

26th August 1926

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.

CONTENTS.

VOLUME VIII.—17th August to 2nd September, 1926.

PAGES.

TUESDAY, 17TH AUGUST, 1926—

Inauguration of the Second Session of the Second Council of State and the Fifth Session of the Second Legislative Assembly.	1—8
---	-----

WEDNESDAY, 18TH AUGUST, 1926—

Members Sworn	9
Questions and Answers	9—45
Unstarred Questions and Answers	46—58
Motions for Adjournment ..	59—60
Assent of the Governor General to Bills	60—61
The Indian Bar Council's Bill—Presentation of the Report of the Select Committee.	61
Statements laid on the Table	61—65
The Currency Bill—Introduced	65—66
The Workmen's Compensation (Amendment) Bill—Introduced ..	66
The Usurious Loans (Amendment) Bill—Introduced ..	66
The Code of Civil Procedure (Second Appeals) Bill—Introduced	67
The Indian Factories (Amendment) Bill—Introduced ..	68
The Negotiable Instruments (Interest) Bill—Introduced ..	68
The Provincial Insolvency (Amendment) Bill—Introduced ..	68—69
The Indian Succession (Amendment) Bill—Introduced ..	69—70
Election of a Member to represent the Legislative Assembly on the Council of the Indian Institute of Science, Bangalore.	70—
Resolution <i>re</i> Appointment of Standing Committees to deal with Bills relating to Hindu and Muhammadan Law—Discussion adjourned.	72—74

THURSDAY, 19TH AUGUST, 1926—

Member Sworn	75
Questions and Answers	75—120
Statement of Business	120—122
Resolution <i>re</i> Report of the Taxation Enquiry Committee—Consideration adjourned <i>sine die</i> .	122—149

FRIDAY, 20TH AUGUST, 1926—

Questions and Answers	151—169
Unstarred Questions and Answers	169—172
The Code of Criminal Procedure (Third Amendment) Bill— Introduced.	172—174

MONDAY, 23RD AUGUST, 1926—

Member Sworn	175
Questions and Answers	175—185
Unstarred Questions and Answers	185—204
Statement laid on the Table	204—205
Election of Sir Sivaswamy Aiyer to represent the Legislative Assembly on the Council of the Indian Institute of Science, Bangalore.	205
The Currency Bill—Motion to circulate adopted	205—224
The Indian Factories (Amendment) Bill—Motion to circulate adopted.	224—225
The Usurious Loans (Amendment) Bill—Passed	226
The Workmen's Compensation (Amendment) Bill—Passed	226—227
The Negotiable Instruments (Interest) Bill—Passed	227—228

TUESDAY, 24TH AUGUST, 1926—

Questions and Answers	229—232
Resolution <i>re</i> Retention in its present site of Rameswaram Station on the South Indian Railway—Negatived.	232—246
Resolution <i>re</i> Abandonment of the Andamans as a Penal Settle- ment—Negatived.	246—279
Resolution <i>re</i> Regulation of the performance of Religious Festi- vals, etc.—Debate adjourned.	279—286

WEDNESDAY, 25TH AUGUST, 1926—

Bills passed by the Council of State laid on the Table	287
The Code of Civil Procedure (Second Appeals) Bill—Motion to circulate adopted.	287—294
The Provincial Insolvency (Amendment) Bill—Passed	294—296
The Indian Succession (Amendment) Bill—Passed	296—304
The Code of Criminal Procedure (Third Amendment) Bill— Motion to consider adopted.	304—352

THURSDAY, 26TH AUGUST, 1926—

Statement of Business	353
The Code of Criminal Procedure (Third Amendment) Bill— Passed.	353—372
The Indian Bar Councils Bill—Debate on the motion to pass adjourned.	372—417

FRIDAY, 27TH AUGUST, 1926—

Questions and Answers	419—429
The Indian Bar Councils Bill—Passed	429—444
The Indian Succession (Amendment) Bill—Passed	444—447

TUESDAY, 31ST AUGUST, 1926—

Questions and Answers	449—477
Unstarred Questions and Answers	477—501
Message from the Council of State	501
Death of Mr. A. V. V. Aiyar	502—503
Statements laid on the Table	504—540
The Indian Limitation (Amendment) Bill—Motion to consider the Bill as passed by the Council of State withdrawn.	540—544
The Indian Evidence (Amendment) Bill—Passed	544—545
The Administrator General's (Amendment) Bill—Passed	545—546
The Sind Courts (Supplementary) Bill—Passed	546
The Indian Companies (Amendment) Bill—Passed	546—547
The Cantonments (Amendment) Bill—Passed	547
Demands for Supplementary Grants	547—561

WEDNESDAY, 1ST SEPTEMBER, 1926—

Questions and Answers	563—572
Unstarred Questions and Answers	572—583
Messages from the Council of State	584
Resolution <i>re</i> Regulation of the performance of Religious Festivals, etc.—Withdrawn.	584—632
Resolution <i>re</i> Election of Women to the Legislative Assembly—Adopted.	632—644

THURSDAY, 2ND SEPTEMBER, 1926—

Private notice Question and Answer	645
The Indian Bar Councils Bill—Amendment made by the Council of State agreed to.	645—650
Valedictory Speeches to Mr. President	650—658

LEGISLATIVE ASSEMBLY.

Thursday, 26th August, 1926.

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

STATEMENT OF BUSINESS.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, with your permission I desire to make a statement about the probable course of business during the next week. Monday, the 30th, is a gazetted Hindu holiday and there will be no meeting on that day. On Tuesday, the 31st, motions will be made to take into consideration and, if that motion is passed, to pass the following Bills which have been passed by the Council of State and laid on the table in this House :

1. A Bill further to amend the Indian Evidence Act, 1872, for a certain purpose ;
2. A Bill further to amend the Administrator General's Act, 1913 ;
3. A Bill further to amend the Indian Companies Act, 1913, for a certain purpose ;
4. A Bill to supplement the Sind Courts Act, 1926 ;
5. A Bill further to amend the Cantonments Act, 1924, for certain purposes ; and
6. A Bill further to amend the Indian Limitation Act, 1908, for certain purposes.

It is also proposed on that day to bring forward for the vote of the House certain Supplementary Demands for Grants.

Wednesday, the 1st September, as Honourable Members are aware, has been allotted for non-official Resolutions.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan) : What is the business on the 2nd, Sir ?

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Is there a meeting on the 2nd ?

The Honourable Sir Alexander Muddiman : There is at present no business for the 2nd.

THE CODE OF CRIMINAL PROCEDURE (THIRD AMENDMENT) BILL.

Mr. President : The House will now proceed to consider the Code of Criminal Procedure (Third Amendment) Bill, clause by clause.

The question is :

“ That clause 2 do stand part of the Bill.”

Diwan Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, with your permission, I beg to propose a verbal amendment to clause 2 in order to bring the language into conformity with the intention of the Government in bringing in this clause. The object of the Government is to bring in offences under section 153A, also within the scope of the power under section 99A of the Criminal Procedure Code. But by adopting the language which has been adopted, as I stated yesterday, it might be construed as extending the scope and therefore I propose :

“ That in clause 2 (a) for the words ‘ calculated or likely ’ the words ‘ which promotes or is intended ’ be substituted ”

This is adopting the actual language of section 153A, and therefore it is not open to objection. Sir, I move the motion.

The Honourable Sir Alexander Muddiman : Sir, we have no desire whatever to extend the scope beyond that which my Honourable friend has stated, and I am quite prepared to accept his amendment.

The motion was adopted.

Clause 2, as amended, was added to the Bill.

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

Mr. President : The question is :

“ That clause 1 do stand part of the Bill.”

Diwan Bahadur T. Rangachariar : Sir, with your permission, I beg to move :

“ That section 1 be re-numbered section 1 (1) and to that section be added the following sub-section, namely :

‘ (2) It shall remain in force for two years.’ ”

Sir, I commend this motion for the acceptance of the House for several reasons. In the first place, Honourable Members will remember that section 153A has been on the Statute-book from the year 1898 onwards. But for the unfortunate tendencies of the last few months, no necessity was felt, so far as I can gather, for any extraordinary provision of this sort. Although section 153A has been in existence there have been a few cases which came to Court notably in the Punjab. There have been very few cases indeed under section 153-A. It must be said to the credit of all the communities and classes in this country that they have been getting on amicably so long. But it is only in the last few months that bitterness has been roused and we are also able to say that one of the main causes of that bitterness is the publication of literature coming under section 153A ; and that is why we feel the necessity for enacting this measure. I indulge in the hope, Sir—and I hope Honourable Members of this House on both sides share with me that hope—that this is merely a passing phase. At any rate, it is better that we convey the impression to the public that we think it is a passing phase ; we wish it were a passing phase ; we are making earnest attempts to make it a passing phase ; let us make the public believe it is a passing phase. This will be a psychological way of appealing to the communities concerned. We, the Legislature, have confidence. Let us show by our act that we have confidence in the good sense of the communities concerned and therefore we are passing merely a temporary measure,

because we consider it is a passing phase. Why not use that to have a psychological effect on the minds of the public? Every little thing goes to soothe the feelings. If really a permanent measure were needed, we are here; we are not disappearing; the Legislature will always be there to arm the hands of the Executive whenever they are satisfied that the necessity exists, as we are doing to-day. The Executive Government have been able to satisfy us to-day that this measure is needed, and, notwithstanding the disappointing reply of the Honourable the Home Member yesterday, I feel satisfied that the Legislature will always rise to the occasion. If at all there are people who do not rise to the occasion, we have to look to the other Benches. These Benches always recognised their responsibility, Sir. Only we wish the Government recognised their responsibility to an equal degree and to an equal extent. Sir, I do appeal to the Government. Nothing is lost by acceding to public wishes in this matter. This will be in force for two years. It would have a good effect on the minds of the public and it will be satisfying non-official public opinion. You are not incurring any risk or danger. If really these unfortunate things should continue, then it will be time enough to come to the Legislature and say, "Here, you made it two years; unfortunately, things are going on in the same way. Our attempts have failed to promote concord and therefore the Executive should be further armed". Then it will be wise to consider such a measure. Sir, I do consider, as I stated the other day speaking on Maulvi Muhammad Yakub's motion, that we must make very earnest attempts to remove the root cause of the evil. Now, these things are merely palliative remedies, merely arming the Executive with extraordinary power, and again, being an extraordinary power, that is the reason why we should make it merely a temporary measure.

The Executive do not like, I hope, to be armed with these extraordinary powers. I do not suppose they have got a craving for such extraordinary powers. On the other hand, they should promote conditions in the country which would not require the arming of the Executive with such extraordinary powers. Therefore, if an extraordinary power is deemed necessary, it should be temporary. Having regard to the fact that we have got on without these extraordinary powers for over 25 years, notwithstanding the existence of section 153A, that in itself is a strong argument in my favour that we should not make it a permanent disfiguring feature of the Statute-book, for, after all, all these extraordinary powers are disfiguring features in the Statute-book. That is the view I take and that is the view I ask this House to take. Being a necessary evil, let us not prolong it longer than is necessary to meet the situation. I, therefore, commend this motion for the acceptance of the House and I ask the Government once more seriously to consider this question and not merely to flout it away. Sir, I do not know why the Honourable the Home Member complained yesterday about the reception which this Bill has received at the hands of the House. We have given it a good reception, a considerate reception, which it deserves. We have treated this Bill generously and I hope the Honourable the Home Member will rise to the occasion and respond to non-official opinion in this matter. Sir, I move the amendment.

Khan Bahadur W. M. Hussanally (Sind : Muhammadau Rural) : Sir, it gives me great pain to rise to oppose this amendment. Things have

[Khan Bahadur W. M. Hussanally.]

happened during the last few months which we all know and therefore we conceded yesterday that this little addition to the Indian Penal Code is very necessary. So far as the principle of this Bill is concerned, therefore, we have admitted it. The only question which now remains is whether this power should be given to the Government permanently or only for a short time. I was talking to a Swarajist friend of mine only last evening on my way back home and he told me distinctly that it was good that this Bill had been brought forward and that he would be glad if it were passed. He also said that in his part of the country the mischief that has been wrought by this literature was so enormous that it could not be controlled. As far as I could gather from him, he led me to understand that it was the Mussalmans who were suffering more on this account than the members of any other community. Now, Sir, the Honourable Diwan Bahadur T. Rangachariar said that this unpleasantness between the two communities is of recent growth, only extending over a few months. Unfortunately, I cannot agree with him in that view. The Kohat riots took place some time ago, and the Saharanpur riots, the Shahabad riots and several others took place years ago, so that this unpleasantness has been brewing for several years and, if I think rightly, we Mussalmans attribute these unfortunate occurrences to the movements of Shuddhi and Sangathan which have been in existence for several years. The action of the Arya Samajists has also contributed very materially to the unpleasantness between the Hindus and the Mussalmans, which has culminated in these riots all over the country. One does not know how long this unpleasantness will continue. If this Bill is restricted in its action to two years only, there is every likelihood of the Government coming back again and asking for the extension of the period. But my strongest point is this. When you have given power to Government to search for literature in regard to sedition, where is the harm in giving further power also to search for literature of this kind? If we, Hindus and Mussalmans, make up our differences and live peacefully and amicably in the future, as we all hope to live, there will be no occasion to use this power at all and it will remain a dead letter as is the case with the other power with regard to sedition. But I think that the Government ought to be permanently armed with this power so that if at any time in the future disturbances break out between any two communities, leaving aside the Hindus and Mussalmans, they should have a power to use at once without coming to the Legislature once more. For these reasons I oppose the amendment.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, my Honourable friend Khan Bahadur W. M. Hussanally has quoted an anonymous Swarajist Member in support of his view. I shall quote not an anonymous Swarajist Member but a leading newspaper supported by the entire European community of India, namely, the *Statesman* of the 24th, which in the first leading article describes this unfortunate piece of legislation as panic legislation and panic legislation, it says, is almost invariably bad. There is a leader of two columns which completely and entirely vindicates the protest we made yesterday on behalf of the dumb millions of this country (Laughter) against this panicky legislation. But that stage is now passed. What still remains is to ameliorate the condition of the people by at least placing a pause upon this piece of legislation. Honourable Members on both sides of the House are agreed that the condition of India

at the present moment is abnormal. There is unfortunately communal tension between the two communities and also a great deal of this tension is due to the dissemination of poisonous literature issued from the Press belonging to both communities. But, as we have said, this is only a passing phase of Indian life and, as such, I should have been the first to welcome a special piece of legislation brought *ad hoc* for the purpose of combating the present high tension which it is intended to cope with. The objection that Diwan Bahadur Rangachariar raised—and that objection remains—is that you cannot take advantage of one passing phase of Indian society to strengthen permanently the armoury of the Executive and place on the regular Criminal Procedure Code a power which, we fear, is liable to be abused and might at times be abused to the detriment of the public. One such transient phase gave us the Rowlatt Act. And everybody knows the fortunes of that unfortunate measure. A great deal has been said by Members on both sides of this House of the Kohat trouble, but are the Honourable Members aware that, if there was a trouble, it could have been suppressed by resort to Regulations? I think there is such a thing as Frontier Regulations. I do not know—I speak subject to correction—whether they apply to Kohat or not.

But to place the whole of India in the same position as the outlying districts of the Indian Empire, and to place in the hands of the Executive power which may not always be wisely used is an objection, Sir, which we still feel in our mind remains unsurmounted, and I am glad to find that it is not a view which is shared by the Indian alone, but as I have read one sentence from a long leader in the leading newspaper of Asia, that objection is shared by a very large number of Europeans as well.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Except the officials.

Sir Hari Singh Gour : My friend, Mr. Jinnah, adds “except the officials.” But even if the officials were free to vote I do not know how many of them would not have voted on our side yesterday. To do them justice even officials are fair men. And I still maintain that, if the whip is not applied, and if the Honourable the Home Member leaves it to the free vote of the House to decide this question as to whether this piece of legislation should not come to an end within a period of two years, we should carry this amendment.

Sir, it has been said, and was said by the Honourable the Home Member yesterday, that in introducing this Bill he was trying to supply a leak in the law. Now, Sir, nobody is better aware of the fact than the Honourable the Home Member that when the Press Act of 1910 was repealed in 1922, when this piece of legislation which is now sought to be made was placed on the Statute-book, this very question was considered and the Legislature of the time-being, with the concurrence of the Executive Government, then decided to limit the scope of this section merely to seditious matter, and the reason of it, Sir, was obvious. In 1922 it was observed, and as will be apparent to everybody here to-day, that the Indian Penal Code deals with three essentially cognate offences, sedition, fomenting communal disturbances, and defamation of a person. To use the language of the law, all these three are species of one main offence, defamation. Defamation of the State is sedition; defamation of the class or community is punishable under section 153A; defamation of a person under section 500 of the Indian Penal Code. They are all three

[Sir Hari Singh Gour.]

species of one common offence, namely, defamation. And in 1922, when dealing with this question the Government and ourselves were at one that while it was easy to define what is defamation of the State, it is difficult to bring offenders to justice under that large and vaguely worded section, 153A of the Indian Penal Code, and therefore in 1922, only four years back, after deliberation, the Legislature limited that clause to cases arising under section 124A.

Sir, may I give illustrations to show how section 153A, if too technically constituted, would suppress even the religious preachings of any community. Here is a religious preacher who issues a pamphlet denouncing idolatry and ridiculing the practice of Hindu idolators, which would rightly offend the susceptibilities of orthodox Hindus. I am perfectly certain if section 153A were technically construed, the disseminators of that tract would be laid by the heels under the provisions of that section. And take the contrary case.

An Honourable Member : So much the better.

Sir Hari Singh Gour : Are you not encroaching upon the liberties of the people ? Are you not, while professing religious neutrality, suppressing proselytization by the missionaries, by the followers of Islam, by the Arya Samajists ? I submit that a purely religious tract denouncing the practice of a religion and ridiculing such practice as obnoxious to common sense would conceivably come within the provisions of section 153A, and it is not difficult to see that the police—my friend the Honourable the Home Member objects to my using the term police, but they are the real workers and they are the people who set the law in motion and obtain the sanction of the Local Government—the police may immediately seize hold of such pamphlets and make a search of the house for the purpose of discovering such pamphlets. I wish to ask, Sir, if searches are made in the houses of the Honourable Members on both sides, how many persons will not be brought within the technical comprehension of section 153A of the Indian Penal Code, and that is one of the reasons why I point out that section 153A of the Indian Penal Code ever since the date of its enactment has remained practically a dead letter. There is only one reported case and two unreported cases that have been decided under section 123A of the Indian Penal Code, and that being the main section, the preventive section would greatly aggravate the evil of searches made, as the Honourable Pandit Madan Mohan Malaviya pointed out, upon reasonable suspicion that a person is possessed of seditious literature. I can well understand that the Legislature would be willing to arm the executive with power of search, if followed up by a prosecution, or give the magistrate the power upon a conviction to seize and destroy or otherwise dispose of such objectionable literature, but where there is no conviction and no intention to prosecute, but merely a desire to seize and destroy this literature, there is grave danger of a failure of justice, and it is upon these grounds that we object to the passage of this Bill. I have no doubt that if the Honourable the Home Member were not speaking for the Government but were speaking to us in the lobby, he would agree with us in what we have said, because he is too much of a lawyer not to see the point we are making on behalf of the non-official Members here. But let that pass. I appeal to the Government that

we are here in spite of the disaffection of a large wing of the Members of the House to co-operate with the Government, to assist them as far as we can, and to oppose them when we must. This is one of those unfortunate occasions when we feel that we shall not be conscientiously doing our duty unless we draw the attention of the Government to the dangers that lie underneath this piece of general legislation. The Honourable the Home Member is welcome to introduce a special piece of legislation, and we shall support him and he will serve the same purpose if he were to limit the life of this Bill to a period of two, and I am prepared even to go to three years ; but do not place it permanently on the Statute book. By placing it permanently on the Statute-book you will be confronted with difficulties, and those difficulties you will regret have been of your own creation.

One word more, Sir, and I have done. Yesterday I said that this legislation repeats some of the obnoxious provisions of the Press Act I of 1910. The Honourable the Home Member misquoted and said that I had stated that this piece of legislation reproduces the most obnoxious provisions of the Press Act of 1910. Sir, I have a high opinion of the Honourable the Home Member and so I took home with me Act I of 1910 and burned the midnight oil in studying this Act section by section. I have come back, Sir, this morning convinced that this Act does reproduce some of the most obnoxious provisions of the Press Act of 1910. Look at section 4 of the Press Act I of 1910. I admit that the penalty is not so drastic, but the provision penalising the forfeiture of property goes much further than in the Act of 1910. I refer to section 4 which was repealed by the Act of 1922. However, Sir, that is a matter upon which lawyers always disagree, and I have no doubt the Honourable the Home Member will not accept that correction. But that does not prevent me from once more making an appeal to the Honourable the Home Member to yield to some extent to the united wishes of the Members of this side of the House. I wish, Sir, I could muster the same amount of passion as the Honourable the Home Member brought into play yesterday in charging this House to pass his Bill unanimously. I have no doubt that that passion has considerably subsided in consequence of the opinions which the leading newspapers of this country have pronounced on this Bill, and I hope therefore, Sir, in the cooler moments of this morning the Honourable the Home Member may be able to accede to what I submit is a reasonable and modest wish of this part of the House.

Mr. K. Rama Aiyangar (Madura and Ramnad *cum* Tinnevely : Non-Muhammadian Rural) : Sir, the whole of yesterday and this morning I have been trying carefully to follow the objects of some of my Muhammadan friends in taking the view they have taken. I do not think there is anything that will induce them to believe that the proposed legislation is not legislation to put a check upon the liberties of the people. I have no doubt most of my Muslim friends are of the same opinion as the other Members here that no such restriction should be placed upon the liberties of the people of India. But from what I have observed, I think my Muslim friends are under a misapprehension that this legislation may be used to advance some interests which they think will benefit them. I have been closely following the speech of my

[Mr. K. Rama Aiyangar.]

friend Raja Ghazanfar Ali Khan yesterday and of my friend Mr. Wali Muhammad Hussanally to-day. His (Mr. Wali Muhammad Hussanally's) introduction of the Arya Samajists into this matter gives me room to shrewdly suspect that he thinks that this legislation will prevent the Arya Samajists from reconverting to Hinduism those that are willing to join. On the other hand, he probably thinks it gives him a right to convert other people to his religion, while the Arya Samajists ought not to be allowed to convert to their religion. If that is the view, I must certainly tell my Honourable friend that the Government could never intend to use it for such purposes, and I think the Honourable Sir Alexander Muddiman will be the last to allow this legislation to be used for such a purpose. Similarly, I noted that my friend Raja Ghazanfar Ali Khan yesterday referred to certain communal electorates and mixed electorates, and probably he thought the Government were going to use this legislation for the purpose of perpetuating separate electorates for the benefit of the Muslims. I purposely mention this because they have tried to sling mud at some of the leaders, who will I think in the long run have the reputation of having brought the country to a real sense and having brought about real union in the country, not an apparent union between the two big sections in India.

Mr. President : Order, order. These arguments would have been quite relevant in yesterday's debate. To-day the only point raised by the amendment is whether this measure should be restricted to a period of two years only. That is the only point before the House and any arguments in support of or against that amendment are relevant.

Mr. K. Rama Aiyangar : In a minute, Sir, you will probably find that I am most relevant to the point. If these are the impressions that lead our Muslim friends to put a block on and to use a brake in the advance of the liberties of this country, I think they will be sadly mistaken. Therefore, my point is, Sir, that every one must agree that this should be treated as legislation to serve the immediate needs. That is the main point I press and you, Sir, will follow please that that is the only view which will make us all united in this matter. If my friend Mr. Wali Muhammad Hussanally thinks that by making a permanent addition to the Statute book, he will gain, he will feel later on that he has been sadly disappointed. In fact we can use it, and I submit that the whole of the Indian section here will feel that we can use it only for a short time till probably the reasons for these rebellions have been put an end to.

Khan Bahadur W. M. Hussanally : I have no axe to grind, except self-protection.

Mr. K. Rama Aiyangar : Self-protection ! What is the reason for it and have we had it before ? Self-protection has been so badly wanting in India till two or three years back. Have we had all these disturbances of actually murdering each other in the public streets till only a few months back ? And can we not realise that there is something like that, some hope or some false idea that procedure like this will bring about a state of atmosphere where conversion could be avoided or political rights could be gained ?

My friends have freely used language which I am sorry they used in this discussion. If they used it under any false impression let them

not forget that we are all one. We are bound to be one. The country cannot be divided like that. It must become united and probably the Government in their attitude are helping us towards actually uniting into a solid mass. I submit that the Honourable the Home Member should feel that we should not put this on the Statute-book for more than the least time necessary, otherwise he puts back the clock of India's progress and I do not think the Government mean to do that. I submit, Sir, that he should see that it is necessary to accept this motion.

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : Sir, I had no intention to take part in this debate to-day by making a speech, but I want to submit to the Chair that if the introduction of the Shuddhi, the Sangathan and the Arya Samaj into this debate by an Honourable Member is relevant, then surely a reply to that statement is also relevant. Therefore while I refuse to be drawn or provoked into any retaliation of the insinuations made yesterday and to-day against me personally and against the Arya Samaj and the Hindu community generally, I want to repudiate those insinuations with as much emphasis as I can command. My Honourable friend is entirely mistaken in attributing these troubles to the Shuddhi, the Sangathan and the Arya Samaj, but if he is right in doing so then he must put the blame on British Rule because it is the existence of British Rule that has made the activities of proselytising agencies possible and to such a wide extent. But he should remember that the Arya Samaj is not the only proselytising agency. Other agencies more powerful and influential existed before the Arya Samaj was born. If this section could be used for the purpose preventing all proselytising activities and putting a stop to them, I would at once move for its being permanently on the Statute-book, but I am afraid the Government itself would repudiate any such intention and common sense also tells me that this section cannot be used for such purposes. Consequently, all these insinuations are altogether beside the point in this debate. I do not want to make any appeal to the Home Member because he knows his business and he has not said anything of this kind ; he wants this measure permanently for his purposes ; all Governments want as much power as they can possibly get from the Legislatures and the Government of India is no exception. Governments are in the habit of ascribing all kinds of troubles and difficulties to the non-existence of sufficient powers which would empower them to prevent such troubles arising ; but when they do get those powers, those powers are not always used for the purposes for which they were demanded. (*Honourable Members on the Government Benches* "No"). My Honourable friends say "No". I think the whole political history of the world supports the statement I have made. I do not ascribe any special evil to the Government of India, but that is in human nature and that is in the nature of all Governments. I do not, therefore, make any appeal to the Home Member but I do want to make an appeal to the Honourable the Mussalman Members not to wash their dirty linen on the floor of this House. There is enough room outside this House to do that and we should not convert this House into an agency for ventilating our respective communal grievances against each other. That will aggravate the trouble and not minimise it. For myself I want to make this statement once for all that I shall take no notice of any insinuation made against me. I refuse

[Lala Lajpat Rai.]

to be drawn or provoked into a controversy on these subjects on the floor of this House. I just wanted to make that statement, with your permission, Sir ; I have made it and I thank you for allowing me to do so.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I desire in the first place to say that I very much regret it if the House generally takes the view of Diwan Bahadur Rangachariar that I do not recognise that I have had much support in the House. I do recognise it and recognise it gratefully, and I should like to say that I am greatly indebted to the House for the tone in which the House has discussed this Bill. The last thing I expect is the entire approval of the House in a matter of this kind, but the considerable measure of support I have received I recognise gratefully.

As regards certain remarks which have fallen from Honourable Members, who have not been debating, if I may say so, the actual amendment before the House, I think it is unnecessary for me to say anything. I do beg that no Member of this House on this side or that side, belonging to this party or that party, will do anything in this House which is calculated to foment the trouble which we all deplore. But I may be permitted to make one remark. If this country is to obtain anything in the shape of rest from these troubles it will not be by the asserting of rights but by recognising the rights of others.

Sir, the particular amendment before the House desires to make this Bill a temporary Bill for two years. Now I dealt with that point in my speech yesterday and I have since the debate given it my earnest consideration because I knew an amendment of this kind was almost certain to be moved. Sir, I am afraid, I cannot accept it. This Bill was brought forward to stop a permanent loophole in the law. It was not brought forward as a panic measure or a measure of emergency. Nor have I ever put it forward as in any way a complete solution of the difficulties we have to meet. I agree, and agree entirely, with the view that no legislation will solve the problem that is now in front of India. But Government, anxious as it is and as it always must be, to reconcile parties, has also other duties. It has to see that the law is observed and it has to make its law effective. That is only one side of the duties of Government but it is a very important side.

Now, Sir, it has been said that section 153A has long been in force and that these difficulties have not been experienced. There are two reasons. The first reason is that for a considerable period it was not necessary to use the section, although I cannot agree with my Honourable friend that that period is as near the present time as he thinks. That is not so. The second point is that until 1922 Government had the power of confiscation. That power was taken away by the amendment of 1922. Until then we had the power and, therefore, it is only over the period from 1922 to the present day that the difficulty has arisen.

Diwan Bahadur T. Rangachariar : It was taken away with your consent.

The Honourable Sir Alexander Muddiman : On that I was just about to make a few remarks. I have gone through the papers

carefully and I have been unable to find anything to show that the Government ever intended this to be one of the powers which should be discontinued. Why effect was not given to that in the debate or why the Government point of view was not supported, I am unable to say at this distance of time. But that it was the deliberate intention of Government to abandon the power I cannot admit on such material as is available to me now. I do not put it higher than that; but that it is a power which should be retained I think is clear. I can understand the attitude of those who say the Government should not have this power at all. They say, "It is a wrong power; we will not give it!" On the other hand, if you grant the power for two years it means you recognise that that power is necessary as a permanent part of the law because it is a distinct loophole in the law,—you cannot confiscate, as I pointed out in my speech the other day; you are in fact not implementing section 153A and that I cannot believe was ever the intention of Government. It has been said that we ought not to retain a section of this kind on the Statute-book a day longer than is necessary. Sir, I cannot see that there is anything that justifies one in that conclusion. The mere fact that a power of this kind is on the Statute-book is in itself a defence. It prevents the offence because it is known that there are powers to deal with it. This is not, as I said before, merely brought forward to deal with the special circumstances which have arisen recently. It is the cumulative effect of the circumstances which have been arising since 1922 to the present day that we have to deal with. No one is more hopeful than I am that with time and the earnest efforts of all parties, this communal tension may be subdued. It may; I hope it will. I hope it will be subdued very soon. If it is subdued what harm will there be in this legislation being on the Statute-book? None, Sir. It will remain as a *dead letter*. However reluctantly, especially as this amendment is well supported in this House, I am forced to reject it.

Mr. President : The question is :

"That section 1 be re-numbered section 1 (1) and to that section be added the following sub-section, namely :

'(2) It shall remain in force for two years.'"

The Assembly divided :

AYES—19.

Aiyangar, Mr. K. Rama.

Aiyer, Sir P. S. Sivaswamy.

Badi-uz-Zaman, Maulvi.

Chanda, Mr. Kamini Kumar.

Das, Mr. B.

Deshmukh, Mr. R. M.

Ghose, Mr. S. C.

Gour, Sir Hari Singh.

Joshi, Mr. N. M.

Kasturbhai Lalbhai, Mr.

Lajpat Rai, Lala.

Lohokare, Dr. K. G.

Mutalik, Sardar V. N.

Neogy, Mr. K. C.

Purshotamdas Thakurdas, Sir.

Rangachariar, Diwan Bahadur T.

Talwade, Mr. S. S.

Venkatapatiraju, Mr. B.

Vishindas, Mr. Harchandrai.

NOES—48.

Abdul Qaiyum, Nawab Sir Sahibzada.
 Ahmed, Mr. K.
 Ajab Khan, Captain.
 Akram Hussain, Prince A. M. M.
 Allison, Mr. F. W.
 Bhore, Mr. J. W.
 Blackett, The Honourable Sir Basil.
 Bray, Sir Denys.
 Burdon, Mr. E.
 Clow, Mr. A. G.
 Coatman, Mr. J.
 Crawford, Colonel J. D.
 Dalal, Sardar B. A.
 Donovan, Mr. J. T.
 Dyer, Mr. J. F.
 Gidney, Lieut.-Colonel H. A. J.
 Graham, Mr. L.
 Haig, Mr. H. G.
 Hezlett, Mr. J.
 Hira Singh Brar, Sardar Bahadur
 Captain.
 Hudson, Mr. W. F.
 Hussanally, Khan Bahadur W. M.
 Innes, The Honourable Sir Charles.
 Jeelani, Haji S. A. K.

Jones, Mr. T. G.
 Lindsay, Sir Darcy.
 Macphail, The Rev. Dr. E. M.
 Mahmood Schammad Sahib Bahadur, Mr.
 Makan, Khan Sahib M. E.
 Mitra, The Honourable Sir Bhupendra
 Nath.
 Muddiman, The Honourable Sir Alexander.
 Muhammad Ismail, Khan Bahadur Saiyid.
 Norton, Mr. E. L.
 Owens, Lieut.-Col. F. C.
 Paddison, Sir George.
 Parsons, Mr. A. A. L.
 Rahman, Khan Bahadur A.
 Rau, Mr. B. R.
 Reddi, Mr. K. Venkataramana.
 Roffey, Mr. E. S.
 Roy, Sir Ganen.
 Sastri, Diwan Bahadur C. V. V.
 Sheephanks, Mr. J.
 Singh, Rai Bahadur S. N.
 Sykes, Mr. E. F.
 Townsend, Mr. C. A. H.
 Willson, Sir Walter.
 Yakub, Maulvi Muhammad.

The motion was negatived.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

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

Diwan Bahadur T. Rangachariar : Sir, we have done our best on this side of the House to see if we cannot improve the measure brought forward by Government. While confessing to a feeling of utter disappointment at the attitude taken by the Government in the matter of the amendment which has just been disposed of, I give my support to this measure and in giving that support I do hope and trust that the Government of India will keep a close watch on the way in which this power is exercised by Local Governments. We have had abundant instances in which Local Governments have misbehaved and if, as I stated yesterday, there is any mistrust in the executive authorities it is because of the way in which this section and others have been abused and misused. There have been observations made by some Members on the floor of this House which rather discourage some of us. I hope the Government will not lend a willing ear to such representations if really such representations are made to apply these sections for any purposes other than those genuinely coming under this section. That is the fear which apparently has been generated by some remarks made here and this word of caution I am bound to give, because otherwise, when we are bent upon putting an end to discord, this may be the very instrument by which the discord may be promoted and accentuated. Sir, I support the measure with these few words.

Khan Bahadur Saiyid Muhammad Ismail (Bihar and Orissa : Nominated Non-Official) : Sir, with your permission,
 12 NOON.
 I should like to make my position perfectly clear while supporting this Bill, and I crave the indulgence of Government in

making certain remarks on this motion, which I consider necessary as the Bill is one which required more detailed and careful consideration before its final passing, but unfortunately that could not be done or was possible owing to pressure of time and the nature of its urgency. I cannot deny the fact that the present deplorable and depressing circumstances in the country demand such a measure. But it would have been better if its details had been more carefully examined. However, in view of the emergency nature of this piece of legislation, I would most cordially and unhesitatingly support its passing in the hope that it will put an end to the root cause of mischief which is causing trouble in the country and which cannot be allowed to go unchecked any further. The support which I give to this Bill is in my individual capacity as a nominated Member of this Assembly, but I have been requested by our Patna Association, of which I have the honour to be the President, which is a Mussalman organization, to express on their behalf their sense of disapproval of the manner in which this Bill has been rushed through in this Assembly in this short Session. While I support this Bill in my individual capacity, I should like to make it perfectly clear that the remarks which have been made by some of the Mussalman Members of this House dragging in the fear of communal representation, which were quite out of place, are not shared by the majority of the Mussalmans of India. I cannot let this opportunity pass without deprecating as strongly as I possibly can the remarks that were made by one Hindu Member of this House who should remain nameless. He had unnecessarily dragged in the question of communal representation, and that has naturally irritated the feelings of some of the members of the Mussalman community. While, therefore, I give my cordial support to this measure, I must express my strong misgivings, because I know from practical experience as a layman that measures of this character are generally applied not by the judicial officers, but on the report of the subordinate executive. While, therefore, I do give my wholehearted support to this measure, as I have always been giving to Government, I can claim to make a request to them to see particularly that this power is not abused by the subordinate executive. With this observation I support the Bill.

Mr. K. C. Roy (Bengal : Nominated Non-Official) : Sir, I rise to support the motion moved by my Honourable friend Sir Alexander Muddiman. I do so with a deep sense of regret, because he has not been able to meet us half-way. Sir, I look upon the permanent enactment of this measure as a stigma on the law-abiding character of the Indian people and as a black mark against our political progress. Nevertheless I hope that the Press will carry out loyally the intentions of the law. We are willing to give the fullest co-operation to Government, but I expect on his part that the Honourable Sir Alexander Muddiman will fulfil his own obligations. I trust he will be good enough to issue a circular letter to Local Governments setting out his own proposition in respect of the daily Press. That will fully meet us.

Sir, I should like to say a word about what the Honourable Sir Alexander Muddiman claimed for the district officers and Provincial Governments. All that he said has my hearty support and entire sympathy. I claim also that this House will not withhold the need of praise which is due to the Government of India. I have been in closest

[Mr. K. C. Roy.]

touch with the Government of India since the 2nd of April this year, the day of the beginning of the Calcutta riots, and I have never known a more competent body of officials working zealously for the promotion of good-will among the people than the Members of the Government of India, and our thanks are due to them. But at no period of my acquaintance with the Honourable Sir Alexander Muddiman have I missed him so much as during the last three months. If he had been here, perhaps the story of the riots would have been very different.

I now turn to my friend Mr. B. Das who charged the Government with using discrimination against one section of the Press in favour of another. Sir, I happen to be a member of a Committee which deals with press matters in the Government of India, and I can assure him that there is no such discrimination. In fact, on many occasions I had myself suggested discrimination, but it was ruthlessly turned down by the President of that Committee, I mean the Honourable Mr. Crerar. So my friend Mr. Das can be sure that, so far as the Government of India are concerned, there is no such discrimination exercised.

I also gathered that he made an implied insinuation against the British editors in this country. I can assure him that I know every one of the editors of the British Press.....

Mr. B. Das (Orissa Division : Non-Muhammedan) : I know them too.

Mr. K. C. Roy : I am glad that he knows them. But I can assure him that there is no body of men who are more anxious, according to their own light, to promote the cause of the country of their adoption than the editors of the British Press in this country. Sir, I support the motion.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : Sir, I did not intervene in this debate till now, but I feel that on the third reading there is a very important lesson which the country has to draw from the proceedings of this Assembly at this Session. Sir, in 1924 when the first Session of this Assembly started in Delhi, my Swarajist friends who were in large numbers felt that they could practically control the proceedings of the Assembly, and they went to extremes in some cases as would appear even to them now, and took certain steps which some of us in this House did not approve of. The throwing out of the Budget and the other "tactics"—as they were called—which they employed were opposed by Members who felt that they ought to stand by Government when extreme measures, for which neither the country nor the Assembly were ready, were used by my Swarajist friends. We are now, Sir, at the end of the life of this Assembly. Like my Honourable friend the Home Member, or unlike him, I happened to be away from India for six months. I am one of those who was prevented from being present at the Delhi Session. A good deal of water has flown underneath the bridge during these six months. But the one outstanding lesson which strikes me, as a humble Member of this House, is, that the weaker the Swaraj Party got, weakening the popular side in this House, the stronger and the firmer has been the hand of the Government in whatever measure they bring forward before this House. The Honourable the Home Member, Sir, has admitted that the various appeals made to the Government Benches in

this debate have come from quarters whose sincerity, loyalty and level-headedness are above suspicion. Now, Sir, what has he done? He has stood fast. The reason that he gave for rejecting the last amendment was the Bill as drafted by Government can do no harm. As a layman, I was surprised to find such a ground being put forward by a lawyer of the eminence of Sir Alexander Muddiman. Sir, there can be many laws put on the Statute-book which may do no harm, but do the Government put them on the Statute-book for that reason? But, Sir, it is the weakness of the non-official element in this House that has helped the Government to put this measure through without paying heed to suggestions from this side. What have the Government done to show the slightest consideration not to demands, but to the appeals from various Members on this side which were couched in words which very few could have turned down. After all, what did they want, Sir? My Honourable friends Diwan Bahadur Rangachariar and Sir Hari Singh Gour and others who spoke on various amendments including my friend Mr. Jinnah said that, if Government thought this measure is necessary, they did not propose to question it. By all means put it on the Statute-book under the special circumstances which Government consider have necessitated this measure, but they hoped, and we all hope, that the special circumstances which necessitate this measure will disappear shortly. But if at the end of say, two years, Government find that this measure needed to be renewed, has any reason been advanced to justify the apprehension that the Assembly will not give it its best consideration? Well, the Honourable the Home Member welcomed all suggestions made, patted Honourable Members on their backs, gave them very good certificates for being level-headed and sincere; but he stood fast, and added that Government did not propose to budge an inch from the position they had taken up. To my Honourable friends the Muslims, I would only point this out. They have their reasons, Sir, for pressing that this measure should be put on the Statute-book. I may not disagree with them. If I understood my Honourable friends, Pandit Madan Mohan Malaviya and Lala Lajpat Rai, even they did not propose to reject this measure.

The Honourable Sir Alexander Muddiman: I must really appeal to the Honourable Member, through you, Sir, not to make suggestions about the other communities. I do not mind what he says about me for I have a broad back, but I do beg of him not to stir up feelings of that sort.

Sir Purahotandas Thakurdas: I can assure the Honourable Member that I can very well take care of that aspect of the matter, and, although I always welcome any suggestion from him, I can assure him that I should not have fallen into the trap from which he proposes to guard me. Well, Sir, what did those two Hindu friends of mine do? Even they accepted the principle of the Bill: but said: "Let us take it to the Select Committee." If in the Select Committee, Pandit Madan Mohan Malaviya or Lala Lajpat Rai had taken up the attitude that the Bill was not necessary, it may have then been for my Muslim friends here to say that they disagreed with any non-official section of the House. I do not wish, Sir,—in fact those in this House who know me will perhaps admit that I would be the last person to strike any discordant note by dwelling on this question of communal differences. If there is anybody in this House whom these communal differences and outbursts make hang their heads down, I, Sir, happen to be one of them. And I have not said a word during the last

[Sir Purshotamdas Thakurdas.]

three years on that question because I am convinced that it is not by legislation, or by discussion on the floor of this House that these differences are going to be settled. The only lesson that I think this debate has is this, that the Government will not give any consideration to the popular side if they find that the popular side are weak in numbers. I cannot help making that statement on the floor of this House and I am very sorry, Sir, that I have to make it. But the elections are coming on shortly. The Home Member and others who smile do not realise that I am not to seek re-election from any electorate where communal differences play any part at all. The smile, therefore, is premature. I am speaking, Sir, in all gravity and in all seriousness. I do not want Honourable Members to make light of it—if they will please bear with me for a moment. The elections are on, Sir,—are coming on very soon. The country has a sure lesson to take from the debate of to-day. Send in either Swarajists or Responsive Co-operators, send in a Moderate or anybody you like, but for Heaven's sake, let the country send in people that will take a national outlook, people with a sense of self-respect, people who will sink their differences, or settle them between themselves. Let us not be at the mercy of Government. That, Sir, is the lesson of the debate and I feel that it would not be fair to myself or to those whom I represent if I did not mark out this lesson which has to be learned. The Bill may go through the course which the Home Member has chalked out for it for he has got the numbers behind him.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I would not have spoken twice on this Bill had it not been for the remarks that have just fallen from the lips of my friend the Honourable Sir Purshotamdas Thakurdas. Sir, I beg to assure our non-Muslim friends in this House that we the Muslims, those of us who have voted in favour of this amendment, have not the slightest idea of any communal question involved in this amendment of the law. In fact, Sir, it was as painful for us as it was for my Honourable friend, Sir Purshotamdas Thakurdas or my Honourable friend, Sir Hari Singh Gour to see an enactment like this. None of us, Sir, likes that the liberties of the public or the liberties of the Press should be curtailed an inch. We shall not in any way be a party to any unnecessary curtailment of the liberties of the people of this country. And the gentlemen who have been in this House, Sir, will have followed the course which we, the Mussalman Members of this House, have always adopted during the last three years. Sir, my Honourable friend, Sir Purshotamdas and others who think with him, must have seen that on all questions dealing with the liberty of the country and the demands for Swaraj, most of the Mussalmans, I mean the elected Mussalmans, have stood shoulder to shoulder, not only with the Independents but also with the Swarajists. (Sir Purshotamdas Thakurdas : "That is right: quite welcome.") (An Honourable Member : "Question?") To those gentlemen who say "Question", I say let them take out the proceedings of the House. Perhaps during the last few months their memories have failed them. The events of the last six months have perhaps reacted upon their memories. But if they will consult the proceedings of this House, they will find that on the three occasions when the Demands Resolution was put in this House, with the exception of one or two Mussalmans, all the elected Mussalman Members of this House not only silently voted in support of the Demands Resolution but they spoke and

spoke strongly in favour of those Demands. And, now that we are voting for the amendment of the Criminal Procedure Code proposed by the Honourable the Home Member, it is not with any communal motive of with any motive to go into the lap of the Government or to seek any favour from them. It is simply because in the interests of the peace of the country, in the interests of the Mussalmans and the Hindus both, we consider that such a measure is necessary and extremely necessary at the present moment. I need not dilate on this question any more because for the last two days I have been speaking and I have given out my mind on what I consider to be the present situation; but I simply want to show that we have not supported this Resolution with any communal feeling or with any idea to have any support or any partiality from the Government, but because we thought, and honestly and sincerely thought, that such a measure was necessary in the interests of the freedom of the country, in the interests of the Swaraj for which we are all so anxious, because we all know that, unless there is peace in the country, we cannot have any step forward on the road to Swaraj. And it is therefore necessary for all those who sincerely want Swaraj that they should support the Government in various measures for the protection and preservation of peace and order in the country. With these few words, Sir, I again support the motion that the Bill be passed.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan): I move, Sir, that the question be now put.

Sir Darcy Lindsay (Bengal : European): Sir, in according our full support to the Bill about to be passed and which we hope will go a very long way to bring peace in the country between the two great communities, I would like to very briefly comment on what fell from my Honourable friend Sir Purshotamdas's lips. I am perfectly aware that my Honourable friend Sir Alexander Muddiman is quite able to take care of himself but I would like to say that we on this side of the House feel that he went too far. We do not agree that the Honourable the Home Member has taken upon himself to force this measure through and refuse all requests for the fixing of a period because he was well aware of his strength in votes. I may tell the House that after conversation with one or two Members of the opposition I put it to the Honourable the Home Member as to whether it was at all possible for him to meet the wishes for limitation of the period. The explanation that he gave to me against that quite satisfied me that he was adopting the right course in refusing the same.

Another point I would like briefly to mention is the statement made by my Honourable friend Sir Hari Singh Gour. I do not know whether he has put himself up as the spokesman of the European population of India when he states that the Europeans are in unanimous agreement with the views put forward by the journal that he had in his hand. I think the point was that this was a panicky measure. Now, Sir, the whole House on every side are, I think, agreed that this is not a panicky measure. We are all agreed that the measure is necessary. It is merely a question of whether it shall be put on the Statute-book for all time or for a brief period.

Sir Hari Singh Gour: No, that is not the question.

Sir Darcy Lindsay: I wish, Sir, on behalf of my group to absolutely refute the idea that we are in any way in agreement with the views put forward by the journal from which he quoted.

Mr. B. Das: Sir, I rise to utter a word of caution to the Government. The Government have absolute power under this measure which

[Mr. B. Das.]

they are going to place shortly on the Statute-book and I hope they will use it cautiously. Before proceeding further I want to correct one wrong impression on the other side of the House to which my friend Mr. K. C. Roy just now referred and to which the Honourable the Home Member also referred last evening that I seemed to say that the Government are responsible for the dissensions amongst the different communities in India and that they practise discriminating policies. Sir, that is not my opinion. But I say that the Government have not played their part properly. The Government have gone on maintaining law and order but they have not seen to the peace, tranquillity and prosperity of the people. It is the non-maintenance of these things that is responsible for communal disturbances and divisions in the country. For my friend Mr. Roy, whose place in the Press world is very high, I have the highest respect. I bow to his opinion and I am glad to note from such an eminent publicist of India that the Anglo-Indian Press according to their own light are serving India. Whether they are serving the *Morning Post* school of thought or the Yellow Press journalism I do not know, but I know this—I love my Motherland dearly—that the Anglo-Indian Press do not love India. They are alienating us from one another. They are always insinuating things against us and they even take our own Government away from us. I charge the Anglo-Indian Press with unanimous opposition against Indian causes. But I am glad that the *Statesman* has had the courage to say something against this measure. My friend Sir Hari Singh Gour has quoted a few passages. I will just quote a passage for the edification of the Honourable the Home Member and the Government :

“ Were it possible to believe that communal trouble could be ended by a measure of this kind it would have our whole-hearted support, but the operation of the new law may well prove an additional incitement. Sir Alexander Muddiman raises a question that goes back further in history than the time of Milton, but which Milton settled for reasoning men in his *Areopagitica* when he uttered his memorable protest against the licensing or prohibiting of books.

* * * In India bad law and bad journalism have for too long gone side by side. Who began it is no longer a matter of importance, but irresponsibility in journalism has evoked oppressive legislation and that in its turn has led to a greater irresponsibility.”

I hope my Honourable friend the Home Member will bear this in mind. He will not be always the Home Member of the Government of India. We know that he is a good-hearted gentleman and he likes to interpret the law in its best sense, but the Executive, their police officers, their district officers, their sub-inspectors and the underlings of the Police Department, do not interpret the law in the same sense that my friend the Honourable the Home Member in his best sense of equity and justice does. There is always the chance of misinterpretation and abuse of power. We know that it has always been abused. I would have been very happy if the Honourable the Home Member had seen his way to refer this Bill to a Select Committee. When we asked him to refer this Bill to a Select Committee we accepted the principle of the Bill. I could not understand why the Home Member showed his *mailed fist* unless he was drunk with the absolute power and the absolute number of heads on that side. I do not want to take up the time of the House but I hope the Honourable the Home Member, as long as he is our Home Member, will see that the Anglo-Indian Press does not abuse their privileged position. They are consins to you—you who occupy the position of Government in this country, and from that privileged position they abuse and insult the people of India

in the way that they are doing. I hope, Sir, that the Honourable the Home Member will apply this Statute that you are going to place on the Statute-book to the Anglo-Indian publicists in the same way that you will do to the Indian publicists.

Sir Hari Singh Gour : Sir, the battle has been won and lost, and one lesson that emerges from this two days' struggle has been the sense of our abject impotence in the absence of friends who have deserted us at this most critical period of this Assembly's life. If they were absent from the scenes of our debate we would not have regretted it, but present as they are even within the purlieus of this House and watching the few Members of the opposition keep the pass, gesting and laughing at our futile and vain attempts to thwart the efforts that are being made to curtail and curb our liberties....

Maulvi Muhammad Yakub : They are drawing their allowances all right.

Sir Hari Singh Gour : I feel, Sir, that so far as we are concerned, we have done our duty. We have played our part, and if we have lost, it has not been because we have failed to do our duty. Sir, I never expected that this Bill, with the attenuated opposition confronting the well-disciplined cohort of Government would take any other course than the course it has taken. But I cannot help wondering what would have been the position if those empty Benches had been adorned by their rightful occupants, and I imagine I could almost observe the Honourable the Home Member lobbying and asking, "Do you want to circulate? Yes, by all means. Do you want a Select Committee? Yes, certainly". That would have been the position, Sir.

The Honourable Sir Alexander Muddiman : I rise to inform the Honourable Member that I should have adopted exactly the course that I have adopted to-day, and the House would have had thrown on them the sole responsibility.

Sir Hari Singh Gour : Well, Sir, if he had done that, we would have given him the answer in the lobby. But we are powerless, and our voice is the voice of a powerless opposition; and the only thing that we can ask the Home Member is that, while the Bill will in a few moments become law so far as this House is concerned, he will use it leniently and see that this Bill when passed into an Act of the Legislature is not used for the purpose of curtailing the power of the Press and making raids upon printing houses and presses without the amplest justification and that it is limited only to cases where it is the intention of the Government to follow up seizure by a prosecution under section 153-A of the Indian Penal Code. If the Bill is limited to that purpose, we shall at any rate feel, Sir, that our work and our labour on behalf of the people has not been in vain.

I now wish to say a few words in reply to what has fallen from my friend, the Honourable Sir Darcy Lindsay. Referring to me, he said that I quoted a leading newspaper as voicing the sentiments of the European community in India....

Sir Darcy Lindsay : I said "the leader from a journal".

Sir Hari Singh Gour : That I quoted a leader from a daily paper voicing the sentiments of the community in general.

Sir Darcy Lindsay : No, no.

Colonel J. D. Crawford : No, no.

Sir Hari Singh Gour : My Honourable friends ejaculate, "No, no". I am sorry for it. I would ask Honourable Members to read the leader once more and I have no doubt that they would change their opinion. It is an outspoken, frank and I submit well-reasoned article condemning the whole piece of this legislation and describing it rightly as a panicky piece of legislation. Whether, Sir, it is panickly or otherwise, I once more beg the Home Member with regard to the legislation which is now before us and which will in a few minutes be enacted into law so far as this Assembly is concerned, to see that its provisions are not abused.

Several Honourable Members : I move that the question be now put.

Mr. President : The question is :

"That the question be now put."

The motion was adopted.

The Honourable Sir Alexander Muddiman : Sir I do not propose to detain the House at this last stage of the Bill for more than a minute or two. I will merely observe that I have suffered for some time from the tyranny of a majority. I begin to think, Sir, the tyranny of a minority may be worse. It I venture to differ from a minority, I am told that I am hard, I am unsympathetic, and that I turn down all non-official suggestions. Sir, the position is a ludicrous one. Am I to have no opinion? Are the Government of India entitled to have no opinion? I always, Sir, have endeavoured to meet any wishes of the House which were compatible with the discharge of my duties. It is hard that, because for the moment I happen to have a majority vote behind me and although there are many non-officials who are convinced by my reasoning and vote with me, I should be charged with the brutal neglect of non-official opinion. I repudiate the suggestion, Sir. The only other observation I have to make is that I do trust that all caution and all care will be used in working this Bill as any other measure. You cannot however legislate to make legislation fool-proof any more than you can make judges incapable of error or financiers incapable of mistakes. It is not possible. One last word, Sir, I should have been glad if my Honourable friend Mr. B. Das had withdrawn his charges in express terms. I understood him to make some kind of explanation but the matter is one that should not be left in doubt.

Mr. President : The question is :

"That the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, be passed."

The motion was adopted.

THE INDIAN BAR COUNCILS BILL.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I beg to move 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 taken into consideration. As the House is aware, in November 1923 a Bar Committee was constituted by the Government of India in the Home Department. The terms of reference were fairly wide, and

the Committee was presided over by Sir Edward Chamier, who was the Legal Adviser and Solicitor to the Secretary of State and a late Chief Justice of the Patna High Court. On that Committee were the present Chief Justice of the Madras High Court, my Honourable friend, our present Law Member, Mr. Duval, who was at the time Legal Remembrancer to the Government of Bengal, Colonel Sir Henry Stanyon, who was a Member of this House known to you all, Rao Bahadur T. Rangachariar, who is also known to you very well, Mr. Patkar, and Mr. Banerji, who was a Government Advocate at the time and is now a Judge of the Allahabad High Court. That Committee prepared a report which was submitted to the Government of India on the 21st January 1924. The Government of India acknowledged the services of the Committee in March 1924 and directed the publication of their Report. The Report contained a great many recommendations some of which required legislation and some of which did not. As is usual in dealing with a report of this kind, it was circulated to Local Governments and other bodies to whom this kind of report is generally circulated. Their replies took a very long time in coming in. They were received in the course of the year following, and finally, after considerable delay for which I was frequently attacked, the Bill was published in the Gazette on the 2nd January 1926 and was actually introduced in this House on the 21st January. On the 17th March 1926, I moved that the Bill be referred to a Select Committee. It was a very large Select Committee and the House accepted my motion. The Bill was accordingly circulated. I explained at the time, it was impossible for me to deal in Select Committee with a Bill of this magnitude during the course of the legislative Session. The actual meetings of the Committee therefore were held just before the present Session. Owing to causes which I need not go into, the attendance at the Committee was not as large as it ought to have been, but still a considerable number of members attended. The Report is signed by 10 members and has been laid on the table. A certain number of changes have been made in the Bill. I regret to say that the Report is not unanimous. Two minutes of dissent are recorded by members who only attended the Select Committee on the day the Report was passed. We regret greatly that we were deprived of their assistance during the discussion. However, they have furnished us with their views without attending the discussion on the Bill.

The Select Committee's Report explains the more important changes in the Bill. But I think I ought to call the attention of the House more particularly to the provision which has been inserted in clause 4 (b) of the Bill, making it clear that Judges of the High Court may be members of the Bar Council. The change in sub-clause (3) of that clause is less important. It carries out what I think was the intention of the Bar Committee, that special representation was to be provided for barristers. There is an addition in the proviso to clause 4 which constitutes the Advocates-General of Bengal, Madras and Bombay as *ex-officio* Chairmen of the Bar Councils for the High Courts concerned. In clause 6 a change has been made which I think will be accepted generally in the rule-making power. The provision is that the first rules shall be made by the High Court, thereafter changes can be made, with the previous sanction of the High Court, in the way of amendment or addition by the Bar Councils themselves. It has been provided in clause 8 in regard to the enrolment of advocates, that the actual roll should be kept in the High Court. The

[Sir Alexander Muddiman.]

keeping of the roll is a ministerial business and should properly be discharged by the Court which admits the advocates. Provision has been made for copies of the roll to be sent, as must necessarily be the case, to the Bar Council, who are required to amend their roll and keep it up to date so as to correspond with the roll kept by the High Court. An important change has been made in this same clause, clause 8, to which I ought to draw the attention of the House. As has been pointed out in one of the minutes of dissent, I think by Sir Hari Singh Gour, the Bill as referred to the Select Committee did not contain sub-clauses (3) to (7) of clause 8. Sub-clause (3) provides that the entries in the roll shall be made in the order of seniority and lays down a rule by which the seniority in each case is to be determined. Sub-clause (4) says that pre-audience is to be determined by seniority save where the High Court may make special orders, and it contains a proviso that the Advocate-General shall have pre-audience over all other advocates and King's Counsel shall have pre-audience over all advocates except the Advocate-General. Now, those are important sub-clauses and they were not in the original Bill referred to the Select Committee. The other sub-clauses (5), (6) and (7) were not in the Bill but they are of minor importance and I need not refer to them. They are merely carrying out the change, as I stated before, that the roll should be kept by the High Court and not by the Bar Council. Clause 9 contains a proviso which lays down that rules made thereunder shall not limit or affect the powers of the High Court to refuse admission to any person at its discretion. That is the power the High Courts have under their Charter and it is saved to them by this proviso. A further addition has been made to this clause in sub-clause (4) which makes it clear that nothing in this section or in any other provision of the Bill is to affect the powers of the High Courts of Judicature at Fort William in Bengal and at Bombay to prescribe the qualifications for practice in the original jurisdiction of those courts. That was undoubtedly the intention of the framers of the report. It was desirable—at least the Committee thought it desirable—that it should be brought out more clearly. In clause 10 there is a slight change. The Bill, as it was introduced, allowed inquiries to be sent to a subordinate court. The inquiry may now be remitted to the court of the District Judge only. In clause 12 the main change to which I need draw the attention of the House is that power has been given to the High Court as regards the payment of the costs of the inquiry and also a power to review. I need not dwell more fully on that. It is contained in sub-clause (6). In clause 13 a change has been made which does not allow the Bar Tribunal to require the attendance of the presiding officer of the court without the sanction of the High Court or, where the court is a Criminal or Revenue Court, without the sanction of the Local Government. There has been an addition to sub-clause (3) of this clause which is mainly to make clear the position as to the services of summons, the production of documents, and the like. There has been a change in clause 14 (c) which is of some importance. It lays down that an advocate is entitled to practise, in addition to the provisions previously laid down, before any other authority or person before whom he is by or under the law for the time being in force entitled to practise. In clause 15 an important addition has been made to the rule-making power, namely, the investment and management of the funds of the Bar Council, and it is obvious that it would be well to make the rule-making power fairly wide.

We have added a provision enabling rules to be made in regard to any other matter in respect of which the High Court may require rules to be made. Clause 17 is a new clause which is designed to protect the *bona fide* exercise of powers conferred by the Bill. This clause is of a drafting nature. I need not refer to the drafting change in clause 19. A good many changes have been made, but from what I have told the House I think they will see there is not much new matter introduced, with the exception of the clauses dealing with the seniority of advocates. Sir, I move.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I beg to move :

“ That the Bill as reported by the Select Committee be recirculated for the purpose of eliciting further opinions thereon.”

The Honourable the Home Member has stated that the Bill has undergone considerable changes in the Select Committee. Honourable Members will see, if they look at the Bill for themselves, that there is scarcely a clause which has not been amended by the Select Committee. I do not say that all these changes were not necessary. On the other hand, I am prepared to endorse many of the changes made by the Select Committee, but as the Honourable the Home Member has frankly admitted, there is one amendment which cardinally alters the scope, the scheme, and the character of the whole Bill, and that clause is clause 8, sub-clause (3). It says :

“ Entries in the roll shall be made in the order of seniority, and the seniority of each advocate shall be determined by the date of his admission to be an advocate or, in the case of a person referred to in clause (a) of sub-section (2), by the date of his admission to be an advocate, vakil or pleader, as the case may be, of the High Court.”

In other words, this clause inserted by the Select Committee was a new clause added by them. It was no part of the original Bill and, indeed, after reading the Report of the Indian Bar Committee with some care, I venture to submit that it was no part of the recommendation of the Indian Bar Committee summarised in paragraph 59, page 35, of their Report. And if I may be permitted to mention it, the recommendation of the Bar Committee rather was that the Bar Councils should be given the power and be made autonomous to a certain extent. Honourable Members will find it in paragraph 48, page 28, of their Report.

Now, Sir, I venture to submit, differing from my Honourable colleagues on the Select Committee, that this is a very material change and a change upon which the country was never consulted. High Courts were never consulted, the barristers and advocates and vakils directly affected were never consulted. In other words, the Bill as it emerges from the Select Committee has been so materially altered that it requires the elicitation of further opinions of the persons directly affected by it, and I therefore move for its recirculation. There are a large number of other clauses upon which the opinions of the High Court and of the Bar Library would be of great value, and I therefore submit that if there ever was a case which called for a recirculation it is this.

Honourable Members of this House, that is those who belong to my profession, will easily realise it when we assure them that the most valued of all privileges of the members of the Bar, whether of the English or the Indian Bar, is the privilege of seniority. It carries with it

[Sir Hari Singh Gour.]

a certain professional and social status, and what is more, it gives the advocate concerned the right of pre-audience in a court of law. According to the English practice, so far as barristers are concerned, from time immemorial, ever since the institution of the English Bar commenced somewhere in the medieval ages, the 13th or 14th century, the practice has been that the seniority of a member of the English Bar counts from the date of call, that is from the date he is called to the English Bar. In India that practice was transported by the members of the English Bar and in all the High Courts, including my own, the Calcutta High Court, the practice has been uniformly adhered to. Whatever may be the date of our enrolment, it may be 10 or 20 years after the call to the Bar, seniority ranks, not from the date of enrolment, but from the date of the call. Take, for instance, the case of a learned professor of law who has passed 20 years of his life in teaching law to the students, and at the close of his life wants to practise at the bar, and gets himself enrolled, let us assume, in the Calcutta Bar; his seniority would not be from the date of that enrolment, but from the date when he was called to the Bar. There are many members of the Indian Civil Service who have been called to the Bar. On retirement they may like to be enrolled in a High Court to practise, and if the English practice is followed, their seniority would count, not from the date of their enrolment, but from the date of their call to the English Bar. That is the first thing. Now this Bill makes a departure, the departure consisting in this, that if a barrister of 25 or 30 or 40 years standing wishes to practise in a High Court and gets himself enrolled, he becomes a stripling of one day's or one year's standing, from the date of his enrolment in the High Court itself. Now that is a matter which cannot be regarded otherwise than as very material. It is a departure and I do not for a moment suggest that the Indian Legislature has not the power to enact a rule of the kind that is sought to be enacted in this clause, but all I ask is that the persons who will be affected by it, who will have to depart from established practice, should have at least their say as to what they think of this clause. If they had been consulted before this Bill was sent to the Select Committee, I would have no complaint to make. Opinions would have been before the Honourable Members. They would have said the opinions are all there and for better or for worse this is the view that the Indian Legislature should take; but the position is different. The members of the English Bar, the High Courts and others interested in this question have not yet been questioned. The Bill in fact as it emerges from the Select Committee is a different Bill on this most essential, this most material of all points, in that it establishes an artificial rule of seniority departing from the English practice.

That is my first point. I do not for a moment suggest and I do not wish that my friends of the Vakil Bar should have the slightest apprehension that, if this Bill goes back to the country, it would not promote the object which the Indian Bar Committee had in view, because if we do not return to this House there will be others who will come and take our places and the question will be decided upon its merits. I am not anxious that this Bill should either be delayed or postponed and the sole reason with which I have given notice of this amendment is that it is fair and just that when you depart

1 P.M.

from an established practice affecting a large body of men, both Europeans and Indians, who belong to the English Bar, whose rights and privileges are likely to be curtailed and *prima facie* will be curtailed, whose seniority will be affected and prejudicially affected, the least we can do, the least they are entitled to is a hearing before this measure is transferred to the Statute-book. I submit, Sir, that there could be no two opinions upon this broad question.

The Bar has been in existence for 600 years, and if the historians speak the truth, it has been in existence since the days of Demosthenes and Cicero. The practice of the English Bar, so far as we know, has been, and is valid in the archives of mediæval history. If you wish to make a departure now let us at least consult those who have been brought up in that tradition and follow that practice and have been following the English practice for all their lives. That is my submission to this House and I appeal to this House unanimously to assent to my reasonable request for recirculation. There are some other considerations, a few considerations upon which it would be necessary to consult the High Courts. In their opinion given on the Bill, the Calcutta High Court have expressly asked that Bill should be resubmitted to them for their opinion. The Bombay High Court has also commented upon the Bill. We have carried out some of their suggestions and I think it is due to these High Courts that we should reconsult them upon the measure as it has been finally settled by the Select Committee. This is certainly not one of those urgent measures. The skies will not fall if this measure is postponed for another four months. There will be no cataclysmic change or disturbance anywhere in the country if this measure is given a little more time for the people to think about and to report upon. Therefore, I say, Sir that so far as my motion is concerned it is one which should receive the universal assent of the Honourable Members of this House. I cannot, Sir, forget that some of my friends, vakil friends, who are a little suspicious of any postponement might say "Why do you wish to sidetrack this measure and why should we not have to-day what you promise us four months hence?" Well, Sir, I appeal to them that, so far as they are concerned, they are numerically strong in this House. They were numerically strong in the last Assembly when my feeble voice was silenced by the clamours of the multitude. My opinion was overborne by the members of the Vakil Bar assisted as they were.....

Mr. K. C. Neogy : What was your opinion then ?

Sir Hari Singh Gour : My opinion then is my opinion now. I have some consideration for the English Bar and I want the English Bar to preserve its individuality.

Well, Sir, I am not going into polemical questions. At present I am only pleading for recirculation and because I am pleading for recirculation I am appealing alike to lay members and to lawyers, both barristers and advocates, including my friends who are interjecting somewhat uncomplimentary remarks regarding my motion.

Sir, There are one or two other questions upon which I think this Bill might profitably be recirculated. Apart from clause 3 there are certain rules made upon which Honourable Members of this House have given notices of amendment. Honourable Members will find that this

[Sir Hari Singh Gour.]

is not a Bill which was reported upon in the placid atmosphere of a Joint Select Committee. Out of ten members who sat on the Select Committee, no less than seven members have recorded dissenting notes.....

Diwan Bahadur T. Rangachariar : On minor points.

Sir Hari Singh Gour : I find, Sir, from the agenda paper before me that there are no less than 28 amendments. My friend Diwan Bahadur Rangachariar says "On minor points". What my friend Diwan Bahadur Rangachariar, regards as a minor point I regard, Sir, as a question of life and death. He may regard my decapitation—the destruction of my rights and privileges—as a very minor point ; but I regard that, Sir, as a very essential point, and before my Honourable friend and his colleagues assassinate me and lay me to rest, let me be given a chance to pray and time to repent. That is all I want and therefore I hope that even my friend, Diwan Bahadur Rangachariar, will commiserate with me and mine and accede to the very reasonable request which I make for the recirculation of this Bill. Sir, I move my amendment.

Mr. President : Amendment moved :

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting further opinions thereon."

Rai Bahadur Raj Narain (Delhi : Nominated Non-Official) : Sir, more or less I am bound in duty, due to loyalty to the profession to which I belong, to support the motion of my Honourable friend, Sir Hari Singh Gour. The Bill took several days in the Select Committee and was gone through clause by clause ; and there is hardly a clause which has not been altered by the majority of the Select Committee. If it was right that the original Bill as it was framed should be circulated, then I submit it is only right that the Bill as it now stands should be recirculated for opinion.

It has made very large encroachments on the vested rights of the existing members of the Bar, and the first principle which law teaches us is that we shall not interfere with the existing and vested rights of any profession. I am not one of those who suggest that in no case and under no circumstances should such interests be altered if justice requires it, but I would certainly say that greater thought should be bestowed when the question of vested rights arises. My Honourable friend Sir Hari Singh Gour has put the case in a different light from what I would put it to the Government Benches, to my vakil friends and to the European Members who sit here.....

Mr. N. M. Joshi (Nominated : Labour Interests) : And not to people like me ?

Rai Bahadur Raj Narain : I will certainly submit my case to you as well as to other Members, and shall expect you, as representing the Labour Party, to give it your best consideration.

Mr. President : Order, order. The Honourable Member must address the Chair.

Rai Bahadur Raj Narain : I will ask their support as well. Now, this amendment has already been referred to. I mean Rule No. 3. I will

further illustrate and point out what the senior members of the Bar think about this alteration. I would invite the attention of Honourable Members to the Rule :

“ Entries in the roll shall be made in the order of seniority, and the seniority of each advocate shall be determined by the date of his admission to be an advocate or,”

—mark the words which I am now reading,—

“ in the case of a person referred to in clause (a) of sub-section (2) by the date of his admission to be an advocate or vakil or pleader, as the case may be, of the High Court.”

I put before the House the case of a barrister who was enrolled, say, 25 years ago, and also the case of a vakil who was enrolled 25 years and one day ago. For all these 25 years the barrister has been leading, up to the present day, the pleader or the vakil. Now to-day we are telling him, ‘ Look here, your right of seniority over such and such a vakil or pleader is taken away and you are put behind him.’ Now, Sir, I put it to the Members of the House, and particularly to the vakil Members of the House, and ask them to say if this is in accordance with the principles of justice.

Well, I am told I am interested. (*Mr. K. Ahmed* : “ No, he is interested.”) Well, he may be interested as much as I am interested. My interest, I may remind the House, will last only a few years more, perhaps. (*The Honourable Sir Alexander Muddiman* : “ A good many years.”) The interest of those who have come after me will remain much longer. But that is not the ground ; it is not because of the effect it will have upon me personally that I am appealing to you but because of what will be the effect of it on the principles of law which you are supposed to be representing in courts of justice. Will you be justified in saying that this Bill shall have retrospective effect and take away the rights of those people who have enjoyed them for a quarter of a century ? I submit that, when the Bill is sent for circulation to the High Court and to the general public, they will certainly adhere to the principles of justice which I have just now submitted to you. I pointed that out in the Select Committee, as is shown by my note of dissent :

“ I regret to have to put down this note of my disagreement with such provisions of the Bill as affect the time-respected right of pre-audience of the English Bar. I maintain :

1. That a distinction does and will exist in the two classes of advocates ;

2. That no necessity has been made out for this change inasmuch as it is conceded that this right is always and invariably waived in favour of superior practitioners.”

I may have a slightly prejudiced mind, but I do submit and maintain that there is a distinction between an English advocate and a vakil who has not gone to England for his training and lived there for three years for that purpose. I do not mean any disrespect to my vakil friends; for many of whom I have the greatest respect, and, if they ever appear with me at the Bar, I will admit them to be my superiors and waive my right of pre-audience as is done by many of my friends among the English advocates. But I cannot refrain from urging what the public does notice, and my vakil friends cannot fail to notice, namely, that there is a distinction between the two classes of advocates.

Another thing which I want to urge on the floor of this House is that no necessity has been made out for this change by which one of the parties may be aggrieved at least in sentiment if nothing else.

[Rai Bahadur Raj Narain.]

As was pointed out when the matter was being discussed before the Select Committee, this is a matter, very likely, of a very few years after which English advocates will cease to come out, although I do wish that a number of Indians would continue to go to Europe for their training. It is after all a great advantage to my mind, and those who have been beyond the seas must confess that it is a great advantage, and a great education to go across the seas.

I was urging my second point that no necessity has been made out for this extraordinary change, a change which, I submit, is opposed to all legal principles of justice, namely, the vested right being taken away. It has been conceded throughout that a barrister has never been so unreasonable as not to give way and let his superior vakil lead him in case there was necessity.

Mr. K. C. Neogy : How can there be a superior vakil ? Do you admit his existence ?

Rai Bahadur Raj Narain : My learned friend puts me the question, "How can there be a superior vakil ?" Well, Sir, do you take me to be so unreasonable as to suggest that a barrister who has come out to-day will possess an intellect superior to that of a vakil who has been practising in India for the last 20 years ? I shall not be so unreasonable. I have never suggested that.

Diwan Bahadur T. Rangachariar : If you admit it, then why do you object ?

Rai Bahadur Raj Narain : I am afraid my point has not been understood. Take the case of those advocates who were admitted at a certain time and had superiority over vakils who were admitted, say, two or three days or even a year before them ; those barristers have exercised the right of pre-audience for the last 10 or 15 or 20 years. My point is that that right should not be taken away and they should not be superseded by people who have acted as their juniors. That is my point. I do not urge that an advocate who is admitted to-day and a barrister who is admitted to-day as an advocate by a High Court shall have any distinction made between them. I am not suggesting that. What I am suggesting is this. Suppose A has had the right of pre-audience for the last 10 years over B ; then B shall not supersede him to-day under this Bill. This is what this Bill does. As the Honourable the proposer of this amendment has suggested, there is no urgency for this measure and it can very well wait till the next Session.

If my vakil friends think that my suggestions are interested, and their suggestions would be interested, let disinterested opinions come in. Let us have the benefit of the opinions of the High Courts. Let us have the benefit of opinions in the country. I do not want to take up any more of the valuable time of the House, and I do strongly appeal to the Government Benches and to the other Benches to support the very reasonable proposal of mine and of Sir Hari Singh Gour that the Bill be referred again to the High Courts and recirculated for opinion.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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

Diwan Bahadur T. Rangachariar : Sir, if in the course of my practice extending over 36 years I learnt a lesson that lesson was that if I want to get a fair hearing for my client and a fair chance of success I should be accurate in the statement of facts. My Honourable friend, Sir Hari Singh Gour, apparently with all his experience at the Bar and as a jurist and counsel has not apparently learnt that lesson. What is the ground, Sir, on which he asks that this Bill, as reported by the Select Committee, should be re-circulated or circulated for opinions? His main complaint is that the Select Committee have now embodied a provision in the Bill determining the question of pre-audience between vakils, barristers and others. Now, Sir, if Sir Hari Singh Gour had been a novice in this Assembly, I should have excused his ignorance. Either it is a wilful misstatement of fact to say that the public and the High Courts and the Governments had no opportunity to consider this question and that for the first time the Select Committee introduced it in the Assembly, or it is gross forgetfulness; in either case it is inexcusable. He has been in the Assembly like myself for the last six years. On the 24th of February 1921, my esteemed friend Munshi Iswar Saran of Allahabad brought forward this motion in the first Assembly, which I will read to the Assembly :

“ This Assembly recommends to the Governor General in Council that the Government do undertake legislation with a view to create an Indian Bar so as to remove all distinctions enforced by Statute or by practice between barristers and vakils.”

The then Law Member, Sir Tej Bahadur Sapru, made this notable pronouncement on that Resolution. He said :

“ The Resolution as it has been drafted by Mr. Iswar Saran asks definitely for two things. In the first place, he asks for the creation of an Indian Bar, and, in the next place, he asks that such differences as there exist at the present moment between the two branches of the profession should be removed.”

“ What those differences are have been described to a certain extent by my Honourable friend, Mr. Iswar Saran. I shall venture to quote to the House the opinion of a leader of the profession who in his day enjoyed the highest reputation for his advocacy and also for his soundness as a lawyer. I am referring to the late Sir Sunder Lal, whose leadership it was my privilege and honour, as much as it was the honour and privilege of Mr. Iswar Saran, to recognise for many years. In a document before me I find that Sir Sunder Lal described the differences with his usual lucidity and terseness in this manner :

“ The Indian barrister need not have any university education at all either in India or in England. He may have been plucked more than once at the university matriculation examination or at the subordinate pleaders' examinations. If he has put in the required number of terms by eating the necessary number of dinners at his Inn and passed the prescribed examination, which is in compartments and, therefore more easy to pass, he is called to the Bar and is entitled to be enrolled as an advocate of any of the High Courts in India; he becomes fully qualified to practise in the High Court in the 22nd year of his life. He has a right of pre-audience of vakils, however able, experienced and accomplished as lawyers the vakils may be.”

Having quoted that opinion of Sir Sunder Lal, Dr. Sapru proceeded to say :

“ That, I believe, is really the *sting* of the whole situation; and it is not difficult to imagine that a branch of the profession which, in the past has had leaders of the type of Bashiam Iyengar and Krishnaswami Iyer in Madras, Dwarkanath Mitter and Romesh Chunder Mitter in Bengal, Kashinath Trimbak Telang and Mandlik in Bombay, Sunder Lal and Ajudhia Nath in Allahabad, should feel resentment at this stigma of inferiority. It is possible for even those who are not members of that branch of the profession to genuinely sympathise with that feeling.”

[Diwan Bahadur T. Rangachariar.]

In response to that appeal or rather the statement of Dr. Sapru, my honoured friend, Mr. Eardley Norton, who was for a long time connected both with the Madras Bar and with the Calcutta Bar, stated thus :

“ I am perfectly prepared to remedy what I conceive is really your only legitimate grievance, and by your grievance I mean the grievance of honourable vakils, that the youngest barrister should lead the oldest vakil. I agree that that is not as it should be. It seems to me rather childish to suggest that the barrister of two years' standing should have a right to lead, for instance, Sir Rash Behary Ghosh.”

Sir, what is it my Honourable friend Dr. Gour is so much enamoured of ? He suggests that our friend Mr. Kabeer-ud-Din Ahmed should have pre-audience over Sir Rash Behary Ghosh.

Sir Hari Singh Gour : I rise to a point of order, Sir. I have only moved for recirculation. I have not expressed any view at all on the subject. I have confined my remarks only to the subject so far as it related to recirculation.

Diwan Bahadur T. Rangachariar : I am contradicting the statement of fact that the public has had no opportunity of considering this question and that for the first time the Select Committee has brought this into consideration. It is that statement of fact that I am contradicting. The whole genesis of the origin of the Bar Committee was with this motion of Munshi Iswar Saran. Sir, on that the Government of India, having accepted that Resolution in a modified form, issued this request to all the Local Governments and High Courts :

“ A copy of the proceedings of this Assembly is enclosed. Two questions are involved in the Resolution as adopted, the creation of an Indian Bar Council and the desirability of removing all distinctions enforced by Statute or by practice between vakils and barristers.”

That was one of the questions. I hold in my hand the printed book containing the opinions of the Local Governments, High Courts and other Associations, including Chambers of Commerce, who were consulted. I think it is due to this House that it should not be misled. What does my Honourable friend state ? That the High Courts had no opportunity to offer opinions on this question, and this is the first time that this is introduced by the Select Committee. I challenge that statement. They were consulted twice and three times as I am going to show.

What did the Madras Government say ? The Madras Government say this as regards point No. 2 :

“ His Excellency the Governor in Council would answer this question in the affirmative and remove all distinctions by legislation.”

Similarly, various Governments and High Courts, and even the Calcutta High Court, which is very conservative in this matter, also admit that this distinction—I had better read it now, because that Court is a stronghold of prejudice in favour of barristers.

Mr. K. Ahmed : That is a vegetarian opinion, Sir.

Diwan Bahadur T. Rangachariar : Paragraph 3 of the letter from Mr. Ridley, who was the Registrar, reads :

“ Upon the question of place the main grievance appears to be the precedence which barristers have over vakils. As far as the Calcutta High Court is concerned, the Honourable the Chief Justice and Judges are of opinion that the distinction of precedence

between barristers and vakils on the Appellate Side of the High Court should be abolished, and that barristers and vakils should take precedence according to the dates of admission as advocates or vakils."

—exactly the amendment which has been introduced by the Select Committee, which the Calcutta High Court have accepted.

These opinions having been collected in 1923, the Bar Committee presided over by my distinguished friend, Sir Edward Chamier, was appointed, and what were the terms of reference to that Committee? They were :

"The extent to which it may be desirable to remove existing distinctions enforced by Statute and practice between barristers and vakils, and to make recommendations to that effect."

I had the honour and privilege of sitting on that Committee. We travelled the whole country at Government expense and examined witnesses, barristers, vakils, judges and advocates. My Honourable friend, the present Law Member, whom I am glad to see present here to-day, was also on that Committee. We made unanimous recommendations on this question. Paragraphs 14, 18 and 21 of that Report I shall read. My Honourable friend again tried to mislead this Assembly by saying that the Bar Council had not made any recommendations on that subject. Will my Honourable friend read paragraphs 18 to 21? He referred to page 35, having ignored the previous pages. In paragraph 14 it says :

"It is but right, as has been seen in every High Court except Calcutta, that advocates take precedence before vakils and pleaders. Vakils are obliged to file vakalatnamas, while in many cases advocates have not."

Take the first question of precedence which my Honourable friend complains was newly introduced by us in the Select Committee.

Sir Hari Singh Gour : Do you deny it?

Diwan Bahadur T. Rangachariar : I do deny it.

The Committee continue in paragraph 14 as follows :

"To take first the question of precedence, we are satisfied that a rule by which the latest joined barrister-advocate takes precedence over and enjoys pre-audience of the most senior and experienced vakil or pleader cannot be defended. In some cases advocates of High Courts have higher qualifications than vakils or pleaders of the same Courts, but they appear, from the evidence which we have heard, to be willing to abandon such precedence as they have in order that a uniform rule may be established. We have heard the views of many witnesses on the subject, and the evidence shows that this is a privilege for the exercise of which occasion rarely arises, since it is exceptional for a junior advocate and a senior vakil to be briefed together on the same side. On the other hand the evidence equally shows that when occasions do arise when a junior advocate might claim pre-audience of a senior vakil, the privilege is almost invariably waived in favour of the senior."

Very generous of them; my friend Mr. Norton set the example. They go on :

"We have not found among barrister witnesses any general desire to retain a privilege which they seldom exercise, while vakil witnesses, although they recognise the ineffectiveness of the rule in practice, unanimously wish to remove a distinction which they do not unnaturally regard as a mark of inferiority."

Then in paragraphs 18 to 21 we proceed to detail the recommendations we make. It is wrong to suggest that this idea is new, which was the main ground taken, the "sting" as the then Law Member put it, which was taken as one of the main questions put to the Bar Committee

[Diwan Bahadur T. Rangachariar.]

for inquiry and on which we inquired and made a report, and the Government of India accepted those recommendations. My Honourable friend complains that the Select Committee introduced this clause. But the whole object of this Bar Committee's recommendations was the unification of the Bar into one grade of practitioners in the country. That was accepted in the Bill as introduced. My Honourable friend complains that we introduced it newly in the Select Committee. I forgot to mention that the Report of the Bar Committee was again circulated, and I hold in my hand opinions received on the Report of the Bar Committee; and not only that, but on the recommendations of the Bar Committee, the Calcutta High Court has changed its rules of practice in respect of precedence. (I speak subject to correction by the late Advocate-General of Bengal, now adorning the Bench as Law Member.) The Calcutta High Court accepted the recommendation of the Bar Committee and modified their rules by which they now accord precedence to a man not because he is an advocate or a vakil, but according to the date of enrolment.

Sir Hari Singh Gour : Is that the rule of all the High Courts ?

Diwan Bahadur T. Rangachariar : I said the Calcutta High Court which is the stronghold of privileges for barristers. I am right in that. Therefore, far from this being a new idea introduced by the Select Committee and for the first time in this Bill, Sir, this idea started in 1921 when opinions were called for and were published in 1925 when the Bar Committee inquired into this. Dr. Gour was one of the witnesses to whom we sent our Questionnaire. We expected him to appear in Calcutta, but he did not appear; we did not go to Nagpur.

Sir Hari Singh Gour : Shame !

Diwan Bahadur T. Rangachariar : May be, but to suggest that this idea is new and therefore we must have recirculation beats things hollow, and I do ask this House to note that this matter has been considered. And not only that, after this Bill was introduced, the Bill was circulated and opinions were collected. The Bombay High Court of course now want to retain some vestiges of the barristers' privileges.

Sir, what does this Bill introduce ? All that the Select Committee has done is to carry out the idea underlying the Bill. This is what the Statement of Objects and Reasons says :

"The Bill is intended to carry out the following miscellaneous recommendations of the Committee, namely, the ideal to be kept in view should be the disappearance of different grades of legal practitioners so that ultimately there may be a single grade entitled to practise in all courts. At present the largest degree of unification possible should be effected. Then in all High Courts a single grade of practitioners entitled to plead should be enrolled, to be called advocates, not barristers, the grade of High Court vakils or pleaders being abolished and when special conditions are maintained for admission to plead on the original side the only distinction should be within the grade which shall consist of advocates entitled to appear on the Original Side and advocates not so entitled."

Sir Hari Singh Gour : Is there anything about seniority there ?

Diwan Bahadur T. Rangachariar : I do submit it implies that we should do away with all these distinctions. The Government of India have all along accepted the principle that these invidious distinctions—the "sting" as the then Law Member put it in 1921 in this very House—should be removed. That has been the subject of endless discussion in

legal circles and High Courts all over the country. The Bar Committee visited all those centres. Barristers appeared before them, and vakils appeared before them. They accused each other; and then we made a unanimous recommendation, including the Chief Justice of the Madras High Court, who stood for the dual agency. That was the only point on which there was any difference of opinion between us, whether the dual agency should continue on the Original Side of the High Court. But so far as this point was concerned we all agreed that these invidious distinctions should be removed. Public opinion was consulted. High Courts were consulted. Local Governments have unanimously recommended the removal of these distinctions. They all recognise it, and after that to say that on this ground this Bill should be recirculated amazes me. The truth is, my Honourable friend is really clutching at a straw like a drowning man. He thinks that these privileges of barristers should be retained. He may be right but the bulk of opinion is entirely against it, and his action is calculated merely to shelve the Bill. This House has devoted its time for the last five years to this subject. Local Governments have been bothered about it. High Courts have been bothered about it. Probably my Honourable friend the Home Member has more volumes than I on this subject. All that labour is to be wasted so that somebody else may take up the question again at some future date. Dr. Gour and myself might not be here although we have given much thought to this subject. Sir, it is not fair to the House to ask that this Bill should be recirculated; it is unfair of my Honourable friend to take advantage of this addition made in Select Committee which merely carries out what was in the mind from the first of all those persons interested. By asking the House to have it recirculated he wants to kill it by side-tracking the issue. This Assembly comes to an end shortly. The Bill will lapse *ipso facto*. Then the Home Member—if he is here then or it may be some other Honourable friend on that Bench—will probably introduce a Bill of that sort. Probably there will not be such a chance. I ask the House not to give such a chance. It will be unfair and unjust to ourselves for all this labour to be lost as my Honourable friend suggests it should be done. Sir, I oppose this motion.

Mr. E. S. Roffey (Assam : European) : Sir, I support the motion for recirculation. From a perusal of the opinions which we have received it appears that in so far as Calcutta is concerned, with the exception of the Vakils' Association, the whole of the legal profession were against the original Bill. The High Court of Calcutta, Sir, say as follows :

" They are however convinced that the proposed Bill if passed into law in its present form and applied to this High Court will only produce difficulties, friction and confusion."

Now, Sir, after that they perused the Bill and they made certain suggestions, but the great point is that they asked that if and when those suggestions had been carried into effect by the Select Committee the Bill should be recirculated. That is in paragraph 8 :

" The Honourable the Chief Justice and the Judges are of opinion that the Bill ought to be modified in the light of the observations made above and the court should have a further opportunity of considering the Bill if it is so modified."

Now, Sir, that is a clear request from the Calcutta High Court. We come now to the Bombay High Court. The Honourable the Chief Justice states in his minute :

" Our hearty thanks are due to Shah and Kemp J. J. for their heavy work on the special committee."

[Mr. E. S. Roffey.]

—they had appointed a special committee to consider the original Bill—

“ Their labours have disclosed a fundamental flaw in the drafting of the Bill. The real point then is how it should be redrafted in this respect.”

Now, Sir, I admit that the Select Committee have inserted a sub-clause in clause 9, but I do submit that as it was apparently a fundamental flaw in the original draft it would be common courtesy to recirculate that clause as redrafted by the Select Committee to the Bombay High Court to find out whether or not it meets their objection.

Those are my two main points ; but I do submit that there have been very important changes made in the original Bill by the Select Committee. Another point which I consider important has been pointed out by Sir Hari Singh Gour, namely, that out of ten members in the Select Committee seven have signed minutes of dissent. I submit, Sir, that taking all these points together there is a clear case that this Bill should be recirculated for further opinion.

Dr. S. K. Datta (Nominated : Indian Christians) : Sir, the House has two propositions before it, one moved by the Honourable the Home Member and the other by Dr. Gour. I take it that I am perfectly in order in speaking on both the motions that have been made this afternoon. It is true that I am not a member of the legal profession, but a member of a sister profession. I am afraid, however, that in our profession the conception regarding pre-audience is not as distinct as it is in the profession of law. When visiting a dying man we do not talk about pre-audience in the presence of the patient.

Sir Hari Singh Gour : You have seniority.

Dr. S. K. Datta : But, Sir, this afternoon I am not going to take up the time of the House with that particular consideration. I have one qualification and only one to speak here this afternoon. In 1921 I had the privilege of serving on the Indian Students Inquiry Committee of which His Excellency the Governor of Bengal was Chairman—at that period Under-Secretary of State for India. When we went to England—at the public expense again as our friend Mr. Rangachariar observed a moment ago—we had evidence not merely from the Indian students regarding the value they attached to British Legal Education but also from the very highest legal authorities in England regarding the Indian Bar itself. The first person whom we examined was Sir Lewis Coward. May I read to the House just an extract from his evidence with regard to Indians undergoing legal training at the Inns of Court ? Sir Lewis Coward, who was the Vice-Chairman of the Council of Legal Education and formerly Recorder of Folkestone as also Chairman of the Board of Legal Studies, observed with regard to legal education in England :

“ Witness then stated that the view which he was about to express as to the desirability of the ordinary Indian student coming to England for his call to the Bar was his own view, and he was not authorised to speak on behalf of the Council of Legal Education. No doubt, 40 years ago it was desirable that the Indian student should come to this country for legal education, but the standard of legal education to-day in India was different. He hoped that the Committee might be willing to consider the question whether in the near future India should not have a complete system of legal education of its own.”

An even greater authority on Indian law—Viscount Haldane, himself a Member of the Judicial Committee of the Privy Council, appeared before

us and tendered evidence. Now, what does he say with regard to Indians obtaining a legal education in England ? This is what he says :

“ It is a training which is the only one we have got for an English barrister, but it is by no means perfect, and some of us want very much to see it improved. It is a totally wrong training, in my view, for an Indian student. Why does he pursue it when he goes to the Calcutta Bar, say ? Because he will find that a barrister called here takes precedence of him, however distinguished his position may be as an advocate. He may be the most learned *vakil* possible ; but he has not a look in ; he is behind in point of precedence. The reason does not rest with people here, it rests with India, and I have never been able to understand why India has not put it right long ago. India ought to call to its own Bar ; it ought to call men to the position of barrister ; it ought to create its own King's Counsel.”

Here then are two opinions of the very highest authorities with regard to Indian students qualifying for the English Bar.

Another question which concerned the Committee was the reason why Indian students came in such large numbers to England for the Bar. We were presented at one stage of the proceedings with a memorandum from the Cambridge *Majlis*, a society of Indian undergraduates of the University of Cambridge. Their representative was Mr. Subhas Chandra Bose, late Executive Officer of the Calcutta Corporation. In his evidence before the Committee, Mr. Subhas Chandra Bose adverted, as you will find in the written evidence in this volume, to the position of Indians who came to England and the precedence they gained thereby in the High Court in India. The Indian students were unanimous in their view that they were compelled to go to the United Kingdom at the expense of large sums of money and to spend years of study for a qualification in law which they might as well have received in India.

Mr. K. Ahmed : Why did you not receive your education in India ? Why did you go to England ? You are just like an average man !

Dr. S. K. Datta : My worthy friend interrupts me, but I shall not follow him.

Mr. K. Ahmed : I am afraid of him, Sir.

Dr. S. K. Datta : Well, Sir, there is such a thing as the tradition of the English Bar. Most people will give it ungrudging recognition. But are there opportunities for Indian law students to imbibe this tradition ? Viscount Haldane and other authorities have told us that Indian students usually kept by themselves, and after all the tradition of the English Bar was not enshrined in merely attending lectures, passing examinations and eating a stipulated numbers of dinners. But where was this tradition specifically cultivated ? The tradition was in Chamber practice under an English barrister. We invariably asked the question if Indian students obtained opportunities for this experience of an English Barrister's Chamber. We were informed that the greatest difficulties were encountered. It was easy for Australian or Canadian students to obtain this privilege, but very difficult for Indian students though members of an English Inn to obtain this specific experience. Therefore, Sir, the benefit which our Indian students get from studies.....

Mr. K. Ahmed : I rise to a point of order, Sir. It is compulsory now and every Indian student works in Chambers in England for a year.

Mr. K. O. Neogy (Dacca Division : Non-Muhammadan Rural) : Is that a point of order ?

Dr. S. K. Datta : Well, Sir, in addition to these facts before us, there is also the further fact that the going of so many Indian students abroad is an economic drain to India. It is estimated that Indian students spend something like half a million pound sterling in the United Kingdom annually, and a large proportion of that amount goes in obtaining legal education which could have been obtained in a far better way in this country.

Mr. K. Ahmed : Why did you go to England yourself then ?

Mr. President : Order, order.

Dr. S. K. Datta : Now, Sir, the proposition placed before us by Sir Hari Singh Gour is for recirculation of this Bill.

3 P.M.

I say this question is a very old one. It was raised originally, I believe, in 1879 regarding the parity of the two branches of the legal profession. We have had committees ; we have had inquiries. This Bill has now been brought before the House. There is the standpoint of education : there is the standpoint of the future of the Indian student who goes abroad. From all these standpoints it is only reasonable that we should ask that action should be taken as soon as possible.

Sir, there was a jibe flung at the Indian branches of the legal profession—I think it was in the opinions on this Bill which have been circulated to the Members of the House. One of the witnesses, a practising Barrister of the Calcutta High Court, wrote with regard to the mixed Bar Council as follows :

“ This is an astounding provision. One thinks of an analogy of a body destined to regulate the professional conduct of doctors being selected from amongst doctors, chemists and masseurs. If the anomaly is to be preserved, logically, to vakils and pleaders should be added Attorneys (at any rate in the Calcutta High Court). ”

The person who wrote that must have had the most primitive conception regarding medical education. I would support the motion, then, that the consideration of this Bill be proceeded with and that the motion of Sir Hari Singh Gour be not accepted, for I do not believe that any privileges, however long-standing, can be accepted unless they are just, and in this case my mind is clear that the distinction between the pleader and the vakil is an unjust distinction.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I want to say a very few words just to indicate my attitude towards this Bill. (*Sir Hari Singh Gour* : “ We know it.”) I am quite indifferent as to what fate ultimately overtakes it, unless it is amended on certain very important points. When I first saw the original Bill I was forcibly reminded of the proverbial mountain in labour which brought forth the proverbial mouse. Sir, if my disappointment was keen at that time, it has become keener at seeing the Bill mutilated and whittled down by the Select Committee. As I said, I do not care what happens to this Bill ultimately unless it can be improved on certain lines. At the same time I am aware of the feeling in certain parts of this House that this Bill does certainly go a long way to improve the conditions obtaining in some other provinces than my own. From that point of view, I am not prepared to stand in the way of the Bill being considered to-day.

Sir, the manner in which Sir Hari Singh Gour pleaded his cause has not in my judgment redounded to the credit of the dual system (*Mr. N. M. Joshi* : “ He is a great barrister.”) because I find that there are at least two very eminent solicitors present in this House and I daresay Sir Hari

Singh Gour was duly instructed by them. Either his brief was very badly prepared or he had no time to go through it. (*Mr. N. M. Joshi* : "As usual.") I will not be so uncharitable as to say that. Only this morning Sir Hari Singh Gour reminded us that he had been burning the midnight oil over a certain Bill. Sir, it seems to us that he is overworking himself. That is perhaps the reason why he has not had sufficient time to devote to this particular Bill. I was really surprised at that, because we were told this morning, either by himself or by a barrister friend of his, that this Bill raises a question of life and death to his profession, and if an eminent barrister of his position can argue his case in this perfunctory manner, in a matter which concerns his professional life and death, then what am I to think of the high traditions of the English Bar or of the high merits of the dual system? Sir, my advice to my Honourable friends would be to engage one of those superior vakils, whose existence my friend Mr. Raj Narain admitted, to argue the case for the barristers.

Mr. K. Ahmed : Mr. Raj Narain is a barrister.

Mr. K. C. Neogy : My Honourable friend Sir Hari Singh Gour made so many misstatements in the course of 15 minutes that I was really surprised that he should claim to know anything on the subject or that he should claim to have been in this House for six years. Sir, the history of this movement goes back to 1921, and Sir Hari Singh Gour, I believe, was present at each and every meeting at which this question came up in one shape or another.

Mr. K. Ahmed : Those were non-co-operation days.

Mr. K. C. Neogy : I may remind my Honourable friend of what he said on the 12th September, 1922, while a Bill which I had the honour of introducing in this House was up for discussion. There his first objection was that the whole thing was *ultra vires* of this Legislature. Next, he asked, "Why don't vakils go to England, if they have any grievance, and become barristers?" He did not, at that time, succeed in convincing his colleagues on those two points.

Mr. K. Ahmed : Many vakils went to England.

Mr. K. C. Neogy : When the matter came up in this House at Delhi, my Honourable friend was not very charitably disposed towards the Bill, and I can quite see his hand in whittling down some of the provisions of this Bill in the Select Committee. Not being satisfied with that, he comes forward with a dilatory motion to-day to re-circulate it. He has done enough almost to kill the scheme and he is not satisfied with that.

Sir, my Honourable friend Diwan Bahadur Rangachariar has already pointed out the glaring inaccuracies in the statements made by my friend Sir Hari Singh Gour. I am not going to cover that ground again. But it is a little surprising to me that while Sir Hari Singh Gour claims to call the Calcutta High Court "my High Court"—I daresay the Calcutta High Court will take it as a great compliment—while he refers to that High Court in those affectionate terms, he is altogether ignorant of what changes that High Court itself has made in the rules with regard to the question of pre-audience. My Honourable friend Diwan Bahadur T. Rangachariar was not quite correct when he said that the High Court had amended its rules with regard to pre-audience as a result of the Bar Committee's recommendations. They, as a matter of fact, anticipated the recommendations of the Bar Committee and set the matter right long before the Committee's Report saw the light of day.

Sir Hari Singh Gour : Who was the Chief Justice then ?

Mr. K. C. Neogy : The present Chief Justice, Sir.

Diwan Bahadur T. Rangachariar : Sir Lancelot Sanderson.

Sir Hari Singh Gour : Not Sir Ashutosh Mukherjee.

Mr. K. C. Neogy : No. It seems to me that Sir Hari Singh Gour has not kept himself in touch with the Calcutta Bar.

Mr. K. Ahmed : It is Mr. Rangachariar who has not kept himself in touch, not Sir Hari Singh Gour.

Mr. K. C. Neogy : Now, Sir, I had another surprise when I heard Sir Hari Singh Gour. In the social field we find him a great advocate of reform doing away with all barriers of caste and creed, disregarding the prejudices which the different communities may have. But in this particular instance he is in favour of maintaining a very rigid caste system in the legal profession.

Khan Bahadur W. M. Hussanally : Because you are untouchables.

Mr. K. C. Neogy : He says this seniority gives them a professional and social superiority, and so on. I speak subject to correction, I think these are the words that he used.

Pandit Shamlal Nehru : Do you deny that he has done good work here ?

Mr. K. C. Neogy : Another great point which my Honourable friend made was that we should not interfere with the traditions of the English Bar as kept up in this country by its Indian Members. My Honourable friend, Dr. Datta, has quoted a passage from the evidence of Sir Lewis Coward, the Vice-Chairman of the Council of Legal Education. I will give another extract from that evidence which bears directly on the question of traditions. It was put to Sir Lewis Coward that Indian students were encouraged to go to the Bar in England in order that they might learn its traditions. He said that :

“ The traditions of the Bar might soak in gradually where Indians mixed together in Chambers or in the Courts, but somehow or other the Indians and English did not seem to mix and the students did not get the traditions which otherwise they might be expected to get.”

I believe that we are entitled to attach some importance to the evidence of Sir Lewis Coward, and I would sincerely hope that his evidence would not be brushed aside by this House in favour of the opinion of Sir Hari Singh Gour. Sir, there is another extract which I propose to give to this House on this question of “ traditions ”. A question was put to a distinguished vakil of the Calcutta High Court, Mr. Narendra Kumar Bose, who appeared before the Indian Bar Committee. (I may tell this House that Mr. Bose had himself been to England and had ample opportunities of seeing for himself the way in which the traditions of the English Bar were being imbibed by the Indian students there.)

Mr. K. Ahmed : What was the object of his going to England ?

Mr. K. C. Neogy : Perhaps to see how the Indian law students imbibe British traditions. I would ask my Honourable friend to have a little patience. He will be satisfied with the answer which Mr. Bose gave to the Indian Bar Committee. The question put to Mr. Bose was this :

“ Q.—Do the barristers with their high traditions give the vakils a helping hand to improve their traditions ?

“ A.—It is rather difficult to answer that question with any patience. So long as there were some giants among the English members of the Bar, there were some

traditions. But now it is the Indian element which is in the ascendant and what are their traditions? Most of them were vakils; then they went over to London, joined the Inns of Court, ate some dinners and then came out. What traditions can you expect of them! (Laughter)''.

Then another question was put to him :

“ Q.—You have misunderstood my question ; is there free mixing between barristers and vakils in the High Court ?

A.—Yes.

Q.—Then you have opportunities of imbibing their traditions ?

A.—Yes ; the traditions of Bayswater Boarding Houses ! (Laughter) ''.

Sir, these are the traditions of which my Honourable friend, Sir Hari Singh Gour, seems to be proud. I will leave my Honourable friend there.

Now, I will come to my Honourable friend, Mr. Roffey. Sir, he talked of courtesy, courtesy to the High Courts. Perhaps my Honourable friend has not been sufficiently long in this House to know the whole history of this movement. As my Honourable friend, Diwan Bahadur Rangachariar, has already pointed out, this question came up once in connection with a Resolution passed at the instance of Munshi Iswar Saran in 1921, and the Government got a collection of views from the different High Courts, local bodies and Local Governments on the subject on that occasion. The second time when the High Courts had an opportunity of giving an opinion on this question was when my Bill was circulated to them. The third time came when the Indian Bar Committee went about the country and examined members of the public, members of the different branches of the legal profession and also the Judges of the different High Courts. The fourth chance came when the Report of the Bar Committee was circulated to the Local Governments and to the High Courts, and there was an opportunity for them to give their considered opinion on the recommendations of that Committee. Sir, there is a small publication giving a collection of the opinions of the different High Courts and Local Governments on the Report of the Indian Bar Committee itself. Then the next opportunity came when this Bill in its original shape was circulated to all the different High Courts, and thus you have also got a collection of their opinions on the Bill. Does Mr. Roffey now mean seriously to say that the hands of the Legislature should be stayed and one more opportunity should be given to the High Courts for an expression of their opinions ?

Mr. E. S. Roffey : Yes, Sir, I do.

Mr. K. C. Neogy : Then I am very sorry to say that my Honourable friend does not realize the privileges of his position as a Member of this House. Who is the final authority ? Who has got to say the final word on the subject ? Is it the High Court or is it the Legislature ? Is it not the Government acting in agreement with the Legislature, or is the High Court in a position to dictate to the Legislature ?

Mr. K. Ahmed : Vakil Raj ! Then wait for another 100 years.

Mr. K. C. Neogy : I am very sorry that Mr. Roffey has underrated the importance of this House.

Mr. E. S. Roffey : I have not, Sir.

Mr. K. C. Neogy : It appears that he does. We have had enough to do with the High Courts, and it is for us now to decide what action should be taken. We cannot possibly wait till all the different High Courts give their benediction on each and every question involved in this Bill. We have had enough patience in this matter and we want to go ahead.

***Mr. M. A. Jinnah** (Bombay City : Muhamnadan Urban) : It seems to me, Sir, that there is a great deal of excitement among barristers on the one hand and vakils on the other, and my learned friend, Mr. Neogy, is so excited that he mentioned that this question has been mooted on many occasions. I think he counted out five or six ; and he thought that the Honourable Member there did not realise that we have the final word. But may I point out to Mr. Neogy that although this question was mooted four or five or six times, as he counted, the Government at any rate did not embody in this Bill some of the clauses which found their way on to this Bill in the Select Committee. Is that correct or not ?

Mr. K. C. Neogy : These particular clauses are based on the Indian Bar Committee's recommendations on which the High Courts had already an opportunity to pronounce their views, and they have not opposed them.

Mr. M. A. Jinnah : I am fully aware of that. Does Mr. Neogy realise that the Government did not venture to embody those clauses in the original Bill ?

Diwan Bahadur T. Rangachariar : It was implied there and we made it explicit.

Mr. M. A. Jinnah : My Honourable friend, Mr. Rangachariar, takes everything for granted. If it was implied, why have you added this ? If the Bill itself contained it, why have you added this ? I am surprised. The Honourable Mr. Rangachariar, Sir, always comes out with very original suggestions and original explanations. Let us really deal with this properly. Here you have certain clauses that have been added to this Bill by the Select Committee. Now, I am not concerned here with any other question except these clauses and on these clauses I wish to place my views before the House. These clauses are sub-clauses 3 and 4 of clause 8. Let us first of all understand what is the real difficulty with regard to these clauses. We are not at present concerned, as I say, with anything except this question of the pre-audience of barristers or that they should be on the same footing as the vakils. Now, I want the House to understand that in the High Court of Bombay it is not going to make the slightest difference to me. I am not going to be affected in the least degree, because I do not think that there is any vakil who has been practising in the High Court of Bombay for 25 years who is likely to come and seek admission and get seniority over me. Therefore, I am not affected in the very least degree and it is a matter of indifference to me personally. Now, let us consider. You have got a dual system prevailing in the High Court of Bombay. I am only speaking from my experience of the Bombay High Court. That dual system, to understand it very simply in one or two sentences, means this : there is a certain section of the legal profession that has chosen for itself the Original Side of the High Court. There is another portion of the profession which has chosen what we call the Appellate or the Division Bench side of the High Court. Now, I cannot as a barrister become a pleader. That is certain. And I cannot, without being instructed either by a solicitor or a pleader, appear on the Original Side or on the Appellate Side. No counsel in the High Court of Bombay can appear on any side of the court without being instructed either by a

*Speech not corrected by the Honourable Member.

pleader or a solicitor. Therefore, you have three branches of the profession—solicitors, pleaders and barristers. They have chosen their respective spheres which they thought were best for them. Now, we are told that one branch, namely, the vakils, aspire to become advocates.

Diwan Bahadur T. Rangachariar : We want one Bar.

Mr. M. A. Jinnah : Mr. Rangachariar will not either appreciate anything or follow anything except to repeat things in his own way.

Sir Hari Singh Gour : He is incapable of doing so.

Mr. M. A. Jinnah : It is not a question of one Bar at all. You are not going to have one Bar in Bombay. You have already got the dual system and you have accepted it. What is the good of saying we want to have one Bar ? I am proceeding on the basis of the system that at present exists in the High Court of Bombay which this Bill does not touch. This Bill, however, does touch one question, a question which is nearest to my Honourable friend's heart, namely, that if a pleader, who had chosen to remain on the Appellate Side, wants to go to the other side, he should be allowed to do so. He says, "Now, that I have changed my mind, would you please not put me in the same position as if I had made that choice at the very start ?" Apart from the question of its fairness or unfairness and whether it is going to make a serious difference to the barrister class, I venture to say that it will create, in the words of the High Court of Calcutta, a great deal of confusion, friction and difficulties which I do not think this House properly realises. It is for that reason and that reason alone that I am speaking. It is certainly a question which requires very great consideration. The words of the High Court of Calcutta run thus :

"Section 9 in their Lordships' opinion ought to be entirely remodelled and it ought to be definitely indicated that the Judges' supreme control should not be interfered with. In particular, their Lordships think that the form of application for admission to practise, the power of admitting to practise, the placing of the names on the court's rolls of advocates, the issuing of certificates of admission, the maintaining of the roll of advocates, the framing of the rules as to the powers and duties of advocates, the question of conduct and discipline should be matters entirely for the High Court and should not be handed over to any extraneous body."

But that is partly overruled by this Bill. It applies with much greater force to the point which I am placing before the House. Now, Sir, we are told that that must be disregarded. That is to say, we must not refer this Bill back to these two High Courts where the dual system exists and where these clauses, which I have pointed out, will create a great deal of friction and confusion and raise practical difficulties, and that we should not have the advantage of the well-considered opinion of these two High Courts. Why ? Because it does not create any difficulty with regard to the rest of India.

Now, is that fair ? Is that the right attitude to take up ? I, therefore, Sir, in the first instance would appeal to the Honourable the Home Member, if he can possibly do so, to allow the Bill to be re-circulated. He pointed out the difficulties owing to the fact that this House will dissolve, and the whole Bill may lapse. I do not know that there is any special urgency that this Bill should be passed before the dissolution of this House. Surely it only means a little more trouble to the department, and I hope that the Honourable the Home Member will continue at the next Session—I do not know whether I will—but, as we

[Mr. M. A. Jinnah.]

all know, the Home Member, like the King, never dies. There may be some departmental difficulties but this Bill can be brought in the next Session. Of that, of course, I am not the best judge, and I entirely bow to the opinion of the Honourable the Home Member on that point. At any rate, as I understood him, he was willing to recirculate those clauses about which there is this controversy, and I hope that he will do that at least.

Sir P. S. Sivaswamy Aiyer (Madras : Nominated Non-Official) : Sir, we all know that Dr. Gour is a very calmant and persistent advocate of Dominion status in this country. He has in season and out of season been in the habit of bringing Resolutions for a Supreme Court of Appeal like that possessed by the Dominions, and yet, in this matter of a unified Bar in this country, he does not seem to like the example of the Dominions, and is somewhat inconsistent with his usual attitude.

I will only supplement the remarks of my friend, Dr. Datta, by referring to a few lines from the evidence of Viscount Haldane, which Dr. Datta omitted to read :

"India ought to call its own Bar; it ought to call men to the position of barrister; it ought to create its own King's Counsel. If anybody says that that is an innovation, my answer is that that is what the whole of the Dominions do, with the exception of that country called India. I sit daily in the Judicial Committee of the Privy Council. We have counsel of every nationality and from every part of the globe where the British Empire extends appearing before us, and they take precedence according to their precedence in their own Courts. If there is somebody who has been made a King's Counsel in, we will say, Manitoba (because even the Provinces of Canada make their own King's Counsel), he takes precedence of a King's Counsel made here and leads him in the argument at the Bar. So it is with everybody. We should hear a vakil or anybody who has been called in his own country, but when it comes to precedence we look to see who is analogous to what. I do not see why an Indian student should have to come over here to get what seems to me to be a much worse education for his future calling in life than he would get if he pursued it out in India. It is all very well, you know, but a training in an English barrister's chambers, even if you can get there, is imperfect if you are going to the Indian Bar. First of all there is much less chance of training there than there used to be."

Lower down he says :

"The Indian student studying in our Courts here seems to me merely to get his mind poisoned against what he might imbibe profitably if he went to India. He would do much better to read in chambers in India and to be called in India. It would be well to get rid even of the degree of vakil, if you could, and have one profession with seniority in it, and make your own King's Counsel. Then you will be delivered from this very bad system of training, which is bad because there are not places in barristers' chambers even for English students. The Indian student has very great difficulty in getting in. It is as bad a system as it is possible to conceive."

Mr. K. Rama Aiyengar (Madura and Ramnad *cum* Tinnevelley : Non-Muhammadan Rural) : I wanted only to refer to the speech of my Honourable friend Mr. Jinnah, who is not now here. I really do not know if he made any point of any importance. What I find is that in clause 9, sub-clause (1), there is a proviso as follows :

"Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person at its discretion."

And there is another proviso to sub-clause (4) of that clause, which says :—

"Nothing in this section or in any other provision of this Act shall be deemed to limit or in any way affect the powers of the High Courts of Judicature at Fort William in Bengal and at Bombay to prescribe the qualifications to be possessed by persons applying to practise in these High Courts respectively in the exercise of their original

jurisdiction or the powers of those High Courts to grant or refuse, as they think fit, any such application."

These two provisions practically give the necessary scope for every confusion being avoided in those two High Courts. I submit, Sir, though my friend Mr. Jinnah put forward the case with a certain amount of calmness, there is really no reason which should deter this Assembly from immediately proceeding with this Bill and disposing of it. I submit there is no reason why, after all we have heard, this should not be done.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, with your permission, I would also like to say a few words in supporting this Bill. Sir, up to this time the Bar Associations in India had no legal position and no legal status. This Bill for the first time creates Bar Councils in India and gives them a legal status. Therefore I welcome this Bill as a step forward towards the goal of Swaraj. I do not profess, Sir, that this Bill as it stands gives an appreciable degree of autonomy to the Bar Councils, but what I maintain is that it is a move in the right direction, and I think that, as by experiment and experience we see the working of these Bar Councils, their authority and their privileges will be increased and the Bar Councils in India will soon become autonomous bodies in themselves. The most important provisions of this Bill are those which aim at removing the odious distinctions between barristers and vakils, or as my friend the Honourable Sir Hari Singh Gour calls it, the English Bar and the Indian Bar. I do not know how there can be any English Bar in India ; to be more precise I can only call it an Anglo-Indian Bar. Of course I am not surprised to hear my Honourable friend Mr. Raj Narain talking so much about vested interests. He has always been in Government service and has always been hearing of vested interests.....

Mr. K. Ahmed : He is not in Government service.

Maulvi Muhammad Yakub : I beg his pardon ; I thought he was. At any rate I am not surprised to hear him speak of vested interests because you always find the school of politics to which he belongs putting forward vested interests and claims superior to those of the inhabitants of this country. But really I am surprised at Sir Hari Singh Gour, Barrister-at-Law, seeking these odious distinctions, when he has always been advocating that India should be self-sufficient and a self-contained country, and when he wants to sever all connections of India with the English Bar by creating a Supreme Court of Appeal in this country. And still he seeks that the odious distinction between vakils and barristers should remain. I think, Sir, there were certain legal anomalies in the legislation of India.

These anomalies are the relics of those dark days in this country when legislation was enacted without consulting the people of the country, and the sooner these anomalies are removed the better it will be. Certain of these anomalies were removed when the Criminal Procedure Code was revised and the distinctions between trial of Englishmen and Indians were removed : and the second set of legal anomalies are these odious distinctions between barristers and vakils. I cannot find any reason why a man who goes to England and gets his knowledge of law in England, by staying there for three years, should claim superiority over his own countrymen who have got their knowledge of law in this country.

Sir Hari Singh Gour : Foreign travel is an education.

Maulvi Muhammad Yakub : I do not say that Indians should not go to England to acquire knowledge, but we have got some specimens of Indian gentlemen who have returned from England—I shall not name them—here ; the House knows them, they are Members of this House, and I think that the very example of these gentlemen should dispel the idea of giving any superiority to the England returned lawyers over the lawyers who have got their education in this country. Sir, I do not know much about other Provinces, but I can only speak about my Province, the United Provinces, where from the very beginning we have been hearing the names of lawyers like the late Pandit Ajodhya Nath, the late Pandit Dwarka Nath, our revered Swarajist leader Pandit Moti Lal Nehru, the late Sir Sundar Lal, Sir Tej Bahadur Sapru, and Sir Satis Chandra Banerjea, all these legal luminaries of the United Provinces were vakils of the High Court and none of them was a barrister.

Khan Bahadur Saiyid Muhammad Ismail : What about Justice Mahmood ?

Maulvi Muhammad Yakub : Probably he never practised at the Bar in his earlier days. If he did it was only for a very short time. I can say with all due respect to his legal attainments that he did not establish his fame at the Bar before he came to the Bench ; he was no doubt a great success on the Bench of the High Court. To come to the point I do not find any reason why these odious distinctions should not be removed.

Now as to the point of this Bill being circulated again for eliciting public opinion, I say that no case has been made out for it. My Honourable friend Mr. Jinnah and my Honourable friend over there quoted certain opinions of the High Court of Calcutta. They said there would be some difficulty in the working of this Bill. But those opinions were expressed before the Bill came out of the Select Committee in the improved form in which it is now before the House. In the Select Committee we have given our best consideration to the valuable opinions of the High Courts and we have given effect to them, so far as it was desirable. My learned friend Mr. Rama Aiyangar has already read out to you certain provisions of this Bill and after introducing those provisions I do not think that any High Court would complain that their powers have been curtailed or in any way limited, or that they would like to have the Bill recirculated for their opinion. I think the Bill has been fully circulated. It has been pointed out—and I need not recapitulate it here—that the Judges of the High Courts and the members of the legal profession have had three or four occasions to express their opinions on this Bill, and there is no reason why the Bill should be again circulated. It seems to me that the barristers consider they have got some vested interests in this country and in view of those vested interests they want this Bill—which is a step forward, which is a step towards Swaraj, which gives a certain measure of autonomy to the Bar in India—to be put off longer.

Before I sit down, Sir, I would like to say this that we have heard the valuable opinions of nearly all the lawyers in this House, but still I find that there are two eminent lawyers here who have not yet expressed any opinion. One is my friend, Mr. Baptista, and the other is

Pandit Madan Mohan Malaviya, and I think the House will be very glad if we have their valuable opinions also before we come to any conclusion upon this Bill.

Mr. J. Baptista (Bombay Central Division : Non-Muhammadan Rural) : Sir, I had no intention whatever of intervening in this discussion. But upon the principles of responsive co-operation I cannot resist the appeal that has been made to me in spite of the depressing atmosphere of Simla. The line of argument that has been advanced creates an impression that there is an eternal conflict between the barristers and the vakils, and I shall not be surprised if some Members run away with the impression that this little Bill is a bitter pill for barristers generally. Personally I am a barrister of twenty-seven years' standing—which is a pensionable standing. Nevertheless, Sir, I can assure you that I do not regard this Bill as a bitter pill. On the contrary I look upon it as the cup that cheers but does not inebriate. To me it presents the cheerful prospect of doing away with this distinction between the vakils and the barristers. This differentiation cannot be justified upon any ground whatever, either upon the ground of culture, or on the ground of achievements or intellectual attainments, or on the ground of knowledge of law. No doubt there are many vakils who cannot hold a candle before some barristers; but there are equally many barristers who cannot hold a candle before some vakils. There are barristers of capacious calibre and there are vakils of capacious calibre, and all this convinces me that the sooner this wall, this artificial dividing wall, is done away with the better.

Now, Sir, I have been told that there are vested interests which should not be overlooked. By way of illustration a Member adduced the case of a vakil who was senior to a barrister by one day. In the past the barrister had pre-audience. In the future the vakil will have pre-audience. And he appealed to our sense of justice not to tolerate such injustice. My answer is this: if there ought to be no distinction between the barrister and the vakil, then for the past twenty-five years there has been injustice done to the vakil by giving pre-audience to the barrister, and my sense of justice makes me feel that we should not perpetuate the injustice. The sooner this injustice is done away with the better. My friend Mr. Jinnah referred to the distinction that exists in the Bombay Bar between the pleaders, the solicitors and the advocates. He said "They have all made their choice." I believe, it is more or less a Hobson's choice. Many a vakil would like to come on the Original Side and some of them have come and distinguished themselves and eclipsed most barristers. But they are not able to do so on account of this dividing line, this disqualification, that is imposed upon them. Therefore, Sir, I myself do not believe for one moment that this House ought to tolerate any dividing line between vakils and barristers.

But, Sir, there is one consideration that weighs heavily with me. I understand that the High Court of Calcutta made a request, and I am not quite sure whether there is also a request from the High Court of Bombay, that this Bill should be resubmitted to them for consideration after it has emerged from the Select Committee in an amended form. Now, Sir, I hold the High Courts in reverence. I am not disposed to treat their request with indifference. My loyalty to them makes me urge that the House should comply with their request. And I hope that in this matter the vakils will

[Mr. J. Baptista.]

be quite as loyal and quite as reverential as the barristers and respect the request from the High Courts. Upon this ground and this ground alone I will support the amendment.

The Honourable Sir Alexander Muddiman : Sir, I have seldom seen the House exhibiting so much zest in exchanging personal criticisms as in this discussion—an attitude which does not promise to be as favourable to the union of the Bar under the measure as one would have hoped. I beg Honourable Members to consider the matter seriously. There is no point in arguing the merits of the different branches of the profession, at any rate, not by *argumentum ad hominem* as has been done by the previous speakers.

The object of this Bill is, as far as possible, to bring the Bar and the Judges together and to make them feel that they are branches of one great profession, but this debate has hardly moved in that direction. I must tell the House what would happen if this motion for circulation were carried. This Bill will lapse. Well, we spent a lot of labour on it. It has passed the Select Committee stage. It has been considered by the Select Committee, and concerning the Report of that Committee, I shall have to say a few words in a moment. It has got to that stage. This House is about to be dissolved, and the result, if this motion were accepted, of that dissolution would be that this Bill would lapse. We will have to start it again. We will have to introduce a new Bill in a new Assembly; and therefore, unless there was strong reason, the obvious balance of advantage is against the dropping of the Bill which would destroy much valuable work that has been done.

Now, this is a Bill with which neither of the contending parties are entirely satisfied. That is one of the reasons why we have so many minutes of dissent. They are not minutes of dissent in the true sense, but they are minutes of dissent from the moderate opinion, the balance of the opinion of the Committee from the extreme view of the two contending parties, and therefore I claim that the Bill on the whole should commend itself to moderate opinion.

Now, I have heard one argument for circulation which has a certain cogency. It is said that new matter has been inserted in the Bill, and that is true in respect of two sub-clauses. They are the clauses which deal with seniority and pre-audience. They were not in the Bill, and they were inserted in the Select Committee. Diwan Bahadur Rangachariar is quite correct when he says that they were in the Report, but they were certainly not in the Bill, and they were not circulated to High Courts. As regards the rest of the Bill, I do not think there is any dispute that everybody has had a chance of expressing their views on the Bill and they have done so, although the Bill in its present form would not, I think, commend itself to the Calcutta High Court, we have gone a long way to meet their wishes, and I think we have substantially met the views of the Bombay High Court. I am not at all willing to throw away some years of work, nor am I willing at this stage to defer to the clamour which really I feel should have been raised much earlier. But I am prepared,—I am not prepared to do anything more than that,—but I am prepared to delete the two new clauses regarding seniority and pre-audience in the Bill and circulate them as a separate matter to the High Courts for their opinion, and, if necessary, I will bring in an amended Bill to reinsert

them in the law after this Bill has been passed. That will entail no delay at all because *ex-hypothesi* this Bill cannot be brought into force until the first rules have been made by the High Court and that will take some time and no doubt, as Honourable Members know, the scheme of the Bill is such that it will be brought in section by section as the required machinery is set up. I think long before the required machinery is set up we shall have the clauses back from the bodies concerned. I should myself feel happier in that I had obtained the comments of these High Courts before any such provisions were finally inserted in the Bill. Now, I make that offer in the interests of composing the differences between the contending parties. I think it is not an unfair offer. It meets every possible case there is for recirculation and it enables my friends who are opposing recirculation to agree to what I hope is a graceful concession which will tend to reconcile the contending parties. If the proposition commends itself to the House, I shall be glad. If it does not, then of course I must adhere to the view I have expressed in the Select Committee's Report and oppose the motion for recirculation.

Sir Hari Singh Gour : Sir, I accept the offer made by the Honourable Member that the new clauses added by the Select Committee.....

The Honourable Sir Alexander Muddiman : I may explain, Sir,—perhaps I have not explained how I should give effect to the suggestion I made. I should give effect to it by opposing at the consideration stage those two sub-clauses. That will give the House an opportunity to express its opinion.

Mr. President : The original question was :

“ 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 taken into consideration.”

Since which the following amendment has been moved :

‘ That the Bill as reported by the Select Committee be recirculated for the purpose of eliciting further opinions thereon.’

The question I have to put is that that amendment be made.

The motion was negatived.

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 taken into consideration.”

The motion was adopted.

Mr. President : The question is :

“ That clause 2 do stand part of the Bill.”

Sir Hari Singh Gour : Sir, I have been requested by Lala Lajpat Rai....

Mr. President : The question is :

“ That clause 2 do stand part of the Bill.”

Sir Hari Singh Gour : Sir, I have been requested by Lala Lajpat Rai, in writing to move the amendment which stands in his name.

Mr. President : Will the Honourable Member cite any provision in the Standing Orders or the Rules authorising one Member to move an

[Mr. President.]

amendment standing in the name of another Member ? I am perfectly prepared to accede to the Honourable Member's request if he will satisfy me on the point when the particular clause is reached.

Clauses 2 and 3 were added to the Bill.

Mr. President : The question is :

“ That clause 4 do stand part of the Bill.”

Mr. K. C. Neogy : Sir, I beg to move :

“ That sub-clause (3) of clause 4 be omitted.”

Honourable Members will find that clause 4 lays down the constitution of the Bar Councils. The total strength is laid down at 15, one of whom shall be the Advocate General, 4 shall be persons nominated by the High Court and 10 shall be elected by the advocates of the High Court from amongst their number. The condition that sub-clause (2) imposes is that of these 10 elected members, 5 shall be persons who have for not less than 10 years been entitled as of right to practise in the High Court. Thus far the clause is unexceptionable. Although so far as the High Courts of Madras, the United Provinces, the Punjab, Bihar and Burma are concerned there is to be no further restriction, sub-clause (3) lays down certain additional restrictions for the Bombay and Calcutta High Courts, and by my amendment I seek to remove those additional restrictions and want to place the High Courts of Bombay and Calcutta on the same level with the High Courts of Madras and other places. Sir, I have failed to understand why it is that throughout this Bill we find an anxiety on the part of the Government to treat these two High Courts of Bombay and Calcutta on a privileged footing. There is one circumstance of which I am aware and that is their conservatism. Government have not yet succeeded in getting these two High Courts to agree to a reasonable measure of reform which the Indian Bar Committee advocated. That is the reason why this Legislature is now asked to lay down special restrictions with regard to the composition of the Bar Council for these two High Courts. Sir, as the clause which I seek to remove from the Bill originally stood, there was no distinction sought to be made between the members to be elected on the ground of their being either barristers or non-barristers. The original sub-clause (3) was to this effect :

“ Of the elected members of the Bar Councils to be constituted for the High Courts of Calcutta and Bombay, such proportion as the High Court may direct in each case shall be persons who have, for such minimum period as the High Court may determine, been entitled to practise in the High Court in the exercise of its original jurisdiction.”

This proviso was bad enough in all conscience, but it has been rendered far worse by the addition of the words that appear in the Bill as amended. Sir, I am prepared to concede that so far as the practice and procedure obtaining on the Original Side of the High Court is concerned, there may be some justification for ensuring a representation of people who are entitled to practise on that side. But, Sir, need we leave the proportion of such numbers to be fixed by the two High Courts themselves ? We do not know what proportion will be fixed by each High Court. We do not know whether justice will be done to the entire body of advocates. We do not know whether the claims of the two rival branches of the profession will be satisfied. Sir, it will be said, I know, that so far as Calcutta is concerned,

about 150 vakils have been already admitted under the rules framed by that High Court as advocates authorised to practise on the Original Side. I know that there is some apprehension in certain quarters that if the representation of barristers is not specifically provided for, then vakil advocates might swamp the Councils. Sir, here again I desire to point out that so far as this apprehension is concerned, it would have been absolutely groundless even with the wording as it stood in the original clause, because we find that the High Court was in the original sub-clause authorised not only to prescribe a proportion of the people authorised to practise on the Original Side, but also to lay down the period for which these gentlemen had been authorised to practise on the Original Side. With regard to the 150 vakils who have been enrolled as advocates, their standing on the Original Side barely exceeds one year, and the Calcutta High Court has got in its hands the authority to prescribe a longer period to guard itself against any possible risk which evidently has prompted this restricting clause. Sir, not content with that, the Select Committee has imposed a further restriction; and although the Government stand committed to the principle of the unification of the Bar, we find that in this clause alone they provide for the separate representation of barristers as a class on the Bar Council. I do not know in what way my Honourable friend, the Home Member, is going to defend that. Does this additional restriction make for the unification of the Bar? Sir, I am authorised by the Vakils' Association of Calcutta to enter a strong protest against the manner in which the Government are seeking to impose perhaps a majority of barristers on the Bar Council to be constituted for Calcutta, who would have control over professional questions so far as the vakils also are concerned. Sir, I have pointed out in my minute of dissent that I cannot be a party to this amending clause, because in practical working it may place the vakils in Calcutta under the absolute domination of the barristers. Sir, my Honourable friend, the Home Member, is well aware that there is a sort of rivalry between these two sections. I am not going to conceal that fact from this House. And if as a result of this legislation, a Bar Council is constituted with a standing majority of barristers, although out of the total number of advocates and vakils who have to elect the Bar Council, there may be a very large majority of vakils, does my Honourable friend think that if in these circumstances a Bar Council constituted on these lines is imposed on Calcutta, it would be able to function smoothly, which I dare say is the intention of my Honourable friend? Sir, we find that in an amended clause the Advocate General has been made the *ex officio* Chairman of all Bar Councils. I do not object to that, but it must be remembered that the Chairman will also have a casting vote in the event of there being an equality of votes. So we start with practically two votes, first of all, that are given to the Advocate General, who invariably is a barrister in Calcutta. Then, Sir, we come to the four to be nominated, of whom not more than two may be nominated by the Judges of the High Court. I do not know whether of the four two or even three would not be barristers.

An Honourable Member : That depends on the Calcutta High Court.

Mr. K. O. Neogy : Then of the ten, five are to be members authorised to practise on the Original Side with a sufficient standing. From this group, again, I maintain, as far as can be seen, the vakils would be altogether ousted, as a matter of practice in Calcutta by barristers. So we get five barristers and one Advocate General—six or seven votes certain, and we do not know how many of the four nominated would be barristers.

An Honourable Member : May be all.

Mr. K. C. Neogy : From all that I know, the attitude of the Calcutta High Court does not altogether allay my suspicions that this body will be dominated by barristers. And I in this amendment of mine want to enter a strong protest against the manner in which the Government are seeking first of all to impose a majority of the barrister element in the Calcutta Bar Council, and, in the second place, to maintain permanently a distinction between barristers and non-barrister advocates, which Government stand committed to remove.

Sir P. S. Sivaswamy Aiyer : Sir, I rise to move the amendment which stands in my name. My amendment is not so drastic as the amendment of my Honourable friend Mr. Neogy, but at the same time it is a slight improvement upon the existing clause.

Mr. President : Order, order. The Honourable Member will have the opportunity of moving his amendment after we dispose of the amendment now in hand. Sir Alexander Muddiman.

The Honourable Sir Alexander Muddiman : Sir, I do not know why it is that whenever my Honourable friend, Mr. Neogy, addresses this House, I always have the feeling that he is speaking with much greater violence than the case requires. He is, as I was, an officer of the Calcutta High Court, and I think in any criticism he makes on the clauses in the Bill he should be careful to observe that respect which is due to the Court of which he is an officer.

The main criticism made by the Honourable Member on the Bill is that it would enable the Calcutta High Court, if they were intent on misapplying the clause, to provide an overproportion of barristers on the Bar Council. I should not like myself certainly to take the view that the Calcutta High Court are in the least likely to misapply the powers which we are placing in their hands. The clause, as it stands, carries out the recommendation of the Select Committee and it is, to my mind, a very suitable and desirable clause, though I would at once say that I am quite prepared to accept the amendment of my friend Sir Sivaswamy Aiyer which, I think, meets a difficulty which I have not previously considered. I therefore advise the House to reject Mr. Neogy's amendment.

Mr. President : The question is :

“ That sub-clause (3) of clause 4 be omitted.”

The amendment was negatived.

Sir P. S. Sivaswamy Aiyer : Sir, I beg to move the amendment which stands in my name :

“ That in sub-clause (3) of clause 4, for the words ‘ not less than one-half of the total number of such persons shall be barristers of England ’ the following words be substituted :

‘ such number as may be fixed by the High Court out of the said proportion shall be barristers of England or Ireland ’.”

The House will realise that the Honourable the Home Member is anxious as far as possible to adopt a conciliatory attitude towards the High Courts and carry the High Courts with him in this legislation. That is an attitude which I think we can all appreciate. My amendment in no way interferes with that position, and the only effect of my amendment is this. The original sub-clause (3) of clause 4 provided for a fixed propor-

tion of not less than one-half out of the proportion referred to in the earlier part of the sub-clause.

According to the first part of the sub-clause it is open to the High Court to direct that a certain proportion of the elected members shall be persons who practise on the Original Side. The latter part of this sub-clause, as it stood, provided that out of such proportion not less than one-half shall be barristers of England or members of the Faculty of Advocates in Scotland. Now, it is recognised that the barrister element in the High Courts may not be maintained at its present strength and may probably undergo some diminution of strength. It is, therefore, desirable not to fix a definite proportion like one-half or a definite minimum, but to leave it entirely to the High Court to say how many out of the proportion already fixed shall be barristers. My amendment proceeds on the footing that it is better to leave it to the High Court to determine this proportion from time to time as it thinks fit. The only other point aimed at in my amendment is that the original clause made no provision for barristers of Ireland. According to the Government of India Statute barristers of Ireland are among those who are eligible for appointment to high offices. As there are barristers of Ireland practising in the High Courts, there is no reason why they should be omitted. These are the two objects, which I have in view in moving my amendment. I submit that it is not so drastic as the amendment moved by my friend Mr. Neogy. It is an improvement upon the existing draft and at the same time it leaves the matter in the hands of the High Courts. I commend it for the acceptance of the House.

The Honourable Sir Alexander Muddiman : As I said before, I think, Sir, subject to any verbal alterations that the draftsman may think fit, the amendment is one which might be accepted by the House.

Mr. President : The question is :

“ That in sub-clause (3) of clause 4, for the words ‘ not less than one-half of the total number of such persons shall be barristers of England ’ the following words be substituted :

‘ such number as may be fixed by the High Court out of the said proportion shall be barristers of England or Ireland ’.”

The motion was adopted.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, I beg to move :

“ That to sub-clause (3) of clause 4 the following words be added :

‘ and such barristers of England or Ireland or members of the Faculty of Advocates of Scotland shall be elected by the barristers of England and Ireland and members of the Faculty of Advocates of Scotland enrolled in such High Courts ’.”

Sir, if the election be by the whole body of advocates, then the barristers will have to seek the suffrage of non-barristers ; the latter being in larger number will dominate the election. Such barristers as are of their way of thinking will have predominance. From that point of view, the representatives chosen really by the pleaders will not truly represent the special interests of the barristers. Therefore, I submit that the election of barrister members to the Bar Council should be confined only to barristers. The amendment moved by my friend Sir Sivaswamy Aiyer has already been accepted by the House. That amendment says that they want at least one-half of the other class of members to belong to the Bar Council. Therefore, Sir, it is in conformity with that amendment that the barristers should be elected by

[Mr. K. Ahmed.]

their own votes. Sir, I have been supported in this behalf by the Calcutta Bar as well as the Advocate-General of Bengal. I submit, Sir, that this amendment does not interfere with the elections of the other class. I move, Sir, that this amendment be accepted.

The Honourable Sir Alexander Muddiman : Sir, I have considered Mr. K. Ahmed's proposal with some care. He aims apparently at establishing a communal electorate within the Bar Council. I think, Sir, the High Court will be in a position to keep the balance even by its power of nomination, and I have no reason to believe that the joint electorate will not elect suitable candidates. For that reason I oppose the amendment.

The motion was negatived.

Clause 4, as amended, was added to the Bill.

Mr. President : The question is :

“ That clause 5 do stand part of the Bill.”

Mr. K. Ahmed : Sir, I move :

“ That sub-clause (1) of clause 5 be omitted.”

There is no reason why the pleaders who have not even been made advocates should be allowed to vote in the matter of the constitution of the first Bar Councils. It is obvious from the provisions of clause 5, sub-clause (1) that on the first day, when the elections will be held pleaders will have the right of election, and there is no reason why when they have not even been made advocates they should choose barristers as members of the Council.

I move my amendment, Sir.

The Honourable Mr. S. R. Das (Law Member) : Sir, I oppose the amendment. I am afraid my Honourable friend has not really understood the clause, otherwise he would not have moved this amendment. If the clause is omitted, I do not see how the first Bar Council will be elected at all. This clause merely provides that the first Bar Council shall be elected from among advocates, vakils and pleaders, because at that time they had not been made into advocates. I accordingly oppose the amendment.

The motion was negatived.

Clauses 5, 6 and 7 were added to the Bill.

Mr. President : The question is :

“ That clause 8 do stand part of the Bill.”

Sir Hari Singh Gour : Sir, I move :

“ That sub-clauses (3) and (4) of clause 8 be omitted.”

I think in moving my amendment I fall in with the views of the Honourable the Home Member that these clauses be for the present deleted from the Bill and that the High Courts and the public may be consulted on these two clauses and, if necessary, the Government would bring forward an amending Bill. For these reasons I move for their deletion.

The Honourable Sir Alexander Muddiman : Sir, in order to facilitate the passage of this Bill I threw out that suggestion and I feel that I should be happier if the House omitted these clauses. I will undertake to send them to the High Courts and get their opinion and, if those opinions are favourable, or if in our opinion these clauses are necessary, I shall bring in an amending Bill at the next Session. I hope the House will accept this compromise.

Diwan Bahadur T. Rangachariar : I cannot help regretting the decision of the Home Member in this matter ; he has shown a weakness. The Home Member happens to be weak only in matters which concern others ; but when it concerns the Executive's powers he is firm.

The Honourable Sir Alexander Muddiman : The good of the country.

Diwan Bahadur T. Rangachariar : I am glad he has given an assurance that the matter will be looked into carefully. But I do not see why the High Courts should be troubled with this clause over and over again, when the Government of India have accepted the recommendations of the Bar Committee. I fail to see what the Government are going to circulate again. Let us wait and see ; even if I am not here, others will take care of it.

Sir P. S. Sivaswamy Aiyer : Sir, I wish to make one or two remarks with reference to what has fallen from the Home Member. He does not now wish to proceed with sub-clauses (3) and (4). What remains is that the High Court is bound to maintain a roll of advocates, but in what order will it make a roll of advocates ? There must be some provision to guide the High Court in regard to the order. Sub-clauses (3) and (4) laid down the principles and, if these sub-clauses are now omitted, I do not know in what order the High Court will be expected to prepare the roll. This is my difficulty with regard to the position which has been taken by the Honourable the Home Member and I would ask him to consider the matter.

The Honourable Sir Alexander Muddiman : Sir, the point of my Honourable friend will be met. Before this Bill is brought into force we should have received the result of our consultation and I shall have to bring in some kind of amendment to meet the point which the Honourable Member foresees.

Mr. President : The question is :

“ That sub-clauses (3) and (4) of clause 8 be omitted.”

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Mr. President : The question is :

That clause 9 do stand part of the Bill.”

Mr. S. C. Ghose (Bengal : Landholders) : I move, Sir :

“ That in sub-clause (1) of clause 9 the words ‘ The Bar Council may with the previous sanction of ’ be omitted, and after the words ‘ the High Court ’ where they first occur the word ‘ shall ’ be inserted.”

I think the Judge's supreme power should not be interfered with. The questions dealt with in these are really matters for the High Court and not the Bar Council. Mr. Langford James, an eminent member of

[Mr. S. C. Ghose.]

the Calcutta High Court, said that the matters specified in this clause ought to be dealt with by the Court, which also frames the rules. If the High Court does not frame the rules, there is no provision for the making of such rules. The High Court have already framed rules which are very satisfactory, and the Calcutta High Court has already admitted 150 vakils as advocates, and their seniority ranks from the date of their enrolment as vakils.

I agree with the High Court that it would be disastrous if the High Court were to surrender its existing jurisdiction as regards this matter.

Mr. K. Ahmed : Sir, I beg to support the amendment. I have the greatest pleasure in supporting it because justice is now at stake. Sir, the High Court is always respected by us and before the Honourable Judges other sections of the vakil advocates also bow down and they should accept their decisions. If their views are not accepted and if their orders are not carried out, I fail to see, Sir, how the government of the country can be carried on, for in that case there will be great difficulty in the administration of justice.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I think the Honourable Member's point is met by the provision that the rule shall be made with the previous sanction of the High Court.

Mr. President : The question is :

"That in sub-clause (1) of clause 9 the words 'The Bar Council may with the previous sanction of' be omitted, and after the words 'the High Court' where they first occur the word 'shall' be inserted."

The motion was negatived.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move :

"That for sub-clause (3) of clause 9 the following be substituted :

'(3) Rules made under this section shall provide—

(a) that no woman shall be disqualified for admission to be an advocate by reason only of her sex ; and

(b) that no person shall be disqualified for admission to be an advocate by reason only of his not being domiciled in any particular province in British India."

The House will see that so far as sub-clause (a) of my amendment is concerned it reproduces the existing provision of sub-clause (3). The addition that I seek to make is that one's domicile shall not be treated as a disqualification for admission as an advocate. I will at once tell the House that I have got in my mind one particular instance. I have got in my hand here the rules relating to the admission of advocates and pleaders in Burma ; and what do I find ? The rules relating to the qualifications and admission of advocates lay down that the advocates shall all be persons who are entitled to practise as a barrister in England or Ireland and who satisfy certain conditions. I do not find domicile in Burma laid down as a condition of the admission of advocates. If a barrister is domiciled, however, in Burma, he is entitled to certain exemptions from some of the restrictions laid down here.

But when we come to the rules relating to the qualification and admission of pleaders, who, or at least a section of whom, are entitled to practise in the High Court, we find that domicile is one of the essential conditions of enrolment as a pleader of the High Court. Sir, I daresay the Honourable the Home Member will sympathise with me when I say that here is a distinction which cannot be allowed to remain. Now every person entitled to practise in the High Court will henceforth be enrolled as advocates, and the distinction between advocates and pleaders entitled to practise in the High Court is no longer to exist so far as the High Court of Rangoon is concerned. Yet here is a material distinction which the rules lay down. I want to know whether it is the intention of Government that this distinction should be allowed to remain, although in other respects the distinction is going to be removed. Sir, this clause relates to the framing of rules by the Bar Council regarding the admission of advocates, and what I intend is that among the rules there should be one which should lay down that so far as future enrolment of advocates is concerned non-domicile in Burma should not be a disqualification only in the case of non-barristers. Sir, there is a similar amendment of mine to another clause which deals directly with the existing rules of the High Court, but I will come to that later. I hope the Honourable the Home Member will see that, unless he accepts this amendment, he cannot claim that he is removing the distinctions between barristers and non-barrister advocates so far as the High Court of Rangoon is concerned.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I do not follow my Honourable friend. Under the new law the Bar Council will make the rules. Does my Honourable friend wish to take away from that body the power of making their own rules ?

Mr. K. C. Neogy : My Honourable friend has laid down a particular rule regarding the disqualification of women. That again is a subject which may very well be regulated by the Bar Council !

The Honourable Sir Alexander Muddiman : That is perfectly true, but women stand on a very different footing to other classes. There was a general demand made by this Legislature that women should be eligible for all kinds of offices and we have embodied that in the law ; but to restrict the power of the Bar Council in other matters is, I think, going too far. I am against it.

Sir Hari Singh Gour : Sir, I should like to support the Honourable the Home Member on two grounds, that the Bar Council before making rules for the admission of persons as advocates will pay due regard to linguistic qualifications. If for instance in the High Court of Rangoon the Bar Council find that an advocate should know the Burmese language does my friend suggest that they should be debarred from making a rule of that kind ?

Mr. K. C. Neogy : What about women then ?

Sir Hari Singh Gour : My Honourable friend asks " What about women ? " The answer he will find in the Act known as the Removal of Sex Disqualifications Act....

Mr. K. C. Neogy : Why repeat it here ?

Sir Hari Singh Gour : And it was repeated here because the Select Committee thought that that disability might somehow *volens volens* find

[Sir Hari Singh Gour.]

a place in the rules made by a Bar Council, and by way of greater caution the provisions of the Removal of Sex Disqualifications Act have been embodied here. If my friend had been present in the Select Committee I have no doubt he would have understood that that was the reason. The other question which he has raised stands on a different footing, and I think the Bar Councils must possess sufficient latitude to make rules which they consider in consonance with the wishes of the local Bar and in agreement with the rules made by the High Courts in the various Provinces.

Mr. K. C. Neogy : I only want to ascertain the wishes of this House on the point.

Mr. President : The question is :

“ That for sub-clause (3) of clause 9 the following shall be substituted :

“ (3) Rules made under this section shall provide—

(a) that no woman shall be disqualified for admission to be an advocate by reason only of her sex ; and

(b) that no person shall be disqualified for admission to be an advocate by reason only of his not being domiciled in any particular province in British India ’.”

The motion was negatived.

Mr. K. C. Neogy : Sir, I beg to move :

“ That sub-clause (4) of clause 9 be omitted.”

The House will see that this sub-clause seeks to exempt the High Courts of Bombay and Calcutta, so far as their original jurisdiction is concerned, from the operation of this particular clause, with the result that the Bar Council will be powerless to frame rules regulating the conditions of admission of advocates entitled to practise on the Original Side of these two High Courts. I am very sorry the Honourable the Home Member has left the Chamber just at this moment, because I wanted to refer to certain observations of his in connection with another amendment of mine. Sir, when we come to this House as the elected representatives of the people, we have got to forget that we are officers of any High Court or any other institution. We have got to discharge our duties to the best of our abilities and according to the dictates of our conscience. Sir, I do not know whether the Honourable the Home Member having been an officer of the Calcutta High Court.....

Sir Walter Willson : On a point of order, Sir, is the Honourable Member in order in referring on this amendment to a previous clause and what the Home Member said in reply to a previous clause ?

Mr. President : I am not prepared to rule that the Honourable Member is out of order in this particular case. He takes the first opportunity of answering the general observations of the Home Member which equally apply to this amendment also.

Mr. K. C. Neogy : The argument is the same. I am going to oppose the proposed exception of the two High Courts of Calcutta and Bombay from the operation of certain clauses of this Bill. The Honourable the Home Member expects that, while we criticise the High Courts, we must not forget that he and I were officers of the Calcutta High Court. Sir, I very much hope that the Honourable the Home Member has not been influenced in framing this sub-clause by the fact that he had some connection at some time or other with the Calcutta High Court.

Sir Hari Singh Gour : What about the Bombay High Court ?

Mr. K. C. Neogy : I very much regret to say this when the Honourable the Home Member is away from the Chamber. Sir, I wish further to say that when we address arguments we want to hear arguments in reply, and not merely that the Honourable the Home Member is not in a position to accept this or that amendment. I daresay this House has heard very little from the Honourable the Home Member in reply to some of the arguments addressed from this side of the House in regard to certain amendments. I wish to know from him the reason why he is going to exempt the two High Courts of Calcutta and Bombay from the operation of this clause. That is the point on which I want to hear him.

Sir, the Honourable the Home Member criticised me for having used what he described as violent language. Sir, if he knew the attitude that the High Court of Calcutta has throughout maintained towards this question, he would have sympathised with me, and I daresay that the Honourable the Law Member knows something about the history of the great struggle that vakils have put up for years together for a recognition of their primary rights. Sir, the Indian Bar Committee, which was presided over by an eminent *ex-Judge*, and on which, if I may say so, there was an over-representation of the barrister element, certainly did not recommend that in any measure which the Government might bring forward, the High Courts of Bombay and Calcutta should be treated differently from the rest and that they should not be subjected to any legislative restrictions which might be imposed on other High Courts. I therefore wish to know why this sub-clause has been added.

The Honourable Mr. S. R. Das : Sir, I oppose this amendment on behalf of Government. The Bar Committee in paragraph 33 of their report made certain recommendations with regard to vakils practising on the Original Side. They suggested that vakils of not less than ten years' standing should be admitted at once, that vakils of less than five years' standing shall similarly be entitled to be admitted after they have read for one year with an advocate, approved by the Court, practising on the Original Side, and that vakils of less than five years' standing shall similarly be entitled to be admitted on the same terms and subject to the same restrictions. This particular Bill does not deal with those recommendations at all. It is not intended that this Bill should deal with those recommendations, and I believe my Honourable Colleague, the Home Member, in introducing the Bill did point out that this Bill was not intended to deal with all the recommendations which the Bar Committee have made.

Mr. K. C. Neogy : Why not ? That is my point.

The Honourable Mr. S. R. Das : At any rate, it does not propose to deal with them.

Mr. K. C. Neogy : No reason ?

The Honourable Mr. S. R. Das : The reason why this sub-clause is put in there is to make it quite clear that this Bill does not intend to deal with that part of the recommendations of the Bar Committee. I believe the Honourable the Home Member said that those recommendations would be considered subsequently, and that he would take such measures as he might consider necessary. But this Bill is not intended to deal with those recommendations, and this sub-clause has been put in for the purpose of that fact being made quite clear. I therefore oppose this amendment.

Mr. President : The question is :

“ That sub-clause (4) of clause 9 be omitted.”

The motion was negatived.

Diwan Bahadur T. Rangachariar : Sir, I beg to move :

“ That in sub-clause (4) of clause 9 between the words ‘ shall ’ and ‘ be ’ the words ‘ till the 1st January 1935 ’ be inserted.”

Sir, the object of this amendment is to give effect to the recommendations of the Bar Committee which gave its most earnest and anxious consideration to this vexed question both in Bombay and in Calcutta. It was by way of a compromise that we came to the conclusion that the privileges which certain persons enjoy after their enrolment should not be taken away lightly.

Sir Hari Singh Gour : They have been already taken away.

Diwan Bahadur T. Rangachariar : So far as the Original Side is concerned, we did not want to abolish altogether the existing rules of practice which prevailed there, for people had put themselves to the expense of going to England and being called to the Bar and they enjoyed certain privileges of practice on the Original Side of the High Court, and in these cases we wanted to give them time for the progressive disappearance of this discordant element. And before making our recommendations the Honourable the Law Member then was Advocate General of the Calcutta bar, and he fought his best in the Committee and we on the other side also put our view point of the case, that this apple of discord should be removed at once ; but out of deference to the persistent and insistent advocacy of the Law Member in committee, we agreed to a compromise. I say, Sir, it is always dangerous to agree to a compromise. If a person holds a view he should stick to it. For if once you agree to a compromise, they take away everything. That is always the fate of a compromise, especially with the Government of India. The Government of India always say : “ You have already conceded so much, now we will take away some more,” and that unfortunately is the attitude they have adopted in this case. But there was some statement made by the Law Member just now that the Government of India are still considering bringing forward some measure in a suitable manner to give effect to these recommendations regarding this question of dual agency.

The Honourable Mr. S. R. Das : I think what I said was that I understood that my Honourable colleague the Home Member had said that he was considering the other recommendations which have not been incorporated in this Bill and he would consider whether it was necessary to bring in a measure.

The Honourable Sir Alexander Muddiman : The promise I made to the House, I think, was that as soon as this Bill was passed, I would see what was left to be done in the Report and if any other action, legislative or otherwise, was necessary.

Diwan Bahadur T. Rangachariar : Will this recommendation of the Bar Committee to put a gradual elimination to this distinction in these two High Courts and leave it to the Bar Councils to decide be considered ?

The Honourable Sir Alexander Muddiman : That will be considered. I am not prepared to say it will be favourably considered.

Diwan Bahadur T. Rangachariar : I do not expect that, though on the merits I am entitled to that consideration. But if the Government of India are going to consider this question of equality to all separately, I shall be satisfied. I can assure the Honourable Member that this is giving considerable cause for irritation both in Bombay and Calcutta. Many thoughtful people there are anxious that this inequality should be done away with.

The Honourable Sir Alexander Muddiman : I can give the Honourable Member an assurance that the matter will be taken into consideration.

Diwan Bahadur T. Rangachariar : In that case, Sir, I will not press this amendment because I want this modest measure to come into law. I do hope the Government will give their earnest consideration to this matter also because I know from personal knowledge that this is the real cause of the trouble.

Mr. President : Does the Honourable Member ask leave to withdraw his amendment ?

Diwan Bahadur T. Rangachariar : Yes, Sir. In view of the statement made by the Honourable the Home Member, I ask leave to withdraw the amendment.

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

Clause 9 was added to the Bill.

Mr. President : The question is :

“ That clause 10 do stand part of the Bill ”

Mr. S. C. Ghose (Bengal : Landholders) : Sir, I beg to move :

“ That in sub-clause (2) of clause 10 the word ‘ either ’ and the words ‘ or after consultation with the Bar Council to the Court of a District Judge (hereinafter referred to as a District Court) ’ be omitted.”

I do not think, Sir, that the holding of inquiries should be referred to a District Court at all. I am fortified in my view by the opinion of the Calcutta High Court Judges, including Mr. Justice Mukherji, and the members of the Bar and the Vakils' Association and the Incorporated Law Society that this power should not be given to the District Judge. So I move my amendment.

The Honourable Mr. S. E. Das : Sir, I oppose this amendment on behalf of Government, and on this very short ground. As will be seen from the clause, as it stands, it is for the High Court, after consultation with the Bar Council, to consider whether they should refer the particular matter for investigation to the District Court or to the Bar Council. Now, the reference to the District Court can only arise where the facts of a particular complaint have to be investigated away from Calcutta. If the facts are to be investigated at Rungpur, it is not possible, or at least it will be very inconvenient if the Bar Council were to inquire into that complaint with the result that witnesses may have to be brought from Rungpur to Calcutta. This would involve a great deal of expense. The whole idea is that it should be left to the High Court in a particular case to consider, after consulting the Bar Council, whether the particular inquiry should take place in Calcutta by the Bar Council or in the District by the District Court. The District Court only makes the inquiry and

[Mr. S. R. Das.]

reports its result to the High Court and it is after all the High Court which finally decides upon the complaint.

Mr. S. C. Ghose : It is very expensive, Sir.

The Honourable Mr. S. R. Das : Therefore, I do not think there is any ground for the apprehension which my learned friend has given expression to. I therefore oppose the amendment.

Mr. President : The question is :

“ That in sub-clause (2) of clause 10 the word ‘ either ’ and the words ‘ or after consultation with the Bar Council to the Court of a District Judge (hereinafter referred to as a District Court) ’ be omitted.”

The motion was negatived.

Clause 10 was added to the Bill.

Mr. President : The question is :

“ That clause 11 do stand part of the Bill.”

Mr. K. Ahmed : Sir, I beg to move :

“ That to sub-clause (2) of clause 11 the following proviso be added :

‘ Provided that when the enquiry is with regard to any alleged misconduct of a barrister of England or Ireland or a member of the Faculty of Advocates of Scotland, the tribunal shall consist of judges of the High Court and barristers of England and Ireland and members of the Faculty of Advocates of Scotland only ’.”

Sir, my reason for this amendment is that barristers are governed by the rules of etiquette of the Bar in England. With regard to any act of misconduct or any unprofessional conduct he would naturally prefer to be tried by his own peers, that is, the Benchers in England and other barristers of England, Scotland and Ireland, not by a mixed tribunal containing non-barristers, who are not governed by the rules of the General Bar Council. In connection with this Bill, Sir, I heard the word “ Barbar ” for the first time when on the last day I was attending the Bar Council Committee to settle the report ; the Secretary then brought the report with the Bill as it was amended, and the word “ Bar ” was twice printed before the word “ Council ” by the printer’s devil. The Honourable the Home Member said that the words were “ Bar Council ” but the words that were printed there were “ Bar Bar Council ”. I agreed that it is going to be so. But, Sir, let us take this question seriously. By this Bill we are going to give too much power to pleaders and vakils. These pleaders are going to call themselves advocates, and these pleaders, within the provinces of Bengal and Bombay, as I have heard from my Honourable friend Mr. Jinnah, will have the right of pre-audience. That question is of course reserved for some other day in the next Session. They will have the right of instructing the barristers. The barrister is something like a limping, miserable, down-trodden person, because he has crossed the English Channel, because he was called to the Bar in England, and he, Sir, a man of many years’ standing. Look at the dozens and dozens of vakils who went to England and were called to the Bar and are now practising in the Calcutta High Court. What will be their position ? They will be junior to those vakils who are really junior to them.

Mr. President : Order, order. The Honourable Member is wholly irrelevant.

Mr. K. Ahmed : I am simply feeding the grounds, Sir, why I am justified in contending that the barristers cannot be governed by a

tribunal which is a mixture of vakils and pleaders. The vakil goes to the Police Court and acts and pleads there. He wants to dress himself with the beautiful gown of England and a band ; then he goes next to the Municipal Magistrate's Court, and then he goes to the High Court of Judicature at Fort William in Bengal, for instance. (Laughter.) There he says, " Here is a barrister who has to be instructed ". And that barrister is a limping, helpless man and cannot speak a word without instruction. What is this machinery, Sir, you are going to put up ? Isn't that worse than handcuffs ? Will the Honourable Members present in this Assembly, representing their constituencies and discharging their responsible duties, allow such kind of legislation to be passed in this Assembly ?

Mr. President : Order, order. The Honourable Member must confine himself to the amendment before the House. If he cannot do so, he had better resume his seat.)

Mr. K. Ahmed : I move my amendment, Sir. I am, Sir, within the four corners of my right in moving my amendment, and I will only say, Sir, that it is a painful thing that a Bill of this description has been taken up for the purpose of passing it.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, there is only one word in reply to my Honourable friend. The tribunal is to be appointed by the Chief Justice, and I think we may be quite sure that the Chief Justice will see that its composition is suitable.

Mr. President : Does the Honourable Member (Mr. K. Ahmed) wish the Chair to put the question ?

Mr. K. Ahmed : Yes, Sir.

Mr. President : The question is :

" That to sub-clause (2) of clause 11 the following proviso be added :

' Provided that when the enquiry is with regard to any alleged misconduct of a barrister of England or Ireland or a member of the Faculty of Advocates of Scotland, the tribunal shall consist of judges of the High Court and barristers of England and Ireland and members of the Faculty of Advocates of Scotland only '."

The motion was negatived.

Clauses 11, 12 and 13 were added to the Bill.

Mr. President : The question is :

" That clause 14 do stand part of the Bill.

Mr. K. O. Neogy : Sir, the amendment which stands in my name and which I desire to move is to the following effect :

" That in sub-clause (1) of clause 14, after the word ' practise ' where it occurs for the first time, the words ' by appearing, pleading or acting ' be inserted."

Sir, I am not very much enamoured of my own draft. The point which I wanted to advance in this connection is that the compulsory dual system as it obtains on the Original Side of the Calcutta and Bombay High Courts should be abolished. But I do not think that it is any use advancing arguments in support of my amendment, having regard to the attitude taken up by the Honourable the Home Member. So far I have failed to elicit any reasons in reply to what arguments I have been able to adduce in respect of some of my amendments. That is because he is conscious of the majority he has got at his back to-day. He has got a very

[Mr. K. C. Neogy.]

soft corner in his heart for the Calcutta High Court. Anything that affects that High Court prejudicially I think he will stoutly resist. Sir,

5 P. M.

I am prepared to stand by the recommendations of the Indian Bar Committee as a whole, although I am not satisfied with their recommendation about the continuance of the dual system on the Original Sides of these two High Courts. And my intention in giving notice of this amendment was to enter a formal protest against the tampering with those recommendations, which the Government are doing. If you stand by the recommendations as a whole, I am with you. If you are whittling them down in any material respects, I do not see why I should agree to the continuance of the dual system in these two High Courts. Sir, as arguments are making the Honourable the Home Member more and more impatient, I want to enter a formal protest against the maintenance of the dual system in Calcutta and Bombay.

The Honourable Sir Alexander Muddiman : If the Honourable Member does not advance any arguments, he can hardly expect me to reply.

Diwan Bahadur T. Rangachariar : It is wholly unnecessary to introduce the amendment. "Practise" includes all these things, unless it is restricted. On the other hand, my Honourable friend is casting a doubt upon the meaning of the expression.

Mr. President : The question is :

"That in sub-clause (1) of clause 14, after the word 'practise' where it occurs for the first time, the words 'by appearing, pleading or acting' be inserted."

The amendment was negatived.

Clause 14 was added to the Bill.

Mr. President : The question is :

"That clause 15 do stand part of the Bill."

Mr. S. C. Ghose : Sir, I beg to move :

"That in clause 15 for the words 'A Bar Council may, with the previous sanction of the High Court for which it is constituted' the words 'The High Court may' be substituted."

I agree with the Bengal Government and the Calcutta High Court that no case has been made out for giving Bar Councils power to make rules for legal education. I think the Judges should be left to make such rules as they may think fit, and these rules should be made by the High Court and not by the Bar Council.

The motion was negatived.

Mr. K. Ahmed : Sir, I beg to move :

"That to sub-clause (a) of clause 15, the following be added, namely :

'and that the respective robes prescribed by the Inns of Court for barristers of England or Ireland or members of the Faculty of Advocates in Scotland, and by the High Court of Judicature at Fort William in Bengal and other High Courts for vakils and pleaders, be worn by them respectively'."

I thought, Sir, that Indians had also a tradition in their own country and in their Bars, and I believe, Sir, that many of them are orthodox and they have their Indian traditions behind them. The Honourable High Court of each province has prescribed, Sir, a kind of court dress for vakils

and pleaders. What business have pleaders and vakils, who have been permitted in Calcutta—150 of them already have become advocates in the High Court of Calcutta, Sir,—to dress themselves as barristers? There is a reference from the Benchers of the Inns of Court to which I have already made a reference in my minute of dissent in the following terms :

“ In view of the fact that the principle hitherto adopted by the Government is to follow Reforms gradually, it would be rather unwise to do away with the distinction of the English barristers and the vakil advocates, at the present juncture. The Benchers of the Inns of Court have already sent their opinion through their Council in England, that the robe of the English barristers cannot be worn by the advocates of India, as it would amount to misrepresentation for the Indian advocates to dress themselves as English barristers and appear to be so before the litigant public. Imitation of a trade mark even is not allowed in any country as legal, and the adoption of a barrister's gown and band by the vakil advocates would not only be improper but illegal. This Bill should have definitely decided about it.”

Now, this Assembly has heard that more than 150 vakils have been admitted as advocates in the Calcutta High Court. Sir, their ambition was that they would be well fitted of the High Court to work side by side with the barristers in the Original Side. I had an opportunity of seeing the advancement of this class who have this high ambition behind them. I find that within the course of the last year, since when they have been admitted as advocates by the Honourable Judges of the Calcutta High Court, they have not been able to do anything to better themselves, so that they may look like barristers only and the majority of them have, without any justification or without any rhyme or reason, adopted the dress of the barristers. Now, Sir, they will go to the Police Court, they will go to the Municipal Magistrate's Court and act and plead there ; and they will have to talk to all sorts of men on the road to take instruction from them and these advocates under this Bill will pass themselves off as barristers at the same time. (Laughter). If we have our traditions behind us as Indians, why should we not follow the dress that has been prescribed by our respective High Courts? Why does my Honourable friend, though not at all ambitious to adopt English ideas, try to imitate the dress of barristers and pass himself off as such and thus misrepresent himself to the litigant public. This is a thing which they should not have done. Therefore, Sir, is it fair for my friend Mr. Neogy or Mr. Rangachariar to put on some one else's gown and band instead of their own indigenous dress, and pass off as barristers?

Diwan Bahadur T. Rangachariar : As my Honourable friend has referred to me by name, I may tell him that I do not wear a barrister's robes at all. I have got my own robes which I wear with dignity, honour and prestige.

Mr. K. Ahmed : I am much obliged to my Honourable friend and hope my friend Mr. Neogy will follow Mr. Rangachariar, instead of posing as a barrister.

Mr. President : Order, order. The Honourable Member must be more dignified in the manner of his speech.

Mr. K. Ahmed : I would, Sir, quote the opinion of Mr. Langford Ames, who is a leader of the Calcutta Bar, and whose opinion was invited by the Government. He says :

“ I cannot believe that such matters could be more efficiently dealt with by the proposed composite bodies than under the present arrangement and such provisions

[Mr. K. Ahmed.]

might easily lead to bad feeling and friction between barrister advocates and the vakil and attorney advocates. A certain amount of bad feeling has unfortunately already been fostered by the ill-advised choice of barristers' robes for new advocates."

He further says :

"The practical result of the change in the distribution of work has been negligible in spite of the fact that vakils and attorneys so admitted as advocates have been permitted to wear barristers' gowns and bands and thus tacitly pass themselves off on the litigating public as barristers. The change has therefore so far not impaired the strength or position of what is known as the Calcutta Bar, which is a body exclusively composed of barristers who are not at all concerned in any way with the newly admitted non-barrister-advocates."

That is the situation, Sir, after the advent of these vakil-advocates. In this connection my friend was also quoting a certain authority of 1921 when Munshi Iswar Saran's Resolution was under discussion. My Honourable friend is no longer in the Assembly. There is also the opinion of my friend, Khan Bahadur Syed Sarfaraz Hussain Khan, M.L.A., which I do not like to repeat. The certificate is there. Look also at the certificate given by Mr. D. K. Mittra, who was the District Magistrate and was our colleague in 1921 ? Look at what Mr. Norton has said about this ? Look at the opinions of the other High Courts. Look at what the High Courts of Calcutta and Bombay have said about it ? What friction, what difficulties and what misrepresentation have been made, as I have already described, quoting my authority for the same.

Now I move this amendment with the idea, Sir, that the Honourable Judges of the High Court, who have discretion in this matter, might see for themselves, though they see with only one eye shutting the other one, just as I fear that people even in this Assembly throw mud at others, both inside and outside. That has been the characteristic of our Indian Legislature and the Indian people and the politics of this country. I move my amendment, Sir.

The motion was negatived.

Clauses 15 and 16 were added to the Bill.

Mr. President : The question is :

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

Mr. S. C. Ghose : (Bengal : Landholders) : Sir, I move :

"That in clause 17 after the words 'legal proceedings' the words 'for damages' be inserted."

I agree that no suit or legal proceedings should lie against a Bar Council. But supposing there are cases in which a Bar Council refuses to allow a candidate for examination wrongfully and the candidate under Habeas Corpus moves the High Court for admission. I know of some cases in which the High Court interfered regarding the refusal to admit candidates for examination. There are reported cases. I think the power of the High Court should not be curtailed in this respect.

Sir P. S. Sivaswamy Aiyer : Sir, in drafting this clause the words "for damages" were deliberately omitted, and the reason was this. The Bar Council is charged among other things with the duty of providing facilities for the education and training of law students. Honourable Members are aware that sometimes proceedings are taken in court by aggrieved persons or persons imagining themselves to be aggrieved against

University authorities for an injunction that some examination be held or not held, or for a declaration that they have passed a particular examination. Now the object of this clause is to provide against any vexatious proceedings of that kind by way of injunction. Proceedings of that kind cost a very large amount to the Universities, and I am sure that they will cost a large amount to the Bar Council also if they are allowed to be taken. The object of this clause is to protect the Bar Council in all action taken by them in good faith and to prevent any legal proceedings, for injunction or declaration as well as for recovery of damages. This is the reason for wording the clause in large terms.

The Honourable Mr. S. B. Das : I oppose the amendment. I do not think I need add anything to what has fallen from Sir Sivaswamy Aiyer. Those are the grounds for which this clause was added, and the words "for damages" were intentionally left out.

Mr. President : The question is :

"That in clause 17 after the words 'legal proceedings' the words 'for damages' be inserted."

The motion was negatived.

Clauses 17, 18 and 19 were added to the Bill.

The Schedule was added to the Bill.

Mr. President : The question is :

"That clause 1 do stand part of the Bill."

With regard to this question I may point out to the House that there are on the paper some amendments standing in the name of Lala Lajpat Rai. The House will remember that Sir Hari Singh Gour, when I put clause 2, asked permission to move these amendments. As a matter of fact they are to clause 1 and not to clause 2. As neither Lala Lajpat Rai nor Sir Hari Singh Gour is here, I put the question.

The motion was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Alexander Muddiman : Sir, I move formally that the Bill be passed. If the House wish to have a debate on this motion, I suggest we adjourn. If they do not, I suggest they allow the Bill to pass.

Mr. President : The question is :

"That the Bill be passed."

Mr. K. Ahmed : Sir, I rise to oppose the passing of the Bill.

Mr. President : The Honourable Member might reserve his remarks for to-morrow.

Mr. K. Ahmed : I am very much obliged to you, Sir.

The Assembly then adjourned till Eleven of the Clock on the 27th August, 1926.