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**LEGISLATIVE ASSEMBLY DEBATES**  
(Official Report)

Volume I

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OF THE  
**THIRD LEGISLATIVE ASSEMBLY, 1927**



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# LEGISLATIVE ASSEMBLY.

*Tuesday, 15th February, 1927.*

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

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## QUESTIONS AND ANSWERS.

### TRAINING OF INDIAN BOYS FOR THE ROYAL INDIAN NAVY.

398. **\*Dr. B. S. Moonje:** In view of the announcement made by H. E. the Viceroy in his address to the Members of the Legislative Assembly on the 24th January, 1927, that considerable progress has been made in the matter of reconstituting the Royal Indian Marine as a combatant force, for enabling India to enter upon the first stage of Naval development and ultimately to undertake her own naval defence, will Government be pleased to state:

- (a) what arrangement if any has been made for imparting education to Indian boys in the art and science of naval warfare;
- (b) when it is likely that the actual work of imparting such education will commence; and
- (c) whether the entire combatant force including its officers will be recruited in India and if not what will be the proportion of Indians both in the rank and file and also as officers?

**Mr. G. M. Young:** (a) and (b). The arrangements for training Indian boys for the Royal Indian Navy will be generally on the lines recommended in paragraphs 8, 10 and 11 of the report of the Departmental Committee on the re-organization of the Royal Indian Marine. A copy of the report is in the Library. Some of the details are still under consideration, but the training of boys as deck and engine room ratings has already been started on the Depot Ship established at Bombay, in advance of the inauguration of the Royal Indian Navy.

(c) One-third of the commissioned ranks will be reserved in the first instance for Indians provided that qualified candidates are forthcoming. The intention is that all the lower ranks will eventually consist of Indians. At present there are a few European warrant officers and these will be allowed to serve out their time.

**Mr. M. Ruthnaswamy:** May I ask what arrangements have been made to advertise the inauguration of this ship which may make it possible for people to take advantage of the training offered?

**Mr. G. M. Young:** I do not know what ship the Honourable Member refers to.

**Mr. M. Ruthnaswamy:** Training ship.

**The Honourable Sir Charles Innes:** If the Honourable Member refers to the "Dufferin" which we are equipping as a training ship for the Indian Mercantile Marine, as soon as our efforts have got a little further, we shall take steps in that direction.

**Mr. Ohaman Lall:** Can the Honourable Member let us know why a proportion of one-third only has been fixed for Indians?

**Mr. G. M. Young:** A proportion of one-third was probably fixed as being likely to cover the maximum number of candidates available. As soon as more candidates come forward the proportion may have to be raised.

**Mr. Ohaman Lall:** Do I take it that when more candidates come forward the proportion will be cent. per cent.?

**Mr. G. M. Young:** That will have to be settled when the time comes. The opinion of the Government of India, as of the Departmental Committee, is that the reservation of one-third of the posts would be ample at present.

**Mr. Ohaman Lall:** Did the Departmental Committee consist only of officials or did it include any non-officials?

**Mr. G. M. Young:** The Departmental Committee was a departmental committee consisting of departmental officials.

#### TRAINING OF INDIAN BOYS IN ALL BRANCHES OF CIVIL AND MILITARY AVIATION.

899. **\*Dr. B. S. Moonje:** (a) In view of the fact as announced by H. E. the Viceroy in his address to the Members of the Legislative Assembly on the 24th January, 1927, that "this development of aviation marks the introduction into the country of a new form of civil transport", will Government be pleased to state if Government is contemplating to make adequate arrangements for imparting education to Indian boys in all the branches of civil and military aviation, so as to enable India to take her due share in the matter both of civil air transport as well as in the defence of India in aerial warfare?

(b) If so, when is it likely that schools for teaching aviation to Indian boys will be started in India?

**The Honourable Sir Bhupendra Nath Mitra:** Government do not consider that aviation of any kind is a subject which can suitably be taught to boys in schools, and do not, therefore, contemplate starting such schools. They hope, however, in the near future, to be in a position to call for tenders for the operation of an aerial service in India, and it is their intention that one of the conditions of the contract shall be that the operating company shall undertake to afford training and opportunities for employment to Indians in all branches of its work.

**Pandit Hirday Nath Kunzru:** May I ask whether Government will consider the starting of aviation clubs to make the knowledge of aviation popular?

**The Honourable Sir Bhupendra Nath Mitra:** I did not quite catch what the Honourable Member said.

**Mr. President:** Will the Honourable Member repeat the question?



**Pandit Hirday Nath Kunzru:** I ask whether Government, in order to make the knowledge of aviation popular, would consider the advisability of helping in the starting of aviation clubs?

**The Honourable Sir Bhupendra Nath Mitra:** If the Honourable Member will kindly let me have notice of that question, I shall try to reply to it.

**TOTAL EXPENDITURE ON GOVERNMENT BUILDINGS IN NEW DELHI.**

400. **\*Mr. C. Duraiswamy Aiyangar:** (a) Will Government be pleased to state the total expenditure incurred till now on the Government buildings in New Delhi?

(b) Will Government be pleased to state how much of the money has gone to Indians and how much has gone out of India to other countries?

**The Honourable Sir Bhupendra Nath Mitra:** (a) The total expenditure incurred up to date in connection with the New Capital Project as a whole is approximately Rs. 12,55,00,000 (Rupees twelve crores and fifty-five lakhs).

(b) The Government have no information on the subject.

**Sir Hari Singh Gour:** May I beg to enquire whether this amount completes the programme for the construction of the Imperial Capital, and, if not, how much more money is required to complete it?

**The Honourable Sir Bhupendra Nath Mitra:** I am sorry, Sir, I have not got the figure in my head, but I know that this is not the total expenditure to complete the New Capital. It is the total expenditure up to date. If the Honourable Member will kindly let me have notice of the question, I shall be able to give him the amount which will still have to be spent in order to complete the New Capital.

**Sir Hari Singh Gour:** May I enquire if it is not a fact that the Imperial Capital, so far as house accommodation is concerned, has been under-built by 80 per cent.?

**The Honourable Sir Bhupendra Nath Mitra:** That is perfectly true, Sir.

**Sir Hari Singh Gour:** Is it a fact that when the New Capital was designed in 1911, Lord Hardinge in his despatch to the Secretary of State said that the total expenditure on the Imperial Capital would not exceed £4 millions?

**The Honourable Sir Bhupendra Nath Mitra:** I believe that is also a fact.

**Sir Hari Singh Gour:** What then is the reason for trebling the amount which was originally estimated as the cost of the Imperial Capital?

**The Honourable Sir Bhupendra Nath Mitra:** One of the main reasons, Sir, is the large increase in prices generally.

**Sir Hari Singh Gour:** What percentage, Sir, does the increase in prices represent?

**The Honourable Sir Bhupendra Nath Mitra:** I shall be obliged if the Honourable Member will let me have notice of that question. It is impossible for me to give him information of that sort without due notice.

**Mr. C. Duraiswamy Aiyangar:** May I know from the Honourable Member what he means by saying that the Government has no information under question (b)?

**The Honourable Sir Bhupendra Nath Mitra:** It means that Government have not got the information.

**Mr. C. Duraiswamy Aiyangar:** Does it mean that all these things are carried on without the knowledge of the Government?

**The Honourable Sir Bhupendra Nath Mitra:** No, Sir. The Honourable Member asked how much of the money has gone to Indians and how much has gone out of India to other countries. It is obviously impossible for Government after they have paid the money to pursue what has happened to the money, whether it has remained in the country or it has gone out of the country.

**Mr. C. Duraiswamy Aiyangar:** May I know from the Honourable Member whether he is not in possession of the information as to how many Indians were employed in all these works and how many non-Indians were employed and thereby whether he cannot calculate the amount?

**The Honourable Sir Bhupendra Nath Mitra:** That, Sir, is quite a different question altogether. If the Honourable Member will let me have notice of that question, that is, how many Indians were employed on these works and how many Europeans, I shall try my best to give him that information.

**Mr. C. Duraiswamy Aiyangar:** May I know if the Honourable Member further requires me to ask how much of the materials used was purchased in India and how much was purchased outside?

**The Honourable Sir Bhupendra Nath Mitra:** If the Honourable Member wants to know how much of the capital expenditure has been spent out of India, which again is different from the question he asked, I shall be able to supply him with that information.

**Mr. C. Duraiswamy Aiyangar:** May I take it, then, that the Honourable Member did not understand my question to mean all that?

**The Honourable Sir Bhupendra Nath Mitra:** Sir, I read the question as it stood.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether the Government will be in a position to give us the number of lakhs of rupees that have been paid to the architects and advisers in respect of the construction of New Delhi.

**Mr. President:** The Honourable Member must put that question down on paper.

#### PROHIBITION OF THE SLAUGHTER OF CATTLE FOR THE BURMA MEAT TRADE

401. **\*Mr. Mukhtar Singh:** Will Government be pleased to state whether any of the Provincial Councils have expressed their views as to the prohibition of slaughtering cattle for the purposes of the Burma meat trade? Do Government propose to place on the table the copy of the Resolutions passed by the Provincial Councils together with the information of steps taken by the Local Governments and the Imperial Government?

**Mr. J. W. Bhoré:** The Government have no information beyond what may be contained in the published debates of the local Legislative Councils to which the attention of the Honourable Member is invited. So far as the Government of India are concerned no steps have been taken to prohibit slaughter for the purposes of the Burma meat trade.

ANALYSIS OF VEGETABLE GHEE.

402. **\*Mr. Mukhtar Singh:** Will Government be pleased to state if any analysis of the articles known as substituted ghee or vegetable ghee or the like has been made? If the answer be in the affirmative, will the Government be pleased to place on the table the results of the analysis made giving the food value of the different articles so analysed?

**Mr. J. W. Bhore:** The results of the chemical analysis of artificial ghee so far as available to Government are being placed in the Library of the House.

EFFECT OF THE USE OF VEGETABLE GHEE ON THE HUMAN SYSTEM.

403. **\*Mr. Mukhtar Singh:** Will Government be pleased to state if any investigation has been made as to the effect of the use of substituted ghee on the human body? If so, with what results? If not, do Government propose to make an investigation now and publish the results of the investigation for the information of the general public?

**Mr. J. W. Bhore:** A general enquiry into the nutritive value of food-stuffs is now being made under the direction of the Indian Research Fund Association. It is believed that artificial ghee has not been specially tested, but Government will draw the attention of the Association to this matter if the Honourable Member so desires.

SUPPLY OF VEGETABLE GHEE TO TROOPS.

404. **\*Mr. Mukhtar Singh:** Will Government be pleased to state if vegetable ghee or substituted ghee is purchased for the supply of rations to the military units? If the reply be in the affirmative will Government be pleased to state the names of the places where it is so supplied?

**Mr. G. M. Young:** The answer to the first part of the question is in the negative. The second part does not arise.

ENGINEERING CONTRACTS ON THE GREAT INDIAN PENINSULA RAILWAY.

405. **\*Mr. Chaman Lal:** Will Government be pleased to state:

- (a) how many engineering contracts on the Great Indian Peninsula Railway in connection with improvements sanctioned have been recently given out without tenders being called for?
- (b) whether the Agent, Great Indian Peninsula Railway, has any explanation to offer?
- (c) whether Government have called for reasons for this method of disposing of large contracts?

**Mr. A. A. L. Parsons:** Government have no information. They have no reason to believe that in placing contracts the Agent of the Great Indian Peninsula Railway in any way fails to adopt whatever course is financially most advantageous.

**Mr. Chaman Lall:** May I ask the Honourable Member to try and obtain the information for the benefit of Members of this House?

**The Honourable Sir Charles Innes:** If the Honourable Member will bring to notice any specific instances in which he thinks he has reason to complain, I will certainly have the matter enquired into.

**PURCHASE BY THE GOVERNMENT OF INDIA ABOUT THE TIME OF THE ARMISTICE OF AMERICAN WAGONS DESTINED FOR RUSSIA.**

406. **\*Mr. Chaman Lall:** Will Government be pleased to state:

- (a) How many American wagons destined for Russia were purchased by them about the time of the Armistice?
- (b) Whether the firm to whom the task of altering these wagons was entrusted, was an English firm in India?
- (c) Whether the original estimate of alteration was between six and eight hundred rupees and whether it was not exceeded by twice or three times the amount?
- (d) What were the actual figures of the original and the final estimates?
- (e) Is it true that this firm was given an advance of one crore of rupees without any deliveries having been made?
- (f) Is it true that the cost of alterations in India came to actually more than the cost of wagons? If not, how does it compare with the cost?
- (g) In which Railway Administration Report and at which place are facts about this mentioned?

**Mr. A. A. L. Parsons:** (a) Five thousand wagons manufactured in America were ordered by the Secretary of State in 1918 before the Armistice.

(b) Their erection including certain alterations necessary to fit them for the traffic for which they were required was entrusted to Messrs. Burn and Co., Ltd., Howrah.

(c), (d) and (e). The information is not readily available, but is being obtained, and when obtained will be placed on the table.

(f) No. The cost of alterations and erection of the wagons was about one-third of the purchase price. Exact figures are not available.

(g) A reference will be found at page 23 of the Administration Report on the Railways in India for the year 1919-20. The Honourable Member is also referred to the replies given in the Assembly to Mr. Neogy's questions, bearing serial Nos. 60 and 61, on the 5th September 1921.

**Mr. Chaman Lall:** May I ask the Honourable Member if any enquiry was made by the Audit Department or any other Department in this connection?

**A. A. L. Parsons:** I am afraid I do not remember.

**Mr. Chaman Lall:** Will the Honourable Member obtain the necessary information?

**Mr. A. A. L. Parsons:** I will enquire and let the Honourable Member know.

UNSERVICEABLE UNDERFRAMES ON THE NORTH WESTERN RAILWAY.

407. \***Mr. Chaman Lall**: Will Government be pleased to state:

- (a) how many underframes on the North Western Railway were, during the last three years, found unserviceable and had to be altered or rejected?
- (b) what was the total cost of these underframes?
- (c) at which place in the Railway Administration Report covering this period is the loss and inconvenience arising out of this mentioned?

**Mr. A. A. L. Parsons**: (a) During the last three years no underframes were found unserviceable and none were either altered or rejected. The Honourable Member is possibly referring to the bogie trucks of 387 Indian Railway Conference Association design carriages and 196 wagons which were found to be weak in design.

(b) The total new cost of the underframes and bogies complete for the 387 coaching vehicles was Rs. 45,26,083 and Rs. 10,81,926 for the complete bogie goods wagons. Goods wagons are purchased complete and the separate cost of the underframe is not available.

(c) Items such as the above are not usually included in the Administration Report.

**Mr. Chaman Lall**: May I ask the Honourable Member whether any of these were condemned by the Consulting Engineers?

**Mr. A. A. L. Parsons**: I do not know, Sir.

**Mr. Chaman Lall**: Will the Honourable Member find out and let me know?

**Mr. A. A. L. Parsons**: Certainly.

**Mr. Chaman Lall**: May I also ask the Honourable Member whether these designs were made without consulting the Consulting Engineers?

**Mr. A. A. L. Parsons**: I will find out and let the Honourable Member know.

PAYMENTS MADE TO CONSULTING ENGINEERS FOR STATE RAILWAYS IN RESPECT OF FEES, INSPECTION CHARGES, ETC.

408. \***Mr. Chaman Lall**: Will Government be pleased to state:

- (a) the total amount of money paid to the Consulting Engineers for State Railways in respect of professional fees, inspection charges, etc., since the year 1919?
- (b) whether it is true that the Consulting Engineers resent and have on some occasions advised Government against purchases being made in India through the Indian Stores Department?
- (c) whether it is true that they also resented the activities of the Indian Railway Conference Association?

**The Honourable Sir Bhupendra Nath Mitra**: (a) The payments made for 5 years from 1919-20 to 1923-24 amount to £100,811. This figure covers also the cost of all services rendered by the Consulting Engineers on behalf of the Central and Provincial Governments. The figures for the years 1924-25 and 1925-26 are not yet available.

(b) and (c). The answer is in the negative.

## PURCHASE OF COAL FOR RAILWAYS.

409. \***Mr. Ohaman Lall**: Will Government be pleased to state:

- (a) their method of coal purchase for Indian Railways?
- (b) whether the contract for purchase is fixed every year?
- (c) whether there are any intermediate purchases?
- (d) who settles them?
- (e) whether it is true that the bulk of the purchases have been made from mines controlled by English firms?
- (f) what precautions have Government taken with regard to the further prevention of scandals of the kind which happened in connection with the activities of Mr. Church, the late Mining Engineer?

**Mr. A. A. L. Parsons**: (a) Coal is purchased by calling for public tenders.

(b) Yes.

(c) No.

(d) In the case of State Railways, the purchase is settled by the Railway Board in consultation with their Chief Mining Engineer and the Chief Operating Superintendents.

In the case of Company Railways purchase is made by the Railways themselves in consultation with the Chief Mining Engineers, Railway Board, and the Locomotive Superintendents.

(e) No.

(f) The purchase of coal required by the State Railways is now made by calling for public tenders which are considered by the Railway Board, the various Locomotive Superintendents and the Chief Mining Engineer in consultation.

## DELIVERY OF COAL PURCHASED FOR STATE RAILWAYS.

410. \***Mr. Ohaman Lall**: 1. Will Government be pleased to state what is the method of taking delivery of coal purchased for Indian State Railways?

2. Who certifies the weighments?

3. Through which office are payments for coal made?

4. Whether payments are made long after deliveries are taken?

**Mr. A. A. L. Parsons**: 1. The coal is taken delivery of in full wagon loads.

2. The Railway on which the traffic originates.

3. Payments are made by the Chief Auditor of the Railway to which the coal is supplied.

4. No.

REMARKS OF THE RAVEN COMMITTEE REGARDING LOCOMOTIVE BOILERS AND ROLLING STOCK.

411. \***Mr. Chaman Lall**: Will Government be pleased to state whether the following remark from the Raven Committee's Report applies to locomotives or wagons or both?

"This has led in many cases to repairs being carried out at a stage when it would have been more economical to scrap and renew."

**Mr. A. A. L. Parsons**: The remark referred to applies particularly to locomotive boilers and in a lesser degree to all rolling stock.

SCRAPPING OF LOCOMOTIVES AND WAGONS IN USE ON RAILWAYS.

412. \***Mr. Chaman Lall**: Will Government be pleased to state the number of locomotives and wagons, whose estimated working life is run out during the last five years, which have not yet been scrapped?

**Mr. A. A. L. Parsons**: I am afraid the information asked for by the Honourable Member is not procurable.

ANNUAL COST OF REPAIRS TO RAILWAY WAGONS.

413. \***Mr. Chaman Lall**: (a) Will Government be pleased to state the average annual cost of repair and the number of wagons which go in a year into the workshops?

(b) If the repairs are classified as light and heavy, can these figures be stated exactly?

(c) Has the cost of repair gone up since the war?

(d) What is the total amount of money which is being spent on wagons for repairs on an average on the basis of the last eight years' estimates?

**Mr. A. A. L. Parsons**: (a) The average cost of workshop repairs for the six months ending December, 1926, is about Rs. 170 per wagon and the number of wagons which go into the workshops of all the principal Railways during a year according to statistics available is roughly 100,000.

(b) Wagon repairs are not classified as light and heavy.

(c) Yes, owing to the rise in the cost of labour and materials, though the exact amount cannot be stated.

(d) The information is not readily available, but if the Honourable Member will refer to Volume-II of the Indian Railways Administration Reports, he will no doubt be able to obtain the information he requires.

REDUCTION OF THE PURCHASES FOR RAILWAYS MADE BY THE DIRECTOR GENERAL OF STORES IN LONDON.

414. \***Mr. Chaman Lall**: (a) Will Government be pleased to state whether indents by the purchasing officers of railways, which go to the High Commissioner, London, are being scrutinised in this country by any one with a view to see whether the material could be supplied here?

(b) If they are scrutinised, what action is taken on the report of such scrutiny?

(c) Do Government propose to strengthen this scrutiny and the action thereon so as to bring down the figure of purchases by the Director General of Stores in London?

**The Honourable Sir Bhupendra Nath Mitra:** (a) Yes; by the Chief Controller of Stores, Indian Stores Department.

(b) If, as a result of the scrutiny, the Chief Controller is of opinion that any item included in the indent could, under the Stores Rules, be purchased in India, he communicates his remarks and recommendations to the indenting officer, who is required to report the action he is taking in this matter within 14 days. The Chief Controller's remarks on State Railways' indents and the replies of the indenting officers are discussed by the Chief Controller with the Railway Board at a meeting held once every month, and if it is found that any further action is necessary the Railway Board takes the matter up with the Railway Administration concerned.

(c) The scrutiny as now carried out is considered adequate to ensure that stores required by the State Railways are obtained in accordance with the Stores Rules and it is not proposed to alter the arrangement at present.

**Mr. Chaman Lall:** May I ask, when the Stores Department raise any objection to the indents being placed outside India, whether any action is taken thereon?

**The Honourable Sir Bhupendra Nath Mitra:** I think I have already replied to that question. I have said that the matter is submitted to the Chief Controller, who discusses it with the Railway Board.

**Mr. Chaman Lall:** Will the Honourable Member let me know whether there have been any instances in which the recommendation of the Stores Department has been carried out in this behalf?

**The Honourable Sir Bhupendra Nath Mitra:** I am pretty sure that there are a number of instances.

**Mr. Chaman Lall:** Will the Honourable Member try and obtain information and give it to us as to the number of instances in which recommendations have not been given effect to?

**The Honourable Sir Bhupendra Nath Mitra:** I shall supply the information to the Honourable Member.

#### QUALIFICATIONS OF MR. GOLDER, MANAGER OF THE CENTRAL PUBLICATION BRANCH.

415. **\*Mr. Chaman Lall:** Will Government be pleased to state what is the previous experience of Mr. Golder, the head of the Central Publication Branch?

**The Honourable Sir Bhupendra Nath Mitra:** I understand that after serving 7 years' apprenticeship as a printer Mr. Golder worked for 4 years in St. Dunstan's Press, London, and for a similar period in His Majesty's Stationery Office, London; he is a medalist in costing; he also worked for about 2 years with Messrs. Thacker Spink and Co., Calcutta. Immediately prior to his appointment as Manager of the Central Publication Branch in 1924 he was employed temporarily as a Deputy Superintendent in the Bengal Secretariat Press.



**Mr. A. Rangaswami Iyengar:** May I know what is the age of this particular gentleman? His present age?

**Mr. Chaman Lall:** Is it a fact that his present age is 83?

**The Honourable Sir Bhupendra Nath Mitra:** It is quite possible.

**Mr. Chaman Lall:** Then he must have started work at the age of 14?

**The Honourable Sir Bhupendra Nath Mitra:** That is also quite possible, Sir.

**Mr. Chaman Lall:** What kind of a job did he have when he did start working at the age of 14?

**The Honourable Sir Bhupendra Nath Mitra:** I did not catch the Honourable Member's question.

**Mr. Chaman Lall:** May I ask what particular job he held at the age of 14?

**The Honourable Sir Bhupendra Nath Mitra:** He started as an apprentice.

**Mr. Chaman Lall:** What other qualifications has he for holding this very important job?

**The Honourable Sir Bhupendra Nath Mitra:** I have given all his qualifications, Sir.

**Mr. Chaman Lall:** Are you satisfied that those qualifications fit him for the job he holds?

**The Honourable Sir Bhupendra Nath Mitra:** The qualifications I have mentioned to the House are certainly excellent.

#### CONSTRUCTION OF NEW RAILWAY STATIONS ON STATE RAILWAYS.

416. **\*Mr. Chaman Lall:** (a) Will Government be pleased to mention how many new railway stations are under construction, or have been completed since 1919-20 on State Railways?

(b) What is the total expenditure incurred for this purpose?

**Mr. A. A. L. Parsons:** (a) and (b). I regret the figures are not available and their compilation would entail considerable labour.

**Mr. Chaman Lall:** May I ask whether it is not a fact that large sums of money are being expended on the construction of new railway stations?

**Mr. A. A. L. Parsons:** Fairly large sums. We are building a number of new lines.

**Mr. Chaman Lall:** Is the Honourable Member aware that it is not necessary to expend lakhs upon lakhs on the building of new railway stations?

**Mr. A. A. L. Parsons:** It is necessary to build new railway stations for every new line.

**Mr. Chaman Lall:** Is it necessary to spend so much money upon them?

**Mr. President:** That is a matter of opinion.

**EXPENDITURE ON THE ERECTION OF WORKSHOPS FOR STATE AND COMPANY-MANAGED RAILWAYS.**

417. **\*Mr. Chaman Lall:** (a) Will Government be pleased to state what is the amount of money sanctioned for the erection of various workshops on State and Company-managed Railways since 1919-20?

(b) Is it true that a workshop in Southern India is being erected on an unprecedented scale?

(c) How many new workshops are under construction on the North-Western Railway?

**Mr. A. A. L. Parsons:** (a) Government have not got the information and if asked for from administrations, its compilation would involve a considerable amount of labour and expenditure incommensurate with the value of the information obtained.

(b) New workshops for the maintenance and repair of broad and metre gauge rolling stock are being constructed at Trichinopoly on the South Indian Railway at an estimated cost of Rs. 3,26,86,966.

At Perambur on the Madras and Southern Mahratta Railway the existing Carriage and Wagon Shops are being remodelled and new Locomotive Shops are being built at an estimated cost of Rs. 2,80,16,200.

(c) None, but it is proposed to construct new Locomotive and Carriage Repair Shops at Sukkur.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether that huge workshop at Trichinopoly has been constructed without accurate estimates and work commenced without proper contracts having been entered into?

**Mr. A. A. L. Parsons:** I must ask for notice. I have not seen the papers for some time.

**Mr. Chaman Lall:** Is it a fact that that workshop has a wall 20 feet high round it?

**Mr. A. A. L. Parsons:** At Trichinopoly? No, Sir.

**Mr. Chaman Lall:** Does the Honourable Member intend to run a metre gauge railway along the wall? (Laughter.)

**NUMBER AND COST OF WAGONS PURCHASED IN INDIA AND ABROAD SINCE 1919-20.**

418. **\*Mr. Chaman Lall:** Will Government be pleased to state the number of wagons purchased in India and abroad respectively since 1919-20 and the price paid for them?

**Mr. A. A. L. Parsons:** The total number of wagons purchased in India by the State-worked Railways was 10,173 and the price paid for them (excluding the cost of wheels and axles) was Rs. 4,69,86,819. The number ordered by the State-worked Railways from abroad was 18,602.

The information relating to the price paid for the wagons ordered from abroad by the State-worked Railways and also information relating to numbers and prices of wagons ordered in India and abroad by the Company Railways is not readily available and if asked for from Administrations, its compilation would involve a considerable amount of labour and expenditure, incommensurate with the value of the information obtained.

**Mr. Ohaman Lall:** Is it a fact that only one-tenth of the total number of wagons were ordered in India?

**The Honourable Sir Charles Innes:** The Honourable Member may not be aware that in the last two or three years we have placed orders with the Indian wagon firms to their utmost capacity.

NUMBER OF INDIANS, EUROPEANS AND ANGLO-INDIANS DRAWING SALARIES OF MORE THAN RS. 350 A MONTH ON STATE RAILWAYS.

419. **\*Mr. Ohaman Lall:** (a) Will Government be pleased to state the number of Indians serving under State Railways and receiving as a regular salary, exclusive of allowances, more than Rs. 350?

(b) Will Government be pleased to state the figure of Anglo-Indians and Europeans on the same scale?

**Mr. A. A. L. Parsons:** (a) and (b). The available statistics will be found in Appendix F to Volume I of the Report on Indian Railways for 1925-26, a copy of which is in the Library. We take Rs. 250 and not Rs. 350 as the pay limit for compiling these statistics and do not show Anglo-Indians separately from other classes of statutory Indians who are not Hindus or Muslims.

NAMES OF MEMBERS OF THE RAILWAY BOARD WHO HAVE RETIRED DURING THE LAST EIGHT YEARS.

420. **\*Mr. Ohaman Lall:** Will Government be pleased to state the names of the members of the Railway Board who have retired during the last eight years?

**The Honourable Sir Charles Innes:** (a) A list giving the names is being sent to the Honourable Member.

INDIANS IN THE TRAFFIC OR LOCO SERVICE DRAWING SALARIES OF MORE THAN RS. 1,000 A MONTH.

421. **\*Mr. Ohaman Lall:** Will Government be pleased to state how many Indians there are in the traffic or in the loco service getting more than Rs. 1,000?

**The Honourable Sir Charles Innes:** The information will be found in the Railway Board's Classified List of State Railway Establishment and Distribution Return of Establishment of all Railways, copies of which are in the Library.

NUMBER OF BILLS CERTIFIED BY THE GOVERNOR GENERAL DURING 1924-26, ETC.

422. **\*Mr. Ohaman Lall:** Will Government be pleased to state:

- (1) the number of Bills certified by the Governor General during 1924-26;
- (2) the time, after certification, taken in placing each such Bill before both Houses of Parliament;
- (8) the exact dates of certification in each case and the exact dates on which His Majesty's assent was obtained; and

- (4) whether any action was taken by the Government of India under such certified Bills; and if so the dates on which in each case action was first taken or operative effect given to such Bills?

**Mr. L. Graham:** 1. Two; the Indian Finance Act, 1924, and the Bengal Criminal Law Amendment (Supplementary) Act, 1925.

2. The Indian Finance Act, 1924, was presented to Parliament on the 19th May, 1924, two months after the certification of the Act. The date of presentation of the Bengal Criminal Law Amendment (Supplementary) Act, 1925, was not communicated to the Government of India, but presentation presumably took place after approximately the same interval from certification as in the case of the Finance Act, 1924.

3. Certification took place, in the case of the Indian Finance Act, 1924, on the 19th March, 1924, and in the case of the Bengal Criminal Law Amendment (Supplementary) Act, 1925, on the 24th March, 1925. As the Governor General made the direction referred to in the proviso to sub-section (2) of section 67-B in the case of both these Acts, the assent of His Majesty was not required.

4. The various sections of the Indian Finance Act, 1924, became operative on the date appointed in each section. The Bengal Criminal Law Amendment (Supplementary) Act, 1925, became operative on the date of the Governor General's direction under the proviso to sub-section (2) of section 67-B of the Government of India Act, namely, the 30th March, 1925.

**Mr. A. Rangaswami Iyengar:** May I know whether there has been any instance since 1920 of any Act which has not been brought into operation under the proviso, but awaited the assent of His Majesty the King?

**Mr. L. Graham:** It is a little hard to be asked that question without notice, but I think I can tell the Honourable Member. The Act dealing with disaffection in States (I think it was called the Princes Protection Act) received the assent of His Majesty in the ordinary course.

**Mr. A. Rangaswami Iyengar:** That was the only Act which awaited the assent of His Majesty?

**Mr. L. Graham:** There was only one other Act certified, that was a Finance Act which of course was urgent.

**Mr. A. Rangaswami Iyengar:** Will the Honourable Member give us an exact statement?

**Mr. L. Graham:** I suggest that does not arise out of this question.

#### THE WEEKLY PAYMENTS BILL. •

423. **\*Mr. Chaman Lall:** Will Government state what action they have taken in regard to the suggestions embodied in the Weekly Payments Bill which was withdrawn?

**The Honourable Sir Bhupendra Nath Mitra:** The Honourable Member's attention is invited to the reply given yesterday to starred question No. 389, asked by Mr. N. M. Joshi.

**Mr. Chaman Lall:** With your permission, Sir, I will ask question No. 424 to-morrow as the Honourable Member is not here.

**Mr. President:** The Honourable Member in charge ought to be in the Chamber to answer questions concerning his Department. He has obtained my permission to be absent.

**The Honourable Sir Alexander Muddiman:** Such information has to be collected and will be laid on the table.

**Mr. Chaman Lall:** May I ask the Honourable Member when he lays it on the table to repeat it on the floor of this House?

**The Honourable Sir Alexander Muddiman:** No, Sir. I will lay it on the table according to the usual custom of the House.

**Mr. Chaman Lall:** May I ask what objection the Honourable Member will have to repeating it on the floor of the House?

**The Honourable Sir Alexander Muddiman:** I have no objection except that it is not in the course of the ordinary procedure and I should have to ask for permission to make a statement of that kind.

**Mr. Chaman Lall:** May I ask whether the Government will not give us a verbal reply on the floor of this House considering the importance of the information?

**The Honourable Sir Alexander Muddiman:** The information will be laid on the table in this House and thus be even more available to Honourable Members.

**Mr. Chaman Lall:** Is the Honourable Member aware that he robs us of the right of putting supplementary questions?

**The Honourable Sir Alexander Muddiman:** It does not appear to me to rob the Honourable Member of any right; he will put supplementary questions whatever the reply may be.

**Mr. Chaman Lall:** My question is explicit and I have a right to a reply to that question. I have a right to ask supplementary questions. Will the Honourable Member give a reply on the floor of this House?

**The Honourable Sir Alexander Muddiman:** The Honourable Member has a right to ask supplementary questions and I have the right to reply to them. I will not be intimidated by the Honourable Member tapping the table.

**Mr. Chaman Lall:** Will the Honourable Member give a reply on the floor of this House?

**The Honourable Sir Alexander Muddiman:** I have given a reply and I do not propose to add to it.

**Mr. A. Rangaswami Iyengar:** Will the Honourable Member let us know his reasons?

**The Honourable Sir Alexander Muddiman:** I have stated that I will lay the information on the table; I do not propose to make a statement at this stage. If the Honourable Member has any objection to that procedure, he has his remedy.

**Mr. Chaman Lall:** May I ask what the remedy is?

**The Honourable Sir Alexander Muddiman:** The Honourable Member may consult the rules.

**Mr. Chaman Lall:** Is the Honourable Member trying to evade the rules by not answering the question on the floor of this House?

**The Honourable Sir Alexander Muddiman:** That is not a question which ought to have been put to me; I ask your protection, Sir, on that.

#### SETTLEMENT OF OUTSTANDINGS WITH THE WAR OFFICE.

425. **\*Mr. Chaman Lal:** Will Government state whether any settlement has been arrived at with the War Office in regard to our outstandings?

**The Honourable Sir Basil Blackett:** I regret that I am not yet in a position to make a statement on this subject.

**Mr. Chaman Lal:** Will the Honourable Member let us know how long it will be before he will make a statement?

**The Honourable Sir Basil Blackett:** I have nothing to add to my reply.

**Mr. A. Rangaswami Iyengar:** May I know when we may expect a statement?

**The Honourable Sir Basil Blackett:** I must ask the Honourable Member to accept my answer that I am not yet in a position to make a statement.

#### GRANT OF A CERTIFICATE TO DR. RAM KISHAN, PRIVATE MEDICAL PRACTITIONER OF PATTOKI, FOR SERVICES RENDERED BY HIM TO INJURED PASSENGERS DURING THE COLLISION AT HARPA.

426. **\*Pandit Thakur Das Bhargava:** (a) Is it a fact that at the time of the Harpa collision on the North Western Railway many certificates were awarded to the persons who had rendered medical aid and other useful services to the wounded passengers?

(b) Is it a fact that Dr. Ram Kishan, S.A.S., private medical practitioner of Pattoki, District Lahore, had also rendered useful service to the needy?

(c) Is it a fact that the said Doctor had submitted an application to the Agent, North Western Railway, on the 30th March, 1925, under registered cover requesting him for the award of such a certificate?

(d) Is it a fact that the T. I. concerned after having made the necessary enquiries had verified his services and recommended him for a certificate?

(e) Is it a fact that many reminders have also been sent to the Agent by the said applicant to the same effect?

(f) If the reply to all the above questions is in the affirmative, will Government be pleased to state why he has not yet been granted the certificate applied for?

**Mr. A. A. L. Parsons:** Government have no information. They will, however, send the Honourable Member's question to the Agent, North Western Railway.

#### RELAYING OF RAILS ON THE REWARI-FAZILKA SECTION OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

427. **\*Pandit Thakur Das Bhargava:** Will the Government be pleased to state if the relaying of rails on the Bombay, Baroda and Central India Railway (Rewari-Fazilka section) is over?

If not, by what time will it be over?

**Mr. A. A. L. Parsons:** The information has been called for from the Agent, Bombay, Baroda and Central India Railway, and will be supplied to the Honourable Member on receipt.

**NORMAL SPEED OF TRAINS ON THE REWARI-FAZILKA SECTION OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.**

428. **\*Pandit Thakur Das Bhargava:** (a) Will the Government be pleased to state the normal speed of trains running on the Rewari-Fazilka section of the Bombay, Baroda and Central India Railway?

(b) Was the speed ever more than at present on this section? If so, what was it and why was it reduced?

(c) Is it proposed to increase it now?

(d) If so, by what time is the speed likely to be increased?

**Mr. A. A. L. Parsons:** (a) The average through speed of passenger and mixed trains is a little over 18 miles per hour including stops at stations.

(b) Not so far as Government are aware, but the old time tables have been destroyed.

(c) and (d). Government have no information, but the Agent of the Bombay, Baroda and Central India Railway in common with the Agents of other railway administrations, is fully alive to the desirability of speeding up trains where possible.

**PROVISION OF INTERMEDIATE CLASS ACCOMMODATION BETWEEN DELHI AND BHATINDA ON THE METRE GAUGE SECTION OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.**

429. **\*Pandit Thakur Das Bhargava:** (a) Will Government be pleased to state if intermediate class accommodation is provided between Delhi and Bhatinda, on the Bombay, Baroda and Central India Railway (metre gauge) in every train?

(b) If each train is not provided with such accommodation, are Government prepared to consider the advisability of providing every train with such accommodation?

**Mr. A. A. L. Parsons:** (a) No.

(b) The matter is one for the Agent of the Bombay, Baroda and Central India Railway, to whom a copy of the Honourable Member's question is being sent.

**PROVISION OF LIGHTS IN COMPOUND LEADING TO THE THIRD CLASS WAITING SHED AT HISSAR RAILWAY STATION.**

430. **\*Pandit Thakur Das Bhargava:** (a) Are Government aware that there are no lighting arrangements in the compound meant for the traffic of carriages and passengers leading to third class waiting shed at Hissar railway station?

(b) Are Government aware that as a result of want of such arrangements accidents have taken place resulting in injuries to the persons of passengers and to horses?

**Mr. A. A. L. Parsons:** (a) and (b). Government have no information on the subject, but a copy of the question has been sent to the Agent, Bombay, Baroda and Central India Railway.

PROVISION OF ELECTRIC FANS IN THE SECOND CLASS COMPARTMENTS  
OF THE METRE GAUGE SECTION OF THE BOMBAY, BARODA  
AND CENTRAL INDIA RAILWAY.

431. **\*Pandit Thakur Das Bhargava:** (a) Are there any electric fans provided in the second class compartments on the Bombay, Baroda and Central India Railway (Delhi-Bhatinda section, metre gauge)?

(b) Is it likely that fans will be provided before the coming summer season in the second class compartments?

**Mr. A. A. L. Parsons:** The information is being obtained and on receipt it will be furnished to the Honourable Member.

PROVISION OF ELECTRIC FANS IN THIRD CLASS RAILWAY CARRIAGES.

432. **\*Pandit Thakur Das Bhargava:** (a) Was there any proposal before the railway authorities for providing electric fans in all the third class carriages all over India, or on any particular line?

(b) If so, why was such a proposal shelved?

(c) Is there any such proposal now under the consideration of the railway authorities?

**Mr. A. A. L. Parsons:** (a) The proposal has been before some railways.

(b) and (c). The installation of electric fans in third class carriages would involve heavy expenditure both initial and recurring and Government do not propose to adopt the proposal.

FARES ON THE METRE GAUGE SECTION OF THE BOMBAY, BARODA AND  
CENTRAL INDIA RAILWAY, THE NORTH WESTERN RAILWAY  
AND THE EAST INDIAN RAILWAY.

433. **\*Pandit Thakur Das Bhargava:** What are the railway fares per mile on the Delhi-Bhatinda (metre gauge) section, Bombay, Baroda and Central India Railway, the North Western Railway and the East Indian Railway for third, intermediate, second, and first class?

FARES ON THE METRE GAUGE SECTION OF THE BOMBAY, BARODA AND  
CENTRAL INDIA RAILWAY, THE NORTH WESTERN RAILWAY  
AND THE EAST INDIAN RAILWAY.

434. **\*Pandit Thakur Das Bhargava:** Will Government be pleased to lay on the table a statement showing the rate of fares on the Bombay, Baroda and Central India (metre gauge), Delhi-Bhatinda section, the North Western Railway and the East Indian Railway, detailing the fares as they were originally fixed and their increases on different occasions as well as their reduction to the present level?

**Mr. A. A. L. Parsons:** I propose, with your permission, Sir, to reply to questions Nos. 433 and 434 together.



I am sending to the Honourable Member a statement showing the rates of fares charged on the Railways referred to from 1910.

Information for previous years is not available and its collection will involve much labour which does not appear commensurate with the result to be obtained.

*Statement showing the rates of fares charged on the undermentioned Railways from 1910.*

Name of Railways.	Class.	Date of revision.	Fares in force per mile.
B., B. & C. I. (Metre Gauge), Delhi-Bhatinda Section.	1st	1st January 1910	{ 18 pies 1st 300 miles.
			{ 12 „ additional distance.
		1st June 1917	18 „ all distances.
		1st April 1921	{ 24 „ 1st 300 miles.
			{ 18 „ additional distance.
		1st May 1922	{ 80 „ 1st 300 miles.
Ditto	2nd		{ 18 „ additional distance.
		1st October 1924	{ 24 „ 1st 300 miles.
			{ 18 „ additional distance.
		1st April 1926	{ 24 „ 1—150 miles.
			{ 18 „ additional distance.
		1st January 1910	{ 9 „ 1st 300 miles.
Ditto	Inter		{ 6 „ additional distance.
		1st June 1917	9 „ all distances.
		1st April 1921	{ 12 „ 1st 300 miles.
			{ 9 „ additional distance.
		1st May 1922	{ 15 „ 1st 300 miles.
			{ 9 „ additional distance.
Ditto	Inter	1st October 1924	{ 12 „ 1st 300 miles.
			{ 9 „ additional distance.
		1st April 1926	{ 12 „ 1—150 miles.
			{ 9 „ additional distance.
Ditto	Inter	1st July 1923	6 „ all distances.
		1st October 1924	5 „ „ „
		1st April 1926	{ 5 „ 1—150 miles
			{ 4 „ additional distance.

Statement showing the rates of fares charged on the undermentioned Railways from 1910—  
contd.

Name of Railways.	Class.	Date of revision.	Fares in force per mile.
B., B. & C. I. (Metre Gauge), Delhi-Bhapinda Section— <i>contd.</i>	3rd	1st January 1910	{ 2 pies 1st 200 miles.
			{ 1½ „ additional distance.
		1st June 1917	2½ „ all distances.
		1st August 1920	3 „ „ „
		1st May 1922	{ 3½ „ 1st 300 miles.
			{ 3 „ additional distance.
E. I.	1st	1st April 1926	{ 3½ „ 1—300 miles.
			{ 2½ „ additional distance.
		1st January 1910	{ 18 „ 1st 300 miles.
			{ 12 „ additional distance.
		1st May 1917	18 „ all distances.
		1st October 1921	{ 24 „ 1st 300 miles.
			{ 18 „ additional distance.
		1st June 1922	{ 30 „ 1st 300 miles.
			{ 18 „ additional distance.
		1st April 1924	{ 24 „ 1st 300 miles.
Do.	2nd		{ 18 „ additional distance.
		1st February 1927	{ 24 „ 1—100 miles, <i>plus</i>
			{ 18 „ 101—300 „ „
			{ 12 „ 301 miles and over.
		1st January 1910	{ 9 „ 1st 300 miles.
			{ 6 „ additional distance.
		1st May 1917	9 „ all distances.
		1st October 1921	{ 12 „ 1st 300 miles.
			{ 9 „ additional distance.
		1st June 1922	{ 15 „ 1st 300 miles.
			{ 9 „ additional distance.
		1st April 1924	{ 12 „ 1st 300 miles.
			{ 9 „ additional distance.

Statement showing the rates of fares charged on the undermentioned Railways from 1910—  
contd.

Name of Railways.	Class.	Date of revision.	Fares in force per mile.
E. I.— <i>contd.</i>	2nd— <i>contd.</i>	1st February 1927	{ 12 pies 1st 100 miles, <i>plus</i> { 9 „ 101—300 „ „ { 6 „ 301 miles and over.
Do.	Inter.	1st January 1910	{ Mail and 3½ pies 1st 300 miles. { Ordinary 3 „ additional distance.
		1st May 1917	Mail and Ordinary—4½ pies all distances.
		1st October 1921	{ Mail { 6 pies 1st 200 miles. { 4½ „ additional distance. { Ordinary 4½ pies all distances.
		1st June 1922	{ Mail { 7½ pies 1st 300 miles. { 5½ „ additional distance. { Ordinary 5½ pies all distances.
		1st April 1924	{ Mail { 7 pies 1st 300 miles. { 5 „ additional distance. { Ordinary 5 pies all distances.
		1st January 1926	{ Mail { 7 pies 1st 300 miles. { 8½ „ additional distance. { Ordinary { 5 pies 1st 300 miles. { 8½ „ additional distance.
Do.	3rd	1st January 1910	All trains { 2½ pies 1st 100 miles. { 2 „ 101 to 300 miles. { 1½ pies additional distance.
		1st May 1917	All trains 3 pies all distances.
		1st October 1921	{ Mail { 4 pies 1st 300 miles. { 3½ „ additional distance. { Other trains 3 pies all distances.
		1st June 1922	{ Mail { 5 pies 1st 300 miles. { 4½ „ additional distance. { Other trains 3½ pies all distances.

Statement showing the rates of fares charged on the undermentioned Railways from 1910—  
contd.

Name of Railways.	Class	Date of revision.	Fares in force per mile.
E. I.— <i>concll.</i>	3rd— <i>contd</i>	1st January 1926	Mail { 5 pies 1—300 miles, plus 3½ pies 301—600 miles. 8 pies additional distance.
			Ordinary { 8½ pies 1st 300 miles. 2½ „ additional distance.
		1st February 1927	Mail { 5 pies 1—50 miles. plus 4 pies 51—300 miles. 2½ „ 301 and over.
			Ordinary { 8½ pies 1—50 miles. plus 3 pies 51—300 miles, plus 2 pies 301 and over.
N. W.	1st	1st January 1910	{ 18 pies 1st 300 miles. 12 „ additional distance.
		1st July 1917	18 „ all distances.
		1st January 1922	{ 24 „ 1st 300 miles. 18 „ additional distance.
		1st April 1926	18 „ all distances.
		1st February 1927	{ 18 „ 1st 300 miles. 12 „ additional distance.
Do.	2nd	1st January 1910	{ 9 „ 1st 300 miles. 6 „ additional distance
		1st July 1917	9 „ all distances.
		1st January 1922	{ 12 „ 1st 300 miles. 9 „ additional distance.
		1st April 1926	9 „ all distances.
		1st February 1927	{ 9 „ 1st 300 miles. 6 „ additional distance.
Do.	Inter.	1st January 1910	{ 8½ „ 1st 300 miles. 3 „ additional distance.
		1st July 1917	4½ „ all distances

Statement showing the rates of fares charged on the undermentioned Railways from 1910—  
concl.

Name of Railways.	Class.	Date of revision.	Fares in force per mile.
N. W.— <i>contd.</i>	Inter— <i>contd.</i>	1st January 1922	4½ pias all distances by all trains except by Bombay and Calcutta mail trains. { 6 pias 1st 300 miles. 4½ pias additional distance.
		1st June 1922	5 „ all distances.
		1st April 1926	{ 5 „ 1—50 miles. 4½ „ additional distance.
Do.	3rd	1st January 1910	2½ „ all distances.
		1st June 1916	{ 2½ „ 1st 100 miles. 2 „ additional distance.
		1st July 1917	3 „ all distances.
		1st June 1922	3½ „ „ „
		1st April 1926	{ 3½ „ 1—50 miles. 3 „ additional distance.
		1st February 1927	{ 3½ „ 1—50 miles. 3 „ 51—300 miles. 2 „ 301 and over.

PRICE OF TIME TABLES ON CERTAIN SPECIFIED RAILWAYS.

485. \*Pandit Thakur Das Bhargava: Will Government be pleased to lay on the table a statement showing the rise and fall in the price of Time Tables of the following railways and their present price:

1. The North Western Railway.
2. The East Indian Railway.
3. The Great Indian Peninsula Railway.
4. The Bombay, Baroda and Central India Railway.

Mr. A. A. L. Parsons: The present price of the Time Tables of the Railways concerned is as follows:

North Western Railway	6 annas.
East Indian	2 „
Great Indian Peninsula Railway	6 „
Bombay, Baroda and Central India Railway	1 anna.

Information is not available regarding the price of previous issues, but the next issue of the North-Western Railway Time Table will be priced at 3 annas without a map.

**Sir Hari Singh Gour:** Does the Railway Board or do the Companies concerned make any profit on the sale of these time tables? If so, how much?

**Mr. A. A. L. Parsons:** From the prices I have quoted, I imagine they make no profit.

GRANT OF CONCESSIONS TO PASSENGERS PURCHASING SECOND CLASS RETURN TICKETS ON THE METRE GAUGE SECTION OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

436. **\*Pandit Thakur Das Bhargava:** (a) Did the Bombay, Baroda and Central India Railway, metre gauge, Delhi-Bhatinda section, give any concession to the second class passengers who purchased return journey tickets before the war?

(b) If so, when were the concessions discontinued?

(c) In the face of the fact that other railway administrations have chosen to reintroduce them, do the Bombay, Baroda and Central India Railway authorities propose to resuscitate them?

(d) If so, by what time?

**Mr. A. A. L. Parsons:** (a) and (b). The information is not available as the old time and fare tables have been destroyed.

(c) and (d). First and second class week-end return tickets at 1½ fares are available between any two stations on the Bombay, Baroda and Central India Railway which are not less than 50 miles apart. Government do not know whether any extension of the issue of return tickets is contemplated by the Agent, Bombay, Baroda and Central India Railway.

REPRESENTATION OF THE LEGISLATIVE ASSEMBLY ON THE INDIAN CENTRAL COTTON COMMITTEE.

437. **\*Mr. Mukhtar Singh:** Will Government be pleased to state the constitution of the Cotton Committee? Will the Government be pleased to state if this House has any representation on that Committee?

**Mr. J. W. Bhore:** The constitution of the Indian Central Cotton Committee is laid down in section 4 of the Indian Cotton Cess Act, 1923 (XIV of 1923) to which the attention of the Honourable Member is invited. The Legislative Assembly is not represented on the Committee.

INTRODUCTION OF COTTON PESTS INTO INDIA.

438. **\*Mr. Mukhtar Singh:** Will Government be pleased to state the measures taken to avoid the introduction of new pests and diseases with the introduction of the new varieties of foreign cotton into this country? Will Government be further pleased to state the results of such measures?

**Mr. J. W. Bhore:** Steps have been taken by Government under the Destructive Insects and Pests Act, 1914, to prevent the introduction of cotton pests in this country. Under a notification, dated the 26th June 1922, the importation of cotton seeds by sea is prohibited except after fumigation with carbon bisulphide at the ports of Bombay, Calcutta,

Dhanushkhodi, Karachi, Madras, Negapatam, Rangoon and Tuticorin. To prevent the introduction of the Mexican cotton boll weevil which has caused serious ravages in America, the importation of American cotton into British India is prohibited under a notification, dated the 14th November 1925, except through the port of Bombay where elaborate arrangements have been made for its fumigation before entry. The Government believe that these steps are attaining the objects in view.

**Sir Victor Sassoon:** Sir, is it a fact that only one dead boll weevil has been discovered out of the shipments that have arrived in Bombay?

**Mr. J. W. Bhore:** I have no information. If the Honourable Member wants information I shall be happy to obtain it for him.

#### INVESTIGATION RE INDIGENOUS VARIETIES OF COTTON.

439. **\*Mr. Mukhtar Singh:** Will Government be pleased to state if any scientific investigation into the merits and demerits of the indigenous varieties of cotton has been made? If the answer be in the affirmative, will the Government be pleased to state the name of the report or the bulletin which contains the details of such investigation?

#### IMPROVEMENT OF THE INDIGENOUS VARIETIES OF COTTON.

440. **\*Mr. Mukhtar Singh:** Will Government be pleased to state the steps taken to improve the indigenous varieties of cotton either by selection or by breeding? Will Government be further pleased to state whether any investigations have been made as to the likelihood of improving the indigenous varieties of cotton so that they may be quite capable of competing with the imported foreign varieties? If so, what are the results of such investigations?

#### IMPORT OF AMERICAN COTTON.

\*441. **\*Mr. Mukhtar Singh:** Will Government be pleased to give the information if it is a fact that a large quantity of cotton is being imported from America into this country and that the imported cotton will undersell the indigenous cotton both in quality and price? If it is a fact, will Government be further pleased to state how it will affect the growers of Indian cotton and what are the measures in contemplation of the Government experts to ward off the calamity?

#### COMPARATIVE COST OF PRODUCTION OF INDIGENOUS AND FOREIGN COTTON.

442. **\*Mr. Mukhtar Singh:** Will Government be pleased to state if any investigation as to the comparative cost of production of the indigenous and foreign varieties of cotton has been made in the different localities of the country? If so, will Government be pleased to place on the table the results of such investigation?

#### LONG STAPLED INDIAN COTTON.

443. **\*Mr. Mukhtar Singh:** Will Government be pleased to state if any steps have been taken to introduce the long stapled Indian cotton in the different localities where cotton is the main crop? If so, will Government be further pleased to state the result of such measures adopted?

**Mr. J. W. Bhore:** With your permission, Sir, I should like to answer questions Nos. 439 to 443 together.

The information is being obtained and will be supplied to the Honourable Member.

OPENING OF A GOVERNMENT STATIONERY OFFICE IN THE COUNCIL HOUSE  
FOR THE SALE OF GOVERNMENT PUBLICATIONS TO  
NON-OFFICIAL MEMBERS.

444. **\*Mr. E. F. Sykes:** In view of the fact that non-official Members are unable to buy copies of Statutes and other Government publications at any place nearer than Calcutta, will Government arrange for a Government Stationery Office to be set up in the Council House where all Government publications old and new can be purchased?

**The Honourable Sir Bhupendra Nath Mitra:** Arrangements have already been made by which Honourable Members desiring to purchase Government publications can give their orders to the Notice Clerk, who is responsible for transmitting these orders to the Manager of the Central Publication Branch.

**Sir Hari Singh Gour:** Sir, is the Honourable Member aware that in the last Assembly an assurance was given by the Honourable Member that a book depot would be opened for the use of Members so that the publications might be sold at it both in Delhi and in Simla?

**The Honourable Sir Bhupendra Nath Mitra:** I have no recollection of having given such an assurance.

**Sir Hari Singh Gour:** Will the Honourable Member look up his files and see if such an assurance was not given?

**The Honourable Sir Bhupendra Nath Mitra:** I will do so, but I am pretty sure my statement is correct.

**Mr. E. F. Sykes:** Will the Honourable Member arrange to supply, in the Library, copies of Government publications sold by the Publication Department so that Honourable Members, before ordering, may see what their contents are?

**The Honourable Sir Bhupendra Nath Mitra:** Most important Government publications are placed in the Library.

**Mr. H. G. Cocke:** Is the Honourable Member aware that at a place called Bombay Government publications cannot be obtained?

**The Honourable Sir Bhupendra Nath Mitra:** If the Honourable Member is referring to the publications of the Government of India, I believe that apart from the Central Publication Branch maintained at Calcutta, there are agencies at Bombay which also sell Government of India publications.

**Mr. R. K. Shanmukham Chetty:** Sir, is the Honourable Member aware that even if we send orders to the Central Publication Depot at Calcutta they take an unconscionably long time in complying with those orders?

**The Honourable Sir Bhupendra Nath Mitra:** I have no information, Sir, but if the Honourable Member will furnish me with particulars of any specific grievance I shall certainly have the matter looked into.

**Mr. R. K. Shanmukham Chetty:** When I sent an order from Coimbatore they took one month to send the book.

**The Honourable Sir Bhupendra Nath Mitra:** If the Honourable Member will send me the facts of that case I will certainly have the matter looked into.

**Mr. Vidya Sagar Pandya:** Sir, it took me about three months to get a copy of the Government of India Gazette!



**Mr. Arthur Moore:** Arising out of that answer, Sir, will the Honourable Member provide Members with an opportunity for obtaining liquid refreshment in the lobbies!

REMOVAL OF THE DISABILITIES OF INDIANS IN FIJI.

445. **\*Mr. Gaya Prasad Singh:** (a) Is it a fact that as a condition precedent to the appointment of the Indian Deputation, the Fiji Government, in the Fiji "*Royal Gazette*" of the 27th June, 1921, publicly guaranteed that the position of Indians in Fiji would in all respects be equal to that of any other class of His Majesty's subjects?

(b) Is it a fact that there is not a single Indian on the Advisory Executive Council of the Fiji Government?

(c) Is it a fact that restrictions have been placed on the right of Indians to jury trial, while there are no such restrictions in the case of Europeans, under section 17 of the Fiji Criminal Procedure Ordinance of 1875?

(d) Is it a fact that under section 24(6) of the summary correction of Offences Ordinance, restrictions have been placed on Indians in the matter of loitering in towns between 11 P.M. and 5 A.M., while no such restrictions exist in the case of Europeans?

(e) Is it a fact that under the Masters and Servants Ordinance of 1890 an Indian is liable to a penalty of £5, or in default to 2 months' imprisonment by the Magistrate for neglect of duty and similar offences, instead of resorting to civil remedy, if entitled to, and that this is not applicable to Europeans?

(f) Is it a fact that no Indian in Fiji is permitted to acquire or possess more than 80 acres of land, and that his possession is restricted only to particular localities?

(g) Have Government taken any steps in the above matters? If so, when, and with what results?

**Mr. J. W. Bhore:** (a), (b), (c) and (d). Yes.

(e) No. There is no discrimination between European and Indian servants in respect of the offences under the Masters and Servants Ordinance, 1890, referred to by the Honourable Member.

(f) Applications by Indians are as a general rule limited to 10 acres of agricultural land with 20 acres of grazing land; but it is understood that if any applicant can show that he has means to work a larger area, his application is seldom refused.

(g) The Government of India are still in correspondence on these matters but are not yet in a position to make any statement. •

REMOVAL OF THE DISABILITIES OF INDIANS IN FIJI.

446. **\*Mr. Gaya Prasad Singh:** (a) What steps, if any, do Government propose to take to bring about the abolition of the poll-tax in Fiji, and

enlarging the municipal franchise to secure adequate representation of Indians in the Municipal Councils of Suva and Lenuka?

(b) Is it a fact that restrictions have been put on Indians in Fiji in the matter of possessing arms, which are not applicable to Europeans in the Colony?

(c) Is it a fact that the Indians in Fiji pay direct and indirect taxes which amount to more than any other community in Fiji, and yet at present they have not a single member in the Legislative or Municipal Councils?

(d) Will Government kindly state what steps they have taken, or propose to take to remove the disabilities of Indians in Fiji, and with what effect?

**Mr. J. W. Bhore:** (a) Representations in regard to both these matters were made by the Colonies Committee of the Government of India and the decisions arrived at by the Colonial Office are recorded in the correspondence on the position of Indians in Fiji which has been published in the Resolution of the Government of India, No. 24-Overseas, dated the 12th January, 1927. These are matters on which the elected Indian representatives in the local Council will be in a position to press the views of the Indian Community on the Colonial Government and the Government of India do not propose to take any further steps at present.

(b) It is understood that restrictions are in force regarding gun licences and the purchase of arms by Indians, but the Government of India have no information as to what precisely these restrictions are.

(c) No figures are available from which the incidence of taxation on different communities in Fiji might be compared. Indians are at present represented by one nominated Member on the Fiji Legislative Council, and, under the decision recently arrived at by the Colonial Office, will be temporarily represented by three nominated Members until the necessary changes can be made in the Letters Patent to enable the Indian community to return three elected Members to the Council. The question of their representation on the Municipal Councils has been referred for the consideration of the Colonial Government and will, it is understood, be examined in the first instance by a local Committee on which the Indian community will be adequately represented.

(d) The Honourable Member's attention is invited to the correspondence recently published. On certain outstanding questions correspondence is still proceeding.

#### MINIMUM WAGE FOR INDIANS IN FIJI.

447. **\*Mr. Gaya Prasad Singh:** Is it a fact that the inter-departmental conference of 1917 agreed that a minimum wage should be fixed to enable an Indian in Fiji to earn a living wage? And if not, what steps have been taken to enforce compliance with this agreement?

**Mr. J. W. Bhore:** The interdepartmental Conference held in London in 1917 published certain proposals for a new assisted system of emigration to Fiji among other Colonies for public information and criticism. Assisted emigration to Fiji has not been opened and no question of enforcing the recommendations of that Conference therefore arises.

RECONSTRUCTION OF THE BRIDGES OVER THE NERBUDDA ON THE GREAT INDIAN PENINSULA RAILWAY AND THE BENGAL-NAGPUR RAILWAY IN THE DISTRICT OF JUBBULPORE, ETC.

448. \***Seth Jamnadass**: (a) Will Government be pleased to state the approximate cost that is proposed to be involved in the reconstruction of the bridges over the Nerbudda on the Great Indian Peninsula Railway and the Bengal Nagpur Railway in the district of Jubbulpore (Central Provinces) washed away recently by floods there?

(b) Will Government be pleased to state the latest date when the said bridges respectively are proposed to be got ready and traffic resumed?

(c) In connection with the said bridges under construction have the Government received suggestions to have road ways constructed for bullock carts and motor traffic, etc., to pass underneath or as part of the bridges like that of the one on the Jumna river between Naini and Allahabad stations and if not, cannot the Government undertake to investigate the same for purpose of convenience of the public?

(d) Is it not a fact that Government propose to reconstruct other bridges between Itarsi and Jubbulpore Junctions said to be not in good condition and if so, what are the bridges that are proposed to be reconstructed and the time when the reconstruction work will commence with respect to the bridges in question?

(e) Are Government aware of the increase of railway traffic in passengers at Katni railway station in the Jubbulpore district of the Central Provinces consequent upon the change of route of the Bombay and Calcutta mail trains owing to the washing away of the Nerbudda bridge and if so, do Government propose to consider the advisability of going into the question of constructing more first, second, and third class waiting rooms for the convenience of the passengers at the said station?

**Mr. A. A. L. Parsons**: The required information is being collected and will be forwarded to the Honourable Member in due course.

APPOINTMENT OF AN INDIAN AS A MEMBER OF THE RAILWAY BOARD.

449. \***Mr. S. Srinivasa Iyengar**: Will Government be pleased to state whether they are now prepared to appoint an Indian as a member of the Railway Board, and if so, when the next vacancy is likely to take place by retirement or absence on leave of the present members?

**The Honourable Sir Charles Innes**: I understand that it is likely that one of the Members of the Railway Board will be taking leave next summer. The question of his successor has not yet been considered.

NAMES, QUALIFICATIONS, PERIOD OF SERVICE AND POSTS NOW FILLED BY THE THREE MOST SENIOR INDIANS IN THE RAILWAY SERVICE.

450. \***Mr. S. Srinivasa Iyengar**: Will Government be pleased to give the names, qualifications, period of service and posts now filled by the three most senior Indians in the Railway Service at the present time?

**The Honourable Sir Charles Innes**: I am not quite sure what the Honourable Member means by seniority. The most important posts held at present in the Railway Department by Indians are: Mr. Pavry, an officer of the Indian Railway Service of Engineers, is Chief Engineer

of the North Western Railway; Mr. Irani, another officer of the Indian Railway Service of Engineers, is a Divisional Superintendent on that Railway; Mr. Hayman, an officer of the Indian Audit and Accounts Service is Director of Finance with the Railway Board; and Mr. Gupta, also an officer of the Indian Audit and Accounts Service, is Director of Establishments with the Railway Board.

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether when the question of a successor to the retiring member of the Railway Board will be taken up in the summer the pledge given by my Honourable friend, Sir Basil Blackett, will at least now be remembered?

**The Honourable Sir Charles Innes:** I think, Sir, the Honourable Member is asking me a supplementary question to the last question, No. 449. I have just answered No. 450.

**Mr. A. Rangaswami Iyengar:** It is not, I think, for the Honourable Member to say that it does not arise out of this particular question. I desire an answer to my question.

**Mr. R. K. Shanmukham Chetty:** May I know, Sir, if the scales which went wrong then have been repaired in the meantime?

**The Honourable Sir Charles Innes:** The scales of pay are very good.

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#### PRIVATE NOTICE QUESTION AND ANSWER.

##### STRIKE AT KHARAGPUR ON THE BENGAL NAGPUR RAILWAY.

**Mr. Varahagiri Venkata Jogiah:** With your permission, Sir, I wish to ask a few questions of the Honourable the Commerce Member at short notice. I understand he is prepared to answer them:

1. Has the attention of the Government been drawn to the news that has been published in the press of the wholesale strikes of men in Kharagpur and some other workshops?

2. Will the Government be pleased to make a statement on the information received on the matter?

3. Will the Government be pleased to state whether railway volunteers were called out and whether bayoneting or shooting or both were resorted to by them in connection with the strike?

**The Honourable Sir Charles Innes:** A full statement of the attitude of the Bengal Nagpur Railway Administration towards the grievances put forward by the Indian Labour Union, Bengal Nagpur Railway, was given in the press communiqué issued by the Agent on the 21st January. It will be seen that the Agent gave the deputation from the Union, which he received on the 24th November 1926, a very long hearing. On the 18th January 1927 the Agent gave the Union a long written reply to all the points which had been raised. I understand that the Agent's reply was placed before an extraordinary general meeting of the Labour Union at Kharagpur on the 30th of January and a decision was come to that the proposed strike should be postponed indefinitely.

On the 8th of February Mr. Naidu, who is the Secretary of the Kharagpur Branch of the Union, was transferred to work under the Executive Officer in the Housing Department at Kharagpur. Mr. Naidu thought that he was permanently transferred which was not the case, and made a representation against the transfer. He was fined one day's pay for not carrying out the orders, and reported to the Executive Officer for duty on the morning of the 9th. On hearing of the transfer and the fine, some of the workshop hands stopped work on the 9th. The facts were reported to the Agent, who ordered that it should be explained that the transfer was purely a temporary transfer and that the object was that Mr. Naidu should assist in the allotment of quarters. The Agent also cancelled the fine. As the result of these orders, the men resumed work on the afternoon of the 9th. On the evening of 11th February a meeting of the Labour Union was held. After this meeting about 9-30 P.M. a body of workshop employees numbering 600 to 800 made a sudden attack on Kharagpur railway station. They took possession of signal cabins and stopped all traffic. The District Magistrate, who was at Kharagpur, finding the police at his disposal insufficient to restore order, called out the Auxiliary Force who cleared the station and yard. Owing to the violent attitude of the mob, it is understood that it was necessary to use bayonets as the only possible alternative to firing. 10 men were wounded, most of them only very slightly. No shots were fired by the Auxiliary Force, but the police guarding a level crossing were severely stoned, and fired two shots wounding one rioter.

As only a few men appeared for work in the shops on the morning of the 12th, the workshops were closed by the railway authorities. The Kharagpur Branch of the Indian Labour Union is reported to have declared a general strike on the 12th, but there has been no general response. The latest report from Kharagpur shows the situation there to be quiet.

**Mr. N. M. Joshi:** May I ask, Sir, whether the Government of India will institute an impartial inquiry into the grievances of these people as well as an impartial inquiry as to the immediate causes of this strike?

**The Honourable Sir Charles Innes:** I am expecting a full report from the Agent on the subject, and in the meantime I am not prepared to make any further statement.

**Mr. Chaman Lal:** Will the Honourable Member be kind enough to institute an inquiry into the bayoneting that took place there and the shots that were fired?

**The Honourable Sir Charles Innes:** That, Sir, is not a matter for the Railway Department.

**Mr. M. K. Acharya:** Will the Government be pleased to say whether any communication has been received from the men concerned in addition to the version of the officials?

**The Honourable Sir Charles Innes:** I have received no communication.

**Mr. M. K. Acharya:** Is it a fact that messages to non-official Members are being censored?

**Mr. A. Rangaswami Iyengar:** May I know, Sir, whether the Honourable Member in charge of the Department relating to shooting and bayoneting will cause an inquiry to be made?

**The Honourable Sir Alexander Muddiman:** If the Honourable Member is referring to me by that rather curious designation, when I receive a full report of the circumstances of this case I will see what action, if any, is necessary.

### THE INDIAN REGISTRATION (AMENDMENT) BILL.

**Mr. C. Duraiswamy Aiyangar** (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, I rise to move that the Bill further to amend the Indian Registration Act, 1908, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. Varahagiri Venkata Jogiah, Mr. D. V. Belvi, Mr. M. S. Sessa Ayyangar, Kumar Ganganand Sinha, Mr. Amar Nath Dutt, Mr. K. C. Neogy, Mr. M. R. Jayakar, Mr. Dwarka Prasad Misra, Mr. L. Graham and the Mover, with instructions to report on or before the 1st March, 1927; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

Sir, this Bill is a legacy to me from Diwan Bahadur Ramachandra Rao. This Bill was introduced by him and put on the agenda a number of times during the tenure of the last Assembly, but unfortunately he was not able even to reach the stage to which I have been able to bring it this Session. Therefore, I congratulate myself as well as the donor of the Bill to me on the advanced stage which it has reached to-day. The principles of the Bill are not very many and the points involved in the Bill are simple. The Bill makes provision for four particular things. In the first place there is now a very elaborate inquiry in the case of wills which are sought to be registered before a Sub-Registrar in cases in which the genuineness of the will may be disputed. The Sub-Registrar is under the present Act in a position to hold a thorough inquiry and examine witnesses and then come to a decision. If any party is not satisfied with the decision of the Sub-Registrar it is open to the Registrar also to take up the inquiry, examine witnesses and then finally refuse registration or order registration. Nevertheless, it is still competent to the party to go to a civil court and have a declaration made that the document ought to be registered in spite of the two inquiries held by the Registration Department. This Bill wants to make these inquiries simple enough by saying that if the Sub-Registrar before whom the document should be presented, is not satisfied with the genuineness of it, he shall endorse it saying that the registration is refused. Thereupon within a month the parties who are directly interested can have the document registered by the decision of a competent civil court, and if the court decides that the document ought to be registered, then the document is taken before the Registrar for registration. That minimises the process of getting at the registration of a document in the nature of a will, and along with that it is also added that an authority to adopt may also be similarly treated. That, Sir, is taken up by a portion of this Bill.

Another portion of this Bill relates to the depositing of wills before the Sub-Registrars. Whereas under the present Act a will has to be deposited in a sealed cover before the Registrar alone, it will be enabling parties who have got Sub-Registrars' offices near at hand to take their wills and deposit them in the manner in which they are deposited before the Registrar.

Another point which is sought to be remedied by this Bill is the power given to the Registrar to transfer an inquiry before one Sub-Registrar to

another Sub-Registrar, and if there is any case in which an inquiry before the District Registrar has to be transferred to some other District Registrar, the Inspector General of Registration is empowered to pass such an order under this Bill. Sir, you are aware that in the Civil Procedure Code powers of transfer of a proceeding from one court to another court are provided for, but there is no such provision in the case of inquiries before Sub-Registrars, and if a party apprehends that he cannot get satisfactory justice before a Sub-Registrar, he may apply to the District Registrar for transferring the case to some other Sub-Registrar. Such circumstances will very frequently occur, and I need not go into the details, because some of them may be palatable and some of them may not be palatable.

Then, Sir, this Bill also makes provision for setting at rest some conflict of decisions in the case of certain documents. Suppose there is a mortgage deed to be registered. A number of properties belonging to the mortgagor are mortgaged to the mortgagee. In order to facilitate the registration, sometimes a small insignificant property which is within the local limits of a particular Sub-Registrar is also put along with it, not intending thereby to convey any mortgage right over that particular property, but to facilitate registration; this course is oftentimes adopted. Sometimes it so happens that the property which is so included does not really belong to the mortgagor at all; nevertheless, it is not the Registrar's function to go into the question and see whether it belongs to the mortgagor or not.

A third case may also occur where a particular property which does not exist at all, may be included in the document stating that it is within the jurisdiction of a particular Sub-Registrar. In such cases also, the documents are as a matter of course registered, but if these cases go to a court and an objection is taken that the registration deed is not valid on the ground that the property which has been included in it was not *bonâ fide* included, was intended only to defraud the registration authorities or that the property which has been included does not really belong to the mortgagor or that no such property exists at all, then there are conflicts of decisions which have all arisen out of a Privy Council decision. In this Bill a provision is made that if any property is included in the document and if that property really exists, no further question about the validity should be raised by any court. It may be that I include a property in Raisina along with some of my properties somewhere in my district and register the document in Delhi. The property in Raisina may not belong to me, but the registration authorities on that account should not refuse to register the deed; the deed should not be declared invalid because the mortgagee might have *bonâ fide* belief that I do hold a property in Raisina. If on the other hand, I should say that I mortgage Metcalfe House situated in Raisina and it does not exist here at all, then such a document alone should be deemed to have been invalidly registered. These are the cases, Sir, which are contemplated by this amending Bill which I introduce here, and which I want to refer to a Select Committee. The provisions are simple; nevertheless the Bill may require some consideration as to the drafting of the various provisions and to see whether the various purposes are really carried out by the draft or not. For that purpose I have included in this list persons who are competent to deal with these questions. I trust, therefore, Sir, that this House will accept my motion that the Bill be referred to a Select Committee.

**Mr. J. M. Dunnett** (Home Department : Nominated Official): Sir, I rise not to oppose or condemn the Bill itself which my Honourable and learned

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friend has moved, but to oppose the particular motion he has made. I do not wish to try and convince the House, nor do I even suggest it, that the Bill is a bad one. But I do wish to suggest that what the Honourable Member wishes the House to do, namely, to approve the 4 or 5 principles of this Bill, is perhaps a premature step. Sir, I think I can put the case more clearly in this way by saying that the Bill deals with—the Honourable Member said 4,—but I would prefer to say 5-points, of which one is a legal point and 4 are administrative points. The legal point is this, that the High Courts in this country have taken to themselves out of a Privy Council ruling a power really to legislate, and my Honourable friend wishes to resume this power from the High Courts into the hands of the Legislature and to make clear by legislation what is the precise implication of that Privy Council judgment.

Now, Sir, I might take some objections to the Bill as it stands. I might take the objection that the clause as drafted so as to cover the validity of documents and not the validation of registration, does not effect the wish of the Honourable Member, and that it is made in the wrong place. But these are not matters before us now, and they can be dealt with in Select Committee. But it seems to me, and I trust the House will agree with me, that we really cannot commit ourselves to a principle of this nature which resumes out of the hands of the High Courts the power to legislate which they have taken out of a Privy Council judgment; we really cannot do that without consulting the High Courts. Well, Sir, that is a small point, but I think it is a good point.

But the main things to which I wish to direct the attention of the House are the administrative points. They are, Sir, four in number. I shall take them in the order given to them in the Bill. Clauses 2, 8 and the consequential clause 6 propose to amend Part VIII of the Act, the Part that deals with the presentation of wills and authorities to adopt for purposes of registration and the object there is to remove from the Registrar his administrative power by a quasi-executive procedure to dispose of objections to the Sub-Registrar's refusal to register. The idea of my Honourable friend is this, that, when the Sub-Registrar refuses, in the case of these two particular classes of documents, to register, the aggrieved party shall have immediate recourse to the civil courts. Now, Sir, I do not wish to state it as a fact, but I wish to state it as a matter for the consideration of this House and any sources of information which the House may wish to consult, that this power of the Registrar to decide objections on which the refusal to register is based, may possibly be useful. I think it will possibly be in the knowledge of many Members of this House that a good many of these objections on which a refusal to register is made are really not *bona fide*. They are made for some small incidental purpose, possibly connected with the arrangements under which the will was made or the power to adopt was given. And a great many, possibly it may be the majority, of these objections to registration are most suitably disposed of by an executive proceeding before the Registrar. I don't say it is so: I say it is possible. I am inclined myself to think that a great majority of these cases are most suitably decided in the interests of the parties by executive action of this nature. I therefore suggest that on this point at least the House do not agree to this principle by agreeing to refer the Bill to a Select Committee, but ask either that the Honourable



Member should himself furnish more information or possibly that other means may be taken to put the House in a position to judge on this matter.

Sir, the second administrative point is in clause 4. This refers to part IX of the Act. Part VIII of the Act deals with the presentation of this class of documents for registration. Part IX deals with the presentation of these documents for deposit. That is to say, these documents are presented in a closed cover; there is no copy of them. They are presented in a sealed cover and the suggestion is that, whereas at present the deposit can be made with the Registrar alone, in future the deposit may be made with the Sub-Registrar. Here again, it is suggested that the House should approve the principle of a definite administrative action on, I consider, insufficient grounds. I don't know, Sir, if it is in the knowledge of Members that in many parts of India the deposit of wills with Registrars has created great practical difficulties. A case of this kind occurs: a man makes his will, he puts it in a sealed cover, goes to the Registrar and leaves it there, and then he dies. And his heirs then make their own arrangements among themselves, they dispose of the property, they say: "We don't care about the will"; they let it lie. And 30 or 40 years later, the Registrar has got about a hundred old wills falling to pieces and so on and their disposal raises a difficult question. It is difficult to make arrangements for the safe custody of these wills. Remember how they are presented—I think it is within my Honourable friend's experience—there is no copy of these wills. We know nothing about them. We get a sealed cover; we have got to keep it. Now, it may be I don't want to make a positive statement—it may be exceedingly embarrassing to local authorities in all small local offices of Sub-Registrars—it may be exceedingly embarrassing to have to make arrangements for the safe custody of these valuable documents. It even is possible that the sound practical course is not to deposit these wills with Sub-Registrars but to deposit them with the Inspector General. It may be that the better custody may be central. Now, Sir, I don't make these definite suggestions as things to which the House should necessarily agree but they are points which should make the House hesitate to accept the principle by referring the Bill to Select Committee.

The next point is No. 5. There are two points in this number. This is a power to—let me put it in this way—this is a power to transfer cases from a Sub-Registrar to a Registrar and when I say five points as against my Honourable friend's four—it is here that I wish to split up one into two. He wishes to give this power of adjusting business to the Registrar and also to the Inspector General. Now, Sir, why I say the House should hesitate in the case of this power is this. The House is aware that there is no uniform system of remunerating Sub-Registrars. There are places, numerous places, I think, in which Sub-Registrars are paid by fees. They are not departmental. And it may be that, if you adopt this principle of registration—you may transfer a source of fees (let me put it this way) from one Registrar to another—it may be that the Local Government will be committed to abandoning altogether the system of payment by fees. Therefore, Sir, on the ground of this particular point, I suggest to the House to defer judgment on the principle of this particular proposal. Now, Sir, I wish to hurry over this point—these points are all important to the Bill but the Bill itself is not a very large Bill. The second point is that my Honourable friend proposes to give the Inspector General power to transfer cases from Registrar to Registrar,—that is to say, I presume he wishes to give the Inspector General the power to hear applications from

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parties to each registration, for transfer from one district to another. Well, Sir, if my Honourable friend will go through the Act and consider what the functions of the Inspector General under the Act are, he will possibly find that he is changing the character of the post. In one respect it is true that the Inspector General can hear applications of this kind because I think he has the power to order refund of fees. But otherwise he is merely a superintendent and he does not have functions of this nature. And again I would counsel some hesitation in accepting without full advice a principle of a change in the nature of this office. No. 6 is consequential on a subject I have dealt with before and No. 7 is a legal point on which I suggested that you cannot really trample on the High Courts in the manner suggested if you accept the principle of this suggestion. Therefore, I consider, Sir, that these proposals, although I don't consider them at the first blush dangerous, have implications both on the position of the High Courts and on administrative problems which arise, which ought, I think, to make the House hesitate to accept the principle blindly.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Do I understand the Honourable Member to move for circulation?

**Mr. President:** Order, order. The Honourable Member has not moved for circulation.

**Sir Hari Singh Gour:** Sir, I understand from the Honourable speaker that he objects to the committal of this Bill to Select Committee on the ground that he is not prepared to accept the principle of the Bill. And I submit, Sir, that it is the accepted principle of this House that, before a Bill is committed to the Select Committee, it recognises and accepts the principle of the Bill. And if it accepts that principle, the Bill is then assigned to the Select Committee. As the Government have opposed the reference to the Select Committee and yet at the same time recognise that the Bill is one in favour of which a great deal can be said, I move that the Bill be circulated for the purpose of eliciting opinions thereon. In doing so, the House will not stand committed to the principle of the Bill. At the same time, it will have the advantage of sounding public opinion both on the legal issues involved and the administrative questions to which the Honourable speaker from the Government Benches has alluded. I therefore, Sir, move my motion.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, if this had been a Bill which had been brought in by Government it would almost certainly, in view of its character, have been founded either on a report of some Committee of investigation or it would at any rate have been circulated preliminarily as an executive matter for the purpose of ascertaining the views of the Local Governments and High Courts. My Honourable friend has done, if I may venture to say so, a distinct service in bringing forward this Bill. There are in it certain provisions which I myself without committing the Government regard as likely, or possibly likely, to effect some improvement in the law of registration, and when I heard his eloquent speech I felt the merits of the Bill even more strongly than I had originally. It is possible I might have been compelled to oppose it but my Honourable friend Sir Hari Singh Gour has given an opportunity, I think, of meeting what I am sure will be the wishes of the House that this Bill should be circulated for the purpose of obtaining the opinions of the bodies to which I

have made reference. I might point out—and it is not without interest to the House—that this Bill regulates a provincial subject,—registration of deeds and documents. It is true that it is a subject, subject to legislation by the Indian Legislature, as Honourable Members will see if they refer to item 21 in the list of provincial subjects. It is equally true that it does not require any sanction to bring in the Bill. But being, as I have said, a Bill which deals with a provincial subject, it obviously affects the various administrative arrangements to which my Honourable friend Mr. Dunnett has more particularly referred: it also affects the courts and as it deals with a subject which cannot be regarded as of great urgency, I support the motion that has been made in this House that the Bill be circulated, and I hope my Honourable friend the Mover, in view of what I have said, will accept the proposal that I have supported.

**Mr. C. Duraiswamy Aiyangar:** Sir, in the first place, I am extremely surprised that my Honourable friend Sir Hari Singh Gour, who is more anxious than any other Member in this Assembly to rush through all his Bills on the very first day by making a motion to introduce, then to take it into consideration and then to pass it, should move a dilatory motion like this in the case of a Bill which he should have seen in this Assembly during the last 3 years. Next, Sir, I am surprised that my Honourable friend over there, Mr. Dunnett, should have taken first the legal objection and raised the doubt for the first time in this Assembly that wherever there are conflicting decisions between the various High Courts, it is not primarily the function of this House to set at rest all those conflicts. I do not see the necessity for a reference to these High Courts and their sanction when this House can on the face of it see that there are conflicting decisions among the various High Courts as to what particular construction should be put in deciding about the validity or invalidity of a particular registered document. If there is a conflict of decisions that is the very reason why this Legislature should take cognizance of it and set right the conflict by coming to one particular view in the matter.

**Mr. J. M. Dunnett:** May I make a personal explanation, Sir? That was not my point. I thoroughly agree with my Honourable friend that in the case of a conflict of decisions the Legislature must make the point quite clear. My point was that the High Courts—I do not say all—have assumed to themselves a power out of a Privy Council judgment of legislating, not where there was a conflict of decisions, but that each had extended its own powers and taken power to legislate. We ought to exercise it but we should consult them. That was my point. It was not a point regarding conflict of decisions. I perfectly agree with my Honourable friend that where there is a conflict, we must set it right.

**Mr. C. Duraiswamy Aiyangar:** Sir, if really the Government are anxious to expedite legislation, it was long ago brought to their notice that by reason of a conflict of decisions the litigants are put to great hardship. It is this Government that is responsible if there is delay in not consulting the High Courts. It is not necessary for Government to take action that a Bill should be actually tabled before the House. It is not necessary for them to wait till the Bill is actually before the House. Government knew full well that such a motion was made three years ago and if they wanted to expedite the removal of the difficulties in this matter there was time enough for Government to have taken steps to consult the High Courts

[Mr. C. Duraiswamy Aiyangar.]

and to have brought forward a Government Bill of this nature. Not having done so, when Government find that a Bill has been tabled by a private Member and it has had the good fortune of reaching this stage at so early a date, that they should put obstacles in the way is nothing but Government adopting that very policy which they are day after day not tired of condemning, namely, the policy of obstruction, the policy of non-co-operation. (Laughter.)

Sir, my Honourable friend Mr. Dunnett then said that there are some provisions in this Bill which are of an administrative nature. Sir, when these documents are actually taken over for an inquiry the proceedings cease to be administrative and they become judicial from the stage of inquiry. What I want this House to do is to relieve the parties from the hardship of going through the process of three different classes of inquiry, summoning their witnesses at considerable cost before the Sub-Registrar once, before the District Registrar again, and before the civil courts for the third time. What is the force of saying that these are administrative matters and that the administrative machinery must be first gone through, the Sub-Registrar must be given work, the District Registrar must be given work and that the courts also must go into the matter all at the cost of these litigants, not at the cost of the Government. I condemn this kind of objection being taken by the Government. Supposing a question arises about the genuineness of a particular will and the party says that the will was executed by the testator at a time when he was conscious and objection is taken that consciousness does not mean a sound disposing state of mind and therefore the will is not genuine. These are the questions which trouble the civil courts and in one case the Madras High Court and the Privy Council differed in this matter. The will was actually executed by a testator who was declared by a competent medical officer, an M.B., C.M., to be conscious at the time and it was held to be valid. The Privy Council said that though he was conscious he was not of a sound disposing state of mind and therefore the will was not genuine. Are these Sub-Registrars to be entrusted with this class of work all for the sake of the pastime of the administration? Sir, it is intended that whenever any dispute arises about the genuineness of these documents power be taken to the civil courts so that immediately and without further expenditure the parties can have the matter settled by a competent civil court and these documents can be registered. If there be any difference about this by all means let us discuss it. All that Mr. Dunnett has said only makes me sure of this that he himself must be on the Select Committee. It is unfortunate that I omitted his name. But if I have omitted his name I am not responsible for it but Mr. Graham. I consulted him as to which of the Government Members should be included and he told me that he may be taken or Mr. Tonkinson. He had a partiality for Mr. Tonkinson and not for Mr. Dunnett.

Now, Sir, the deposit of wills has got more imaginary difficulties about it; want of boxes for Sub-Registrars for keeping custody of wills, iron safes, all these are pointed out as objections. Parties must be allowed to deposit the will at the nearest Sub-Registrar's office. If there is any such administrative difficulty, then a provision may be made that within 24 hours or 36 hours or within a week after the deposit of a will before the Sub-Registrar he shall send it on to the District Registrar or to the Inspector-General of Registration as Mr. Dunnett suggested. But that is not the

reason why the party should not be given the facility of depositing his will in the nearest Sub-Registrar's office. It is said that there are camel-loads of wills which are not owned by anybody and lying there. If so, you can burn them after a certain number of years, but that is not the reason why you should prevent a man who wants to deposit a will in the nearest Sub-Registrar's office from so depositing it. Secondly, Sir, this provision is for depositing it before the Sub-Registrar or District Registrar. It does not make it compulsory on him that he should file it only before the Sub-Registrar. Therefore, according to the convenience of the testator, according to his knowledge, according to his confidence, he will take necessary steps, but if there is an office close by, it will give considerable facilities to persons who want to have wills deposited safely for the benefit of their descendants.

Then, Sir, the only point that I wish to urge before this House is that this House should not be misled into taking dilatory action, because my Honourable friend Sir Hari Singh Gour all of a sudden jumps up and puts forward that without any notice. I am surprised that the Honourable the Home Member also should have patronised such a course. (Laughter.) I shall wait to see whether the Honourable the Home Member will patronise such a course when I move a similar motion with reference to any Bill which he brings forward. All of a sudden to spring up and make a motion for circulation is not the way, Sir, in which a Bill like this should be treated. We have discussed it. Therefore, with your permission, Sir, I wish to add Mr. Dunnett's name to the Select Committee.

**Mr. President:** Order, order. The Honourable Member cannot add names at this stage.

**Mr. O. Duraiswami Aiyangar:** Sir, I commend to this House the acceptance of my motion that the Bill be referred to a Select Committee.

**The Honourable Sir Alexander Muddiman:** Sir, I do not propose to detain the House at any length, but if anything convinced me of the necessity of circulating this Bill for eliciting opinion, it was the speech of my Honourable friend. It indicated very clearly the necessity for adopting the proposal that the Bill should be circulated. He said, I think, that I never accept motions for circulation. Now, Sir, it is well within the knowledge of this House that I am reproached occasionally for the readiness with which I do accept motions for circulation; and this, Sir, is pre-eminently a Bill that ought to be circulated. I will not take up the time of the House further.

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

"That the Bill further to amend the Indian Registration Act, 1908, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. Parahagiri Venkata Jogiah, Mr. D. V. Belvi, Mr. M. S. Sessa Ayyangar, Kumar Gangannand Sinha, Mr. Amar Nath Dutt, Mr. K. C. Neogy, Mr. M. R. Jayakar, Mr. Dwarka Prasad Misra, Mr. L. Graham and the Mover, with instructions to report on or before the 1st March, 1927; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Since which the following amendment has been moved:

"That the Bill be circulated for the purpose of eliciting opinions thereon."

The question is that that amendment be made.

The motion was adopted.

## THE INDIAN SUCCESSION (AMENDMENT) BILL.

**Maulvi Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I rise to move that the Bill further to amend the Indian Succession Act, 1925, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. H. Tonkinson, Mr. M. A. Jinnah, Mr. Abdul Haye, Pandit Madan Mohan Malaviya, Mr. R. K. Shanmukham Chetty, Mr. Anwar-ul-Azim and the Mover; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

Sir, as stated in the Statement of Objects and Reasons of the Bill, it provides for an amendment of section 372 of the Indian Succession Act of 1925. The amendment seems necessary on account of the conflicting judgments of the two different High Courts, namely, the Allahabad High Court and the Calcutta High Court. According to the Allahabad High Court the heirs of a deceased creditor must obtain a succession certificate for the whole amount due to a deceased creditor even if a certain portion of the debt may have devolved upon one of the debtors and therefore it was no longer a debt. See *Ghafur Khan v. Kalundri Begum*, Indian Law Reports, Volume 38, Allahabad, page 827 and *Mahomed Ali v. Puttan Bibi*, I. L. R. 19, Allahabad, page 129. The Calcutta High Court has taken a more reasonable view and held that a succession certificate may be obtained for the amount which is recoverable as debt. See *Annappurna Dasee v. Nalini Mohan Das*, 42 Cal., p. 10. The view taken by the Allahabad High Court often causes great hardship as regards the dower cases. Supposing a Muhammadan lady dies leaving a husband, a father and a mother, her dower debt is one lakh of rupees. According to the Muhammadan law of inheritance, one-half of her assets go to her husband and the other half is divided between the father and the mother. In this way the husband himself becomes the owner of half of the dower debt and therefore it no longer remains a debt. Still, according to the view taken by the Allahabad High Court, the father and the mother must obtain a succession certificate for the whole amount of one lakh of rupees and pay a stamp duty over the same which will not be charged against the husband in the dower case. The object of my amendment is to adopt the Calcutta view and remove this hardship.

This Bill is not of such a nature as to require circulation for eliciting public opinion. Of course it is intended only to remove the conflict between two judgments of the two High Courts. I first gave notice of introduction of this Bill in 1925. For the last two years I had never the good fortune of seeing this Bill ballotted for. The Assembly was dissolved. Then the new Assembly came into being and I therefore gave notice to introduce this Bill. This time I was fortunate enough to get it ballotted. Now that it has reached this stage, I find that the Honourable the Home Member has tabled an amendment that it should be circulated for eliciting public opinion. I hope, Sir, that the Honourable the Home Member will himself see that this is a very hard case in which it will not be good to take still longer and therefore I think, Sir, that he will withdraw his amendment and allow the Bill to go to the Select Committee. With these remarks, Sir, I move.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I have put a motion down on the paper that the Bill be circulated and, in spite of the touching appeal by my Honourable friend, Maulvi Muhammad

Yakub, I propose, with your permission, to make that motion. It is perfectly true, as the Honourable Member said, that the Bill is a very simple one. I myself am a little inclined to take the same view that he does, that is, the view of the Calcutta High Court. But, after all, other High Courts have held differently. The Allahabad High Court, more particularly, have held that the right principle is that a succession certificate may be given for the collection of the debts of one or more deceased but not for the collection of part only of a debt. And the grounds apparently—if I am wrong, my Honourable friends here who are more intimately acquainted with the decisions of the Allahabad High Court will perhaps correct me—the grounds as I remember them from their decisions were that the contrary view might lead to a multiplicity of suits and harassment to the debtors. That was the view of the Allahabad Court. Now that is a view which is contested by a very able Judge of the Calcutta High Court, Mr. Justice Woodroffe, now, Sir John Woodroffe, I think. He was dealing with the case which my Honourable friend quoted, namely, *Annapurna Dasee v. Nalini Mohan Das*, 42, Calcutta, page 10. He there said on this point, and the House might well listen to it, as it will show more strongly than my Honourable friend put it what the point is in the Bill:

“As regards the objection which has been taken that such a procedure may lead to a multiplicity of suits, the answer appears to be twofold. In the first place, if the debt be due and the debtor be honest and solvent, he will pay on the production of a certificate for the grantee of the certificate can give him a valid discharge to the extent indicated by the instrument. There will be no necessity for a suit and the question of multiplicity upon which the learned Judges of the Allahabad High Court proceed will not arise at all. Nextly, if there is such a suit, it by no means follows that because a certificate may be given to recover a fractional share of a debt the principle of law which prohibits multiplicity of suits is in any way affected. We must distinguish between two separate things, one is the grant of a certificate and the other is the instituting of the suit.”

Now it is evident from the passage that I have read to the House that a very learned Judge of the Calcutta High Court has held it very necessary to go into considerable detail to explain how the objection of multiplicity did not really arise. The impression that it has left on my mind, therefore, is that there is a good deal to be said for the Allahabad ruling too, and I think it is a matter on which, although the Bill itself is a very simple one, we should have the opinions of the Allahabad High Court and other High Courts, and of the Local Governments. After all we cannot contend that this is a matter of great urgency. It is far more important that we should come to a right conclusion than a hasty one. It is not a Bill involving a constitutional or other issue, and the Government and the House can have only one wish and that is to get the best view on this small point of law. I hope, therefore, that the House will accept my motion that the Bill be circulated for the purpose of eliciting opinions thereon.

**Mr. C. Duraiswamy Aiyangar** (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, I do not oppose the motion of my Honourable friend, Maulvi Muhammad Yakub, to refer this Bill to a Select Committee, but only wish to add that if it goes to Select Committee only one point should be considered chiefly, that is the latter portion of the provision which he has made. The first portion is all right, but the latter portion is the very crux of the matter. The first portion is that applications may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof. So far he carries out the principle of enabling



[Mr. C. Duraiswamy Aiyangar.]

parties to apply for portions of debts due to a deceased creditor. But I am unable to understand what he means by:

"But nothing herein contained shall be deemed to allow separate or successive applications being made in respect of portions of the same debt, whether by the same or a different heir."

Take the very example he has quoted. A person dies leaving two or three heirs. If one of those heirs obtains a succession certificate for the portion that is due to him, it means by the latter portion of his amendment that he debars other persons from claiming any portion of the debt at all. It is therefore a provision which harms the other shareholders by reason of the fact that one man has come in advance and asked for a certificate for the portion due to him. Therefore, the latter portion of the provision is very dangerous. There may be a case in which the interest on a loan may become due, while the principal is not due. I do not see why a person who obtains a succession certificate should apply for the entire debt, instead of applying for a portion of it, i.e., the interest alone, in the first instance. If he does so, is he to be barred from claiming the principal? There may be two or three different claimants to different shares of a debt, and they may obtain each according to his own convenience. One man should not bar another man. I therefore feel that the latter portion of the provision is dangerous, and if the Bill is referred to Select Committee, I hope that the members of the Select Committee will give their consideration to this point.

I do not approve of the dilatory motion of the Honourable the Home Member.

**Mr. F. W. Allison** (Bombay; Nominated Official): Sir, in rising to support the motion for circulation, I should like first of all to point out to the House that this is not a matter of any urgency. Undoubtedly the persons who are affected by these conflicting decisions have a grievance which appears to be reasonable on the face of it; but I would point out to the House that the later of these two conflicting decisions was passed in 1914, and this conflict of authority has been in existence for the last thirteen years. There is, therefore, no particular objection to the expenditure of a little time in accumulating the opinions of persons who ought to be consulted on a matter of this kind.

I think that probably some Members of the House, who are not members of the legal profession, are not very familiar with exactly what a succession certificate is. I should like to say, in a few words, what it is. Its usefulness occurs when a person dies leaving a debt due to him, or securities which are to be realised by his representatives after his death, in such circumstances that it is by no means clear who is the person properly entitled to realise the securities; or when in the event of there being several people who might have some share in the property of the deceased, it is not certain what those shares are. In such circumstances the law allows a District Judge after some enquiry, which in practice often lasts only a few minutes, to issue a certificate to the person who, in his opinion, is the proper person to be allowed to collect the debt or securities. In practice by far the larger number of cases of this kind refer to two particular classes of debt, debts which become payable on the death of the person concerned. I refer to insurance policies, and to money standing to the credit of a man in



railway or Government or other service in the Provident Fund. A certificate is issued to enable some relation of the deceased to draw, either on his own account or on behalf of the family, the amount of the insurance policy or Provident Fund. In cases where the policy has not been assigned to any person, neither insurance company nor railway will pay without such a certificate.

It is important to remember that the whole object of the Succession Certificate Act, now incorporated in the Indian Succession Act of 1925, is to afford protection to a debtor for the payment of a debt. Suppose there were no succession certificates, an honest debtor might pay a debt that he owned to a deceased person to the person whom he quite wrongly thought was heir to the deceased and was entitled to receive it. If after a time some other person, a nearer relation perhaps, were to come forward and bring a suit against the estate to recover the debt, it would be no defence on his part to say that he had paid it to someone else. And the whole point of this Succession Certificate Act was to afford protection to the debtor, because once a debtor has paid a debt to a person who holds a certificate, then that debtor is for ever cleared of all liability. That is a point which I will say at once affords one reason why this Bill should be circulated for opinion. In the long list of cases which I have consulted on this point it so happens that, generally speaking, the debtor himself, the person most principally concerned, has not been represented. It is perfectly true, as the Honourable the Home Member said, that in the Calcutta case of 1914 Mr. Justice Woodroffe did discuss that point of view and came to the conclusion that probably there would be no detriment to the debtor if this principle of allowing a certificate for part of a debt was permitted. But it is possible there may be something to be said on the other side, and that is one of the reasons why circulation is indicated in this particular case. As I said, Sir, nearly all these cases are concerned with application for certificates in respect of insurance policies or Provident Funds but there is a small class of case, important no doubt, which is entirely confined to the United Provinces. There from 1898 onwards we have a series of decisions of the Allahabad High Court in which it was held that a certificate could not be granted for a part of a debt. The latest of these decisions is in 1918, and in 1914 we have the conflicting decision of the Calcutta High Court. Apart from these decisions, with some industry I have been unable to find any other case in any other High Court in which this matter has been raised, and that, Sir, is a second reason why in my opinion this matter should be circulated for opinion in order that the other High Courts may have an opportunity of expressing their views, if they wish, on this Bill.

**Maulvi Muhammad Yakub:** Sir, as we get very few days to discuss non-official business in the House, I do now wish to detain the House any longer on this motion, although personally I would like very much to expedite the Bill and to support my motion that the Bill should go to a Select Committee; but as the trend of opinion seems to be that the Bill should be circulated for eliciting public opinion, I beg your leave to withdraw my motion and accept the amendment.

**Mr. President:** If the Honourable Member desires that the amendment should be carried, he should not withdraw the original motion but vote for the amendment when it is put.

**Maulvi Muhammad Yakub:** Then I accept the motion of the Honourable the Home Member.

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

"That the Bill further to amend the Indian Succession Act, 1925, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. H. Tonkinson, Mr. M. A. Jinnah, Mr. Abdul Haye, Pandit Madan Mohan Malaviya, Mr. R. K. Shanmukham Chetty, Mr. Anwar-ul-Azim, and Maulvi Muhammad Yakub; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Since which the following amendment has been moved :

"That the Bill be circulated for the purpose of eliciting opinions thereon."  
The question I have to put is that that amendment be made.

The motion was adopted.

### THE SOCIETIES REGISTRATION (AMENDMENT) BILL.

**Mr. N. C. Kelkar** (Bombay Central Division: Non-Muhammadian Rural): Sir, I rise to move that the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be taken into consideration.

In moving this motion I may as well offer a few brief observations. In the first place I would like to point out that this is a single clause Bill, small, innocent and non-contentious, and it may easily be accepted by anybody without demur or protest. It does not tread upon anybody's corns. It only seeks to enlarge the scope of the Act by adding two or three words which are clear in themselves and which are very useful as an addition to the Act. Even supposing the words suggested be considered superfluous, they are necessary to make the position clear. For I may at once tell the House that the Bill is not intended to tilt against a mere phantom of doubt; it is based upon a fact or two of actual experience. The experience is that in some cases registration has been refused by Registrars of Societies to bodies which should have obtained that registration without any objection. In the first place now I would like to tell this House what the Act is. I am not going to read the Act, but I will content myself with simply paying a tribute to the Act, and it is this. It is a very useful Act. It has helped many an institution in this country to be built up. The Act gives incorporated societies legal power to appoint their own government, hold their own property, perform their legal transactions, and even to provide for their own succession. The Act deliberately sets up a legal fiction, but that legal fiction works very useful wonders. If we look back upon the history of the different institutions in this country, it will have to be admitted that many of the institutions have come into being and have played their part in a useful manner simply because they could be incorporated under this Act. Now Government may perhaps stand up to grudge me this Bill because in their opinion the amendment of the Act has the effect of casting a reflection upon the discretion of the Registrars of Societies or the previous legislators who enacted the Act. But I at once assure the House that I am not proceeding with the Bill in any fault-finding spirit. As for the poor Registrars, they could not help, I think, doing what they did because the language of the Act is in itself extremely narrow; and, even the legislators who framed the original Act 70 years ago, I am not prepared to blame, because the time itself was such that there were no political institutions in existence or

political education. It was a time only for primary schools and a chance college or high school here and there, and also a time for small libraries called native General Libraries, patronised by grantees and officers and Europeans, containing a few books here and there, and crude museums which were set up for the enlightenment, as it was supposed, of the uneducated public. That was the mere beginning of public life in India; and I cannot blame the legislators of the time for omitting political education from the number of items that were actually mentioned in section 20 of the Act. But much water has flowed under the bridge since the original enactment of the Act and the present is a time when the whole atmosphere is surcharged with political spirit and political education. In fact, our present reforms and the future of responsible government is supposed to be built up on the solid foundation of political education, and now at any rate we must be prepared to rectify the previous errors. The legal clothes of the society must be made to suit the latest development of the body politic. Now look at section 20 of this Act. Section 20 reads:

"The following societies may be registered under this Act: charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs."

Now everyone I think will admit that this drafting of the section is absolutely hopeless. In my opinion, it is neither a good logical definition nor a good logical division. It is a failure as an attempt either at complete enumeration or at complete generalisation. It is an odd mixture of particulars and generalities. The other day I read this section to a friend who was rather witty; and he said to me it was reminiscent to him, at any rate, of a Zoo rather than of Noah's Ark. He was right. For the noble Noah's Ark was at least thoroughly exhaustive in its contents, thoroughly representative of all the beings who were to be saved from the Flood. But this section has the funny appearance of a mere Zoo in which odds and ends of exhibits are displayed as they come to hand. He was right, because here you see military orphans popping up their heads against charitable institutions and mechanical designs and inventions. Obviously this is all very crude drafting of the section and it wants to be corrected. Now the Act does in the first place by its title provide for three things—literary, scientific and charitable societies. The preamble takes it a step further. It brings in fine arts and purposes other than charitable purposes; and the preamble is further amplified in section 20. But it is difficult to argue that political education can, by any stretch of imagination, be brought under any of the heads mentioned in section 20. Political associations have of course in their own way to do with literature. They issue political literature, but they cannot for that reason be called societies established for the promotion of literature. Politics in itself is a fine art, but a political association is not one established for the promotion of the fine arts. Politics again is a science, but a political association is not established for the promotion of science. Science there means natural science. Political bodies do indeed provide reading rooms and libraries as a necessary equipment of their business, and some political bodies may conceivably also concern themselves with paintings, picture galleries, busts and statues; but they concern themselves with these not as works of arts but as a source of political inspiration only.

[Mr. N. C. Kelkar.]

Now it only remains to consider one point. It may possibly be argued that political bodies may have their purposes served, so far funds are concerned, by Act VI of 1890; but if you look closely at the Act that misconception will be easily removed. It is no doubt an Act for the vesting and administration of property held in trust for charitable purposes; but in section 3 you at once see that it contemplates the creation of only a treasurer for such charitable funds and he in himself is a corporation sole. So that does not provide for any combination of individuals as a society. Now the only words that might appear to make my amendment superfluous are "diffusion of useful knowledge". Well, Sir, I wish that view were correct and could be upheld; but as I have already said the Bill is based upon a fact or two of experience which belie this interpretation. The Registrars might of course grant registration to political bodies wishing for registration on the assumption that they had to do with useful knowledge. But as I said, they refused registration in some cases, whether because they regarded political education as useless knowledge or perhaps as infernal knowledge, I don't know.

Now I turn to the two small amendments which I am proposing. First of all, I refer to the words "political education" which I am specifically suggesting to be inserted as an amendment. I do want political education to be recognised as one of the objects mentioned in section 20. Now by adding these words it may be said I am only adding one more category to this museum or zoo; but perhaps that is inevitable. We know that in Hindu society when one proceeds to break caste he is only proceeding in a manner which results in adding one more caste to society; but that is inevitable. If I suggest one more category it is because for my purpose it is necessary. If my purpose could be otherwise served I would not add to the difficulties of this section.

Then as for the second amendment, that should be really acceptable because the words are "any other purpose of public utility". That I suppose is a comprehensive enough term, and it would also cover the words "or political education" and the words "useful knowledge". But in order to clear all doubts I have added both the words "political education" and the words "any other purpose of public utility".

Sir, I said the Bill was based on one or two facts of experience. I may here relate a small joke which was current in Bombay and Poona about 20 years ago. The joke is this. About the year 1905 the late Mr. Gopal Krishna Gokhale founded the Servants of India Society. Now it happened that a Bombay Parsi merchant, with keen and lively business instincts, at once wrote to Mr. Gokhale congratulating him upon the brilliant idea of founding a society for supplying 'domestic servants'. Perhaps he himself was worried with domestic troubles like many of us, and he naturally looked upon Mr. Gokhale as a saviour to the contemporary generation of men distressed by the eternal problem of domestic servants. And I suppose he was also prepared to concede to Mr. Gokhale a patriotism large enough to provide domestic servants for the whole of India. When I heard that joke for the first time I said aloud to myself "Well, such is fame!" And that was the estimate which this Parsi gentleman had formed of the celebrated Mr. Gokhale. This of course is only the ridiculous aspect of the thing; but the serious aspect is this, that the Servants of India Society failed to secure registration at the hands of the Registrar, not in one but in two provinces. That is the fact upon which I want to lay stress. Now, if

Mr. Gokhale's Society had wanted to train cooks and scullions, and grooms and governesses, then perhaps he would have had no difficulty in getting his Society registered; but if instead of training governesses he was aspiring to train a few Governors at his Society then of course the trouble would come in and the Society could not be registered. There were many other

1 P.M. incidental disadvantages to the Society as my information goes, arising out of this refusal of registration, and that was the loss of the benefit of a number of annuities which they might have got if the Society was a registered one. But of course on that aspect of the question I am not going to lay any stress. I lay stress upon the right of political associations and bodies to get their registration. From these facts it will be seen that the Act does not provide for the registration of political bodies or associations, and it will at once be conceded that the amendment which I am seeking to make is essentially useful from that point of view.

**Mr. President:** Motion moved:

"That the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be taken into consideration."

**Kumar Ganganand Sinha** (Bhagalpur, Purnea and the Santhal Parganas: Non-Muhammadan): Sir, I have got an amendment, a very small amendment to this Bill . . . .

**Mr. President:** The amendment does not come in now. The motion for consideration of this Bill must be first carried before we come to amendments.

**Kumar Ganganand Sinha:** Sir, I give my wholehearted support to the motion before the House that the Bill be taken into consideration. I entirely agree with the sponsor of the Bill that the archaic provisions of the Act as it stands at present require a good deal of modification. I will move my amendment at the proper time and then say how I consider the Act to be defective. In the meanwhile I will content myself with giving my support to the present motion.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I wish to offer a few observations in connection with the motion of my Honourable friend for taking into consideration the Act known as the Societies Registration Act, XXI of 1860 . . . .

**Mr. President:** The motion is that this Bill be taken into consideration.

**Sir Hari Singh Gour:** Honourable Members will remember that this Bill re-enacts with certain omissions the Parliamentary Statute known as the Literary and Scientific Institutions Act, 1854 (17 and 18 Vict. cap. 112, and sections 20 *et seq.*). It does not purport to be a new Statute but the re-enactment of an old Statute. As such its purpose and object is defined and limited by the short title and the Preamble of the Act. The short title to which the Honourable the Mover of the motion has referred is "An Act for the registration of literary, scientific and charitable institutions" thereby re-enacting the Parliamentary Statute of 1854. In the Preamble the purposes for which the Act was enacted are set out. They are five in number: first of all, promotion of literature; secondly, science; thirdly, fine arts; fourthly, useful knowledge; and fifthly, charitable purposes; and these are enumerated by way of greater caution in section 20 of the Act. If Honourable Members will turn to section 20 of the Act

[Sir Hari Singh Gour.]

they will find that these various enumerations fall under one or other of the main heads stated in the Preamble. As for instance, libraries and museums will come under the promotion of literature; galleries of paintings will come under science and fine arts under works of art; under useful knowledge comes natural history, mechanical and philosophic inventions, instruments or designs; and last of all we have charitable purposes under which come charitable societies, orphanages and certain existing societies safeguarded by that section. Reading as I do this Act, I find, that it has a very limited object and purpose in view; and it was to legalise by re-enactment certain societies and bodies and the promotion of certain classes of interests enumerated in the Preamble.

Now, the first question that occurs to me is this. With every sympathy for the enlargement of the scope of the Bill, how can I do so by adding to the categorisation in section 20, these two terms—"the diffusion of political knowledge and education", and "for any purposes of public utility." Now, if this Legislature were to tack on to the provisions of section 20 these words of sufficient amplitude to cover a wide field of activities which may be classed under the head "any purpose of public utility", the result of it would be that the real object and scope of the Act itself, which is limited and defined by the Preamble, would be unduly enlarged; and I am afraid that if the matter ever went to the courts, the courts are likely to hold that this enlargement is not within the special provisions of the Societies Registration Act, the purpose of which is defined and limited by the Preamble. I should have thought, Sir, that if it was intended to extend the provisions of the Societies Registration Act to the two purposes mentioned in clause 2 of the Bill, that said purpose would be served by either revising the Preamble and then adding on to section 20 the two clauses which are sought to be added on to that section here.

**Mr. C. Duraiswamy Aiyangar:** Is it my Honourable friend's view that the Preamble controls the Act to such an extent that, if it does not coincide with a section, the section becomes *ultra vires*? \*

**Sir Hari Singh Gour:** The Honourable Member, I think, is too astute a lawyer to think otherwise.

My next point is, as I was saying, that if any provision foreign to the main purpose of the Act is desired, we could have an independent Bill *ad hoc* dealing with these two clauses and the other provisions of the Societies Registration Act might have been assimilated to this new Bill. That is my technical suggestion. I quite recognise, Sir, the difficulty which the Honourable the Mover has, as I feel with him that it is a hardship that the Servants of India Society should be called upon to provide the public with domestic servants. At the same time I do not see how they could be refused registration under the Societies Registration Act, because I find that one of the purposes for which this Act was enacted was to encourage the dissemination of useful knowledge. And the dissemination of political education is, I venture to think, dissemination of a useful knowledge. Therefore, I submit that even under the existing Act it is possible to register societies constituted and formed for the sole purpose of diffusing political education. Now, Sir, if that were the only object, I have not the slightest doubt that I should wholeheartedly support my friend in spite

of some scruples of conscience from which I suffer where I should be able to add this clause to section 20 without revising the other corresponding clauses of the Bill. But when I deal with the next clause, namely, with the words "and for any other purpose of public utility", then I pause and consider what is "any other purpose of public utility," I do not see how it comes under any of the five main clauses, the purpose for which the Act itself was enacted in 1854 and re-enacted with certain omissions in 1860. I therefore ask the Honourable the Mover to enlighten me and to dispel the ignorance from which, Sir, I suffer, because, in the first place, I should like to have a definition of the words "public utility". Unless you define the purpose of "public utility", you will be using terms and importing them into an Act of the Indian Legislature which is likely to cause considerable difficulty in practice.

My second submission is that, assume for the sake of argument, that we allow an extremely vague, ambiguous, and I venture to submit, diffuse term to get into this Act, how is it likely to promote the real object which the Honourable the Mover has in view, that these societies must be registered? My friend said that when he was drafting this Bill his primary concern was to extend its provisions to societies constituted for the diffusion of political education, but he thought at the same time that he might kill two birds with one stone, and therefore he has added clause (b) without sufficient advertence I venture to submit, to the real purpose he had in view, and I submit that in cases of this kind simply putting into an Act of the Legislature phrases of this character leads to the protraction of litigation and difficulties of construction, and I therefore submit, that they cause confusion in the interpretation of an Act which must be perspicacious and clear to the layman who reads it. It is certainly not clear to me, and I think it was not clear to the Honourable the Mover, because he has himself said that as he was drafting this Bill he thought that it would serve some sort of purpose, some useful purpose, in the near or distant future, the character of which he had not clearly perceived or visualised by adding these words to section 20.

Now, I submit, Sir, that the Legislature must be extremely careful in selecting its language and not use one word, one comma or colon, the meaning and extent of which it does not appreciate and understand, and I for one would be most reluctant to vote for clause (b) unless, Sir, my mental ignorance is dissipated by a clearer enunciation of the meaning and purpose for which this clause was enacted. On the whole, Sir, having given such consideration as I can to the Honourable the Mover, and after giving him credit for being the Mover of the Bill, and at the same time my utmost sympathy for clause (a) and my desire to insert it in section 20, I would suggest that the best course for the Honourable the Mover is to commit his Bill to a Select Committee where the whole question can be threshed out, and the suggestions I have made considered.

Sir, I move that the Bill be referred to a Select Committee.

**Mr. M. S. Aney** (Berar Representative). Sir, I had no mind to intervene in this debate at all but for the extraordinary speech which my learned friend has just made. He has his own difficulties, and I believe if he had been so inclined, he could have himself solved his difficulties. The real difficulty that he wanted to urge on this House was that clause (b) was likely to introduce a matter into this Bill which was evidently, according to him, outside the scope of the original Act. That is the sum and



[Mr. M. S. Aney.]

substance of his objection. As a lawyer, I believe he should not have found any difficulty whatever in interpreting the words "for any other purpose of public utility", because I believe, more than anybody else in this House, he is aware of the well known legal maxim '*eiusdem generis*'. The words "any other purpose of public utility", if there is an occasion for interpreting them at all, would be interpreted to mean only any other purpose of public utility such as has been contemplated by the Act. The principle of *eiusdem generis* would certainly apply, and there will be no difficulty for anybody who has to interpret these words or to administer this Act to find out whether the particular purpose for which the registration of a body will be sought will come within the scope of the Act or not. When there are so many categories of objects mentioned, it would not be difficult for the officer who has to administer this Act to find out whether a particular society, which has as its object or purpose some definite public utility described therein, comes within the five objects or the five purposes mentioned in the Act or not. It is a matter of common sense, and there is no necessity for giving any definition of the words "public utility", because the words obviously mean such public utility as has been contemplated by the law, and in keeping with other purposes specifically mentioned before. The object of the insertion of the words "any other purpose" is to show that the list of the institutions given in section 70 is not exhaustive but only illustrative. That is the only object. If that particular view is taken into consideration, the difficulty which my learned friend finds in accepting clause (b) and consequently in accepting the whole section, in spite of his considered opinion that sub-clause (a) of that section is necessary will be at once obviated. And I therefore think that there is no reason for taking this small matter to a Select Committee and devoting one or two days or even a few hours to consider whether these words should remain or some other words should be introduced. That can be done on the floor of the House even if necessary. On taking this point of view into its consideration, I believe the House will see that it is another unnecessary dilatory motion which he has suggested to-day. I therefore support the original proposition.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, let me assure my Honourable friend who moved this Bill that I am not going to oppose it, that I am also very anxious for the diffusion of political education, and if the law does not allow societies with such an aim to be incorporated, I should be the first to desire to help them. But I take it that the real object of my Honourable friend in bringing his Bill forward is not so much to promote that diffusion of political education as to enable those bodies which are engaged in this missionary task to obtain some form of corporate existence which would enable them to have a corporate being, to hold property and to have a corporate entity of their own. That, I take it, is the real object behind his motion. He tells us that a very well known society, the Servants of India, were unable to obtain registration under that somewhat ancient Act of 1860. My Honourable friend passed severe strictures on the draftsmen of that Act. Well, Sir, it is many years ago and these gentlemen who sit behind me will have their withers entirely unwrung. They must have all passed over to the great majority. It was in fact a copy of an English Act and the amendment which my Honourable friend has brought forward is itself not altogether



impeccable. I will not criticise it at this stage because we are merely dealing with the principles of the Bill which is to enable this particular class of society to get some form of incorporation. With that principle, I am in entire sympathy. I think registered societies of that character might be extremely valuable, but, Sir, I have a doubt and it is mainly a legal doubt. And I should like to submit it to my Honourable friend and I shall await his answer with interest. As my Honourable friend knows, two years after the passing of the Literary and Scientific Institution, the Companies Act was passed and that Act with its various amendments is now the Indian Companies Act, Act VII of 1913. Now, the doubt I have is: is it not possible for a society such as my Honourable friend contemplates to be incorporated under the far better provisions, the far more full provisions of the Indian Companies Act rather than to be incorporated under the rather out-of-date and antiquated provisions of the Act which he seeks to amend? And if it is a fact—there are many lawyers in this House who will help in this—if it is a fact that a body of that kind can be incorporated under that Act, is not my Honourable friend's difficulty already met under that Act?

**Mr. N. C. Kelkar:** Under what section?

**The Honourable Sir Alexander Muddiman:** I would ask my Honourable friend first of all—has he ever attempted to get his society registered under the Companies Act?

**Pandit Hirday Nath Kunzru** (Agra Division: Non-Muhammadan Rural): May I answer that question? We have tried to get the Servants of India Society registered under the Charitable Societies Act of 1860, but not under the Indian Companies Act.

**The Honourable Sir Alexander Muddiman:** I am much obliged to my Honourable friend. Therefore, the point really has never been tested under the Companies Act. Well, my Honourable friend says: Under what section? As he is a lawyer, he is well aware that under section 5 of the Act you can form an incorporated company. If you form a public company, you must have 7 people. If you want a private company, you must have two or more, and you can form a company for any lawful object. There is no restriction. It is very wide indeed and the diffusion of political education must be a lawful object. Therefore, there would be no difficulty, one would think, under that section, to get such a society registered under the Companies Act. If it may be urged that the Servants of India Society would not like to follow that course because it would involve their having "Limited" put after their name, I think I am right in saying that there are certain provisions in the Companies Act which will enable them to avoid that if they don't apply their profits to any other objects than their own aims.

**Mr. N. C. Kelkar:** You mean section 26?

**The Honourable Sir Alexander Muddiman:** Yes, section 26. Now, Sir, and that is the doubt I have. I don't want to oppose the principle of the Bill. I am in sympathy with the Bill. I don't want to oppose the drafting, because the House will have ample opportunity of doing that, when the motion for consideration is put and my friend, Sir Hari Singh Gour, will then be able to again urge the arguments which he might have

[Sir Alexander Muddiman.]

deferred until we came to the clause by clause consideration. I am quite prepared to accept, as far as I am concerned, the motion that the Bill be taken into consideration.

**Mr. N. O. Kelkar:** Sir, with regard to the remarks of Sir Hari Singh Gour, of course, I admit my inability to dispel his ignorance, for two reasons. First, in many cases, there is no real ignorance; he only pretends it. And in other cases, when there is ignorance, it is so dense that it is impossible to remove it. Now, I would say only this about the motion that he has made. If he was really, if I am to suppose that he was really, actuated by a spirit of friendliness in his attempt to make that suggestion, why did he not himself give that amendment before? If he wanted really to help me, there was time enough to send in an amendment so that his amendment could have been accepted. I had no objection to accepting it—and that amendment being made, of course my purpose would have been served. But instead of sending in that amendment in good time, he now stands up and makes a difficulty. Therefore, I think that he is not actuated by a spirit of friendliness towards one part at least of the Bill. Then, he says, it is confusing to have the words “public utility” in the Act. But I would only ask him to put the words “public utility” side by side with “useful knowledge” and I would ask him to make a choice as to which would be really more confusing. Both the expressions are so broad in their application that it is very difficult to choose so far as the difficulty of confusion is concerned. And if he can accept the words of section 20, namely “useful knowledge” as not causing confusion, he should similarly be prepared to accept my words “public utility” as also not causing confusion.

Then, with regard to the observation made by my friend, Sir Alexander Muddiman, he said that political education was not the real object, but incorporation was the real object. Well, I really object to that. Why should he assume that a corporation which wants to set itself up as a political body intending to give political education to society and doing political propaganda over the country, why should he assume that it is not one of the objects of a political association to give political education?

**The Honourable Sir Alexander Muddiman:** My Honourable friend has misunderstood me entirely. What I said was that your object was to get an incorporated institution. There is nothing to prevent the diffusion of political education by an unincorporated association. I understood what you want is incorporation. The Honourable Member, I think, has misunderstood my point.

**Mr. N. O. Kelkar:** Then, with regard to the suggestion that a society like that should seek registration under the Companies Act, I shall simply characterise it as fantastic. In the first place, you will see, Sir, that the societies mentioned under section 5 of the Companies Act are supposed to be societies concerning themselves in pounds, shillings and pence, in business.

**The Honourable Sir Alexander Muddiman:** Not in the least.

**Mr. N. O. Kelkar:** You read “Company having the liability of its members limited”, but in the case of an association like the one I have in mind there is no question of limited or unlimited liability. As I pointed out in my first speech, exercising the four functions or privileges which

incorporation gives, namely of holding corporate property, running a corporate government . . .

**Mr. M. R. Jayakar** (Bombay City: Non-Muhammadan Urban): Sir, on a point of information. May I invite the Honourable the Home Member's attention to clause 14 of the Societies Registration Act?

**Mr. President:** Order, order. The Honourable Member is not entitled to make a speech at this stage.

**Mr. M. R. Jayakar:** I am merely asking the Honourable Member's attention to a point which he raised—whether such a society could not without difficulty be incorporated under the Companies Act.

**The Honourable Sir Alexander Muddiman:** I think it is an irregular method of doing it.

**Mr. President:** The Honourable Mr. Kelkar will please proceed with his reply.

**Mr. N. C. Kelkar:** That at least is my view that the Companies to be registered under the Companies Act are principally intended to be Companies concerning themselves with some kind of business or another. There must be profit in the business; that seems to be an essential idea; whether that profit is not ultimately appropriated for selfish purposes or spent on public purposes is another matter. But in the idea itself of companies registered under the Act, there is pounds, shillings and pence. Whereas that is not the case with the kind of societies with which we are concerned. Now, if that could really serve the purpose not only for political associations and bodies but for all those kinds of associations which are mentioned in section 20 of the Registration Act then why was not this Act repealed? I do not think the Legislature ever intends to keep two enabling parallel Statutes on the record at the same time. If, as my Honourable friend points out, the real purpose of the kind of society I am thinking of, would be served by the Companies Act, then at the end of the Companies Act a repeal of the Societies Registration Act should have been actually enacted. But that enactment is kept alive, and my contention is that a society like the one I am contemplating must be put on the same righteous level as the societies mentioned in section 20 and not on the same sordid level as the societies contemplated under the Companies Act.

Then, with regard to section 26, I will just read the whole of the section to convince the House that the suggestion is simply absurd, and that no society like the one I have in mind would go in for registration under that section. The House will bear with me while I read the whole of section 26:

“(1) Where it is proved to the satisfaction of the Local Government that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, charity, or any other useful object, and applies or intends to apply its profits, if any (*mind you, profits in the first place*) or other income in promoting its objects, and to prohibit the payment of any dividend to its members (*mark the word 'dividend'*), the Local Government may, by license under the hand of one of its Secretaries, direct that the association be registered as a company with limited liability, without the addition of the word ‘Limited’ to its name, and the association may be registered accordingly.

(2) A license by the Local Government under this section may be granted on such conditions and subject to such regulations as the Local Government thinks fit and those conditions and regulations shall be binding on the association, and shall, if the Local Government so directs, be inserted in the memorandum and articles, or in one of those documents.

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(3) The association shall, on registration, enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word 'Limited' as any part of its name, and of publishing its name and of filing lists of members and directors and managers with the registrar.

(4) A license under this section may at any time be revoked (*these words should be marked*), a license under this section may at any time be revoked—by the Local Government and upon revocation the Registrar shall enter the word 'Limited' at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section :

Provided that, before a license is so revoked, etc."

Now, I ask any fair-minded Member of this House whether that is a section under which any spirited or self-respecting political society or association would like itself to be registered when there is that other Act available.

**Mr. H. G. Cocks** (Bombay: European): Is the Honourable Member aware that the European Association is registered under this Act?

**Mr. N. C. Kelkar**: I do not know. I cannot speak for the sentiments of the European Association. I suspect that their Association is primarily concerned with pounds, shillings and pence. (*Some Honourable Members*: "No, no.") I have not got that sordid idea at any rate of political bodies which seek registration in India for political propaganda and work. I can never think even of the European Association without that underlying thought of pounds, shillings and pence. If there are two parallel enactments available to them and if they go to the other Act I can at once see that they intend to be a limited company with some business in hand, though of course with the ultimate charitable purpose of appropriating some of the profits for a public purpose. That is another thing. The kind of society I have in mind differs in essentials from the kind of society contemplated under section 20. I think it is absolutely an insult to the societies which I have got in my mind and an insult to the intelligence of this House for the Honourable the Home Member to suggest that the kind of associations which I have in view should get themselves registered under the Companies Act. Of course he has asked why the Servants of India Society did not register itself under that Act. I think if he seriously puts that question he will get an answer which will ring in his ears.

**The Honourable Mr. S. R. Das** (Law Member): The answer is that they never thought of it.

(Mr. President then rose to put the question.)

**The Honourable Sir Alexander Muddiman**: I should like to reply, Sir, I fear at some length.

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

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

#### MESSAGE FROM THE COUNCIL OF STATE.

**Secretary of the Assembly**: Sir, the following Message has been received from the Secretary of the Council of State:

"I am directed to inform the Legislative Assembly that the following motion was carried in the Council of State at their meeting held on the 15th of February 1927 and

to request the concurrence of the Legislative Assembly in the recommendation contained therein :

'That this Council do recommend to the Legislative Assembly that the Bill to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India be referred to a Joint Committee of this Council and of the Legislative Assembly and that the Joint Committee do consist of twelve members.' "

### THE SOCIETIES REGISTRATION (AMENDMENT) BILL—*contd.*

**The Honourable Sir Alexander Muddiman:** Sir, I am indeed a very unfortunate man. (*An Honourable Member:* "Are you?") I spent some time this morning in endeavouring to help my Honourable friend, Mr. Kelkar. I endeavoured to show him that I had great sympathy for him. Not only that, but I frankly appreciated his difficulties; and, Sir, what is the result? He returned to me a most disappointing answer. He found in my legitimate criticism of a possible legal point that the position was so serious that when the Home Member gave that reply it would ring in the ears of India. Sir, this is a smallish Bill, if I may say so, to give such remarkable results whatever my reply had been.

Now, Sir, I should like to tell the House that I did not take my Honourable friend Mr. Kelkar by surprise. I did not spring this point about the Company law upon him without having warned him. I had some conversation with him and he was aware of the point and I thought that he would have welcomed this discussion and would have overwhelmed me with his knowledge, doubtless much greater than mine, of the Company law. It is true I did draft the Indian Companies Act; still there is no reason why I should claim to know much about it. Well, Sir, the only difference really between us is whether in suggesting to him that the Servants of India Society, that well known and important society, might register itself under the Companies Act and thereby avoid the trouble they find themselves in I was making any unreasonable or any improper suggestion. Now, Sir, I must beg the House to believe me that I was in perfect good faith when I made the suggestion. I was making a very serious suggestion. My Honourable friend, Mr. Kelkar, told us that no respectable non-trading society would care to be registered under the Companies Act. My Honourable friend Mr. Cocke interrupting instanced the case of the European Association. Well, Sir, perhaps he was unfortunate in suggesting the European Association in this House, but still to my mind it is a very respectable association. But perhaps my Honourable friend will permit me to say that I have in my hand a list of one or two associations which have been registered under the Companies Act and I think my Honourable friend will agree that they are societies that are certainly respectable. One is a religious society, the Indian Catholic Association of Southern India. That appears to be a very respectable society.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly: Non-Muhamadan Rural): They have their own troubles.

**The Honourable Sir Alexander Muddiman:** My Honourable friend will probably bear me out and I shall expect his support on that point as to the next two societies, the King Edward Educational Society which apparently operates in Canara and the Nursing Association which operates in Madras. Therefore, there is no slur in the suggestion that a society should register itself under the Company law.

**Pandit Hirday Nath Kunru:** May I put a question to the Honourable Member? Perhaps he would reply to it at this stage. Does he consider whether, if the Servants of India Society, for instance, is registered under the Indian Companies Act, it would be exempt from the payment of income-tax?

**The Honourable Sir Alexander Muddiman:** I should certainly deprecate, in the absence of my Honourable friend Sir Basil Blackett, any suggestion that any society which has an income should be exempt from income-tax, and I am sure this House would be inclined to take that view also. I was developing the point that really there is nothing derogatory in the suggestion that a society should register itself under the Companies Act. My Honourable friend made a point that the Companies Act really is one only for the sordid associations which care for nothing but rupees, annas and pies, and that, if you register yourself under that, after all you can have no really high ideals and it would be a slur on that society which does such admirable work in India and which is so ably represented in this House to trust the Companies Act. My Honourable friend read—and I will not weary the House by again reading—section 26 of the Companies Act, but I should have thought it was a refutation of his own contention, because there you have the Act referring to associations formed for promoting commerce (there you have the rupees certainly), art, science, religion, charity or any other useful object. The Act itself contemplates these societies. My Honourable friend Mr. Jayakar with very great courtesy came to me after the debate was over and suggested to me his point in connection with section 14 of the Societies Registration Act. I am much obliged to him for doing so, because it gives me an opportunity of dealing with what I am sure he must feel a difficulty. He referred me to section 14 of the Act which provides for what is to happen on dissolution of a society and he said rightly—I saw his point—“Here you are, there is a great difference in the Companies Act. If one of these societies is dissolved, you apply the Cypres’ doctrine of trustee-ship.” But that is met quite easily in the case of registration of societies under the Companies Act, because a society of the class we have in mind would naturally also make provision for that in its own articles: I understand that in fact it is the practice for Charitable Societies registered under the Companies Act, to provide that after liquidating their debts—I suppose my Honourable friend will admit that even the Servants of India Society would have to pay their debts—after liquidating their debts, the surplus of the assets on a liquidation should be applied on the same sort of doctrine as you have under section 14. That, Sir, is the answer on that point. Well, Sir, I think I have really been rather confirmed—I am sorry to have to say so—rather confirmed in the view I originally took, but it would be quite possible and not derogatory and perhaps even useful for the Servants of India Society to come under the Companies Act and I will explain why; for this reason that the Societies Registration Act, as my Honourable friend pointed out and rightly pointed out, is a very antiquated Act and is deficient in procedure. For example, it does not contain those meticulous requirements as to accounts which are insisted on in the Companies Act, and is in many ways calculated to secure better provision for the objects of the society and to prevent the funds of a society from being diverted from their proper channels: I had to make this rather long reply to clear myself of the charge, a rather unreasonable charge considering that I was trying to help the Honourable Member, of making a suggestion that was fantastic. Surely if there was any fantasy,

it was his own. I think my suggestion that societies should register under the Companies Act a very proper and reasonable suggestion, and one that should be considered.

I will not oppose the consideration motion at this stage, but if I am advised by competent legal authority at a further stage that registration can and ought to be effected under the Companies Act, I may take action in another place.

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

"That the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be taken into consideration."

Since which an amendment has been moved :

"That the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be referred to a Select Committee."

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

The motion was negatived.

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

"That the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be taken into consideration."

The motion was adopted.

**Mr. President:** Clause 2.

(On Kumar Ganganand Sinha rising to move his amendments.)

**The Honourable Sir Alexander Muddiman:** Sir, on a point of order—I should dislike exceedingly to object on an unnecessary point of order—but I only received the amendments that appear in the Honourable Member's name this morning. If it were only an amendment of substance I would not object, but I understand that the amendment is of some importance as it may raise a question of sanction. I therefore object on the ground that I have not had sufficient time to consider the amendments.

**Mr. President:** Under the circumstances, the Chair is not disposed to suspend the Standing Order to enable the Honourable Member to move his amendment.

**Mr. S. Srinivasa-Iyengar** (Madras City: Non-Muhammadian Urban): Sir, while approving of this section, I wish to point out that really the Indian Companies Act does not at all apply to the cases which were put forward as cases requiring special registration by my Honourable friend, Mr. Kelkar. The Companies Act no doubt allows any company to be formed for any lawful purpose, and prohibits certain companies being formed without registration, unless they carry on business for the purpose of gain. It does not mean that companies cannot be formed for a lawful purpose. The whole object of such associations as were referred to in Mr. Kelkar's speech is to get them registered and to give them a *quasi*-corporate existence for certain legal purposes, and that can be achieved much more easily by the compendious procedure indicated by that antiquated Act than by the elaborate provisions of the Companies Act. No doubt it is open to those associations who wish to dedicate their profits and income to charitable objects to avail themselves of the provisions of section 26 of the Companies Act, but still those companies must be associations capable of being formed as limited companies. They are only capable of being formed as limited companies when there is a share capital or other requirements.

[Mr. S. Srinivasa Iyengar.]

I do not know about the Servants of India Society, but there are many societies formed for political purposes which cannot have a share capital. It is therefore impossible that these associations can be registered under the Companies Act, and even if some of them by having a share capital could be registered under the Companies Act, it is most inexpedient that they should be governed by the Companies Act, which would frustrate the objects of summary registration. I don't think that political associations do require registration. Speaking for myself I do not desire that such associations should have this kind of statutory recognition. I would desire that they be free of these entanglements. They will be otherwise compelled to submit accounts and to be supervised by Government Departments. That is a matter of detail. There are however some political associations which may require to have the benefit of this registration, and I don't see why they should be prevented from having the benefits of that registration. I do not believe it necessary that political associations should be registered in this country, having regard to the present system of Government.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**Mr. N. O. Kelkar:** Sir, I move that the Bill be passed.

**The Honourable Sir Alexander Muddiman:** Sir, I have only one observation to make, and that is that my Honourable friend, the late Advocate General of Madras, tells us he is against political societies being given corporate existence. I would ask him with the authority of his great experience of law to tell the House how they can hold property if they are not incorporated.

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

"That the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be passed."

The motion was adopted.

#### THE LAND ACQUISITION (AMENDMENT) BILL.

**Mr. N. O. Kelkar** (Bombay Central Division: Non-Muhammadian Rural): Sir, I beg to move that the Bill to amend the Land Acquisition Act, 1894, for certain purposes, be circulated for the purpose of eliciting opinions thereon.

Sir, on this subject the preliminary remarks that I had to make were made in my last speech on the last occasion, of course not knowing at that stage that a convention was being established that Bills should not be opposed by Government at the time of introduction. At any rate what I had to say has been said before; therefore I do not wish to take up the time of this House by making further remarks.

What I wish to say at this stage is that the motion I am moving is an absolutely modest one. I recognise this fact that it is no use winning this Bill by a snatch victory or losing it by a snatch defeat. There are many points in this Bill which may be contentious, and I can quite conceive an honest difference of opinion in regard to some of the points. I am personally convinced of the reasonableness of my points, but that is not the whole thing. Many associations and public bodies who are interested in



land acquisition, may have got other views on the subject, and it is therefore absolutely reasonable that we should hear views from all sides before going to Select Committee and pressing my amendments. I am certain that the Bill will come back with a large body of opinion in my favour. Then I will move that it should be sent to a Select Committee. In the meanwhile I would only say that my motion being one for its circulation, I trust that the Government will not need to oppose it at this stage. I do not expect them to send it abroad with a blessing, but I hope that they will not send it out with a curse. I therefore move that my motion should be accepted.

**Mr. J. W. Bhore** (Secretary, Education, Health and Lands): Sir, I am glad that my Honourable friend has asked for circulation, for I am afraid Government would have had to oppose any other motion. The changes which this Bill seeks to bring about are of a somewhat revolutionary character, and before this House is in a position to address itself to their closer examination, as my Honourable friend quite rightly remarked, it should be in possession of the criticism of bodies who will primarily be affected by these changes and of authorities and individuals whose experience of land acquisition practice and procedure must be of great value in assisting this House to come to correct conclusions. As my Honourable friend Mr. Kelkar has remarked, it is not merely Local Governments that are interested. Local bodies, municipalities, railways and companies are all intimately concerned, and I feel that they should be given the fullest possible opportunity for the free expression of their views before the House goes further into this measure. But I think, Sir, it is necessary that I should take this opportunity of indicating the objections, and I may say they are serious objections, which Government see to this measure. I shall try and confine myself as far as possible to the general features of this Bill and refer only to individual provisions so far as this may be necessary to facilitate reference to and illustrate the general principles involved.

The first important feature of this Bill, Sir, is that it substitutes judicial courts and provincial Legislative Councils for Local Governments as judges of what constitutes a public purpose within the meaning of the Act and of the need for the compulsory acquisition of property for that purpose. Let me take first the question of judicial courts. I contend that a judicial court is not and cannot be as good a judge of public needs as a Provincial Government because it cannot possess that wide administrative experience and knowledge which is necessary to assess fairly and justly public needs and requirements. Then, Sir, I speak under correction, it seems to me that no judicial court has anywhere been invested with the power of final decision on this question. I say final decision because, as far as I can see from the Act, there is no provision for appeal from the decision of the district court on this point.

Now, Sir, let us come to local Legislative Councils and the part they are destined to play in this land acquisition drama which my Honourable friend proposes to stage. Let me read sub-clause (2) of clause 6 of the Bill. It runs as follows:

"Provided also that no such declaration (namely, a declaration that the purpose is a public purpose) shall be made unless the purpose for which the land may be needed to be acquired has been approved as a public purpose by a specific resolution of the Legislative Council of the Province in which the land may be situated."

[Mr. J. W. Bhore.]

From the dim memories of my past district experience, let me resuscitate the recollection of a case in which I once acquired for a certain municipality, let us call it A, 8 cents of land for a public latrine. I venture modestly to suggest that I did my work fairly and expeditiously, and in a very short time, a matter of days, the inhabitants of the town of A were blessed with the convenience desired. Now, what would happen if my Honourable friend has his way? The town of A might clamour for its latrine, but not a little finger could be raised to satisfy that clamour or that need until, to use the words of the Bill, the purpose for which the land was required had been approved as a public purpose by a specific resolution of the Legislative Council of the Province. It might well be, Sir, that the Council might not be in Session at the time the proposal was advanced. That would mean an initial delay amounting in some cases perhaps to months. Then, Sir, when the question came before the Council there might be a debate and in the end you might perhaps get your specific resolution declaring that a public latrine was a public purpose within the meaning of the Act. But, Sir, you would merely by this resolution be authorised to set in motion the further cumbrous procedure demanded by this Bill. In the meantime, Sir, what happens to the town of A? The convenience and desire of the town of A, the urgent needs of public health and sanitation, what happens to them? That, Sir, seems to me to be a serious demerit of this Bill. As for the grievous waste of a Council's time which this proposal must involve I need say nothing. It must be obvious.

Then, Sir, I come to the second important feature of this Bill and that is the institution of boards of arbitration, normally elected by both parties to the dispute. The present procedure in acquisition cases is briefly as follows. The Collector investigates a case fully; he then proceeds to make an award and if the party interested is not satisfied with that award, he may require that the case be remitted for the consideration of the Court, the court being defined as the principal civil court of original jurisdiction. There is an appeal from the award of the Court or from any part of that award, subject to the provisions of the Civil Procedure Code, to the High Court and eventually to His Majesty in Council. Now, Sir, what does the Bill propose to do? It proposes to interpose a court of arbitration between the award of the Collector and the appeal to the district court. The procedure will be as follows. The Collector makes his award. If a party is not satisfied with that award, he may ask for a board of arbitration. After this body, with the inevitable delays which must attend upon its processes, has functioned, there still lies an appeal to the district court and eventually to the High Court. With all due deference to my friend, I fail to see any possible advantage in this procedure. On the contrary there seem to me to be grave disadvantages in the procedure which he has suggested. It is slow, it is cumbrous, it must be more costly, and it does not provide to my mind any additional safeguard more effective and more efficient than is provided under the existing law.

Then, Sir, I come to the third main feature of this Bill . . . .

**Mr. President:** Order, order. The Honourable Member was arguing as if he was opposing the motion for circulating this Bill. The Honourable Member knows that the only motion before the House is that the Bill be circulated for eliciting opinions, and that motion, if carried, does not

commit this House or Government to any principle contained therein. I could quite understand the Honourable Member's speech if there was also a motion for reference of this Bill to Select Committee. Then it would be perfectly open to him to go into the principles of the Bill and discuss them at length as the Honourable Member is now doing. I would like the Honourable Members to be as brief as possible on this motion. They are entitled to state their objections to the Bill, but they need not enter into, a lengthy discussion of the details of those objections.

**Mr. J. W. Bhore:** I take it, Sir, that you do not object to my statement of the Government objections to this measure. I am perfectly within my right, I take it, in bringing those objections to the notice of the House before circulation. I shall, however, try and be as brief as possible in deference to your ruling, though this must handicap my exposition of the Government case.

I said the third important feature was the compulsory provision of land or housing accommodation in certain cases to individuals who were dispossessed under land acquisition proceedings. The language used in clause 11 is that provision shall be made "for the housing of evicted persons suitable to their position in life or for securing to them approximately the same convenience and comfort as was available, etc." Now, Sir, I think this is dangerously loose language, and it must lead us into grave difficulties. As the Chair has ruled that I should not go into any detail I refrain from pointing out in what particulars and for what reasons I consider the language dangerous.

The next main features of the Bill are embodied in those provisions restricting the extension of the benefits of this Act to certain companies and restricting the power of Government—both the Government of India and the Local Governments—to enter into agreements with companies to provide land for their purposes. I would merely point out that these restrictions may result in grave obstacles being placed in the way of industrial and economic development.

There is only one other point that I would like to refer to before I close and that is in clause 17. Clause 17 provides that in the assessment of compensation due regard should be paid to "the special adaptability of the land for any potential use or improvement." Sir, I hesitate to believe that my Honourable friend has really carefully examined the implications of those words.

Sir, I could, if I had time, continue this tale of my objections because as far as I can see clause after clause of this Bill simply bristles with difficulties. But I think I have said enough to justify my suggestion that the Honourable the Mover of this Bill has failed to realise the full implications of all its provisions, and I hope that that will to some extent be remedied when circulation has taken place.

**Mr. H. C. Greenfield** (Central Provinces: Nominated Official): Sir I find myself in some difficulty in rising to say anything about this Bill in view of your ruling that we must be as brief as possible because the Bill is only proposed to be circulated for the purpose of eliciting opinion. I take it, however, Sir, that when a Bill is to be circulated for eliciting opinion it is only fair that we and the country should know exactly what is the intention of the Mover of the Bill and what generally is the attitude, certainly of the Government towards it, and of the Mover and those whom he represents, and possibly also of other parties. I am not familiar, Sir, with the procedure of this House but I seem to remember the other day, when we

[Mr. H. C. Greenfield.]

were discussing another Bill, that one Member said it was necessary to give a lead to the country on a Bill of any importance.

I had intended, Sir, to discuss this Bill in three aspects. The Bill roughly speaking may be divided into three parts. First, there is a very small clause having a certain effect on industry. Then there are a number of clauses which affect the machinery for administering the Act. And lastly, there are some clauses which deal with the extent and character of compensation. Now, Sir, the difficulty that I find and that I think people outside this House will find in considering this Bill is that the Honourable Mover in his speech made when he introduced the Bill, and also in the Statement of Objects and Reasons, has not clearly indicated the intention underlying all the provisions or even the main provisions of this Bill. Take for instance clause 2 which affects industry. That amends section 8 of the Act which deals with acquisition on behalf of companies, and as I understand it, it is now proposed by this clause to limit the application of the Act to what we may describe briefly as indigenous companies. I should have been inclined to think that this clause had slipped in accidentally because, as I have said, there is no mention of it in the Statement of Objects and Reasons; there was, so far as I have read, no mention of it in the Honourable Mover's speech, and I had hoped, Sir, that to-day I should at least have heard what was the intention underlying it. I had hoped, Sir, that the Honourable Mover would remember that many of us are new Members of this body and we can hardly be expected to know all that has taken place before in it. It was, Sir, I might say a mere accident that I discovered that such a body as the External Capital Committee had ever existed or had ever dealt with this matter. It is of course within the recollection of some Members of this House because there are at least two Members who are now in the House or at least are Members of the House, who represented the House on this Committee. If I understand this clause aright, it attempts to discriminate against companies which were previously included in section 8 of the Land Acquisition Act and which therefore had the right to acquire land under that Act in this country. Now, Sir, surely that involves a very important principle. It is a matter which is dealt with at some length by the External Capital Committee. In order to be brief I will merely refer to their summary of recommendations\* in which they say:

"Though in certain circumstances the control of external capital may be necessary in the interests of India, general measures discriminating against it or penalising it either by way of taxation or by way of control would, so far from assisting the development of these resources or fostering the interests of the Indian investor, be definitely injurious to both, as they would impede the growth of new industries and restrict the transferability and consequently the market value of the holdings of the Indian investor."

I am well aware, Sir, that the Report of that Committee does not represent all opinions in this House. But I do suggest and I think the House will agree that this involves a principle of very great importance; it involves a principle which will affect the relations of this country, the attitude of this country towards external capital; and whether this House is of opinion that external capital should be discouraged or encouraged, it is a matter which requires very full discussion, and to introduce it almost as a side issue, as

\*Quoted from Part III, Para. III, p. 15, Report of the External Capital Committee, 1925.

if by an accident in a Bill of this nature, is, I submit, not the proper way to deal with it; and I suggest, Sir, that even if it were proper to introduce it in this way, seeing that it does go outside the usual scope, the normal scope, of the Land Acquisition Act, we might have expected the Honourable Mover to have made some mention of it.

As regards the machinery for the administration of the Act, the Honourable Member in charge of this Department has already referred to the clauses which deal with the replacement of the Executive by the Legislature in respect of certain functions. It has been suggested, Sir, that the Executive is liable to partiality and the Legislature alone can be expected to decide properly what constitutes a particular purpose. Here again, Sir, I think we rather lack information from the Honourable Mover. Acquisition is done either on behalf of Government or on behalf of local bodies or on behalf of companies. It seems to me, Sir, to stand to reason that if acquisition is on behalf of Government, *ipso facto* that is a public purpose; and if acquisition is on behalf of either companies or local bodies I fail to see why the Executive should be considered to be anything but impartial. On the other hand, it might be suggested that the Legislature can hardly fail to be to some extent a partial judge in such matters. Practically every interest is represented . . . . .

**Mr. President:** Order, order. Perhaps I did not make myself quite clear to the Honourable Member when I gave the ruling. I want the House to make a distinction between a motion the acceptance of which commits the House to the principle of the Bill and a motion which when carried does not commit the House to the principle of the Bill; not that on a motion of the latter kind Honourable Members are not entitled to raise objections to the principles of the Bill, but in doing so they should be as brief as possible and should not go into the details and turn that discussion into the discussion of a motion the acceptance of which would commit the House to the principles of the Bill.

**Mr. H. O. Greenfield:** Sir, I will say only one more word about arbitration because there again I think an important principle is involved. The Honourable Mover has suggested that arbitration will give a far more impartial decision than any court or any Collector. But, Sir, surely the very idea of arbitration is that reference thereto shall be voluntary and that the person or persons selected as arbitrators shall be absolutely impartial—not bound by the interests of either side—whereas the arbitration proposed by the Honourable Mover is involuntary, it is compulsory on one party to the contract, and it is by no means impartial, because both parties select their own champions. If I may refer to the question of fact—because the Honourable Mover has himself raised it, I think, in his Statement of Objects and Reasons—he said that previously arbitration was in force and he could not understand why it was ever abandoned. When the 1894 Bill, now the Act of 1894, went to the Select Committee, the Select Committee reported as follows. (There, I may say, the expression used was not “arbiters” but “assessors”. They perform almost exactly similar functions to what are now described as arbitrators.) The Select Committee said:

“As to the discontinuance of the system of assessors all authorities are agreed. It is the universal remark that competent assessors are not easily procurable and there is an irresistible tendency for the assessor to become, not an advisor, but a partisan, adding very largely to the cost of the trial without assisting the Judge. In the words of Mr. Justice Parker ‘the nominees are faithful to the trust and deliver their opinion with minds altogether unaffected by the evidence.’”

[Mr. H. C. Greenfield.]

That, Sir, seems to me an extremely conclusive rebutment of the suggestion that arbitrators will be impartial or will perform their functions in the way that the Honourable Mover expects.

Then, Sir, if I may I will deal very briefly with the provisions regarding the extent and character of compensation. Previously the only compensation that could be given was assessed in terms of cash, and now this new principle of providing dwellings for those who are evicted by the operation of the Act has been introduced. I would suggest that this involves a failure to recognise the fundamental economic law that land cannot be duplicated, that land is by way of being a monopoly and that if one person is dispossessed of his house you cannot restore to him in kind another house or another piece of land of exactly the same description. And, Sir, it also involves the further difficulty that, as far as I can see, Government will be compelled, in order to implement a clause of this nature, to embark on an endless chain of acquisition. One of the clauses in this Bill provides that when 30 or more persons are dispossessed, it shall be compulsory on Government to provide for those persons. Now, Sir, Government does not possess land everywhere; it does not possess houses everywhere; and the only way by which to meet this difficulty will be to acquire a block of houses for these people. In that way, Sir, if we were operating in a large town like Bombay, Government would have to go round and round until they will finally acquire the whole of Bombay and start again. Sir, there are many questions of detail, in fact practically I object to every point of detail in this Bill, I object to every principle in this Bill. . . . .

**Mr. President:** Does the Honourable Member object to the motion that the Bill be circulated for opinion?

**Mr. H. C. Greenfield:** No, Sir. But if I were to enter into a real discussion on this Bill (*Some Honourable Members:* "We have heard quite enough.") I should detain the House for a considerable length of time. Sir, I think I have said enough (*Some Honourable Members:* "Quite enough.") to show that there are many important principles in this Bill, that they have not been adequately explained by the Honourable Mover, and I hope, Sir, that you will permit him, if he so desires, to make some short explanation of them now.

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

**Khan Bahadur Mian Abdul Aziz** (Punjab: Nominated Official): I assure you, Sir, that I shall certainly carry out your order fully to the very letter, and I shall not transgress beyond the limits laid down by you. But, Sir, before this House can invite opinions on an important Bill of this kind, it should certainly know its own mind and it should also try to understand what it is that we are sending out to the country. (At this stage there were interruptions from the non-official Benches.) I am prepared for interruptions. There is one little thing that the Honourable the author of this Bill said when he moved this Bill. He said that this Bill is conceived entirely in a constructive spirit. Sir, I have studied this Bill very carefully, and I think a good many of us on this side have the qualifications to understand it, and it is for this House to understand exactly the constructive nature of the new principles that are being sprung on the country and on this House. I assure you, Sir, that these are very interesting, very instructive, and even if not constructive, they are certainly destructive . .

**Mr. Jamnadas M. Mahta** (Bombay City: Non-Muhammadan Urban): Very good logic.

**Khan Bahadur Mian Abdul Aziz:** I am coming to the logic underlying the Bill. Sir, the very first thing that the author of this Bill puts forward in his Statement of Objects and Reasons is that something or other when discussed in the Legislative Council will temper the objection to arbitrary acquisition. He says that there is an objection in the country to such arbitrary acquisitions, and that if this thing is discussed, if a public purpose is discussed in a Council, it will temper that objection. May I, Sir, point out that there is certainly a misapprehension in the mind of the Honourable author of this Bill, because whatever the public purpose may be, there is never any misunderstanding about the public purpose. The misunderstanding always is about the details, about the total area of the land that we will require, say, for a school or for a hospital or for a road. All those are public purposes. The misunderstanding or mistake, whatever it is, is with regard to the area to be acquired, whether it is 100 acres or 50 acres or less. The Honourable the author of this Bill has misunderstood the whole thing. Therefore his diagnosis is wrong. He says let us discuss it by a specific Resolution in a Legislative Council. It will not cure the disease, because the disease is the mistake of an expert. An expert may be quite wrong (Laughter); experts always do go wrong. (Loud laughter.) An amateur is not always entirely right either. It is a most difficult thing for an amateur to come forward with a law and suggest drafting amendments with some sense in them. I assure you, Sir, that on this particular point the Honourable the author of this Bill tells us,—“Let us have a specific Resolution”—but to discuss what? To discuss a public purpose? But that is not at all a work for a Council or this Assembly to do. That will depend on the advice of some expert who will tell them that the Railway requires so many miles of land. The Council or the Assembly cannot themselves possibly find out the details. They will have to depend on the advice of the experts. That is not all, Sir. After having given us the best specific, I mean this wonderful Bill, he tells us in clause 11 (2) of the Bill, to which my Honourable colleague referred:

“In every case in which the compulsory acquisition of land or house property results in the eviction of more than thirty persons, the award under section 11 or delivered by the Board of Arbitrators as laid down in Part III shall make provision for the housing of evicted persons suitable to their position in life or for securing to them approximately the same convenience and comfort as was available in the house or houses from which they were evicted.”

That means that when we have unfortunately evicted 80 or more persons, we will then have to go to the Council again for another specific Resolution to find accommodation for those persons whom we have displaced. That is the logic underlying this part, Sir. (Laughter.) You were very anxious for my logic.

Now, Sir, there is another part of it, and it is this. The Honourable the author of this Bill has permitted himself to think not only of what happens when land is being acquired, but what is to happen when land has been acquired. If you will refer to clause 28, where he proposes to insert new sections 48A, 48B and 48C, you will find that he wants to provide for rendition, that is to say, when land is no longer required,—there is an absolute “shall” in it—it shall be sold only to the original holders. And further on he says that if there is any surplus land which is not needed



[Khan Bahadur Mian Abdul Aziz.]

for the purpose for which it was acquired, the surplus portion of the land shall be resold or leased by Government or such Corporation, and so on. And then in section 48C he deals with another question, and that is very interesting. It is so very interesting that I think this Assembly will be particularly keen to know what its implication is. (*Some Honourable Members*: "No, no.") I am sure the House will be much interested to know it. (*Some Honourable Members*: "No, no.") New section 48C says:

"In every case of dispute as to whether a piece of land compulsorily acquired is surplus or not within the meaning of the above section, it shall be presumed that the land was surplus if it is proved that it was devoted permanently to some object which was not a purpose of the undertaking for which the land was acquired."

I understand, Sir, that we are now housed in a place which was acquired from people who held it in private proprietary right. I do not know if any Honourable Member of Government will be able to swear in a court of law that this Assembly was a purpose of the original undertaking for which the land was required. I have high authority for believing that it was not. Now, Sir, if we agree to this clause, we shall have to go out to-morrow, because there is nothing to show that this clause will not have a retrospective effect. I defy any lawyer here to say that this is not the implication. (*Some Honourable Members*: "No, no.") The words are there. We have to honour the Honourable the author of the Bill by believing that what he says he means. Of course, if he does not, then I withdraw. He says: "It shall be presumed that the land was surplus if it is proved that it was devoted permanently to some object . . . ." Well, then, there is the absolute "shall". That means we shall have to get out of this place and give this House to the villagers, and I think they will sue you for damages, because the lobby is not quite comfortable for them. A number of other places may also be involved. I am really not joking. The Honourable the author is probably joking with you. He is tired of you and wants to clear you out. In his opening speech the author held out a hope and these are his words:

"It is also equitable that public bodies should be prohibited from making a trade of land acquisition and augmenting their revenues by a profiteering sort of arrangement."

This is offered to us as very good advice. Will you be surprised, Sir, if I read to you an extract from the Laws of England?

"Municipal and other public bodies are sometimes given powers to take land beyond that which is necessary for the actual execution of the proposed works in order that some part at least of the improved value of the adjoining lands may be secured in ease of the burden upon the tax-payer. These lands are said to be authorised to be taken for the purpose of recoupment as the public body is empowered to sell or lease them at what may be an enhanced value."

What I wish to tell the Honourable lawyers on the other side of the House is that new section 48B of this Bill as drafted tramples under foot a very famous judgment of the Calcutta High Court: it is a full bench ruling which considered previous rulings also—*Mani Lal Singh v. Trustees for the Improvement of Calcutta*. And I advise all interested in the subject to refresh their memories if they wish to know something of the principle of recoupment. (*Honourable Members*: "We know." "We don't know anything.") Well, it will do you some good if you do.

Sir, we are in no way desirous of minimising the value of the good work that the Honourable the author wants to do. That is not the point. The



point is that opinions will be received from the public after some time, the Honourable Members will be in their constituencies, they will naturally be asked by their voters for a lead, and I only want them to understand all the implications that this Bill as drafted has, so that they may be able to find out from their constituents what their exact troubles are. The trouble is not that land is not required for public purposes. As I said before, the trouble is that occasionally, very occasionally, in Bombay or in some other place, a mistake is made. Now, in order to rectify one or two mistakes, to bring in a law of this kind, which will set up all over the country arbitration boards that will provide work for the unemployed all the year round, which will have Legislative Councils in the provinces in a sort of perpetual Session in order to pass Resolutions about specific public purposes, is not wise. You will be burdening the tax-payer far too much and needlessly. Consider it. Condemn my speech. You are welcome to do that but you will not be able to disagree with the spirit. The spirit is the same as that of the Honourable author of the Bill. Let us do something constructive. Let us not have it all destructive. (*An Honourable Member*: "Obstructive.") This Bill, as I understand it, is full of, is a chaos of pious wishes. But that is not the way to proceed to work. The author is open to conviction. So is everybody else. If there are mistakes, set them right. There are thousands and thousands of acres of land in the country being acquired each year. If each owner had the right to ask for an arbitration board, two for each owner, and two again for the corporation who were acquiring that land, and so on, just try to think for yourselves where you will be landed. Then, it will not be constructive. If you will accept it like that it will be almost as constructive as dynamite.

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I intervene in this debate for one purpose and one purpose only. I understand, Sir, that you have desired that Government should be brief. I will be exceedingly brief and I hope I shall be equally effective. There is only one point in this Bill I wish to refer to and that arises out of a remark made in the Statement of Objects and Reasons. My Honourable friend who brought in this Bill has been good enough to make the following remarks:

"The awards are no doubt open to be challenged in (to appeals) District Courts. But District Judges, besides being paid officers of Government, are in most cases ignorant of local conditions which are really decisive in the proper assessment of compensation for the lands to be acquired."

Now, Sir, I am not dealing with the merits of this Bill. That, I understand, has been dealt with fairly fully. But this, Sir, is a most grave reflection on a class of officers who have done nothing whatever to deserve it. District Judges, Indian and British alike, have done their best and have done very well, if I may say so, in the administration of justice in this country. And I, as the head of the Department which is concerned with District Judges, feel it my duty to make a most emphatic protest against this grave reflection upon District Judges. I only hope my Honourable friend will have the courtesy in replying to this debate to acknowledge that he has been misled in his use of language and that he did not intend to make a grave reflection upon the subordinate judiciary.

**Mr. A. Rangaswami Iyengar**: I move, Sir, that the question be now put.

**Mr. N. C. Kelkar**: Sir, in the present temper of the House and at this time I don't wish to enter upon a long reply, for I am absolutely certain

[Mr. N. C. Kelkar.]

that my reply, though reported in the proceedings, would not be read outside by those people who are now being invited to express their opinion on this Bill. So, instead of a reply, with your permission, I would ask one question of the Honourable Mr. Bhore and if he answers it satisfactorily, I will accept that and give up my reply. The thing is this. I have written a Statement of Objects and Reasons which could not deal obviously with every clause in the Bill but there is such a thing as notes on clauses. I did not get time to write notes on clauses and if I write notes on clauses, and hand them over to the Honourable Mr. Bhore, will he promise that, along with the Bill, he will send the copies of the notes on clauses also for circulation? They will help my case better than the present reply. Am I not entitled to have my notes on clauses circulated along with the Bill and the Statement of Objects and Reasons?

**Mr. J. W. Bhore:** I am afraid I cannot undertake to do that, Sir. But the Honourable Member is quite at liberty to make any remarks now, if he likes.

**Mr. N. C. Kelkar:** Now, in this House?

**Mr. J. W. Bhore:** Yes.

**Mr. A. Rangaswami Iyengar:** I know it suits.

**Mr. N. C. Kelkar:** I again put it to him that, when I send the requisite number of printed copies of notes on clauses, will he not undertake to supply those notes to the people from whom opinions are being invited? I shall not be knowing exactly from whom opinions are being invited, otherwise I should myself pass these copies on to them. But I would ask my friend whether he would not render me that assistance. If he says, no, I shall just give a brief reply, and be done with it.

**Mr. J. W. Bhore:** Sir, I should prefer that the Honourable Member give a brief reply.

**Mr. N. C. Kelkar:** Well, I give up my right of reply, Sir.

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

"That the Bill to amend the Land Acquisition Act, 1894, for certain purposes, be circulated for the purpose of eliciting opinions thereon."

The motion was adopted.

## THE CRIMINAL LAW REPEALING AND AMENDING BILL.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muham-madan): Sir, I beg to move that the Bill to repeal and amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and the Code of Criminal Procedure, 1898, be taken into consideration.

As some of the Honourable Members of this House are new I should like Honourable Members to recall the history of this measure. As far back, Sir, as 1920, you yourself as a Member of the late Imperial Legislative Council moved for the repeal of the repressive laws and I am sorry to say that with the support of the then non-official Members Government opposed that motion and it was thrown out.

**Mr. President:** Was I a Member then?

**Sir Hari Singh Gour:** I find that, Sir, from the reference to yourself in the proceedings of the Council of State of 1921 at page 69. Then again, Sir, on the 14th of February, 1921, the Honourable Mr. Sastri moved the following Resolution which was passed unanimously by the Council of State. I wish to give the *ipsissima verba* of that Resolution and I shall quote two sentences from the speech of the then Home Member and I hope, Sir, that the sentiments therein conveyed would be reciprocated by the present incumbent of that high office. In the Council of State the Honourable Mr. Sastri moved as follows:

"This Council recommends to the Governor General in Council that a Committee be appointed at an early date to examine the repressive laws now on the Statute-book and report whether all or any of them should be repealed, and, in cases where repeal is not desirable, whether the laws in question should be amended, and if so how."

Well, Sir, the Honourable Mr. Sastri referred only to five repressive laws which you will find set out at page 58 of the Council of State Debates for 1921. And now I shall give you the words of the then Honourable the Home Member. He said:

"I am sure that the prestige of the Government will not be weakened but enhanced by acting in consonance with public demands and meetings with the wishes of the general public."

Infused with that spirit he gave the history of a similar motion which was moved—I read from page 69 from the speech of the Honourable the Home Member. He said:

"Sir, I may say at once that there will be no opposition from the Government to this Resolution, subject to minor reservations, which I do not think will be of a character, save possibly in one respect, to cause any apprehension to the Honourable Member. I think one of the speakers here to-day rather twitted the Government with having rejected or opposed a Resolution which was moved last year by the Honourable Mr. Pátel, on the same subject, but the reason for this is not far to seek. The Resolution at that time did not receive any support from non-official Members. Eight Members only voted for it, and there was therefore every reason why Government should not, in opposition to the wishes even of the non-official Members, undertake an inquiry such as is now contemplated."

Then, Sir, later on he suggested the inclusion of several repressive laws including Act XIV of 1908. That you will find at page 71 of the proceedings of the Council of State and in welcoming the Resolution the Honourable Sir William Vincent said that now the administration had changed, reforms had come and it was the bounden duty of Government to carry out the wishes of the representatives of the people, and that it would be the most effective reply that the Government could give to the critics of the reforms that the reforms are a sham and a delusion. That you will find at page 70. With the combined support of the Treasury Benches and of the non-official Members the Resolution, the terms of which I have read out, was unanimously carried in the Council of State and the Government lost no time. Within two months of the passing of this Resolution in the Council of State, on the 21st March, 1921, they appointed a representative Committee for the purpose of giving effect to this Resolution. This Committee formulated a report which was published on the 2nd of September, 1921. I wish, Sir, to read one or two extracts from this report for the purpose of establishing my claim for asking this House to support my motion. At page 11 the Committee said referring to the Criminal Law Amendment Act

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and one or two other measures with which we are not immediately concerned:

"Many of us hope that it may be possible for the Government to undertake the necessary legislation during the ensuing Delhi session."

This report is dated 2nd September, 1921, and when we signed that report we had placed on record the desirability of introducing a measure during the next Delhi Session for the purpose of wiping out of the Statute-book the laws which we considered to be obnoxious to the liberties of the people. The Government of India in their Resolution, dated the 19th September, 1921, accepted *en bloc* the recommendations of the Repressive Laws Committee. I read to you, Sir, a pertinent passage from the Home Department Notification the date of which I have given you:

"The Governor General in Council has considered the report and has decided to accept the recommendations made by the Committee. Steps will be taken as soon as may be to introduce legislation to give effect to them."

Well, Sir, we waited, and waited with considerable patience for the fulfilment of that promise which the Government had conveyed in the Resolution to which I have adverted, and when we found that the Government had, perhaps unwittingly, forgotten the promise and the assurance which underlay the report of the Repressive Laws Committee, the acceptance of which they had notified, one of us moved a Resolution in this House which was carried by an overwhelming majority in favour of the repeal of repressive laws. This Resolution is dated 20th March, 1924. We again waited for the Government to take action, but as the Government would not take action, we introduced a Bill for the repeal of Part II of the Criminal Law Amendment Act and it was carried in this House by the telling majority of 71 *versus* 39 on the 23rd of September, 1924.

Well, Sir, you yourself had a Bill for the repeal of these repressive laws, which was passed by this House on the 19th of March, 1925, by the same majority, 71 *versus* 40. I wish to give these facts to the House for the purpose of showing how strong the feeling in this House was against the retention of these repressive laws on the Statute-book of this country, and I wish to point out the assurance given by the Home Member in the opening speech in the Council of State that with the advent of the Reforms it was the bounden duty of the Government to carry the representatives of the people with them. But what was the fate of these two combined Bills which had been passed by the people's representatives in this House? They went to what is euphemistically described as "another place" and there with the opposition of the Government both these Bills were thrown out on the 23rd of February, 1925, and the 13th of September, 1925. Well, Sir, we are not in the slightest degree daunted by the action which the Government choose to take or the opposition which it may evoke in another place. We are determined to see that the promise that we made to the people in our report on the repressive laws, the resolutions which have been passed in this House, the Bills which have been passed in this House, are once more placed before this new Legislature, so that it may have a chance of expressing its views upon the subject of these repressive laws. Sir, on the last occasion when I had the honour of moving for the repeal of Part II of the Criminal Law Amendment Act, Honourable Members on both sides of the House said "Oh, these laws are required for the preservation of peace and order" and one of the nominated,

in fact two of the nominated Members of the House, no less distinguished than many occupants of the Treasury Benches, I refer to Sir Chimanlal Setalvad and the Honourable Sir Sivaswamy Aiyer, both said they did not like these laws, Part II of the Criminal Law Amendment Act gave the ordinary judicial tribunals no power whatever, and thereupon the Honourable the Home Member replying to the debate said that so far as clause (b) of section 15 of Part II of the Criminal Law Amendment Act was concerned, he had not had time to consider what action should be taken thereupon; and if you read the speech as a whole he said, as I have no doubt he will repeat it to-day, that he was a staunch opponent of all repressive laws. Now, Sir, the most obnoxious provision in Part II of the Criminal Law Amendment Act is clause (b) of section 15. Let me read it to the House. It says:

"Unlawful association means an association which has been declared to be unlawful by the Local Government under the powers herein conferred."

In other words, Local Governments are empowered and entitled to declare

4 P.M. any association as an unlawful association. But that is not all. If the Local Governments had the power merely to declare an association unlawful and the association or the members concerned could take their grievances to the High Court, there would have been some salutary check, but the Act provides for no check whatever. There is no judicial supervision over the acts of the Executive, except in one respect. They are handmaids of the Executive. If an association has been declared unlawful and a member continues to be a member of that association, they immediately tie him hand and foot and take him to the ordinary established Tribunals who have no option but to pass a sentence of imprisonment upon this so-called delinquent. What country in the world would subordinate the judiciary to the executive to the extent it has been by Part II of this Act? Sir, I quoted on the last occasion from the judgment of one of the most distinguished Chief Justices who had adorned the Bench in Calcutta; it was pointed out that the judicial tribunals in this country have no power whatever to examine whether the accused is or is not a member of an unlawful association, or what is more, whether the association itself is or is not unlawful. That fact is settled once for all by the Executive. All that the criminal courts are entitled to do is to award the punishment. I wish to ask all Honourable Members in this House, I wish to ask the Honourable Members on the opposite Benches, do they regard this as a piece of British justice that the executive should decide that members of the association are members of an unlawful association and hand them over for punishment to the criminal courts? That, Sir, is the most objectionable feature of Part II of the Criminal Law Amendment Act, with the result that the nominated non-official Members of Government all voted, or almost all voted on our side. I find before me in the division list the Honourable Sir Sivaswamy Aiyer contributing to the majority of 71 *versus* 39 by which my motion was carried in this House. I wish therefore to point out once more to this House that it is the bounden duty of every Member, elected or nominated, to support this motion in the interests of liberty and for the liberation of the people of this country. Now, Sir that is my first point.

My second point is that I have provided under Part II for a right of appeal and that constitutes section 16-A of the second part of the Criminal Law Amendment Act.

[Sir Hari Singh Gour.]

There is a third point with which I am concerned. That is clause 4 of my Bill. Let me very briefly explain to Honourable Members the reasons which have prompted me in drafting clause 4 of my Bill. When the question about the repeal of repressive laws was under discussion in this House several Honourable Members on the opposite side stated, "You want wholesale repeal of these repressive laws. What becomes of these frontier tribes and lawless marauders who will come from the Passes into India and of the Bolsheviks who will carry on their nefarious propaganda? Do you not wish to give the Executive any power at all?" That was a most poignant objection to the wholesale repeal of the repressive laws; and feeling that there was a point in that objection, I have merely protected by the addition of the words which you find in clause 4 only British subjects and placed them under the *habeas corpus* section of the Criminal Procedure Code.

The net result therefore of my Bill is that I have cut out clause (b) of section 15 of Part II of the Criminal Law Amendment Act. I have given a right of appeal to every person who is affected under Part II; and last of all, Sir, I have left intact the power of the Executive so far as non-British subjects are concerned and merely extended the protection of the *habeas corpus* provision of the Code of Criminal Procedure to British subjects. I submit, Sir, I have been as fair as it is possible for anybody to be in meeting all the possible objections that the Government could reasonably take to the wholesale repeal of the repressive laws, and I, Sir, feel confident that the Honourable the Home Member will recognise how my present Bill has been diluted from its predecessors which wanted the wholesale repeal of the repressive laws; and while I do not by my Bill desire the wholesale repeal of the repressive laws, I at the same time desire that such safeguards that every British subject has a right to expect in this country should be inserted for the purpose of protecting their lives and liberties. Sir, I am confident that if this House goes to a division I shall have at my back the same solid support which I received from the previous Assembly, and I ask the Honourable Members who adorn the nominated seats of this House, that following the good example of their predecessors, they will also follow me to the same lobby.

Sir, I move my motion.

**Mr. H. Tonkinson** (Burma: Nominated Official): Sir, in speaking on the present motion I desire to confine my remarks to two points. In the first place, Sir, this Bill contains two quite distinct proposals. On the one hand it proposes to amend the Indian Criminal Law Amendment Act of 1908, and on the other hand it proposes to amend the Code of Criminal Procedure of 1898.

Now I quite admit that it may be appropriate in certain cases by one measure to amend two separate enactments on our Statute-book. Such cases will arise if the one proposal is really subsidiary to the other proposal, or if the proposal to amend the second law is really substantially connected with the proposal to amend the first law. There must, Sir, be some nexus, some connecting principle. In the present case, I submit, there is no connection at all. My Honourable and learned friend has in fact scarcely attempted to justify the combination of these two proposals in this Bill. The only hint which I can gather of his reasons for combining the two proposals is his reference to the recommendations of the Repressive Laws Committee. It is true that that Committee did refer to the Indian Criminal

Law Amendment Act. That Committee did also refer to Bengal Regulation III of 1818, which of course is connected with the proposal in this Bill to amend the Code of Criminal Procedure. But, Sir, the Committee did not make the proposals in this Bill. If they had done so, I should have admitted that that would have given the connecting principle which might perhaps have justified the combination of these two proposals in one Bill. As a matter of fact the Committee proposed that the Indian Criminal Law Amendment Act should be retained at present and in regard to Bengal Regulation III of 1818 they proposed that it should be amended.

No justification, therefore, for the combination of these two proposals in this Bill can be based on this ground. The addition of the proposal to amend the Code of Criminal Procedure to the proposal to amend the Indian Criminal Law Amendment Act is, I submit, a pernicious example of tacking and should be severely condemned on that ground. I take it, Sir, that it is not necessary for me now to elaborate the objection to any tacking of the character included in this Bill. The objection is substantially the objection to anything that may operate to prevent the efficient discharge by this House of its important functions in regard to legislation, and on that ground I hope that the House will always object to any tacking of the character exhibited by this Bill. Such tacking can, Sir, only operate to prevent the proper discussion of the distinct proposals which are included in the Bill.

I will say no more, therefore, in regard to the proposed amendment of the Code of Criminal Procedure which is the amendment which has been tacked on to the main part of the Bill. I will confine my remarks to the amendments of the Criminal Law Amendment Act. That is, I turn to my second point.

Under sub-order (1) of Standing Order 89, we may at the present juncture discuss the details of the Bill in order to explain its principle. Following that provision I propose to discuss the details of this part of the Bill in order to show, if I can do so, that it practically contains no principle at all, that it is practically meaningless. My Honourable and learned friend has told us at some length as to what he considers this Bill means. I have no doubt that his remarks have been of great interest to Honourable Members, but my Honourable friend fully realises that should this Bill ever become law, no court would pay any regard to his remarks in this place if they had to interpret its provisions. In the same way I propose to ask the House to disregard entirely what my Honourable friend has said as to what he thinks the Bill means and to turn to the Bill itself.

Now, Sir, in the first place, we have clause 2 of the Bill. This clause proposes to repeal sub-clause (b) of clause 2 of section 15 of the Indian Criminal Law Amendment Act of 1908. Clause (2) of section 15 of that Act defines what an unlawful association means for the purposes of that Act. In the first place it provides by sub-clause (a) that an unlawful association shall mean an association which encourages or aids persons to commit acts of violence or intimidation, or the members of which actually commit such acts. That sub-clause my Honourable friend does not propose to touch. The next sub-clause, sub-clause (b), is to the effect that an unlawful association shall mean any association which has been declared to be unlawful by the Local Government by the powers hereby conferred on them. That is the sub-clause which my Honourable friend proposes to delete. Now, Sir, what will be the effect of deleting that sub-clause? In

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order to appreciate this I ask Honourable Members to refer to section 10 of the Act. That section runs as follows:

"If the Local Government is of opinion that any association interferes or has for its object interference with the administration of the law or with the administration of law and order, or is a danger to the public peace, the Local Government may by notification in the official gazette declare such association to be unlawful."

Now, what would be the effect of section 16 if we have, as proposed in clause 2 of this Bill, deleted sub-clause (b) of clause (2) of section 15 of the Act? The Local Government will still be able to declare its opinion that a certain body is an unlawful association. That opinion, Sir, will, however, merely be a pious opinion of the Local Government, it will have no other effect. Further the opinion of the Local Government would be directed towards the points indicated in section 16 as to whether the association has for its object interference with the administration of the law and so on. These purposes, Sir, are distinct from the purposes which are at present included in sub-clause (a) of section 15 and which will be the only purposes which will constitute an unlawful association if the Act is amended as proposed in this Bill. The only effect therefore of clause 2 of the present Bill will be to render ineffective a section in the Act which my Honourable friend does not propose to touch.

The only other clause, Sir, in this part of the Bill, which deals with the Criminal Law Amendment Act is clause 3, which propose to insert a section in the Criminal Law Amendment Act after section 16. All Honourable Members have the Bill before them and it is unnecessary for me, I take it, to read out the provisions of proposed section 16A. It will be seen, however, that that section refers to a person deeming himself aggrieved by an order of the Governor General in Council, and of course the proposed section absolutely depends upon that provision. Now in the Criminal Law Amendment Act as it stands at present there is no provision at all for any order by the Governor General in Council. There will be no such provision if the Act is amended as proposed in this Bill. I submit therefore that this clause is totally meaningless and ineffective.

On these two grounds, on the ground, in the first place, of the pernicious tacking and on the ground, in the second place, of the total want of meaning in the provisions in regard to the amendment of the Criminal Law Amendment Act, I suggest the only course open to my Honourable and learned friend is to withdraw this Bill and to proceed no further with it. I suggest, Sir, that he should then, in that inner chamber in which he concocts these measures with which from time to time he endeavours to enrich our proceedings and with that leisure which drafting really requires, prepare two separate Bills which will really effect what he desires to effect, whatever that may be, and should introduce them. That is of course if he does desire to proceed at all with these proposals.

**Mr. M. R. Jayakar** (Bombay City: Non-Muhammadan Urban): Sir, I rise to support the motion of my Honourable friend Sir Hari Singh Gour. In doing so, I shall be very brief in my remarks. Of the two points which have been raised by the Honourable Member who spoke last, I will deal with the first very briefly. In his speech he admitted that there are occasions when one amending Act may take note of two different pieces of



legislation, provided, and I may accept the principle, that there is some nexus between the pieces of legislation which are sought to be amended by the same Act. I submit, Sir, that even accepting for the moment that principle as the right one, there is such nexus between the two Acts which are sought to be amended by this Bill. What Dr. Gour proposes to do, Sir, is to remove from the Statute-book the last traces of repressive laws, which were passed at one time in our previous history. He has already succeeded in doing a part of his work. By this Bill he proposes to do what has so far been left undone. If my Honourable friends look at the scheme of this Bill, they will find that the first part of it, which deals with the amendment of the Indian Criminal Law Amendment Act of 1908, is quite of a piece with the second part, which refers to a certain section of the Criminal Procedure Code, dealing with other repressive laws. Both the Criminal Law Amendment Act of 1908 and the other pieces of legislation referred to in section 491 of the Criminal Procedure Code fall under the category of "repressive laws", and the Bill proposes to deal with them. That is the nexus between the two different pieces of legislation which are sought to be dealt with in this comprehensive Bill. To make my meaning clear, I shall ask the attention of the Honourable Member who spoke last to these Acts and Regulations which are dealt with in the last clause of section 491 of the Criminal Procedure Code.

The clause reads as follows:

"Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, the Madras Regulation II of 1819, the Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858."

All these pieces of legislation fall under the common descriptive title of repressive laws. The Criminal Law Amendment Act of 1908 falls under the same category, and I submit, Sir, that even accepting the principle stated by the Honourable Member this is a perfectly sensible way of securing amendments. I submit, Sir, the pieces of legislation sought to be amended by this Statute are all related to one another because, from the Indian point of view, they all partake of the nature of "repressive laws", and they were all dealt with, Dr. Gour tells me, by the Repressive Laws Committee.

Then coming to the merits of the Bill I will first deal with what Dr. Gour proposes to secure by clause 2 of his Bill. On that point, my submission to this House is this, that whatever may have been the atmosphere in the year 1908, when the Criminal Law Amendment Act was passed, that atmosphere was very different from the one under which we are living now. Whatever justification there may or may not have been then, for giving to the Local Government an absolute power to determine the vital question whether a particular association was unlawful or not, the question before us now is whether the circumstances of the present times require that such an arbitrary power should continue to reside in the Local Governments now, or whether it would not be better to let this power reside in the highest judicial tribunal of the province. That power was taken away from the High Court by means of this legislation of 1908 and it was vested in the Local Government to be exercised absolutely and arbitrarily. I will not for the present go into the wisdom of doing this in the year 1908. That is a question we may not trouble ourselves about in this debate. But the Honourable Members must address their minds

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now to this question whether in 1927, situated as we are now, there is any necessity for continuing this arbitrary power in the hands of Local Governments. Is it not better and safer to let the High Court once more enjoy the power of determining these questions of fact; that it should ask the police to produce satisfactory evidence in support of their view that a particular association is unlawful, and then let such evidence be submitted to open cross-examination in court—that one test which modern society accepts as satisfactory for distinguishing between truth and untruth? Are present times such that the abnormal state of things permitted by the Act of 1908 should be allowed to continue any longer? If I were one of those occupying the Government Benches, Sir, I would have willingly come forward and said that the times having altered this Government are quite willing that the Local Governments should part with this power now in the year 1927. But apparently Government do not admit things as readily as Members on this side of the House do. In any event the question now is—and that is the only question for the House to decide—whether there is any justification in 1927 for giving this power to the Local Governments. My answer is a most emphatic “No.” I will say, Sir, what is a fact that Local Governments have very often to act, in such important matters, upon incomplete and prejudiced material collected often by ignorant incompetent and prejudiced persons which cannot stand open scrutiny of legal tribunals. Very often Government have to act on reports gathered from quarters which are tainted, prejudiced, partial, and incomplete. I do not wish to use strong language, but there is no doubt that this is so. What after all is the method, the channel or avenue by which Government obtain the information which enable them to declare a particular association to be unlawful? Very often it is the subordinate police officer. Now the subordinate police officer is a very estimable person—I do not wish to speak against him at the present moment—but there is no doubt that this method of accepting his unchallenged version can never be likened, if the desire is to find out the truth, to the method which all civilised communities have accepted of having the truth of such versions tested and determined by cross-examination in broad daylight before the highest judicial tribunal of the land. Therefore, Sir, I submit that Dr. Gour’s plea is a very modest one. Some of us would have liked to go further than he proposes. He only asks that this power should be taken away from the Local Government and the question should be tested and judged in its natural and normal manner, namely, by the highest tribunal in the province and by the aid of adverse cross-examination.

Coming to the next question, namely, the right of appeal to the High Court, I congratulate Dr. Gour on the wisdom of his proposal. As I said in a previous speech of mine dealing with the Civil Procedure Code Amendment Bill (section 115), these are not the days when the powers of the High Court should be curtailed. I think, Sir, that in every important case, specially in a criminal matter, the time has not yet come in India, whatever may be the circumstances in other civilised countries, when the High Court should be debarred from going into these questions in appeal. I am aware of the principle known to civilized jurisprudence, especially that of the British people, that the right of appeal should stop at a certain stage, and not, as in civil matters, proceed to the very end. But I doubt the wisdom of applying that principle to a country like India. *Ex hypothesi*, an Act like that of 1908 will be applied only under stress of

political contingencies. Very often on such occasions passions arise, prejudices show themselves; the mind of officials is often clouded and they believe that the preservation of law and order has to be given a larger place than the finding out of truth or the punishment of the truly guilty. On such occasions the turbulence of the moment often affects the normal propensities even of cultured men, ordinarily balanced and self-controlled. It is therefore all the more necessary that, under such circumstances, the ultimate power of discovering the truth should be reposed in the High Court and not in the Local Government which is after all a group of executive officials. If this Act were intended for the normal working of human society, possibly the danger I have mentioned above would not be so great; but having regard to the fact—and it has been admitted by the Government time after time—that this Act is intended only for abnormal occasions, I submit, Sir, that the need of looking into the matter in the calm, dispassionate and detached atmosphere of a High Court is greater than on ordinary occasions.

Coming to the last clause, Sir, it is an obvious principle of the *Habeas Corpus* doctrine and it is applied in many branches of legal jurisprudence, that the King cannot put his powers of summary punishment into force against his own subjects. The lawyers on the other side of the House will, I am sure, recognise that this is a principle which governs all actions of the Sovereign power which are called acts of State. No King can exercise this power against his own subjects, for the simple reason that no subject can sue the Sovereign for such injury. This principle has been recognised by British law in respect of the *Habeas Corpus* Act; and it is only in the Indian analogue of that law that the principle does not find a place. What Dr. Gour now proposes to do is to reproduce the same principle in Indian Law. The Government have from time to time given assurances, to which the Honourable Mover referred, that this summary and drastic power was necessary specially for dealing with people who come across the Frontier,—Bolsheviks and people of that description, i.e., people other than British subjects. Dr. Gour takes the Government at their word and says "Very well, if that is so, take the case of British subjects out of this section and make your intention clear by specific and adequate phraseology". I submit, Sir, that this is a very modest and sound demand of Dr. Gour, and ought to be conceded. On these grounds, Sir, I support this motion.

**Mr. S. Srinivasa Iyengar** (Madras City: Non-Muhammadian Urban): Sir, I also support the Bill which has been moved by Sir Hari Singh Gour in his elaborate speech and which has been supported by Mr. Jayakar in his admirable and eloquent speech. I do not propose therefore to detain the House except by referring to a few aspects. I think the Honourable Member who spoke on the Government side spoke as if there was some unwritten law, some rule of legislative drafting, which required that a Bill for the revision or repeal of two or three enactments should not be contained in one Bill but the repeal of several enactments should be brought up by several Bills. We all know that comprehensive repeals and amendments have been undertaken of enactments both in England and in India in one single measure, absolutely unrelated enactments being repealed or amended by one single measure time and again. Only if in the case of some of the more important repressive laws you bring in a Bill like the one before the House, it shocks, shall we say, the artistic soul of the legal draftsman and he appeals to some unknown fundamental

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principle of the constitution or of this legislative body. It is childish really to urge that as an objection against a Bill of this vital nature dealing with a broadly human question and with the fundamental rights of the subject. In a matter like this concerning a serious subject it is an absurd argument, a grotesque argument to bring up that Sir Hari Singh Gour has brought in a repeal of two repressive enactments together and say that therefore the Government feel unable to accept. "You bring in a different Bill or you better withdraw!" And Sir Hari Singh is referred to the other Chamber and admirable advice is offered to him, which I hope the Honourable Mover of this Bill will never accept.

Sir, coming to the Bill itself, I have not the slightest doubt the House must realise that it is its duty time and again to pass a Bill repealing repressive laws whatever its fate may be in the other Council or whatever its fate may be at the hands of the highest authority under the Constitution. The House must realise its duty if it is to be a popular body, if it is to be true to its new traditions and if it is to assume, as we have been asked to assume on the highest authority, even greater responsibility than is expressed in the Statute. If we are tacitly to assume that responsibility we must assume it here and now, and that binds us to pass the modification of the Criminal Procedure Code and Criminal Law Amendment Act which Dr. Gour requires us to make. I do not think that this repeal of repressive measures which he has brought forward is a comprehensive one or is even an adequate one. I have got my own grievance against him and I dare say many other Members have got theirs; but we shall see whether even though this is such a moderate request from our point of view the Government do not strain at this gnat! I am sure they will strain at it and I am sure they will oppose it and I am sure they will divide the House instead of accepting this very modest, very unambitious and very ordinary document which Dr. Gour presents to the Government.

Now, so far as section 491 of the Criminal Procedure Code is concerned, is there any difference between England and India, between the conditions of this country and the conditions of any other country? If after nearly two centuries of British rule in India it is to be said that India is not fit to have a *habeas corpus* law exactly as in England, is it not a tragedy? Is that not the strongest and the severest condemnation, an unqualified condemnation upon this Government that they propose, not in connection with non-regulation provinces, but in connection with regulation provinces, to guard against the wholesome provisions of section 492, by putting in this rider that nothing in this section applies to persons detained under these State Prisoners Regulations and Acts? It is perfectly plain that the time has come for the Government to realise their duty, if Government really think that Members on this side of the House are men with whom they want to co-operate. But we know otherwise; we have seen to-day that the Government are obstructive in their methods, and are pursuing their policy of non-co-operation. Let them pursue their policy of obstruction and non-co-operation; but so far as we are concerned, our duty is plain, to bring in such Bills time and again and by a majority of votes of Members of this House to get these Bills passed, and leave it to be judged by the people of this country. Our duty is plain, whatever the fate of this Bill may be.

Now, referring to section 491, what is it that Dr. Gour seeks to repeal? He wants to insert, after the words in sub-section (3) of section 491

"Nothing in this section applies to persons", the words "other than British subjects". It is plain that on a fair reading of the old Regulations they were intended for quite a different purpose, to be used in another atmosphere, for foreigners and such like people. But whatever that may be, this House has got a right now to say what is our object to-day. We want that men who are detained under these Regulations should have the right of moving the High Court for this *habeas corpus*.

Now, the first clause of this section says:

"Any High Court may, whenever it thinks fit, direct that a person within the limits of its appellate criminal jurisdiction be brought up before the Court to be dealt with according to law."

That comprehensive provision is necessary, I submit, for this simple reason, that even in the Bengal Regulation III of 1818 in section 2 (1) it is stated:

"When the reasons stated in the preamble of the regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint without any immediate view to ulterior proceedings of a judicial nature."

The object of that Regulation was undoubtedly not that there should be no judicial proceedings at any time, but that there might be no immediate judicial proceedings; the Government would want as usual some time to collect their evidence. Mr. Jayakar has referred in his flawless language to those things and if I refer to them I must perhaps use more awkward and more offensive language in dealing with the methods which are adopted by the Government (*An Honourable Member*: "Why offensive?") I am speaking in a moderate House. Those words in the section "without any immediate view to ulterior proceedings of a judicial nature" do suggest that these persons against whom for reasons of State the Governor General sees fit to issue a warrant of commitment, are persons who are entitled to the benefit of a judicial investigation at some subsequent stage. Therefore, I say that the *habeas corpus* provision in the Criminal Procedure Code must be made applicable to them, and they must be brought up to be tried in the ordinary way by courts of law if there is any charge against them. The idea was not that there should be no charges framed against them at any time, but that they may have to be arrested without any charge at the time of arrest. I am not justifying even that; I am not saying anything on that because my whole soul rebels against that kind of thing. I am sure it will be said on the other side that the natural instincts of the English are dead against it, but of course we know that those instincts have accustomed themselves to the retention of these and similar repressive measures for a century and to the way in which repressive legislation in this country has been administered. But putting aside instincts on one side or the other, it is obvious that the provision which Dr. Gour seeks to insert in sub-section (3) of section 491 is the minimum provision and the minimum safeguard. Speaking for ourselves, of course we want the repeal of this Bengal Prisoners Regulation and the others; I should say that it is not sufficient that a power should be given to the High Court to interfere in these matters. But Dr. Gour, with every desire to accommodate what may be regarded from his point of view as the just and reasonable demands of the Government, has put in this concession; and whatever my own personal view may be, I must help him as much as I can in so far as it enlarges the freedom of the individual.

It may be said perhaps that these Regulations were really enacted for a different purpose. But by making this saving in section 491 the Indian

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Legislature has authoritatively laid down that but for this saving in sub-section (3) those Regulations would be no protection whatever to the jailors or other officials who may have custody of those prisoners under those Regulations, and they would be bound to obey an order of the High Court to bring up the body of the prisoner before the court to be dealt with according to law. Therefore, by introducing this saving in the Code the Indian Legislature has accepted the view that it is to be treated as an exception to the ordinary law, and there is no reason now why this exception to the ordinary law should be retained.

Coming now to the other part of it, considerable criticism was offered. But so far as I can understand Dr. Gour's proposal, it is a limited one; his proposal is not to get rid of the whole of Part II of the Criminal Law Amendment Act. He wants to give the Government power to declare certain associations to be unlawful. He does not want magistrates to go into the question whether associations do encourage or aid persons to commit acts of violence or intimidation or of which the members habitually commit such acts. Therefore, even if sub-section (2) of section 15 is cut out as he proposes, it will not really affect the power of the Government to declare associations unlawful because section 16 gives the Local Government power by notification to declare as unlawful such associations as it considers to be unlawful. I think that is the reason why Dr. Gour did want to omit the first part of sub-section (2), namely, the part which refers to associations which encourage or aid persons to commit acts of violence or intimidation or of which the members habitually commit such acts. The second part of the sub-section equally becomes unnecessary. It runs as follows:

"which has been declared to be unlawful by the Local Government under the powers hereby conferred."

And as section 16 is retained it is really idle to repeat that as a definition clause, and therefore I take it that Dr. Gour has removed it. There is, however, a technical correction which may be made in the Bill: "16-A" put in by Dr. Gour should be, more scientifically speaking, "17-A" because it refers both to sections 16 and 17; but that does not affect any question before the House. Again, he used the words "Governor General in Council", taking, I think, the Act as it was originally passed and ignoring the repealing Statute which substituted the words "Local Government" for the words "Governor General in Council"; it involves making a merely verbal amendment; it is not a question of substance; and at all times before passing a Bill such amendments can and should be made, and there is the Council of State also. Therefore, Sir, I venture to submit that the objections which have been raised by Mr. Tonkinson are not really serious objections. If really the Government oppose it, let them oppose it on the merits; but let us know exactly what the objection is; let us know whether even to this very diluted, this very modest, this microscopic reform which Sir Hari Singh Gour wants to introduce, the Government are opposed. Let us know what the objection is. There is no use in saying that you should bring forward a scientific Bill. Dr. Gour does not enjoy the luxuries which the Government of India possess; he has not got draftsmen, secretaries and under-secretaries under him; he has not a huge library at his disposal; he has none of those luxuries. He can very well speak for himself, and I do not propose to enlarge upon that,

as he may possibly disclaim my assistance. I shall therefore confine myself to my own case, which is, to put before this House plainly, its duty, as emphatically as my voice can reach, to pass such a Bill as this, and to send it up either to the Council of State for such action as it deems fit or to the Governor General in Council for such action as he thinks fit. Our duty is plain, and we cannot be defaulting in our duty; we cannot be looking at commas and semi-colons when a question like this is introduced. There is nothing intrinsically wrong about the amendment, there is nothing inartistic about it, nor am I able to see any legal or technical flaws in this Bill except the need for the verbal amendment I have indicated. Just as people may divide themselves, lawyers and non-lawyers may divide themselves, our draftsman rebels against another draftsman's original conception. But, Sir, I am willing, as an humble Member of this House, to accept the draftsmanship of Sir Hari Singh Gour as suited to the requirements of the situation, and I trust, with the verbal change I have proposed, all the Members on this side will be quite willing to support this measure. Therefore, Sir, with the exception of this change, I heartily support this Bill, and I would appeal to the Members of this House to vote solidly in favour of this Bill.

**Mr. T. Prakasam** (East Godavari and West Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, I want to . . . . .

**Mr. President:** Will the Honourable Member ask his own party men not to rise if the Chair wants to accept closure?

**Mr. T. Prakasam:** May I have your permission to say a few words, Sir?

**Mr. President:** Yes.

**Mr. T. Prakasam:** Sir, this is a measure in which a very simple request has been made to this House. During the last few weeks I have been sitting here, I have been noticing even when questions relating to the liberties of person and property come up, there is no serious thought or consideration given to such questions. Parliamentary traditions, no doubt, we are told, we are building up here. We might build up Parliamentary traditions, but at the same time we must also build up something of the power that belongs to that Parliament in this House. Now in the third clause of this Bill, what is proposed to be inserted after section 16 of the Act as it stands, is this:

"16A. Any person deeming himself aggrieved by an order of the Governor General in Council, declaring such association to be unlawful, and any person convicted under the provisions of section 17 may appeal to the High Court on the ground that the declaration should never have been made."

This is a request made to this House to give a right of appeal, whenever "the Governor General in Council", which, by this Bill, is substituted in place of "the Local Government", declares an association unlawful without notice, without inquiry, and without evidence. When such an order is made, a person living in this country, a person who belongs to this country, should have a right of appeal to the highest court; he should have that elementary liberty that is guaranteed by the *Habeas Corpus* Act of the country to which most of the Members of the opposition belong. All that is demanded in this clause is that that right should be extended to persons here. Well, they laugh; they lie down; they stretch themselves, and then they say, "What does it matter, you may speak, we will laugh". Who is the Governor General in Council referred to here? Who



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is the Governor General in Council that gives a warrant to arrest a person whose case has not been heard, who has not been given any notice? We know who the Governor General in Council here is so far as we are concerned. It is the Honourable the Home Member that constitutes the Governor General in Council. If this Governor General in Council gets some information from above or from across the seas or from somewhere in the jungles around this House, an order can go forth for the arrest of a person, an order which curtails the liberty of a person. We are told that we cannot ask for a right of appeal; we cannot challenge his order. That is the most extraordinary situation in which this country stands to-day. I have never had any hope, Sir, that any measure that might be passed into law for the people would really be put into practice in India. Specially after I heard from the lips of the Honourable the Home Member yesterday on the question put by Pundit Hirday Nath Kunzru whether in future also there would be so much time taken for the separation of judicial from executive functions, that it might possibly take 90 years. (*An Honourable Member*: "Gradually.") I have not much hope that any measure that might be passed by this House would really be put into practice. But as my friend Mr. Srinivasa Iyengar had told this House, whether this measure is passed or not, whether it is given effect to or not, we have come here to stand face to face and to give you as much trouble as we possibly can until we get you to realise that you cannot have all your own way.

Clause 4 says 'other than British subjects'. I am sorry, Sir, that the Honourable Sir Hari Singh Gour thought it necessary to put it in this particularly mild form in the forlorn hope that the Honourable the Home Member and the Treasury Benches would back him up. No reasoning will appeal to them. Why should we have surrendered in limiting it? Was not this a land of freedom? If it was not a land of freedom at any time, and even if it is to continue to be a land of slaves under this British Government, why should there be any restriction with regard to the application of the *habeas corpus* rule, with regard to the freedom of any person who might come into this land? What does it matter whether he is a British subject or not? A subject who lives in the Hyderabad territory is not a British subject; a subject who lives in an Indian State is not a British subject. This clause means that they can have no remedy. I certainly say that we should not put such limitations. They talk of Bolsheviki; they talk of so many other persons that might come here from the heavens even in times when we are having civil aviation and military aviation. What is it that this Government has not got at its back to protect itself and to protect person and property in India? What is it that they have not got to-day to give freedom to this land and to protect their own interests here? "Other than British subjects" is the clause sought to be introduced in the Bill with a view to limit protection only to them. I submit, Sir, that we should not have been parties to such a clause. But in the absence of any other amendment or in the absence of any other provision, I have to give my support to this measure as it is.

Let me tell you one word before I sit down, Sir. This Criminal Law Amendment Act of 1908 was passed nearly 19 years ago. We have been witnessing what has been going on in this country all these 19 years. The Criminal Law Amendment Act was passed then and so many other repressive laws have been passed subsequently, all with the idea, with only



one idea, of making them serve as a bulwark against dangerous political ideas spreading. That is the real cause of all these repressive laws. It was not because there were not sufficient laws on the Statute-book. It was not because there was no military or army, no force, no police, which they could put into the field and secure the freedom of person and property. But I will ask the Honourable the Home Member to think for himself to what extent they could have prevented the spreading of the dangerous idea during the last 19 years. We have come here to-day, after we have passed during the last six years through three different stages of our political struggle. Now, we are here. But we are outside also and you must realise that you will have to yield to public opinion. I have been a student of constitutional law and constitutional history to some extent of my life and I believe in public opinion asserting itself and I believe in Englishmen realising what it would be if public opinion is discarded and trampled under foot for ever.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th February, 1927.