enough?

**Mr. M. A. Jinnah:** I say No, decidedly No, emphatically No.

**Pandit Motilal Nehru:** You have not considered the point.

**Mr. M. A. Jinnah:** I have! You have carried every single amendment against the Government. I congratulate you if you are satisfied with that. I have my own views about it now. On this one single point are you going to say that you will wreck this Bill? Is this House going to allow all this labour to be wasted? What is the menace, what is the danger?

**Pandit Motilal Nehru:** The Chief Court.

**Mr. M. A. Jinnah:** I don't see it. Why did you accept the principle of the Bill at all? I appeal to this House not to be carried away even by the leader of the Swaraj Party for whom I have great respect.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 4th February, 1926.

---