

INDEX

27th August 1926

TO THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

VOLUME VIII

(17th August to 2nd September 1926)

FIFTH SESSION

OF THE

**SECOND LEGISLATIVE ASSEMBLY,
1926**



Legislative Assembly.

The President :

THE HONOURABLE MR. V. J. PATEL.

Deputy President :

DIWAN BAHADUR T. RANGACHARIAR, M.L.A.

Panel of Chairmen :

MR. K. C. NEOGY, M.L.A.

SIR DARCY LINDSAY, M.L.A.

LALA LAJPAT RAI, M.L.A., AND

MR. ABDUL HAYE, M.L.A.

Secretary :

MR. L. GRAHAM, C.I.E., M.L.A.

Assistants of the Secretary :

MR. W. T. M. WRIGHT, C.I.E., I.C.S.

MR. S. C. GUPTA, BAR-AT-LAW.

MR. K. G. HARPER, I.C.S.

Marshal :

CAPTAIN SURAJ SINGH, BAHADUR, I.O.M.

Committee on Public Petitions :

DIWAN BAHADUR T. RANGACHARIAR, M.L.A., *Chairman.*

DIWAN BAHADUR M. RAMACHANDRA RAO, M.L.A.

COLONEL J. D. CRAWFORD, M.L.A.

MR. JAMNADAS M. MEHTA, M.L.A.

MR. ABDUL HAYE, M.L.A.

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LEGISLATIVE ASSEMBLY.

Friday, 27th August, 1926.

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

QUESTIONS AND ANSWERS.

RIVAL UNIONS ON THE NORTH WESTERN RAILWAY.

217. *Khan Bahadur W. M. Hussanally : (a) Are Government aware that the North Western Railway Union (recognised) has failed in a law court to obtain a declaration to the effect that the said Union was entitled to manage and control the affairs of the North Western Railway Union ? If so, do Government propose to recognize the Union of Messrs. Miller and Khan ? If not, why ?

(b) What is the membership of the recognized Union and what is the membership of the Union of Messrs. Miller and Khan ?

Mr. A. A. L. Parsons : (a) The answer to the first part of the question is in the affirmative, to the second in the negative and to the third that this is a matter for the Agent to decide.

(b) The Government have no information.

CONTRACTS FOR BUILDING AND PAINTING WAGONS AND COACHES ON THE NORTH WESTERN RAILWAY.

218. *Khan Bahadur W. M. Hussanally : Are Government aware that in the Mughalpura shops on the North Western Railway contracts for building wagons and painting carriages and wagons have been given to contractors ? Is it a fact that the work done by the contractors has been found unsatisfactory and imperfect so far as the quality is concerned ? Do Government propose to appoint a Committee to inspect the work so far done by the contractors ?

Mr. A. A. L. Parsons : (a) Contractors have been employed for building some coaches and painting coaching and goods stock. No contract has been let for the building of wagons.

(b) The work done by the contractors has not been found unsatisfactory or imperfect, Government do not propose to appoint a Committee to inspect the work.

PAYMENT OF GRATUITIES TO STRIKERS DISCHARGED BY THE NORTH WESTERN RAILWAY.

219. *Khan Bahadur W. M. Hussanally : Are Government aware that the strikers offered themselves for duty and that many of them were not taken back for want of vacancies and were discharged from service ? Is it a fact that such strikers who were under 15 years of service have

been refused gratuity while the gratuity rules provide that it will be paid to all men who are not wanted by the Railway whatever the length of their service? Do Government propose to ask the Agent, North Western Railway to pay gratuity to such employees discharged as was paid to the staff during retrenchment?

Mr. A. A. L. Parsons : I would invite the Honourable Member's attention to the reply given by Mr. Sim in February last to question No. 730 by Mr. Acharya.

ACTION TAKEN ON THE REPORT OF THE INDIAN TERRITORIAL AND AUXILIARY FORCES COMMITTEE.

220. ***Mr. K. C. Roy :** Will the Government be pleased to make a full statement regarding action hitherto taken and contemplated regarding the Report of the Shea Committee on the Territorial and Auxiliary Forces?

Mr. E. Burdon : I am afraid I have little to add to the reply which I gave on the 18th instant to parts (a) and (b) of starred question No. 48. Local Governments and Local military authorities were consulted and on the basis of the very full and valuable opinions which were received the Government of India formed the conclusions which are now before the Secretary of State.

PROPOSED INDIAN NAVY.

221. ***Mr. K. C. Roy :** Will the Government be pleased to state what progress has been made in connection with the scheme for the creation of the proposed Indian Navy?

Mr. E. Burdon : The attention of the Honourable Member is invited to the latter portion of the reply given by me in this House on the 18th instant to starred question No. 49.

The administrative preparations have made very satisfactory progress indeed.

Mr. K. C. Roy : Might I ask the Army Secretary when the Parliamentary legislation may be expected to be brought in?

Mr. E. Burdon : I am expecting a communication on that subject almost any day but actually I have not yet heard.

Mr. K. C. Neogy : And also the legislation in the Legislative Assembly for naval discipline?

Mr. E. Burdon : That of course must await the completion of the necessary legislation at Home, but we are putting the matter in train.

BAN ON PANDIT MADAN MOHAN MALAVIYA'S VISIT TO CALCUTTA.

222. ***Mr. K. C. Roy :** Will the Government be pleased to state whether its previous sanction was obtained either formally or informally to the issue of the ban on Pandit Malaviya's projected visit to Calcutta this month?

The Honourable Sir Alexander Muddiman : No.

RESERVATION OF A DEFINITE PROPORTION OF APPOINTMENTS IN THE INDIAN CIVIL SERVICE AND THE ALL-INDIA SERVICES FOR MEN IN THE PROVINCIAL SERVICES.

223. *Mr. K. C. Roy : Will the Government be pleased to state what action they have taken on the Resolution passed by the first Legislative Assembly and the recommendation made by the Lee Commission, regarding a definite proportion of appointments to the Indian Civil Service and the other all-India Services being set aside for men in the Provincial Services ? Have Government considered the desirability of adopting these recommendations and putting a stop to direct nominations ?

The Honourable Sir Alexander Muddiman : As regards the Indian Civil and Indian Police Services, I would refer the Honourable Member to the replies given to questions (Nos. 148 and 377) asked by Rai Bahadur Girischandra Nag and Mr. W. M. Hassanally on the 15th September 1921 and 17th September 1924, respectively, and to the information furnished in reply to questions (Nos. 1371 and 38) asked by Messrs. K. C. Neogy and B. Venkatapatiraju on the 23rd March and 18th August, 1926, respectively.

Of the other All-India Services to which recruitment is still made, the Commission's recommendations in respect of the Indian Forest Service are still under consideration, though in Provinces where the subject of "Forests" is transferred the Local Governments have been empowered to make their own arrangements for recruitment.

The Commission's recommendations as regards the Indian Service of Engineers have, with one minor modification in respect of the Buildings and Roads Branch in Madras, been accepted and carried into effect.

The recommendations in respect of the Indian Medical Service involve the transfer of certain provincial medical appointments which are now held by Indian Medical Service officers to the Provincial Civil Medical Services of the future. It is not possible to say at this stage how many appointments will thus be thrown open either to direct recruitment or to men promoted from the cadre of Assistant Surgeons.

On the subject of nomination I would refer the Honourable Member to the concluding passage of my speech in the Council of State on the Resolution moved by the Honourable Saiyid Raza Ali on the 2nd of March, 1925. The Commission made no recommendation for the abandonment of recruitment by this method.

PREMATURE PUBLICATION BY THE *Pioneer* OF EXTRACTS FROM THE MEMORANDUM OF THE FINANCIAL COMMISSIONER FOR RAILWAYS.

224. *Mr. K. C. Neogy : (a) Has the attention of Government been drawn to the telegram, dated 12th August appearing in the *Pioneer*, of August 14, from its Simla correspondent, publishing important extracts from the memorandum of the Financial Commissioner for Railways a day before that memorandum was placed before the members of the Standing Finance Committee for Railways ?

(b) If so, will the Government explain how this publication occurred and do Government propose to consider the desirability of preventing such premature disclosures before the Standing Finance Committee has had an opportunity to discuss the various proposals submitted for its consideration ?

Mr. A. A. L. Parsons : The memorandum referred to was circulated to Members of the Standing Finance Committee before it was given to the Press,—about a fortnight before I think. It was given to the Press on the day before the meeting on the distinct understanding that it would not be published till after the meeting. This understanding, the Government observe, has been kept, as the paragraph appeared in the paper on the day after the meeting.

1. RELEASE OF POLITICAL PRISONERS.

2. REMOVAL OF DIFFICULTIES IN THE WAY OF THE RETURN TO INDIA OF INDIAN EXILES IN FOREIGN COUNTRIES.

225. ***Lala Duni Chand :** (a) Will the Honourable the Home Member be pleased to state what action he or the Government has taken on the motion for the immediate release of all political prisoners detained without trial and for taking steps to remove all difficulties in the way of the return to India of all Indian exiles in foreign countries, adopted on 26th January 1926 ?

(b) Is the Honourable the Home Member aware that in his speech on the above motion he was good enough to say, "I have tried to meet this Resolution in a friendly spirit", and if so, will he be kind enough to inform the House by giving facts to what extent and in what manner he has been able to give effect to his desire of meeting the Resolution in a friendly spirit ?

The Honourable Sir Alexander Muddiman : (a) I have explained fully in the course of the debate, as I have done on several other occasions, why the Government of India were unable to give effect to the recommendations contained in the Resolution.

(b) If the Honourable Member will be good enough to read my speech on the occasion, he will, I think, do me the justice to admit that it was, as I claimed, conceived in a friendly spirit.

RECENT CASE OF DACOITY AND MURDER IN DELHI.

226. ***Mr. S. C. Ghose :** (a) Has the attention of the Government been drawn to the judgment delivered by Mr. S. L. Sale, Sessions Judge of Delhi, in the police dacoity and murder case as reported in the *Englishman* of the 16th July ?

(b) Will the Government state what steps, if any, have been taken to prevent the enrolment of potential and future robbers as police constables in the Delhi area, and the conversion of police quarters as the rendezvous of bad characters ?

The Honourable Sir Alexander Muddiman : (a) Yes.

(b) The antecedent and character both of recruits and their near relations are carefully scrutinised. A certain standard of education is required from every candidate, and all recruits are passed by the Senior Superintendent of Police personally. Particular attention is also paid to the antecedents and character of private servants and other non-policemen living in or visiting the Police lines.

IMPOSITION OF A HEAVY DUTY ON FOREIGN YARNS.

227. *Mr. S. C. Ghose : (a) Will the Government state if it is the intention of the Government to impose a heavy duty on foreign yarns ?

(b) Has the attention of the Government been drawn to the letter addressed to the Editor of the *Statesman* by Mr. S. C. Chakravarti, the managing Proprietor of the Chatra Cottage Industrial Works, and published in the *Statesman* of the 7th July as regards the proposed duty on foreign yarns ?

Mr. A. A. L. Parsons : The Government have seen the article referred to. The terms of reference to the special Tariff Board have already been published in the Gazette of India. If the Honourable Member will refer to them, he will find that the Tariff Board has been directed to investigate the condition of the cotton textile industry in India and that they have been specially directed in any recommendations they may think it necessary to make to take into account not merely the interests of the consumer but all other interests affected. The Government of India have no doubt that the Tariff Board will listen carefully to any representations that may be made by the representatives of the hand-loom industry in India.

GRANT OF RELIEF TO RETURNED EMIGRANTS FROM FIJI, SURINAM AND BRITISH GUIANA.

228. *Mr. S. C. Ghose : (a) Will the Government state what help, if any, has been rendered by the Government of India to the returned Indian emigrants from the Colonies of Fiji, Surinam and British Guiana ?

(b) If no help has been rendered, are Government prepared to consider the question of helping those who were allowed to emigrate as coolies to the Colonies ?

Mr. J. W. Bhore : In 1921 the attention of the Government of India was drawn to the distressing conditions under which certain returned emigrants from the Colonies of Fiji, Trinidad, Surinam and British Guiana were living in the neighbourhood of Calcutta, and the Government of India made a grant of Rs. 10,000 to a friendly society which was specially formed to help the repatriates in question. By the end of November 1921, it was considered that the special problem for which the Committee had been called into being no longer existed and it was therefore dissolved. Recently references were made in the Press to the prevalence of discontent among returned emigrants in Calcutta and the Government of India asked the Government of Bengal to inquire into the matter. They have been informed that there are about 800 repatriates from the various colonies living in the neighbourhood of Calcutta. There is no evidence that there is any destitution among them. On the contrary, almost all of them are said to have found employment in the docks and local mills and a few are earning quite good wages. Their discontent is said to be due to the comparatively lower wages that they get in this country for work similar to that done in the Colonies—and the restricted social life of India. The question of permitting such of these repatriates as can be assisted to return to the Colonies under section 2 (1) (b) (i) of the Indian Emigration Act, VII of 1922, is receiving consideration. Government do not consider that any other action on their part is required at present.

REMOVAL OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS FROM CALCUTTA TO DELHI.

229. ***Mr. S. C. Ghose** : (a) Will the Government state what was the reason for removing the offices of the Director General of Posts and Telegraphs from Calcutta to Delhi ?

(b) Will the Government state the extra expenditure involved by this move ?

The Honourable Sir Bhupendra Nath Mitra : (a) The present separation of the Director General from his office by a distance of 900 miles is an obvious administrative inconvenience which has been felt increasingly since the transfer of the Government of India to Delhi in 1912.

(b) Approximately 2 lakhs in 1926-27.

Diwan Bahadur T. Rangachariar : May I ask does this involve an exodus to Simla also of this office ?

The Honourable Sir Bhupendra Nath Mitra : No, Sir.

OFFICIAL PARTICIPATION OF INDIA IN THE EASTERN ASIA EXHIBITION IN JAPAN.

230. ***Mr. S. C. Ghose** : (a) Do Government propose to participate officially in the Eastern Asia Exhibition to be held at Fukuoka City, Kiushu, Japan, from March to May 1927 in order to popularize Indian goods in Japan ?

(b) If so, do Government propose to bring this Exhibition to the notice of the local administrations ?

Mr. A. A. L. Parsons : The Government have not been invited to participate in the Exhibition nor has it been officially brought to their notice. The question of taking any action in the direction suggested by the Honourable Member does not therefore arise.

SELECTION OF CANDIDATES FOR THE ROCKEFELLER FOUNDATION FELLOWSHIPS.

231. ***Mr. S. C. Ghose** : (a) Will the Government state if it is a fact that the managing Committee of the Rockefeller Foundation in America asked the Government of India to select six candidates from India to specialize in medicine ?

(b) If the answer is in the affirmative, will the Government state whether four candidates were selected instead of six, and if so why ?

(c) Will the Government state why no candidate was selected from Bengal ?

(d) Will the Government state why two candidates were selected from Madras ?

Mr. J. W. Bhore : (a) No. Selections for these fellowships are made by the Executive Committee of the International Health Board (Rockefeller Foundation) Fellowships on the recommendation of their own representative in India. The Government of India on the advice of their Scientific Advisory Board forwarded eight names to the Board's representative in India and of these only four were selected by the Committee of the Board.

(b)—(d). Do not arise.

Dr. K. G. Lohokare : May I know where this representative is located and the name of the person ?

Mr. J. W. Bhore : I do not think he has a permanent location in this country. I think his name was Dr. Huizer and he was on a visit to India when the selection was made.

THE SOUTH AFRICAN COLOUR BAR BILL.

232. ***Mr. S. C. Ghose :** Will the Government state what steps are being taken by the Government now that the Colour Bar Bill has been passed by the South African Parliament ?

Mr. J. W. Bhore : The Government of India made certain representations, and the result was published in a Press Communiqué, dated the 4th June, 1926, to which the Honourable Member's attention is invited.

POPULARIZATION OF DRINK AMONG INDIAN SOLDIERS.

233. ***Mr. S. C. Ghose :** (a) Will the Government state in how many Indian regiments wet canteens have been opened for the purpose of popularizing drink among Indian soldiers, and the names of the regiments ?

(b) Will the Government state why this step has been taken ?

(c) Is it a fact that many distinguished soldiers have protested against this step ?

Mr. E. Burdon : (a) The literal answer to this part of the question is " In none ". It is not the policy of Government nor would it tend to efficiency to create a demand for alcohol among soldiers where none existed before. I would, however, invite the attention of the Honourable Member, in connection with this part and parts (b) and (c) of the question, to the reply given to starred question No. 1546 on the 11th of June 1924. To that reply I need only add that the Army Canteen Board (India) no longer runs any " wet " canteens for Indian troops.

PAY AND ALLOWANCES OF MEMBERS OF THE PADDISON DEPUTATION TO SOUTH AFRICA.

234. ***Mr. S. C. Ghose :** (a) Will the Government state what pay and allowances were given to the members of the deputation which visited South Africa this year on behalf of the Government of India ?

(b) Will the Government state what was the total cost of sending the last deputation to South Africa ?

Mr. J. W. Bhore : A statement giving the information required has been placed in the Library of the House.

NAMES OF MEMBERS OF THE RAILWAY RATES ADVISORY COMMITTEE, AND THEIR PAY AND ALLOWANCES.

235. ***Mr. S. C. Ghose :** (a) Will the Government state the names of the persons who compose the Railway Rates Advisory Committee; and the pay and allowances drawn by them ?

(b) Will the Government state the qualifications of the persons who have been appointed members of the Railway Rates Advisory Committee, and what knowledge they have of railway rates and fares ?

(c) Will the Government state what work is now being done by the members of the Railway Rates Advisory Committee ?

Mr. A. A. L. Parsons : (a) and (b). The Honourable Member is referred to paragraph (2) of the Railway Department's Resolution No. 606-T., dated the 25th March 1926, which was published in part I of the Gazette of India of the 27th March.

As regards the commercial representative a panel has been prepared of 65 individuals nominated by principal commercial bodies.

The pay and allowances drawn are as follows :

- (1) Sir Narasimha Sarma—pay Rs. 4,000 per mensem.
- (2) Mr. S. D. Manson—pay Rs. 3,000 per mensem.
- (3) Commercial Representative—Rs. 100 per day while sitting on the Committee.

(c) The Railway Rates Advisory Committee are now in Calcutta engaged in collecting and studying information on the subject of rate, pending the submission to them of applications as authorised by the Resolution 606-T. of 25th March 1926.

Mr. K. Ahmed : Will the Government be pleased to state if they will save anything on this principle of payment of Rs. 100 a day to the commercial member in comparison to the Rs. 3,000 per mensem drawn by the expert member, Mr. Manson ?

Mr. A. A. L. Parsons : Certainly, Sir. The commercial representative is only appointed to deal with particular cases as may be required. He may not have to sit for a whole month.

Mr. K. Ahmed : What is the justification then for the other member to draw Rs. 3,000 a month instead of getting Rs. 100 a day ?

Mr. A. A. L. Parsons : He is an official expert in tariff rates.

Mr. K. C. Neogy : May I know how many cases have been received by Government for reference to this body and have been actually referred to them so far ?

Mr. A. A. L. Parsons : There is a question about that coming on later, the answer to which I have not got here ; but at present I think we have received only one case which is under consideration.

Dr. K. G. Lohokare : Do Government expect to give this House an opportunity of seeing the proceedings of the Railway Rates Advisory Committee ?

Mr. K. C. Neogy : They have no work.

Mr. A. A. L. Parsons : I must ask for notice.

APPOINTMENT OF THE SECOND TARIFF BOARD TO ENQUIRE INTO THE COTTON INDUSTRY.

236. **Mr. S. C. Ghose :** (a) Will the Government state what was the reason for forming another Tariff Board to enquire into the cotton industry in India ?

(b) Will the Government state the pay and allowances paid to the members and Secretary of the new Tariff Board ?

(c) Will the Government state if anything is being done by the cotton millowners for the welfare of the operatives ?

Mr. A. A. L. Parsons : The President of the Tariff Board referred to by the Honourable Member receives Rs. 4,000 a month and the members Rs. 3,000 a month each. The Secretary gets his grade pay plus certain allowances. For the rest of the Honourable Member's question, I must refer him to the Resolution appointing the Board which was published in the Gazette of India of 12th June last and to which I have nothing to add.

CONSTRUCTION BY THE ROYAL CALCUTTA TURF CLUB OF A SIDING TO THE RACE COURSE AT BARRACKPORE.

237. ***Mr. S. C. Ghose :** (a) Will the Government state if it is a fact that the railway authorities are constructing a special railway line of 2 miles (together with a station) to the race course at Barrackpore ?

(b) If the answer is in the affirmative, will the Government state the estimated cost for the construction of this line, and if it has been considered whether the railway line would pay ?

Mr. A. A. L. Parsons : (a) The answer is in the negative ; but Government understand that the Royal Calcutta Turf Club have constructed a siding of about 1 mile (together with a station) to the race course at Barrackpore at their own expense.

(b) Does not arise.

PROVISION OF ELECTRIC LIGHTS AND FANS IN FIRST AND SECOND CLASS CARRIAGES ON THE BENGAL AND NORTH WESTERN RAILWAY.

238. ***Mr. S. C. Ghose :** (a) Will the Government state if all the first and second class carriages on the Bengal and North Western Railway are now fitted up with electric lights and fans ?

(b) Do Government propose to consider the desirability of bringing to the notice of the authorities of the Bengal and North Western Railway the question of accelerating the trains on that railway system ?

Mr. A. A. L. Parsons : (a) All passenger stock on the Bengal and North Western Railway is fitted with electric lights. With the exception of four wheeled stock running on unimportant short branches, all first and second class carriages are fitted with fans.

(b) This is a matter which should be brought to the notice of the Agent, Bengal and North Western Railway, through his Local Advisory Committee.

TRANSFER TO THE GOVERNMENT OF BENGAL OF A PORTION OF THE JUTE TAX.

239. ***Mr. S. C. Ghose :** (a) Do Government propose to consider the desirability of handing over to the Government of Bengal a portion of the jute tax for the purpose of eradicating malaria and kala-azar from the province of Bengal ?

The Honourable Sir Basil Blackett : I see no reason for so extreme a departure from the terms of the Meston Settlement in favour of a particular province.

SAFETY OF THE FOOTBOARD OF THE LOCAL TRAINS OF THE GREAT INDIAN PENINSULA RAILWAY.

240. ***Mr. S. C. Ghose :** (a) Has the attention of the Government been drawn to the rider of the jury at the Coroner's Court in Bombay (as reported in the *Englishman* of the 17th July) that the footboards of the local trains of the Great Indian Peninsula Railway were not as safe as they ought to be, and hoped that the authorities would look into the matter ?

(b) Will the Government state if any compensation has been paid by the Great Indian Peninsula Railway to the student of the Bombay School of Arts who was crushed between a train and the platform at Victoria Terminus in July last ?

Mr. A. A. L. Parsons : (a) Yes. The Agent will no doubt consider the matter.

(b) Government have no information.

DEDUCTIONS FROM THE WAGES OF WORKMEN IN RESPECT OF FINES.

241. ***Mr. S. C. Ghose :** (a) Will the Government state why time has been granted to the local administrations till the 1st March 1927 to send information as regards the question of deductions from the wages of workmen in respect of fines ?

(b) Will the Government state if three months' time was not sufficient for sending information ?

(c) After the receipt of information on the 1st March 1927, will the Government state how many months will it take for the Government to take steps, if any, for stopping this practice on the part of employers ?

The Honourable Sir Bhupendra Nath Mitra : (a) The Government of India considered it desirable to allow Local Governments ample time to consult the interests concerned.

(b) No.

(c) I am quite unable to say. The question of the steps to be taken must obviously depend upon the nature of the information received by the Government of India in reply to their letter.

MUSLIMS IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, EAST INDIAN RAILWAY AT MORADABAD.

242. ***Maulvi Muhammad Yakub :** (a) Is it a fact that in the Divisional Superintendent's office, East Indian Railway, at Moradabad, out of 16 officers there is only one Musulman, out of 90 higher class members of the staff there are only 3 Musulmans, out of 200 clerks there are only 25 Mussulmans and out of 9,000 menials and other lower class servants there are only 2,000 Mussulmans ? If the figures given above are not correct, what are the correct figures ?

(b) Has the Government of India's Office Memorandum of the Home Department No. F-176|25-Estbs., dated the 5th February 1926, been communicated to the Divisional Superintendent, East Indian Railway, at Moradabad, and if not, do Government propose to communicate the Memorandum to the officer mentioned above and direct him to give effect to the provisions contained therein ?

(c) Is it a fact that in the Divisional Superintendent's Office, East Indian Railway, at Moradabad, in some cases the Mussalman members of the staff though seniormost in respect of the period of service and pay were made junior to the Hindus ?

(d) How long has the present Office Superintendent of the Divisional Superintendent's Office, East Indian Railway been at Moradabad ? Do not the ordinary rules of transfer apply to the post of an Office Superintendent ?

(e) Is it a fact that when the Divisional Superintendent, East Indian Railway at Moradabad took one month's leave in June last, his Office Superintendent also went on leave during that period ?

Mr. A. A. L. Parsons : (a) to (c). The Government have no information either about the composition of the Divisional Superintendent's Office at Moradabad or about the time the present Office Superintendent has held his appointment or whether that Office Superintendent took a month's leave last June. The Agent of the East Indian Railway has been made aware of the policy of Government in respect of the representation of minority communities in the services, but naturally it must take time for a policy of this kind to show results. A copy of the question and answer will be sent to the Agent.

Maulvi Muhammad Yakub : Do Government propose to direct the Agent, East Indian Railway, to hold a searching inquiry into the matter and inform the Railway Board of the result of the inquiry ?

Mr. A. A. L. Parsons : No, Sir.

THE INDIAN BAR COUNCILS BILL—*contd.*

Mr. President : The House will now resume consideration of the motion of the Honourable Sir Alexander Muddiman that the Bill to provide for the constitution of Bar Councils in British India be now passed.

Mr. L. Graham (Secretary, Legislative Department) : Sir, before the general discussion on this motion begins I should like to move a consequential amendment arising out of the amendment accepted by the House yesterday in clause 8 on the motion of my Honourable friend, Sir Hari Singh Gour. On his motion on clause 8 we took out sub-clauses (3) and (4), and my motion, Sir, is that the consequential re-numbering be made, that is to say, that sub-clauses (5), (6) and (7) of clause 8 be re-numbered sub-clauses (3), (4) and (5), respectively.

The motion was agreed to.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, I was objecting to the passing of the Bill yesterday and now, Sir, I thank you for allowing me to do the same this morning. My points are quite

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clear and I shall state them one by one. No law is a law recognised by the country unless it is passed by the people of that country. It does not receive the assent of the King (here the Viceroy) unless it is passed accordingly in the Parliament of that country. Here, Sir, you have many authorities who are against the passing of the Bill. You see almost all the associations of the country are against it. Look at the Bengal Chamber of Commerce and look at the prominent members of that body who utilise the services of these pleaders, vakils or barristers. If the masters do not want them, why should the servants intrude in their service? What business have they to come here and dress themselves and say that they are very handsome people? Now, let us see what the Honourable the Judges of the High Court say. Let us take the first High Court, the High Court of Judicature at Fort William in Bengal. The Calcutta High Court says that they do not want this Bill; they consider it to be quite unnecessary. This is the opinion of the Honourable Judges of the Calcutta High Court whose duty is to dispense justice. Mind you, they are High Court Judges before whom vakils and pleaders and even barristers have to appear. In those circumstances, are you going to compel the Honourable Judges of the High Court to accept this Bill when they say that they do not want a measure of this kind? Are you going to tell them, "No, you must accept this Bill", when they say that they do not want it? Does it lie in the mouth of any Honourable Member here, whether he is a vakil, pleader, or advocate (*A Voice*: "Or a barrister") or a barrister, if you like, to say that this Bill should be passed?

Then, Sir, take the Bengal Chamber of Commerce. Let us also take the other sections of the Indian people, I mean the landholders. Now, what does the Landholders' Association say about this? Look at an experienced man like Raja Rishicase Law, who is the Secretary of the Bengal Landholders' Association. His son is a vakil. He says, I think, that the landholders do not want this measure, that the Bar Councils Bill should not be passed.....

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Where does he say that?

Mr. K. Ahmed: He says that in so many pages. And if Mr. Neogy happened to be his son, what would have been the result? I would have congratulated him because he would have been his heir, a successor first and then.....

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Probably his grandson is a barrister.

Mr. K. Ahmed: I should not come to that point yet. That is the view, Sir, of the Landholders' Association.

Now, let us see what the British Indian Association says? It is an Association of leading Indians who are responsible to the country. This Association is composed of very highly cultured and enlightened Indians. And what do they say? They all say that they do not want this measure, and that this Bill should not be passed.

Now, let us see what the European Association says about this Bill? As you know, Sir, the Europeans in this country are very clever, they are very enlightened, they have got large interests in this country. Look at

their vast trade and commerce. Compare their trade and commerce with that of the Indian people and see for yourself. What does their Association say about this Bill? They say that the Bill is so dangerous that even a European barrister will have no chance to practise in the Courts in this country, this Bill will close the door of the Indian Courts against English barristers, and ultimately it will deprive English barristers of the privilege of getting a seat on the High Court Bench, because, as you know, many of the Judges are recruited from English barristers. There are a number of them, they are all very clever Judges, and if I take the names of the distinguished Judges who have adorned the bench of the High Court of Calcutta and shed lustre on it during the last fifty years, every body will tell me to stop this Bill. Mr. Neogy does not know all their names. Shall I utter them? (*An Honourable Member* : "Yes".) Look at the names, —Sir Comer Petheram, Sir Barnes Peacock, Sir Richard Couch, Sir Lawrence Jenkins, Sir Charles Paul, O'Kineally, Phillip, Woodroffe, Evans, Pugh, Garth, Gaspher. I do not like to mention all the names, because pages can be covered if I were to enumerate them. I see Mr. Neogy is smiling. He perhaps wants to occupy the position of a High Court Judge, or his friends want to occupy that position. (Laughter.)

You will therefore see, Sir, that the Bengal Chamber of Commerce, the European Association, the Bengal Landholders' Association, and everybody so to say in Calcutta is against the passing of this Bill. (*An Honourable Member* : "What about the Marwari Association?") Yes, there is also the Marwari Association, and they are also against this Bill, because they are a commercial body of People. (*An Honourable Member* : "What about the Muslim Association?") Representing as I do, Sir, many Muhammadan Associations, and particularly an Association of 85 per cent. of the population of Bengal, the Bengal Jotedars and Ryots' Association, I say they have not been consulted. But if they were consulted, take it from me, Sir, that the members of this Association, the majority, the dumb millions as they are described, who form 85 per cent. of the population in Bengal and who contribute largely to the income of the lawyers—these people are also against this Bill. Most of these pleaders or lawyers are paid by the poor ryots. These people engage a vakil or a pleader who in turn also from time to time instructs a barrister. Now the barristers cannot be engaged by them, because the pleaders and vakils happen to be all advocates, and they will also say, if this Bill is passed, that they have a right of preaudience; they will say that they also have the same rights and privileges as the barristers who have come out from England; they have got the same band and gown to put on. But the client will say to the pleader, or vakil, "No, no, I never saw you going to England, you are not a barrister. I engaged you last year when a suit was brought against me, and I paid you say Rs. 10 or Rs. 16? How can you say now that you are a barrister?" Then the pleader or the vakil will say, "Look here, my friend, I have also got the right of preaudience, and you must tell all your co-villagers, the members of your Association, about this."

This is another reason, Sir, why the Bill should not be passed; you cannot take up legislation piecemeal. You have an important clause, clause 8 and other clauses with regard to the right of preaudience of lawyers. You have not taken that into consideration yet; you have postponed its consideration, because the matter has to be referred to the Honourable Judges of the High Court and other Associations, and certainly to the public in India as well. Therefore, Sir, when the majority of the

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people of this country say that this Bill should not be passed, that it is not wanted—only some members of the Vakils' Association say that they want this measure, and that it should be passed—what is the hurry in your passing the Bill so soon? My friend Mr. Jinnah was saying yesterday, "Let it be postponed. What is the hurry?" You will feel indigestion, will you not? It will be very difficult for you. You will not be able to show your face to the constituency which you represent or misrepresent. Is this House to-day a representative body? Do the elected Members represent the majority of the people of India? What power have you to pass this Bill in this Assembly to-day? Did you not postpone the Currency Bill? Did you not postpone other Bills? What urgency is there for passing this Bill? It is because the 1 per cent. or half per cent. of people who are interested as against the remaining 99 per cent. want to take advantage of their position here and pass this law. Is it fair? Do you take it in a jocose way? Do you not consider things seriously? You want your few rupees in your pocket. You want now misrepresentation. My position is this and it is not a degraded position. If the other section of the lawyers, Sir, want to be uplifted, in this way, let them help themselves and let them do something when the iron is hot. Let them make hay while the sun shines. They think that a bird in the hand is worth two in the bush. They might do whatever they like, I do not care. Those are my grounds.

Now, Sir, I come to the most important and the serious point for consideration why this Bill should not be passed. You are going to pass in full term the Indian Bar Council Bill as a whole. At the same time, Sir, clause 8 regarding the right of pre-audience of vakils, pleaders, barristers and advocates has been postponed. When that clause was moved in the Assembly yesterday important parties here stood up and said that it should be postponed and Government have accepted that. How can you now proceed with this piecemeal legislation and pass it as a whole when you have postponed the important subject matter of the Bill till the next Session? How can you do that now without considering the other portion? Have you got that power? Is there any logic? Is not there the Honourable the Home Member and the Law Member sitting on the Treasury Bench? The Honourable Members have forgotten themselves to-day and have sold their conscience against justice. They have acted in contravention of the sound opinion of the Honourable Judges of the High Court of Judicature at Fort William in Bengal. They have acted in contravention of the opinion and advice given to them by the Judges of the Bombay High Court. Many other Judges also have given them this opinion. Is the Government Bench going to act according to justice at all? The Bar Council Bill after all is going to be used by the Judges of the High Court, mind you, before whom these Members of the Bar, pleaders, vakils, advocates and barristers, will have to practise. Is it not an insult to justice? You are going to pass a thing which it is impossible for you to pass. You are like a child going to jump and catch the moon in the heavens. That is the position. Will not the people of other countries laugh at you? Will not the people of your constituency, whom you propose to represent here, laugh at you? (*An Honourable friend*: "At whom?") I did not mean my Honourable friend, but the other class of people. (*An Honourable Member*: "Who are they?") Pleaders and vakils, Sir. They want to pass something for their own benefit. I believe

Sir, they do not represent their constituency to-day at least. Sir, it is contrary to the Standing Rules and Orders—if the Members of this Assembly pass this Bill which the next Assembly Members after a fresh election will have to consider. This kind of practice is not followed in the House of Commons, I believe. I say, Sir, this is not law. This is not fair. The Honourable the Home Member is not listening—he is not prepared to listen as he has no answer to it at all. The Law Member finds it difficult for him, because he had already committed himself being a Member of the Select Committee. He is afraid of the interested people. They throw mud at anybody. They were described by my friend Khan Bahadur Abdul Mumin. It was in Delhi, I think, during the winter Session. They are described in his speech. But I have great respect for many Members who are pleaders and vakils who do not belong to that class at whom he fired his gun.

Sir Darcy Lindsay (Bengal : European) : May I suggest to the Honourable Member that if he wants any votes in his favour he should bring his remarks to an early close ?

Mr. K. Ahmed : I am sorry, Sir. My friend is a Chairman of this Assembly who has not yet had a chance of occupying the seat. He wants me to finish. (*Some Honourable Members* : “Go on”. *Khan Bahadur W. M. Hussanally* : “We like to hear you.”) Other Members say, “Go on.” So, there is at least 75 per cent. of opinion in my favour and it is better to please many than to displease one.

Now, Sir, with your permission, I should like to mention why I think this Bill should not be passed. Certainly, Sir, it will lower the status of the Bar. Sir, the Bar is not a profession of piece-goods and the Bar Council Bill is not to be passed for that purpose. The profession of these barristers, vakils and pleaders is not like that of shop-keepers selling potatoes, selling goods and chattels, making a profit out of it. They may take advantage and apply the Trade Unions Act in their own hand, now and in the case of a conspiracy or unlawful assembly they may get the benefit of the doubt.

Maulvi Muhammad Yakub : Let the question be now put.

Mr. K. Ahmed : Now, Sir, my Honourable friend, the pleader of Moradabad, finds his position very awkward. It touches him and so he abuses a Member of this Assembly by shouting “Let the question be now put:” It has been referred to in the debates for this year, about 2½ years ago and also only the day before yesterday I think, I was saying something but he thought it was a different thing altogether, with the result that it was stated by my humble self that “his heart was stronger than his head”. Now, Sir, they are not shopkeepers selling goods and chattels. The profession of law and the position of the Bar is something different. A barrister who is practising, Sir, in Bengal or in Bombay has to be instructed by a pleader or a vakil, otherwise he cannot appear before a Judge and argue the case. But now, Sir, all these pleaders and vakils are going to be advocates. Their power and privileges will be just the same as that of barristers. My friend here says, “What harm”. My friend is a leading landholder of the province that he comes from and I understand that he engages a number of barristers, but unfortunately that is in Bihar and Orissa. Sir, we barristers from Bengal without the instruction of pleaders or vakils cannot appear and argue and under the present Bill some advocate will have to instruct us.

Mr. President : If the Honourable Member continues much longer, we will be without a quorum.

Mr. K. Ahmed : Sir, I will not be long, only a minute more. Now, Sir, what is proposed is to make the barristers hopeless and helpless. That is what the Bill proposes, that the people who are the leaders of this profession are to be degraded to a hopeless and helpless position. Now, Sir, is there any reason stated in this Bill why they are going to punish an important section of the people? Is it not *ultra vires* and illegal to pass a Bill which should not be passed. (*An Honourable Member :* "There is no quorum, Sir.")

Mr. President : The Honourable Member has had sufficient indulgence and I hope he will bring his remarks to a close.

Mr. K. Ahmed : One minute more and I shall reach the time limit of 20 minutes. Now, Sir, while Dr. Datta was speaking yesterday, he said, "What is the use of Indian young men going over to England" without disclosing the fact that every student must be a graduate and that one year's Chamber practice is compulsory. (*An Honourable Member :* "There is no quorum, Sir.")

Mr. President : I hope the Honourable Member will realise that the House is not in a mood to hear him any longer.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, it is futile to resist the further progress of this Bill and I should be leading a forlorn hope if I took any part in opposing the motion that has been moved for its passage here. But there are, Sir, one or two observations that have fallen from my Honourable Colleagues in this House which I do not wish should be treated as the voice of this House and influence the public outside. I was pained to hear yesterday a remark made by the Honourable Dr. Datta that it was a waste of money for Indian students to repair to England to prosecute their studies there, and he quoted the opinion of Lord Haldane to the effect that the Indian students who go to England for the prosecution of the study of law really waste their money and their time. (*An Honourable Member :* "I believe it.") I have not the slightest doubt that in the time past, owing to lack of arrangements for the proper housing of Indian students in London and for the control of their studies, the waste of time on the part of Indian students in London was the subject of common complaint. But did Lord Haldane refer to at least 60 per cent. of the Indian students who when they go to England join one of the national Universities, the Universities of Oxford or Cambridge, and take their degree at the same time as they are prosecuting their studies for the Bar; and has any complaint ever been made by Lord Lytton's Committee or any Committee against these students, who I submit form the bulk of the students who go from India to Europe? Sir, it is recognized on all hands, and it is a fact which is recognized by such independent countries as China and Japan, that travel in Europe and residence in England and in the modern democratic States of Europe is in itself a great study. Can that be denied even by the Honourable Diwan Bahadur Rangachariar who has drunk of the Pierian springs of English life and who has come back chastened and improved in his mental and physical outlook? I am sure, Sir, that anybody who goes to Europe and profits by his residence there will come back with a broader outlook, with his mental vision expanded and with his

character, I venture to submit, hardened; and he would come back to this country bringing in his train a mental equipment which would stand him in good stead in his future life here. I therefore, Sir, wish to join an emphatic protest on behalf of myself and those who think with me against the statement that a journey to Europe is a profitless undertaking, and I should like to assure my young friends outside this House that, whatever the disabilities from which English members of the Indian Bar may suffer in future, though the Legislature may deprive them of their status, it cannot deprive them of their brains, and if they go to Europe and profit by the facilities which European culture and education provide they will come back better qualified and more educated men. Our educational institutions in this country are still in a state of infancy, and I submit that as India advances politically there will be more and more reason for a larger number of Indians to go to Europe to study the constitutions of the modern European States, to imitate their culture, to follow their methods of constitutional progress and to imitate their example in the science of Government. Without that assistance, without that education, I submit that the cry for Swaraj will be in vain in this country.

Then, Sir, my friend Diwan Bahadur Rangachariar and the Honourable Sir Sivaswamy Aiyer joined hands against the members of the existing Indian Bar, and my friend Mr. Neogy passed in review the names of half a dozen distinguished Indian vakils.

Diwan Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : It is hardly correct to say that we joined hands against the Members of the Indian Bar.

Sir Hari Singh Gour : I should never accuse Diwan Bahadur Rangachariar of ever having joined hands against the members of the Indian Bar. He joined hands against the barristers.

Diwan Bahadur T. Rangachariar : Certainly not. I never said anything against Indian barristers. I only wanted them to come under one roll.

Sir Hari Singh Gour : I am very glad to hear, Sir, that Diwan Bahadur Rangachariar disassociates himself from those who let fall expressions for which at any rate they ought to be sorry. Sir, while you can mention some eminent vakils, you can also mention some eminent barristers, and I am not going to discharge the invidious task of comparing barristers with vakils and *vice versa*. There are good men in both branches of the profession and I therefore submit that now that this Bill is going to be enacted into law, whatever may have been the feeling between barristers and vakils, a new era will dawn and those who are enrolled as advocates under the new roll will regard themselves as members and brothers of the same profession. (Hear, hear.)

Sir, I cannot disguise from myself a certain feeling of disappointment that this piece of legislation is being hurried through. The Honourable Diwan Bahadur Rangachariar accused the Home Member of a weakness. I must confess that that weakness has been exhibited in permitting a piecemeal legislation of this character to come on the Statute-book, because we have for the first time introduced into this country Bar Councils after the pattern of English Bar Councils. Now Honourable Members are aware that sitting as we do on the Olympian heights of Simla, away from law libraries and accessibility to law books, we have not been able to secure even

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one copy of the rules of English Bar Councils; and when we sat here to fashion this piece of legislation, we were deprived of having even one single copy of the rules of the English Bar Councils which were to act as a prototype and pattern for this legislation. That was the reason, Sir, why I asked for time, and that was the reason, Sir, why I moved for its re-circulation. However, that time is past; and I only wish, Sir, that if in the future the Honourable the Home Member is privileged to see the rules of the English Bar Councils and finds that those rules are different, as I believe they are different, from the many provisions of the Bar Councils Act, he will also incorporate such changes as may be found necessary in such future legislation as the Home Member and the Government of India may think fit to introduce into this Assembly.

Sir, my friend, Mr. Neogy in an impassioned speech wholly out of keeping with his general tenour and temper asked me to receive instructions from some solicitors and to employ as my mouthpiece a vakil of this House. After the speeches to which I have listened from the Honourable Members belonging to the Vakil Bar I am afraid I should not have erred on the side of wisdom in selecting one of them as my mouthpiece; and as for the two distinguished solicitors in this House, I can assure the Honourable Member that I was neither instructed by the one nor by the other, and that whatever remarks I made yesterday I made on my own. That at any rate, Sir, is still some justification for the continuance of the dual system. So much, Sir, for the Bill which is about to pass into law.

Now, Sir, I just wish to say a few words with reference to the deleted clauses.

Diwan Bahadur T. Rangachariar : Is the Honourable Member in order, Sir, in speaking on deleted clauses ?

Sir Hari Singh Gour : I wish to say a few words on the deleted clauses in order to show how the Bill is incomplete. Mr. Rangachariar and other Members have complained that my motion for further circulation was absolutely unnecessary, and they quoted from opinions which had been collected from 1921 in favour of the unification of the Indian Bar. I am sure, Sir, that the Deputy President of this House must be aware of Standing Order 41, sub-clause (4), under which I strictly limited and confined my speech. What does it say ? It says that the Select Committee shall in their report state whether or not in their judgment the Bill has been so altered as to require republication. You are not to go behind the Bill as it has been presented by the Select Committee, and it is now admitted on all hands that the Bill contains a very material alteration. My friend himself said that the question of pre-audience and seniority was one of the two vital questions settled by the Indian Bar Committee. Has not then the Bill been materially and indeed vitally altered ?

Mr. President : Order, order. I merely allowed the Honourable Member to refer to these deleted clauses generally, but he should not go into details.

Sir Hari Singh Gour : And it is upon that ground, Sir, that I limited my remarks yesterday to further circulation. But as I have said, that time is now past. The position that the members of the English Bar whose opinions I voice take is "While you have taken away our seniority, do not destroy our individuality; and whatever may be our relations with

our friends of the Vakil Bar, we still feel proud of being members of the English Bar, and why should you destroy our individuality as members of the English Bar ?". While we are practising here, whether Europeans or Indians, we try to live up to the high tradition of the English Bar created by the leaders of that Bar for centuries and that has become as it were our legal Bible. It is upon that tradition that the Bar in the Presidency-towns and in the mufassil has been nourished and nurtured, and it will be a long time, Sir, before the Indian Bar imbibes the high traditions of the English Bar. So long, however, as the Indian Bar is in the making, we desire to keep our individuality distinct, and if you wish to have seniority over us, let us at any rate stick to the seniority amongst ourselves, *inter se*. That, I submit, is a reasonable request, that I submit is a request which you cannot refuse. If you think that the Indian and the English Bars must be given equal privileges, you have that assured under the Indian Bar Councils Bill. But as I have said before and I repeat it, why destroy our individuality, why ask members of the English Bar to sacrifice the position which they hold, the traditions which they follow and the associations with which they have been from time immemorial connected ? These are the reasons, Sir, why we have protested against the hasty piece of legislation which is shortly to find its place on the Statute-book. I am glad, Sir, that the Honourable the Home Member has acceded to my request and the request of those Honourable Members who supported me in cutting out of this Bill sub-clauses (3) and (4) of clause 8 which deal with a most material issue, and I can only hope that when those clauses are sent out to the country, they will be accompanied by a letter in which the present position of the English Bar will be clearly set out and it will not be forgotten that, if those clauses are re-enacted in the manner proposed by Government, they would undoubtedly extinguish the English Bar in India.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan) : Sir, I can assure you that I shall not inflict a very long speech upon the House after the effusive orations of my two predecessors belonging to the English Bar. If I remember rightly, the genesis of this legislation consisted in a motion brought forward by Munshi Ishwar Saran in the very first year of the life of this Assembly in 1921 to equalize the various grades of the legal profession, and if I could understand rightly the sense of the House, it was in favour of that Resolution. I remember distinctly when the question of distinction between the two sections of the profession was brought under discussion and when the mover of the Resolution, himself being a vakil, advocated the equality of his section of the profession with that of the barristers, an eminent barrister, Mr. Eardley Norton, here said, "Of course it would be absurd to give any barrister pre-audience over Sir Rash Behari Ghose". From what

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followed in the discussion on that day one could see that the sense of the House was in favour of equalisation of the different sections of the profession, especially the equalisation of vakils with barristers. Therefore, Sir, I share the regret which has been expressed by Diwan Bahadur T. Rangachariar in his minute of dissent that that wish has not been realised. At the same time, I think, we should be thankful for small mercies. Government are perfectly right in conceding this fractional measure of the desideratum and we should not in any way frustrate its object. Therefore, I rise to speak in support of the passage of this Bill. But before I conclude my remarks, I would

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like to refer to one or two matters which have occurred in the speeches of my two predecessors. Mr. Kabeer-ud-Din with his usual humour has attacked the vakil section of the Bar and also tried to pour ridicule and contempt upon them.

Mr. President : I would suggest to the Honourable Member whether it is worth while taking those criticisms too seriously.

Mr. Harchandrai Vishindas : You have, Sir, as President allowed Mr. Kabeer-ud-Din to dilate upon the matter. I am not going to try....

Mr. President : The Honourable Member may please himself.

Mr. Harchandrai Vishindas : If you will kindly hear me, I propose to give only one illustration to show the estimation in which these two sections of the community are held in some places. Mr. Kabeer-ud-Din Ahmed has talked of landholders, their sons and grandsons and of various Associations, but I would give only one illustration. I would also refer to Dr. Gour's remark about going to Europe.

Mr. K. Ahmed : The references that I made to the sons and grandsons of landholders were put into my mouth by the Honourable Member from Moradabad.

Mr. Harchandrai Vishindas : Sir, an eminent man who now occupies a very prominent position in the Punjab was called to the Bar. He told me that when he got his first brief, he accepted Rs. 30 as his fee. One-half of it was paid to him and the other half was to be paid afterwards according to the practice then prevailing in the Punjab. The client afterwards went to him and said : " If I knew that you were a barrister, I would have never engaged you. I engaged you because I thought you were a vakil. Will you kindly return my Rs. 15 that I paid you ? " From that time this gentleman gave up the Bar and afterwards he became a great commercial and industrial magnate.

Sir Hari Singh Gour : Then why not keep them separate ?

Mr. Harchandrai Vishindas : By all means keep them separate, but you should not try to make the barristers superior, but rather make the vakils superior.

Sir Hari Singh Gour said that the advantage of barristers being called to the Bar is that they go to the Continent of Europe and that journey itself is an education. Is not that an implied confession that so far as legal education is concerned, the barrister's education is a failure and he only acquires the education which the journey gives him ? Is that an argument in favour of Sir Hari Singh Gour's case or against it ? Anybody can go to Europe and acquire culture, but would that entitle him to practise the profession of the Bar ? Does it not go without saying that many a time complaints have been made that the students who go to England with a view to study for the Bar not only learn nothing but unlearn a great deal of what they have learnt in India ? There is a gentleman sitting by the side of Mr. Kabeer-ud-Din who agreed with the remarks that fell from a Member who was referring to Dr. Datta's views about the insufficiency of education in England. The gentleman sitting there had sent his son to England for the Bar.

Mr. President : The Honourable Member must not refer to any of his colleagues in that manner. He must name him.

Mr. Harchandrai Vishindas : His name, Sir, is Khan Bahadur W. M. Hussanally. He sent his son to the Bar to his very great grief and repentance. I think I need not say anything more.

It is not right to say that this legislation is being precipitated because it has had the considered deliberation of the Select Committee. It has come here at its proper stage and there is no case made out for its recirculation. If there are any defects in the merits of the Bill, they can be easily pointed out on the floor of the House. I think this Bill has been long overdue. Dr. Gour said that barristers aspire to positions of eminence because of the traditions in which they have been nurtured and nourished. My reply to him is that the same kind of obligations are imposed upon the pleader section of the Bar as upon the barrister section. I have often heard eminent Judges say that pleaders as well as barristers should answer to the great traditions of the profession. Sir, this is in reply to the remarks that have been made against the pleaders. I think the Bill is a salutary one and therefore it has my hearty support.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I do not think the House desires a serious discussion on the points sought to be raised by my Honourable friend Mr. Kabeer-ud-Din Ahmed in a remarkable speech which a member of the English Bar alone is capable of making. The speech is remarkable as showing the culture and breadth of vision which a visit to England and education in England....

Mr. K. Ahmed : The Honourable Member without substantiating his remarks is making an attack, and, therefore, he is illogical, and I object to it.

Mr. K. C. Neogy : Sir, I will not quarrel with my friend's logic. There is one point which my Honourable friend sought to make on which I desire to say a few words. The Honourable Member said that all the various public bodies in Calcutta which were consulted on this Bill are unanimously opposed to it. In the first place, no public Association of Calcutta appears to have at all been consulted on this particular Bill. I hold in my hand a collection of all the opinions, and I find from the covering letter of the Government of Bengal that there is no mention of any public Association which was consulted on this particular Bill. I have, however, got in my hand a cutting from a Calcutta newspaper, namely, the *Bengalee*, dated the 15th December, 1923. It gives extracts from the opinions of different public bodies in Calcutta who are all in favour of equalization of the status and privileges of the different sections of the Bar. Let us take, first of all, the Corporation of Calcutta. They say :

“ The present arrangements require change. Vakils and Solicitors should be allowed under certain conditions to act and plead, in the same way as Barristers, on the original side of the High Court.”

Then we have the University of Calcutta which is all in favour of the removal of the monopoly enjoyed by the barristers. Then comes the Bengal National Chamber of Commerce, who—

“ strongly urge the abolition of such distinctions between Barristers and Vakils as were due to circumstances which no longer exist.”

[Mr. K. C. Neogy.]

Then we have the opinion of the Marwari Association. They say :

“ Remove the existing humiliating distinctions between Barristers and Vakils.”

We next come to the British Indian Association to which my Honourable friend referred. They say :

“ There is no reason why some of the privileges now exclusively enjoyed by the English Bar should not be extended to the Vakils of the High Court, no reason why the Barristers should still retain the privilege of exclusive practice on the original side of the High Court.”

Then we come to the Bengal Landholders' Association, to which also my friend referred. They say :

“ All distinctions between Barristers and Vakils should at once cease, regard being had to the fact that Vakils have made their mark in the profession and on the Bench, and that a law student in India goes through a pretty long course of legal education.”

Then, last of all, we come to the Indian Association, which is a very prominent political body in the city of Calcutta. They observe as follows :

“ The legal profession in this country should be unified, and Barristers, Solicitors and Vakils placed on the same footing.”

Sir, I do not think I need dwell upon Mr. Ahmed's speech any more.

My Honourable friend, Sir Hari Singh Gour, recapitulated his yesterday's arguments which had something to do with the motion moved by him yesterday, but has no relevancy to the present motion. I do not quarrel with him in regard to the benefits that it is possible to derive by a journey to foreign lands, or from a sojourn in England for purposes of education ; but is my Honourable friend fair in wanting to make it compulsory for a certain section of lawyers to go to England so as to have certain privileges, and that those who do not go there should be precluded from the enjoyment of those privileges ? On a parity of reasoning he could very well support the “ steel frame ” argument of Government. Does my Honourable friend contend that the English Bar constitutes the “ steel frame ” of the legal profession in India ? I should imagine my Honourable friend as being very eager to occupy those cosy Benches opposite, and I am sure my Honourable friend regards the Honourable Sir Alexander Muddiman as an interloper in this House. I certainly do ; and we are all looking forward anxiously to the day when all those Benches will be occupied by Indians.

The Honourable Sir Alexander Muddiman : I do not see how these remarks are at all relevant.

Mr. K. C. Neogy : The Honourable Member will understand the relevancy of the point if he will only be a little more patient. My Honourable friend, Sir Hari Singh Gour, certainly would not for a moment tolerate the argument that being members of a ruling race my Honourable friend, Sir Alexander Muddiman, and his colleagues are entitled to certain special privileges. Yet my Honourable friend put forward the argument that a short stay in England, and membership of an institution belonging to the land of the ruling classes, should endow an Indian with certain special privileges which must be denied to the other children of the soil.

However, Sir, I am very sorry I cannot give my blessings to this Bill in its present form.

Sir Hari Singh Gour : Then let us join in rejecting it !

Mr. K. C. Neogy : I have not yet said what I am going to do. Sir, so far as the vakils of Bengal are concerned, they do not stand to gain anything by it.

The Honourable Mr. S. E. Das (Law Member) : What about gowns and robes ?

Mr. K. C. Neogy : I am not at all anxious to don the robes on which Mr. Ahmed has shed such lustre, and which he claims as his " trade mark ". If it was ever an ambition on my part, I cannot any longer cherish that ambition.

Mr. K. Ahmed : My friend rose to say he had no ambition.....

Mr. President : Order, order. There is no point of order in that.

Mr. K. Ahmed : But, Sir, it implies.....

Mr. President : Order, order.

Mr. K. C. Neogy : This Bill merely changes the name Vakil into Advocate. As I said on a previous occasion, the vakils of Calcutta are not ashamed of being called vakils. Sir, it is a distinguished name, borne by men like Dwarkanath Mitter, Romesh Chandra Mitter, Chandra Madhub Ghose, Rash Behari Ghose, and last though not least, Ashutosh Mukerjee, names of which any legal institution in the world would be proud. Sir, as I said, we do not want any change in name. I am reminded of the occasion when Sir Lawrence Jenkins was Chief Justice in Calcutta and he made a proposal that a few select vakils should be admitted as advocates. What was the attitude that Sir Rash Behari Ghose took up on that occasion ? He said, " I am not anxious to change my name. I am perfectly willing to be called a vakil. I am not enamoured of the term advocate and cannot think of being treated on a different footing from my colleagues. So long as they labour under certain disabilities, I cannot think of accepting this as a favour from the Judges." As I said, the vakils of Calcutta do not stand to gain anything by the present measure. As a matter of fact, I had a letter from the Vakils' Association, Calcutta, in which they said :

" The Bill is of no use to the Vakils of Calcutta, and if it is dropped we shall not be worse off ; rather the Bill is likely to place us in a worse position than at present."

Thereupon I wrote back to my Association asking them to reconsider the position, particularly in view of the fact that my colleagues from the other provinces are of opinion that there is some little benefit to be derived so far as those provinces are concerned, and in reply to that I received a telegram which says :

" Vakils' Association leave it to you to take such attitude as you think proper towards the Bar Councils Bill, but strongly oppose majority of barristers on Council."

That is exactly the position I took up yesterday when moving my amendment. I said that this Bill would have the practical result of imposing the rule of the minority over the majority, the minority of barristers over the majority of vakils, and I succeeded in annoying my Honourable friend, the Home Member, an *ex-officer* of the Calcutta High

[Mr. K. C. Neogy.]

Court. Sir, it was no figment of my brain. This is exactly how the Vakils' Association of Calcutta interpret that particular clause of this Bill, and on their behalf I must repeat my protest that you are not doing the right thing by the non-barrister element of the Bar in Calcutta.

Sir, I must now indicate my attitude towards this Bill. Although I opposed Sir Hari Singh Gour's amendment for recirculation, I must say that I cannot cast my vote in favour of the present motion.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, I think one of the best reasons for supporting this Bill is to be found in the fact that so many of my Indian friends of the English Bar have taken an attitude of opposition to it. I think it a very strong commentary on the existing state of things that any Indian member of the Bar should raise objection to the Bill now before the House. A great wrong was committed when a distinction was made between barristers and vakils in this country, and that wrong has lasted a long time. It is not one day too soon that an attempt is being made to obliterate that wrong, and every man who loves fair play ought to rejoice over it and give his heartfelt support to the Bill.

I am not unconscious of the great value of a training in England or in any other part of Europe ; but I wish every Indian young man to complete his education in a University here before thinking of going to any other country.

I hope the day will very soon come when an Indian young man will be proud to have a degree of his own Indian University and will not be anxious to obtain a degree of any other university. The Japanese do it ; they have the right sense ; they take degrees of their own universities and go out to foreign countries for further study, and come back and rejoice in having obtained additional knowledge, but rejoice also in the fact of being graduates of their own national universities.

Mr. K. Ahmed : We have no such universities in India like the Oxford and Cambridge Universities.

Pandit Madan Mohan Malaviya : I think the existence of this distinction between Barristers and Vakils has been one of the reasons why the Bar in India has not become as strong as it should have been. That the vakils have rendered the most excellent account of themselves in this country in the various High Courts in spite of the disadvantages to which they were subjected is a matter of which they can well be proud. I do not wish to make any remarks which will excite any ill-feeling between Indians who are members of the English Bar or any other foreign Bar and Indians who are vakils of any of our High Courts. I hope that the passing of this Bill will be the first step towards obliterating that long lasting distinction, and I hope it will be possible to make better efforts to build up the traditions which English barristers love and which we have learned to honour. I want the traditions of the Bar here to be as high as in England or in any other country. I think, Sir, the obliteration of this distinction will help to build up those traditions, and I am also certain that when this distinction has been removed and it has become impossible for young men who cannot succeed in the rather stiff examinations of Indian universities to go and be called to the Bar in some other country, legal education in this country will be even better

here. I desire that the standard of education in law, as in every other subject in this country, should be as high as anywhere else in the world, and I believe the obliteration of this distinction will help to improve the arrangements which exist for imparting that education. I gladly lend my support to the motion.

The Honourable Sir Alexander Muddiman : Sir, I do not desire to detain the House very long, but I feel there are a few observations that I should like to make, even at this late stage of the Bill. The first observation I have to make is this, that had I been aware that Mr. Neogy, speaking on behalf of the Vakils Association, was prepared to oppose the Bill, I might have taken a different attitude, and I think the Honourable Member should have let me know that before we came to the third reading of the Bill.

Mr. K. C. Neogy : I hoped to succeed in getting some of my amendments passed yesterday.

The Honourable Sir Alexander Muddiman : It seems to me it is a pity he did not tell us at the time, at the right time, when the House was dealing with the principle of the Bill, that he was opposed to the Bill as a whole. I might then have brought in an amendment excluding the High Court of Calcutta from the operation of the Bill. He will doubtless be able to reconcile his present views with the views of his Association. It was also a pity I think that if Mr. Neogy regarded the Bill as such an unfortunate measure of legislation, he did not attend the meetings of the Select Committee till the discussions were over. He was appointed a member of the Select Committee and he agreed to serve, but he did not attend. Now, Sir, I am not in the least influenced by a somewhat petulant speech at the last stage of the Bill from doing what I think is my duty. This Bill has been brought forward after much deliberation and is the result of persistent efforts on the non-official side. I think it is very fortunate that it has been largely in the charge of my Honourable friend Mr. Rangachariar. He at any rate is old enough and wise enough to know that if you desire to pass reforms affecting the interests of others, you must proceed warily, you must proceed in a manner not to irritate others and you must endeavour to secure by compromise and persuasion such portion of your plan as you may be able to get through. It is not the part of a wise man to force on an unwilling profession changes advocated in such a manner as is bound to cause irritation to members of the profession. Now, this Bill is a step in the direction of the creation of a united Indian Bar. Government may pass the measure, but the success of the measure will depend upon those who work it. If this measure of reform is to do the slightest good, or is to be workable, it must be worked by men of good-will on both sides, otherwise it will be a failure and you will not advance in the direction in which the best and wisest members on both sides of the profession desire to advance. I am hopeful that if the Bar Council succeeds in creating a solid body of the best professional opinion, they will not only contribute to maintain and enhance the reputation of their profession, but also to assist in the better administration of justice. If on the other hand, these Bar Councils are controlled by persons who are led away by trades union jealousy, they will develop discord and confusion. It must rest, and I confidently hope it will rest, with those who are the leading barristers and the leading vakils of the various courts,

[Sir Alexander Muddiman.]

when this Bill is brought in, to work together to bring the profession into a harmonious whole and, by working these provisions for all they are worth, enable the possibility of further advance.

Mr. K. C. Neogy : Sir, on a point of personal explanation. I do not think the Honourable the Home Member has done justice to me by saying that I did not indicate my attitude at the proper time. I would ask him to read my speech at the second reading stage ; there I gave an indication of the points to which I took exception. Secondly, it is true I could not attend the Select Committee meetings, owing to regrettable personal circumstances, but I took care to send a telegram, addressed directly to the Honourable Member by name, in which I requested him to take into consideration the points I raised in my speech at the second reading stage. Thirdly, I put in a minute of dissent and gave notice of amendments ; and when a man gives notice of amendments, he certainly hopes to see some of them accepted. I do not know whether the Honourable Member thinks that in this House a man who gives notice of amendments ought to know that there is no chance of success owing to the Government opposition.....

Mr. President : Order, order, the Honourable Member is not entitled to make another speech.

Mr. K. C. Neogy : I think the Honourable Member is not right in saying that I did not give an indication of my attitude towards this Bill at the right time.

Mr. President : The question is :

“ That the Bill to provide for the constitution of Bar Councils in British India and for other purposes, as reported by the Select Committee, be passed.”

The motion was adopted.

THE INDIAN SUCCESSION (AMENDMENT) BILL.

***Sir Walter Willson** (Associated Chambers of Commerce : Nominated Non-Official) : Sir, I beg to move that the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, as passed by the Council of State, be taken into consideration.

In rising, Sir, to make my maiden effort to pilot a Bill through this House on behalf of other maidens who may become widows, I do not think many words of mine are necessary. The Bill was fathered by the Honourable Sir Arthur Froom in the Council of State and its purpose is fully explained in the Statement of Objects and Reasons. All I think that a step-father need say is that the Bill has run the gauntlet of circulation for the purpose of eliciting public opinion and of reference to a Joint Committee.

When the Bill was first circulated objection was taken to it on behalf of the Indian Christian community but when the Bill was referred to a Joint Committee, the Joint Committee with the greatest possible consideration dropped them out of the Bill altogether and they are therefore no longer concerned with it. Its present purpose is limited to

*Speech not corrected by the Honourable Member.

Europeans and Anglo-Indians. The limitations of the Bill will be found in sub-clause (5) of clause 3 which provides *inter alia* that it shall not apply to the property of any Indian Christian or to any Hindu, Buddhist, Sikh or Jain the succession to whose property is regulated by the Special Marriage Act. In effect, Sir, the Bill is a very simple one. It merely seeks to enact that when an estate is of less value than Rs. 5,000 and the deceased died intestate and left no lineal descendants, the widow shall take the whole of that money. I do not think anyone can quarrel with that principle. In a case where the estate may be of a greater sum the Bill still provides that the widow shall take the first Rs. 5,000 without prejudice to her right to share in the residue afterwards. That being so, Sir, the Bill has had a very happy life up to now. It passed through the Council of State without any opposition whatsoever and it may therefore be considered as an entirely non-contentious Bill up to this date. There are on the paper two amendments, one by the Honourable the Home Member which I understand to be purely a drafting amendment, and the other two by my Honourable friend Dr. Datta who represents the Indian Christians in this House. I need not anticipate his reasons in advance but I may say to the House that I do not think there is any material point of difference between him and myself and I will therefore leave him to move his amendment. Sir, I move.

Dr. S. K. Datta (Nominated : Indian Christians) : Sir, I shall not move the motion which stands in my name that this Bill be referred to a Select Committee but I wish to make certain observations on this Bill and to utter a word of warning regarding the procedure adopted both in another place and in this House. This Bill emanated in the Council of State, where the Honourable Sir Arthur Froom, in his speech when he introduced the original Bill, declared that it did not touch the rights of any community except the European community. As far as I am aware, I do not think that Sir Arthur Froom realised that the largest community which would be touched was the Indian Christian community. Without any opposition this Bill came to the Assembly and my Honourable friend Dr. Sir Hari Singh Gour, with that voracious appetite he has for all measures which affect the personal law of any community in India, immediately moved in this House and asked for a Joint Committee. Now on that Joint Committee Hindus were represented, I believe Mussalmans were represented and Europeans were represented, but not the community which was most seriously touched, namely, the Indian Christians ; I wish to utter a word of warning regarding the lack of care and watchfulness of the Government Department who were responsible for that procedure. That then is my first point.

Secondly, when this Bill did actually come before the Joint Select Committee, we examined it with care and as a community sent in our protest regarding the proposed changes in the law which would touch the personal rights of the Indian Christian community. Now, when the Bill arrived at the third stage, it was withdrawn in view of the Bill to consolidate the Indian Succession Act which at that juncture was being piloted through the Legislature by Government. The Bill to amend section 33 of that Act has now come back to us in this House in a much better form, namely, it exempts Indian Christians from the purview of the new section.

Now, Sir, I regret that there has been in the past a tendency towards the fragmentation of personal law. As far as I am aware, the Indian Succession Act of 1865 applied to all Christian communities or rather to all

[Dr. S. K. Datta.]

communities that are not Hindu, Muhammadan, Buddhist nor Parsi. In 1901 a Bill was passed, namely, the Native Christians Administration of Estate Act, which took Indian Christians out of the purview of certain sections of the Indian Succession Act. That, from my point of view, was a wrong proceeding; it ought not to have dealt with a particular class; though special provision might have been made for the administration of small estates. Now again after a lapse of twenty-five years the present Bill is introduced which exempts a particular portion of the Christian community—or a community who have a common civil law—from the operation of the ordinary sections of the Indian Succession Act. I do think that this continual fragmentation of personal law is bad. If on the Select Committee we had met together—Indian Christian, European and Anglo-Indian—I believe we would have found a common way out of this difficulty. We on our part would have been willing to accept a certain figure and probably the European community might have been willing to come down to that figure. I believe we could still have had a common law. At least the Indian Succession Act in regard to this matter would have applied to all communities who are neither Hindus, Muhammadans nor Buddhists.

Now, Sir, at a later stage I propose formally—I will not make a speech at that time—to move my amendments if you will permit me to make a reference to those amendments at this time. (Mr. President signified assent.) The point which I wish to place before this House is that very difficult question regarding Indian Christians and Anglo-Indians. There is a definition of Indian Christian in the Indian Succession Act. He must be a native of India of pure Asiatic descent professing the Christian religion. That, then, is the definition of an Indian Christian. On the other hand, there is no definition in the law, as far as I can discover, of an Anglo-Indian. There is a definition of the British born European, but not of the Anglo-Indian; and there is a definition of an Indian Christian. Now, Sir, there are cases and there are numerous cases where Indian Christians marry Anglo-Indians. You cannot differentiate in such cases between the Indian Christian and the Anglo-Indian. These marriages are taking place. It may be the Anglo-Indian may have just a fractional proportion of European blood, but the children of such unions are immediately taken away from the purview of section 33 of the Indian Succession Act and will be placed under section 33-A of this Bill. I wish to preserve intact the old position where children of such unions still continue to be under section 33 of the Indian Succession Act. They are not Anglo-Indians. I wish to thank my Honourable friend Sir Walter Willson for meeting me on this point, and also to thank the Law Department of the Government of India for the help that they have given me in drafting an amendment which I am told will meet with the general approval of both sides of this House. The amendment, Sir, is as follows.

Mr. President: The Honourable Member need not now put the amendment; it will come up when this motion is carried.

Dr. S. K. Datta: Well, Sir, with this proviso that at a later stage I shall move this amendment, I too will support the motion, but shall add a word of warning, that when legislation is undertaken which affects the rights of particular communities, those communities may have representation on the Select Committee of this House, and that ordinarily no further

legislation be undertaken on behalf of any special community governed by the Indian Succession Act.

Mr. President : The question is :

“ That the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, as passed by the Council of State, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Sir Alexander Muddiman : Sir, I have a small drafting amendment to move in sub-clause (3) of the new clause 33-A. I propose :

“ That for the words ‘ in the same way as if such residue had been ’ the words ‘ and such residue shall be distributed in accordance with the provisions of section 33 as if it were ’ be substituted.”

It is a purely drafting amendment and I need not take up the time of the House in explaining it.

Sir Walter Willson : I accept the amendment.

The amendment was adopted.

Dr. S. K. Datta : Sir, I move :

“ That in clause 3, in sub-section (5) of the proposed new section 33-A for the words ‘ any Indian Christian or of ’ the following be substituted, namely :

(i) any Indian Christian,

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or

(iii) ’.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

Sir Walter Willson : Sir, I move that the Bill, as amended, be passed.

Mr. President : The question is :

“ That the Bill to amend the provision of section 33 of the Indian Succession Act, 1925, as passed by the Council of State and as amended by this Assembly, be passed.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 31st August, 1926.