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THIRD SESSION

of the

THIRD LEGISLATIVE ASSEMBLY

1928



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LEGISLATIVE ASSEMBLY.

Saturday, 8th September, 1928.

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

QUESTIONS AND ANSWERS.

INCREASE IN THE PAY AND PENSIONS OF GOVERNMENT PEONS AND MENIAL STAFF.

220. *Mr. M. E. Jayakar : (1) Have Government received a petition from an Association called the Government Peons' and Menial Service Union asking for improvement in the conditions of service applicable to this class of public servants ?

(2) If so, will Government be pleased to mention :—

(a) when they received this petition, and

(b) what action they have taken on it, particularly with respect to the demands of these men for increases in pay and pension ?

The Honourable Sir Bhupendra Nath Mitra : (1) Yes.

(2). (a) The petition was received on the 4th July, 1927.

(b) The requests made by the petitioners related to pay, pension, classification of their service as "superior" and admission to the General Provident Fund. The requests relating to pay are still under consideration. Those relating to pension and classification are being rejected pending a decision on proposals relating to inferior servants in general which are engaging the attention of the Government of India. The request to be admitted to the General Provident Fund is being rejected because the Government of India are not prepared to consider it in the absence of evidence of a corresponding desire among inferior servants in general.

CLERICAL ESTABLISHMENT OF THE DELHI COURTS.

221. *Mr. Anwar-ul-Azim : (1) (a) Is it a fact that in the District and Sessions Judge's Court, Delhi, the permanent pensionable posts in the clerical line are held by the Hindus and the Muslims in the ratio of 10 to 1 ; out of which Kayasths alone are six in number ?

(b) Is it a fact that in the clerical establishment of all the Civil Courts subordinate to the District Judge, Delhi, 42 permanent pensionable posts are held by the Hindus, and only ten by the Muslims, and one by a Christian ?

(2) If the above figures are not correct, will the Government be pleased to give the correct figures of the above clerical establishments ?

(311)

The Honourable Mr. J. Crerar : (1). (a) No. The posts are held by Hindus and Muslims in the ratio of 10 to 2, of which 5 posts are held by Kayasths.

(b) No. The number of permanent pensionable posts in the clerical establishment of all the civil courts, subordinate to the District Judge, Delhi, is 35, out of which 28 are held by Hindus, 6 by Muslims and one by a Christian.

(2) The correct figures are given above.

CLERKS OF COURTS AND READERS IN THE DISTRICT AND SENIOR SUB-JUDGES COURTS, DELHI.

222. ***Mr. Anwar-ul-Azim :** Is it a fact that the Clerk of the Court and the Reader to the District Judge, Delhi, are both Hindus ?

(b) Is it a fact that the Clerk of the Court and the Reader to the Senior Sub-Judge, Delhi, are both Hindus ?

(c) Do Government propose to consider the desirability of appointing one Muslim in each Court to either of the above posts ?

The Honourable Mr. J. Crerar : (a) Yes.

(b) Yes.

(c) The appointments do not rest with Government but are made by the District Judge.

PERMANENT PENSIONABLE POSTS IN THE COURT OF THE SENIOR SUB-JUDGE, DELHI.

223. ***Mr. Anwar-ul-Azim :** Is it a fact that all the permanent pensionable posts in the Court of the Senior Sub-Judge, Delhi, are held by the Hindus ?

The Honourable Mr. J. Crerar : Yes.

NUMBER OF MUSLIMS IN THE ESTABLISHMENTS OF THE CIVIL COURTS IN THE DELHI PROVINCE.

224. ***Mr. Anwar-ul-Azim :** Do Government propose to issue instructions to make up the disparity of Muslims in the Civil Courts' establishment, Delhi Province, and for that purpose to suspend recruitment of either paid or unpaid Hindu candidates till Muslims secure a decent proportion ?

The Honourable Mr. J. Crerar : The Honourable Member will understand that the recruitment of office establishment cannot in cases of this kind be controlled in detail by Government. It must largely be left to the discretion of heads of offices. I am prepared, however, to bring the Honourable Member's question to the notice of the Chief Commissioner.

PERSONS IN THE CIVIL COURTS, DELHI, WHO SERVED IN THE GREAT WAR.

225. ***Mr. Anwar-ul-Azim :** (a) Will the Government be pleased to state as to how many of the present incumbents of the permanent pensionable posts in the Civil Courts, Delhi, have served :

(i) as combatants during the Great War,

(ii) as non-combatants at the base in S. and T. Corps ?

(b) The relations of how many of the present incumbents of permanent pensionable posts in the Civil Courts, Delhi, have been killed or wounded in action during the Great War ?

(c) Do Government propose to grant preferential treatment in the matter of appointments or promotions to those who actually fought or whose relations took part in the Great War in the District Judge's Court and in the Courts subordinate to the District Judge ?

The Honourable Mr. J. Crerar : (a) and (b). The Civil Courts in Delhi are closed till the 10th September, 1928. The information will be obtained and supplied to the Honourable Member after that date.

(c) These appointments are not made by Government.

LOCATION OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS IN DELHI, ETC.

226. ***Mr. Anwar-ul-Azim :** With reference to answers to starred questions Nos. 867, 481 and unstarred question No. 439, dated 5th September 1927, 19th March 1928 and 21st March 1928, respectively, will the Honourable Member in charge be pleased to state :

- (i) what are the administrative and executive conveniences obtainable for the Wireless Branch by remaining in Simla which is not possible for the Branch to obtain if it migrated or was transferred to Delhi ;
- (ii) when there is a saving of about Rs. 1,000 or so *per annum* by retaining 7 clerks only excluding 2 junior officers of the Wireless Branch in Simla, why the whole of the Director General, Post and Telegraph's camp office also is not retained in Simla in order to save thousands of rupees *per annum* ;
- (iii) why the Wireless Branch clerks will not get the benefits in the shape of advance increment in their pay and bonus, etc., if they are required to be transferred to Delhi as was allowed to clerks of other branches of Director General's Office when transferred from Calcutta to Delhi ;
- (iv) why the Wireless Branch cannot be migrated to Delhi along with the other branches of the Director General's camp office from the next Simla-Delhi move season or the whole Director General's camp office cannot be retained in Simla with junior officers ;
- (v) whether any decision has yet been reached on the question of the future location of the headquarters of the Wireless Branch ; if so, what ; if not, why not and how long it will take ;
- (vi) why the Director General's Office is not divided into two parts ($\frac{1}{2}$ and $\frac{1}{2}$) one, that is the migratory portion including the Wireless Branch with headquarters fixed in Simla and the other that is the non-migratory portion with headquarters fixed in Delhi except the Director General and the next senior officers with their camp clerks only moving between Simla and Delhi to avoid unnecessary expenses and disturbance in the work ?

Mr. P. G. Rogers : (i) The Director of Wireless is required to move with the Government of India between Delhi and Simla and has to spend a considerable part of the cold weather in touring. By having his office in Simla he is able to be in touch with it for a longer period than if it were in Delhi.

(ii) The Director-General's camp office is not retained in Simla because it is required in Delhi.

(iii) The clerks of the Wireless Branch who were originally recruited in Calcutta have already received compensation for their transfer from Calcutta. In the event of the Wireless Branch being transferred to Delhi, the question of suitable compensation would be considered.

(iv) The Wireless Branch cannot be moved to Delhi because it is more convenient to keep it in Simla ; the Director-General's camp office cannot be retained in Simla because it is required in Delhi.

(v) No. It is considered that no change in existing arrangements is desirable at present.

(vi) If the migratory portion had its headquarters fixed in Simla, it would cease to be migratory. The arrangement suggested by the Honourable Member is not feasible but some modification of the present system is under contemplation.

LOCATION OF THE WIRELESS BRANCH IN THE SAME BUILDING AS OTHER BRANCHES OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

227. ***Mr. Anwar-ul-Azim :** Will the Honourable Member in charge be pleased to state :

(i) why the Wireless Branch of the Director General, Post and Telegraph's Office is located in a separate building since the date of its formation—1920 ;

(ii) was the Public Works Department ever asked for the allotment of rooms for the location of the Wireless Branch in the same building in which other branches of the Director General's camp office are located ; if not, why not ;

(iii) whether the Wireless Branch on the whole is part of the migratory portion of the Director General's Office ; if not, why not ;

(iv) what are the additional expenses per annum by locating the Wireless Branch in a separate building ;

(v) why the Wireless Branch which is part of Director General's Office and not of the Telegraph or Telephone Offices is allowed to occupy rooms in the Central Telegraph Office building ?

Mr. P. G. Rogers : (i) Because sufficient accommodation for it was not available in the same building as the remainder of Director-General's Office.

(ii) No ; because it was considered unlikely that accommodation would be available.

(iii) No ; because the additional expenditure would not be justified.

(iv) None, so far as can be estimated.

(v) The Central Telegraph Office building is the property of the Posts and Telegraphs Department and is used in such manner as the Director-General thinks fit.

REPRESENTATION OF MUSLIMS IN THE WIRELESS DIVISIONAL OFFICES, ETC.

228. ***Mr. Anwar-ul-Azim** : With reference to the Honourable **Mahmood Suhrawardy's** question No. 83 answered by the Honourable **Mr. A. C. McWatters** on the 29th February 1928 in the Council of State, will Government be pleased to state the reason for the absence of Muslim clerks in the two Divisional Wireless Offices and the low percentage of Muslim employees at the wireless telegraphy stations ?

The Honourable Mr. A. C. McWatters : The clerks in the Wireless Divisional Offices have been recruited in various ways as required and the most suitable candidates were selected.

The staff of the wireless stations is largely composed of operators and higher grades promoted from the operator class. The majority of the operators have been selected from among those telegraphists who volunteered and the proportion of Muslim volunteers has been very small.

CIRCULATION TO POST AND TELEGRAPH OFFICIALS OF THE ORDERS OF THE GOVERNMENT OF INDIA CONTAINED IN HOME DEPARTMENT OFFICE MEMORANDUM No. F.-176/25-ESTS., DATED THE 5TH FEBRUARY, 1926.

229. ***Mr. Anwar-ul-Azim** : With reference to the Honourable **Mr. Mahmood Suhrawardy's** question No. 82 answered by the Honourable **Mr. A. C. McWatters** on the 29th February 1928 in the Council of State, will Government be pleased to state why the orders of the Government of India contained in Home Department Office Memorandum No. F.-176/25-Ests., dated the 5th February 1926, was not strictly followed ?

The Honourable Mr. A. C. McWatters : The orders were circulated to post and telegraph officials by the Director-General in November last, and since then appointments are being made in accordance with them.

RATES OF PAY OF THE CLERICAL STAFF OF ATTACHED OFFICES LOCATED PERMANENTLY IN DELHI.

230. ***Mr. Anwar-ul-Azim** : With reference to my starred question No. 480 answered on the 19th March 1928, will Government be pleased to furnish :

- (a) a clear interpretation of the first part of the reply which reads " AT PRESENT WORKS IN SOME RESPECTS LIKE AN ATTACHED OFFICE " ;
- (b) the difference between the rates of pay of the clerical staff of the moving and non-moving attached offices of the Government of India ;
- (c) the names of the moving attached offices and non-moving attached offices of the Government of India, with the headquarters of the latter class ;

(d) if any attached office is required to be located permanently in Delhi, whether the rates of pay already sanctioned for the clerks should also be reduced and brought on to the rates of pay recently sanctioned for the clerks of the Director General, Posts and Telegraph's Office in order to equalize the scale of pay of the same class of employees ;

(e) if so, why ;

(*) if not, why not ?

The Honourable Mr. A. C. McWatters : (a) The Honourable Member's attention is drawn to the second sentence of the reply given by the Honourable Sir Bhupendra Nath Mitra to his Starred Question No. 480 on the 19th March, 1928.

(b) The rates of pay vary according to the circumstances of each office. To collect the detailed information would involve an expenditure of time and labour which would not be justifiable.

(c) The list will be furnished to the Honourable Member.

(d) If the headquarters of an office are changed, its rates of pay will require reconsideration, but it is not possible to say beforehand what changes, if any, may be necessary in individual instances.

ESTABLISHMENT OF A GOVERNMENT GIRLS' HIGH SCHOOL IN PESHAWAR, ETC.

231. ***Lala Lajpat Rai :** (a) Have the Government received any memorial from the inhabitants of Peshawar praying for the establishment of a Government girls' high school in that city ? If so, what orders have been passed on that memorial ?

(b) Is there any provision in Peshawar for the education of girls on non-sectarian lines ? Do Government propose to make any provision for the purpose ?

(c) Is there any Government College in the North-West Frontier Province ? If not, do Government propose to consider the advisability of starting such an institution there ?

Mr. G. S. Bajpai : (a) The Chief Commissioner, North-West Frontier Province, received such a memorial. The memorialists were informed that a high school for girls is already in existence in Peshawar and that the number of girls in the high classes of that school and in the top classes of middle schools from which girls pass to the high classes is not sufficient to justify the establishment of another high school.

(b) Yes, up to the middle school stage. Government do not consider that at present any further provision is necessary.

(c) No. There is a Government training college, but no Government arts college. Government do not consider that there is any necessity at present to start a Government arts college in the North West Frontier Province.

Nawab Sir Sahibzada Abdul Qaiyum : Is it not a fact, Sir, that the Islamia College, Peshawar, which is aided by Government is open to all classes of the population of the North West Frontier Province, irrespective of caste and creed, that there is a large number of non-Muslim students

in the College, Hindus, Sikhs and Christians, that the Local Administration is fully represented on the management, that the Director of Public Instruction generally presides over the meetings of the Council of Management and that in fact the Islamia College is as good and as free and liberal in its constitution as any Government College in the country ?

Mr. G. S. Bajpai : The Honourable Member, Sir, being a prominent trustee of the College, is doubtless in a position to confirm or to deny what he has stated just now. I am quite prepared to accept the statement which he has made.

Lala Lajpat Rai : May I ask the Honourable Member if the Islamia College is more a political college than an arts college ?

Mr. G. S. Bajpai : That, Sir, is a question which I am unable to answer. Perhaps the Honourable the Foreign Secretary may wish to answer it.

Sir Denys Bray : No, Sir.

Nawab Sir Sahibzada Abdul Qaiyum : Are the Government aware that the results of that college, whether a political college or an arts college, are much better than those of several other colleges in the Punjab ?

Mr. G. S. Bajpai : I am not in a position, Sir, all at once to institute a comparison between the results achieved by the Islamia College at Peshawar and the Punjab colleges, but if the Honourable Member is anxious that a research may be undertaken into this question, I am quite prepared to undertake it.

Mr. K. Ahmed : Will the Honourable Member on behalf of the Government kindly say if there is any course of study in politics in the school or college ? If there is none, will my Honourable friend, the questioner, kindly enlighten the House ?

REPORT OF THE INDIAN SANDHURST COMMITTEE.

232. ***Mr. K. C. Roy :** Will Government be pleased to state what steps they have taken and what progress has been made in giving effect to Government's conclusions announced by His Excellency the Commander-in-Chief in this House on the 8th March 1928 on the Indian Sandhurst Committee Report ?

Mr. G. M. Young : The conclusions of Government are being carried into full effect forthwith as announced by His Excellency the Commander-in-Chief in this House last March : that is to say, 10 vacancies at Sandhurst, 3 at Woolwich and 6 at Cranwell will be offered to Indians who pass the second half-yearly examination of 1928. This examination will be held in Delhi, in November. The syllabus of the new examination has been made widely known, and the manner in which applications should be submitted has also been widely notified. The rules to regulate the filling of 5 or more vacancies a year by selected Viceroy's commissioned officers are under preparation, and will be put into force simultaneously with the examination for direct appointments.

REPORT OF THE INDIAN SANDHURST COMMITTEE.

233. ***Mr. K. C. Roy :** Will Government be pleased to state what action, if any, has been taken on the Assembly's decision of the 10th

March last on Government decisions on the Indian Sandhurst Committee Report ?

Mr. G. M. Young : The only decision taken by the Assembly on the debate of March 10th. was that the House do now adjourn. I understand that the Honourable Member is referring, however, to the general disapproval of Government's policy implied in the motion for adjournment on March 10th. Government considered very carefully the result of the debate, and also the individual criticisms made by Honourable Members in that and other debates on the subject : but decided not to modify their scheme of indianization in any essential respect.

IMPROVEMENT AND EXPANSION OF THE INDIAN TERRITORIAL AND AUXILIARY FORCES.

234. *Mr. K. C. Roy : Will Government be pleased to state what steps have been taken to give effect to the decisions of Government announced by the Commander-in-Chief on the recommendations of the Territorial and Auxiliary Forces Committee, and what further steps are contemplated in the direction of improving and expanding both the Forces in India ?

Mr. G. M. Young : I would refer the Honourable Member to the Army Department notification No. 1055, dated the 20th August 1927. Orders have been issued to carry out the increased training for four selected units of the Indian Territorial Force and the attachment of officers of those units to regular units of the Army. A permanent Indian staff is being provided for those four units and eleven others. Units of the University Training Corps have been raised at Nagpur, Karachi and Dacca, and the Delhi unit has been expanded. The Sapper and Miner Section of the Burma Battalion will be formed this month. The remaining items in the programme could not be given effect to until the Indian Territorial Force (Amendment) Act, 1928, and the amended Rules under that Act came into force on September 1st. Orders have been issued since that date creating the 4 urban units, and constituting Central, Provincial and Unit Advisory Committees. The only item outstanding concerns the grant of a higher form of commission to selected officers, and orders on this will, I hope, issue very shortly.

As regards the second part of the question it is too early to say at present what further steps will be taken or what extra provision, if any, will be made in the Budget for 1929-30.

QUESTION REGARDING THE HIGHER ADMINISTRATION AND INDIANISATION OF THE ARMY IN INDIA COMING WITHIN THE SCOPE OF ENQUIRY BY THE INDIAN STATUTORY COMMISSION.

235. *Mr. K. C. Roy : Will Government be pleased to state whether the question of the higher administration and the Indianisation of the Army in India will come within the scope of the enquiry by the Statutory Commission ?

The Honourable Mr. J. Crerar : The attention of the Honourable Member is drawn to the terms of the Royal Warrant appointing the Commission and the invitation to submit memoranda issued by the Statutory Commission with its appendix. The scope of the enquiry is a matter for the Commission to decide, having regard to its terms of reference.

APPLICATION OF THE CIVIL SERVICE REGULATIONS TO THE PROTECTOR OF PILGRIMS, KARACHI.

236. *Haji Abdoola Haroon : (a) With reference to the Government reply on 31st January 1927 to my starred question No. 112 (8) appearing at page 201 of the Legislative Assembly Debates, Vol. IX, No. 8, will Government be pleased to state whether the Civil Service Regulations apply to the Protector of Pilgrims, Karachi ?

(b) If the reply to the above is in the affirmative, do those regulations permit the present Protector of Pilgrims to continue in service when his age is about 60 years ?

Mr. G. S. Bajpai : (a)—(b). The Honourable Member is presumably referring to those provisions of the Civil Service Regulations that relate to superannuation. But the appointment of the present Protector of Pilgrims is temporary and non-pensionable and the question of retiring him under the Civil Service Regulations does not therefore arise. Government can retain him in service so long as he is able to discharge his duties efficiently.

HAJ COMMITTEES AT BOMBAY AND KARACHI.

237. *Haji Abdoola Haroon : Will Government be pleased to furnish the following information regarding Haj Committees at Karachi and Bombay, respectively :

- (a) the duties, powers and responsibilities of the members of the Haj Committees at Karachi and Bombay ?
- (b) By what rules and regulations are the appointments of the Protectors of Pilgrims made both at Karachi and Bombay ?
- (c) Whether the Haj Committees at Karachi and Bombay are consulted by the appointing authority while appointing the Protectors of Pilgrims ?

Mr. G. S. Bajpai : (a) The Haj Committees at Bombay and Karachi are intended to render assistance to pilgrims ; they also function as consultative bodies.

(b) Protectors of Pilgrims, Bombay and Karachi, are appointed by the Local Government under section 8 of the Bombay Act II of 1887 as amended by Bombay Act V of 1915.

(c) Enquiries have been made from the Local Government.

Mr. K. Ahmed : Is there any report made by the Assistant to the Pilgrims on the subject of the grievances and complaints made by the pilgrims, and what steps have Government taken on that report ?

Mr. G. S. Bajpai : I do not know who the Assistant to Pilgrims is. The Honourable Member presumably means the Protector of Pilgrims. He assumes that the Protector of Pilgrims has to forward to Government day by day a catalogue of complaints. As a matter of fact the function of the Protector is to redress complaints and not to refer them to the Government of India.

Mr. K. Ahmed : What redress has been made by him ? Has the Honourable Member's Department checked the number of complaints and grievances raised by the pilgrims about which questions have already been put in this Assembly ?

Mr. G. S. Bajpai : If the Department to which I have the honour to belong were to devote itself to the checking of complaints sent in by pilgrims we should have to employ Secretaries by the hundred and staff by the million.

Mr. K. Ahmed : Does the Honourable Member realize that the Member in charge of the Department of which he is the Secretary stated in his presence in this Assembly the other day that there were a number of complaints of inconveniences for the last two years felt by pilgrims going to and coming from Mecca, and for that reason a Committee is going to be formed, which the Honourable Member in charge has virtually accepted ?

Mr. G. S. Bajpai : I congratulate the Honourable Member on his memory of recent events.

(1) DEVELOPMENT OF CIVIL AND COMMERCIAL AVIATION IN INDIA (2) AIR MAIL SERVICE FROM CAIRO TO KARACHI.

238. ***Colonel J. D. Crawford :** Will the Government be pleased to make a full statement regarding the steps that have been taken to assist the development of civil and commercial aviation in India with particular reference to the extension throughout India of the projected scheme for an air mail service from Cairo to Karachi ?

The Honourable Mr. A. C. McWatters : I am afraid that it is not possible for me, within the limits of an answer to a question, to make a statement of the kind desired by the Honourable and gallant Member. I shall be glad to furnish him with such information as I can regarding any particular measures taken in the last year or two and would add that the question of the development of air mail routes in India has been recently examined by the Standing Advisory Committee attached to the Department of Industries and Labour.

Colonel J. D. Crawford : Can the Honourable Member give me any information as to what steps have been taken to improve the ground organization against the possibility of air lines to India being started ?

The Honourable Mr. A. C. McWatters : If the Honourable Member will ask me that question in private I will give him full details. But we have spent a good deal of money in the direction of improving grounds, for instance, in bringing up the aerodrome at Dum Dum to a state fit for use all the year round and in proceeding with subsidiary aerodromes.

Mr. Ghanshyam Das Birla : May I know when it is expected that tenders will be invited for carrying on civil aviation ?

The Honourable Mr. A. C. McWatters : I am afraid I cannot give the Honourable Member details. We discussed the whole subject yesterday with our Standing Advisory Committee and we hope that some progress will very soon be made.

Kumar Ganganand Sinha : May I know why the Honourable Member cannot give the answer in this House ?

The Honourable Mr. A. C. McWatters : The reason is that the proposals discussed with the Standing Advisory Committee will have to go before the Standing Finance Committee, which we hope it will do in the course of this Session.

Mr. Ghanshyam Das Birla : May I have the approximate date ?

The Honourable Mr. A. C. McWatters : That will depend entirely on the decision of the Standing Finance Committee.

Mr. N. M. Joshi : Are Indians being trained in aviation ?

The Honourable Mr. A. C. McWatters : I do not know whether that arises ; there is another question on the paper to which I shall be replying. The answer is in the affirmative. We have a number of Indians in training in England.

Lieut.-Colonel H. A. J. Gidney : Will the Honourable Member inform the House whether it is a fact that there is not a single aerodrome in India that is capable of being used during the monsoon ?

The Honourable Mr. A. C. McWatters : I very much doubt if that statement is correct. In any case, as I have just told the Honourable Colonel Crawford, we are making the Dum Dum aerodrome an all-weather aerodrome and are spending something like 2½ lakhs on that.

Mr. M. S. Aney : When do Government propose to summon a meeting of the Standing Finance Committee ?

The Honourable Mr. A. C. McWatters : That does not rest with me but with the Honourable the Finance Member

The Honourable Sir Bhupendra Nath Mitra : It is the intention to hold a supplementary meeting of the Standing Finance Committee this Session if it is possible to collect the members for that purpose.

Mr. Ghanshyam Das Birla : May I know, Sir, if this matter will be brought up before the next meeting of the Standing Finance Committee ?

The Honourable Sir Bhupendra Nath Mitra : I understood from my Honourable colleague that that was his intention.

The Honourable Mr. A. C. McWatters : That is the intention. We have arrived at agreement in our own Advisory Committee and we now propose to approach the other Committee, the Standing Finance Committee.

Mr. Ghanshyam Das Birla : May I inquire if the condition will be stipulated with firms tendering and undertaking to run civil aviation lines that the service will be Indianized in a certain period of time ?

The Honourable Mr. A. C. McWatters : The discussions in the Standing Advisory Committee did deal with the subject of training of Indians and Indianization.

APPOINTMENTS MADE TO CERTAIN SUPERIOR SERVICES BY NOMINATION SINCE THE INSTITUTION OF COMPETITIVE EXAMINATIONS IN INDIA.

239. ***Rev. J. C. Chatterjee :** (a) Will Government be pleased to state, how many posts, in the Imperial Forest Service, the Indian Police, and the Superior Services of Indian State Railways, have been filled by nomination, since the institution in India of competitive examinations for admission to these services ?

(b) Will Government be pleased to state, how many Indian Christians have been nominated to these Services, during the period, named in (a) above ?

The Honourable Mr. J. Crerar : (a) Indian Forest Service	1
Indian Police Service 13
Indian Railway Service of Engineers and the Superior Revenue Establishment of State Railways.	14†
(b) Indian Forest Service Nil.
Indian Police Service 1
Indian Railway Service of Engineers and the Superior Revenue Establishment of State Railways.	2

NOMINATIONS TO THE INDIAN CIVIL SERVICE IN 1928.

240. ***Revd. J. C. Chatterjee :** (a) Will Government be pleased to state, the names, religion, position on the list and the total number of marks, obtained by the five Indian candidates, appointed to the Indian Civil Service by nomination, on the result of the last competitive examination held in India for admission to that Service ?

(b) Will Government be pleased to state, the place on the list and the total number of marks secured by Mr. S. M. Burke, an Indian Christian candidate for the last competitive examination, for admission to the Indian Civil Service ?

The Honourable Mr. J. Crerar : (a) and (b). A statement containing the information required by the Honourable Member is being placed in the Library.

The Revd. J. C. Chatterjee : Will Government be pleased to state whether any consideration, other than communal, guides the choice of the Government in making nominations to these services ?

The Honourable Mr. J. Crerar : The main consideration is that of efficiency.

APPOINTMENT OF INDIAN CHRISTIANS TO THE SUPERIOR PUBLIC SERVICES.

241. ***Revd. J. C. Chatterjee :** (a) Is it a fact that a certain proportion of appointments in the Superior Public Services, are filled by nomination by the Governor-General, in order that adequate representation may be secured for the minority communities ?

(b) If the answer to (a) be in the affirmative, will Government be pleased to bear in mind the claims of the Indian Christian community, which is the third largest community in India, from the point of view of numbers ?

The Honourable Mr. J. Crerar : (a) Recourse is had to appointment by nomination if it is necessary to prevent any undue preponderance of particular communities.

(b) On more than one occasion Indian Christians have been appointed by nomination to the Superior Services, and I do not think that the community has any cause to consider itself neglected.

The Revd. J. C. Chatterjee : Have any Indian Christians been nominated by nomination to the Indian Civil Service ?

Mr. President : Persons can be nominated only by nomination.

†Excludes recruitment in England.

EMPLOYMENT OF MR. B. K. SINGH IN THE DEPARTMENT OF CIVIL AVIATION.

242. *Dr. B. S. Moonje : 1. Has the attention of the Government been drawn to the leaderette "Indians in Civil Aviation" appearing in the *Amrita Bazar Patrika* in its issue of Thursday, 12th July, 1928, Dak Edition ?

2. If so, will the Government be pleased to make enquiries and let the House know if it is a fact :

- (a) That Mr. B. K. Singh, a Bengali gentleman of a respectable family of the District of Hughly, served in the Great War as a member of the Indian Volunteer Corps.
- (b) That he served for two years in the Aeroplane Department of Messrs. Vickers Ltd., Crayford Works.
- (c) That he was elected an Associate Member of the Royal Aeronautical Society of Great Britain in 1918.
- (d) That he has completed the course and passed the examination as "Aero-rigger and Mechanic" from the School of Aeronautics and Engineering, Sheffield, and also passed the examination of the Society of Engineers in Aero-Engineering and the examination of the Mechanical Engineering of the British Society of Engineers, Sheffield.
- (e) That he applied several times for a suitable post in the Department of Civil Aviation of the Government of India and if so with what result ?

3. Do Government propose to employ the services of the said Mr. Singh in the Department of Civil Aviation ?

The Honourable Mr. A. C. McWatters : 1. Yes.

2. The Government of India have been unable to trace any application from Mr. Singh for a post in the Civil Aviation Department, and they do not propose to conduct an inquiry into Mr. Singh's qualifications.

3. The answer is in the negative.

ESTABLISHMENT OF A BOARD OF INTERMEDIATE AND SECONDARY EDUCATION FOR RAJPUTANA AND AJMER-MERWARA.

243. *Raj Sahib Harbilas Sarda : (a) Do Government propose to establish a Board of Intermediate and Secondary Education for Rajputana and Ajmer-Merwara ?

(b) If so, when will it begin to function ?

(c) Is the personnel of the Board settled ? If so, will the public be represented on the Board, and what form do Government propose to give to that representation ? Do Government propose to include the representatives of the public of Ajmer-Merwara on the Board, as is the case with the United Provinces Board of Intermediate and Secondary Education ?

Sir Denys Bray : (a) Government have under consideration a proposal for the formation of a joint Board of High School and Intermediate Education for Rajputana (including Ajmer-Merwara), Central India and Gwalior.

(b) and (c). The scheme, though accepted in principle, has not yet sufficiently materialised for me to make any statement on it.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON AGRICULTURE REGARDING
DEVELOPMENT OF AGRICULTURE IN AJMER-MERWARA.

244. *Rai Sahib Harbilas Sarda : (a) Has the attention of the Government been drawn to the following recommendations made by the Royal Agricultural Commission in its report issued recently ?

(Page 659) " Ajmer-Merwara in consideration of its long history of famines, should in our view receive special consideration and might well be made a model both in Agricultural and Veterinary matters, to the States of Rajputana by which it is surrounded "

(P. 661) " In Ajmer-Merwara a Deputy Director, with special experience of live-stock or dairying or preferably both would seem to be required."

(P. 572) " We are of opinion that Ajmer-Merwara should have a definite agricultural organization "

(b) Will Government be pleased to state what action Government propose to take on the above recommendations, and when ?

Mr. G. S. Bajpai : (a) Yes.

(b) The recommendations are under the consideration of Government.

REVISION OF THE PAY OF THE SUB-JUDGE, AJMER, AND THE CITY MAGISTRATE,
AJMER.

245. *Rai Sahib Harbilas Sarda : (a) Is it a fact that when the recommendation of the Local Government of Ajmer-Merwara to increase the salaries of the Additional District and Sessions Judge for that province was placed before the Standing Finance Committee of the Indian Legislature in August 1927, the Committee agreed to the proposed increase on the clear understanding that the question of the adequacy or otherwise of the pay of the Subordinate Civil and Criminal Courts whose appeals were submitted direct to the Additional District and Sessions Judge would also be considered ?

(b) Will Government state if in pursuance of this decision of the Standing Finance Committee, the Local Government of Ajmer-Merwara was asked to consider the adequacy of the salaries of the subordinate courts concerned, and if so, what action has been taken with regard to the revision of the salaries of the Sub-Judge, Ajmer, and the City Magistrate, Ajmer ?

Sir Denys Bray : (a) Yes, Sir.

(b) The proposals of the Chief Commissioner have just been received and are now under consideration.

THE INTERNATIONAL INSTITUTE OF AGRICULTURE, ROME.

246. *Rai Sahib Harbilas Sarda : (a) Is it a fact that India pays an annual subscription of £800 towards the expenses of the International Institute of Agriculture at Rome ?

(b) Is India entitled to nominate a member to the permanent Committee of the Institute ?

(c) Is it a fact that no such member is now appointed and that the British representative on the permanent Committee is in charge of the interests of India ?

(d) Is it also a fact that the Royal Commission on Agriculture is of opinion that " No one representative would be in a position to deal with the vast quantity of technical information which the Institute has collected ?

(e) Will Government be pleased to lay on the table of the House a statement of what the British representative has done during the last three years for the benefit of agriculture in India ?

(f) Do Government, in view of measures to be taken for the improvement of agriculture in India as recommended by the Royal Commission on Agriculture, propose to appoint a whole time member of the Permanent Committee of the Institute to give India, the full benefit of the research and technical work done by the Institute ?

(g) If not, will Government give this House an idea of the return India is getting for its annual contribution of £800 ?

Mr. G. S. Bajpai : (a) to (d). Yes.

(e) and (g). A note giving the information required has been laid on the table of the House.

(f) Not at present.

The British representative on the Permanent Committee of the International Institute of Agriculture, Rome, has played an important part in shaping the general policy of the Institute. This has also benefited India since the activities of the Institute have been directed towards collection of information which has proved of great value to India. Attention is invited in this connection to paragraph 578 of the Report of the Royal Commission on Agriculture. To mention only one example, valuable information has been collected in regard to legislation on agricultural subjects and on rural matters generally undertaken in other countries. The British representative has also been instrumental in getting the Institute to establish a separate Bureau of Tropical and Colonial Agriculture which has greatly enhanced the usefulness of the Institute to India.

CONTRIBUTION BY THE GOVERNMENT OF INDIA TO THE IMPERIAL INSTITUTE
LONDON.

247. ***Rai Sahib Harbilas Sarda :** Is it a fact that the Government of India contributes £1,200 annually to the funds of the Imperial Institute, London ?

The Honourable Mr. A. C. McWatters : The answer is in the affirmative.

FLOODING OF THE RAILWAY QUARTERS AT MORADABAD.

248. ***Maulvi Muhammad Yakub :** (a) Is it a fact that railway quarters at Moradabad were overflowed during the rains in July last ?

(b) Is it also a fact that one of the railway employees living in the quarters was swept away and died ?

(c) What steps, if any, were taken by the Government to avoid overflowing of the quarters ?

(d) Was any compensation given by the Railway to the family of the person who was swept away during the flood ?

Mr. A. A. L. Parsons: Government have received no report of any such occurrence. We are sending a copy of the Honourable Member's question to the Agent of the East Indian Railway, so that he can look into the question whether any action is required at Moradabad, and whether any compensation is warranted.

Maulvi Muhammad Yakub: Did the Railway Board take any action in this matter after receiving notice of my question ?

Mr. A. A. L. Parsons : I think that we have already sent a copy of the Honourable Member's question to the Agent of the East Indian Railway.

CASE OF RAILWAY DRIVERS WHO HAD PASSED THEIR EXAMINATIONS AT THE CHANDAUSI RAILWAY TRAINING SCHOOL.

249. ***Maulvi Muhammad Yakub :** Is it a fact that certain railway drivers who had passed their examinations at the Chandausi Railway Training School were re-examined by the Staff Inspector at Moradabad only about a week after they had come out successful from the Chandausi School, and, having been declared as unqualified, their promotions were stopped ?

Mr. A. A. L. Parsons: The answer is in the negative. Actually after 7 drivers had returned to duty in the Moradabad Division from a course of training at Chandausi, an enquiry was received by the Divisional Superintendent whether he had any drivers whom he could recommend for the passenger service, and the Staff Inspector (Power) recommended 5 men out of 16 so far tested. But there was no question of declaring any one unqualified or of stopping any one's promotion. On the Moradabad Division there is no such thing as special pay for passenger drivers.

Mr. B. Das : Do I understand that these five drivers chosen by the Staff Inspector were chosen from passed students of the Chandausi School ?

Mr. A. A. L. Parsons : They were not chosen only from passed students of the Chandausi School, but I believe one man who was chosen had either passed the examination, or was subsequently found to have passed. The selection was made from all drivers in the Moradabad Division for there was certainly no idea of depriving any driver who had had no opportunity of going to the Chandausi School of a chance of selection.

Mr. B. Das : Will Government see their way to securing drivers who have passed from the Chandausi School ?

Mr. A. A. L. Parsons: Certainly not. The qualifications for passenger train drivers do not depend entirely on their having passed the course in the Chandausi School. The authorities have to choose the best qualified men available, since the safety of the public has to be considered.

HANDING OVER OF THE LAL BUNGALOW IN DELHI TO A CHRISTIAN CLUB FOR RECREATION PURPOSES.

250. ***Maulvi Muhammad Yakub :** Is it a fact that the Lal Bungalow, a mausoleum of Prince Jahangir, son of the Emperor Akbar the II, and other Princes and Princesses of the Moghul Dynasty, which lies outside Delhi on the way to the mausoleum of Hazrat Nizam Uddin Oulia, and which is one of the buildings protected under the Old Monu-

ments Act, has been handed over to some Christian Club to be used by them for recreation purposes ? Is it also a fact that the stone monuments of two graves inside the bungalow have been removed from their places ? If so, do Government propose to put a stop to this act of disrespect to the dead, which has created a great deal of agitation amongst the Musalmans of Delhi, by taking the building from the Christian Club and handing it over to the association (" Auqaful Musalmin ") of the Muslim Trust at Delhi ?

Mr. G. S. Bajpai : Government are inquiring into the matter and hope to communicate the result to the Honourable Member as soon as possible.

The Revd. J. C. Chatterjee : Has the New Delhi Golf Club got something particularly Christian about it ?

Mr. G. S. Bajpai : That is a question which might be addressed to my Honourable friend opposite.

REMARKS MADE BY THE HONOURABLE MR. JUSTICE COURTNEY TERRELL, CHIEF JUSTICE OF THE HIGH COURT, PATNA, IN CRIMINAL APPEAL NO. 23 OF 1928.

251. ***Mr. Gays Prasad Singh :** (a) Has the attention of the Government been drawn to the following remark made by Mr. Courtney Terrell, Chief Justice of the Patna High Court, in Criminal Appeal No. 23 of 1928, decided on the 16th May 1928, and reproduced by the *Searchlight* of Patna, dated the 1st August, 1928 :

" But it appears from what we know of the former case that it was not a case of any great magnitude ; and having regard to the habits of the people in this particular part of the world, where the giving of false evidence, however deplorable it may be, is not considered an offence, which is fatal to a man's reputation, to say the least of it, I do not think that much importance need be placed on that fact " ?

(b) Do Government propose to take necessary steps either to have the remark withdrawn, or to remove Mr. Courtney Terrell from his office ?

The Honourable Mr. J. Orerar : (a) Government have seen the article in question.

(b) No.

Pandit Motilal Nehru : Do Government approve or disapprove of the remark set out in this question ?

The Honourable Mr. J. Orerar : I think that the Honourable gentleman is asking me to express an opinion regarding the conduct of a Judge in a court of law in the exercise of his judicial functions.

Pandit Motilal Nehru : I am asking a question about a fact. Do the Government approve or disapprove of the remark in question ?

The Honourable Mr. J. Orerar : An expression of approval or disapproval would necessarily be an expression of opinion.

Pandit Motilal Nehru : Is there no truth in the statement made by the *Searchlight* regarding the matter ?

The Honourable Mr. J. Orerar : I can only refer the Honourable Member to the answer given by me. It is impossible for me to express either approval or disapproval of the remark, as I am precluded from doing so by the rules of procedure.

Pandit Motilal Nehru : Will the Government be pleased to state whether it is any part of the duty of the Government to enquire what foundation there is for the remark of Mr. Justice Courtney Terrell ?

The Honourable Mr. J. Crerar : I do not think it is part of the duty of Government to enquire into a statement made by a Judge of the High Court in the discharge of his functions.

Pandit Motilal Nehru : Is a Judge of a High Court then above the law ? Is he not bound by the law he administers ? Is it not the duty of the Government to take notice of the conduct of a Judge, if necessary ?

The Honourable Mr. J. Crerar : I am not prepared to add to the answer I have already given.

Lala Lajpat Bai : Is Government aware that the remark passed has caused great discontent among the people of India, and is it not the duty of Government to remove that impression ?

The Honourable Mr. J. Crerar : Government do not see any reason to interfere in the matter.

Mr. Gaya Prasad Singh : I should like to know what objection Government have to referring the matter through the proper channel.

The Honourable Mr. J. Crerar : I can only recapitulate what I have already said. The Government of India would not be acting properly in interfering in the manner suggested by the Honourable Member.

Sir Hari Singh Gour : Is the Honourable the Home Member precluded by any rule from expressing his disapproval of these remarks made by Mr. Justice Terrell ? Is the Honourable the Home Member aware that the late Prime Minister of England, Mr. Ramsay Macdonald, castigated Mr. Justice McCardie in connection with certain observations he made in the discharge of his duties as a Judge ? He said that that would completely satisfy the people that the British Cabinet entirely dissociated themselves from the remark made by that learned Judge. Now I ask, is the Honourable the Home Member prepared to follow that precedent in this case or not ?

The Honourable Mr. J. Crerar : The purport of the Honourable Member's question is to invite me to pass an opinion involving a reflection upon the conduct of a court of law in the exercise of its judicial functions. I have already pointed out that under Standing Order 29, I am precluded from doing so.

Mr. B. Das : Is it a fact that Mr. Justice Terrell formed his opinion of the people of this part of the world by reading a copy of Miss Mayo's Book, " Mother India " during his voyage to India, and also by his association with the police officials at Patna ?

Mr. Gaya Prasad Singh : May I ask one supplementary question, Sir ? Are Government aware of the fact that since Mr. Justice Terrell assumed charge of his office, which was on the 1st of April, a very significant date, the people are fast losing confidence in his judicial administration ?

Mr. President : Order, order. No ironical criticisms are permissible.

Mr. Gaya Prasad Singh : I am asking a question, Sir, whether it is not a fact that the people are fast losing confidence in Mr. Justice Terrell and in his administration of justice ?

The Honourable Mr. J. Crerar : May I enquire, Sir, whether that question is in order in view of Standing Order 29 ?

Sir Hari Singh Gour : Is the Honourable Member prepared to examine (Order, order.)

Mr. Gaya Prasad Singh : A point of order has been raised.

Mr. President : The Honourable Member's question is whether the Government are aware that the people of India, especially the people of that province, have lost confidence in a particular Judge. I think that question is perfectly in order.

The Honourable Mr. J. Crerar : I have seen a number of comments in the Press with regard to this judgment, but I am not prepared to infer from them that the consequence which the Honourable Member has suggested has eventuated

Sir Purshotamdas Thakurdas : Do Government realise that the people of India construe these remarks of the Honourable Judge as defamation of the people of India. (Hear, hear and Applause.)

The Honourable Mr. J. Crerar : I have already explained that I have seen many comments to that effect in the Press, but I am not in a better position than the Honourable Member to draw any inference from them.

Sir Purshotamdas Thakurdas : If, Sir, the feeling among Indians be what I have indicated, are Government content to leave it at this on a technical ground, or, are Government prepared to offer some explanation or express their opinion which would assuage the feelings of the people of India ?

Sir Hari Singh Gour : In this connection, may I ask the Honourable the Home Member to examine the precedents of the British Parliament, particularly the precedent I have referred to, before committing himself to the view that the Government of India are not prepared to take any action in the matter ?

The Honourable Mr. J. Crerar : My reply to both the questions is that the Government of India cannot accept, as an executive Government, responsibility for the statements made by a Judge of a High Court.

Sir Purshotamdas Thakurdas : Will the Government be pleased to take such action as they may think proper in order that the Honourable Judge may make amends for this wanton insult to the people of India ? (Hear, hear.) Are the Government prepared to take any action at all ?

Sir Hari Singh Gour : May I put a supplementary question, Sir ?

Mr. President : The Honourable Member must wait.

The Honourable Mr. J. Crerar : I have already said that the Government are not prepared to take any action in the matter.

Mr. President : Mr. Gaya Prasad Singh.

Mr. Gaya Prasad Singh : May I put one more supplementary question, Sir ?

Mr. President : The next question.

EMPLOYMENT OF INDIANS BY THE EMPIRE MARKETING BOARD.

252. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that on or about the 20th February 1928, the Secretary of State for Dominion

Affairs and the Colonies, stated in the House of Commons, regarding the Empire Marketing Board, that "as regards the staff employed, the services of Indians with special qualifications are utilized from time to time to undertake work of a temporary character in connection with the Board's educational and publicity activities"?

(b) Will Government kindly state how many Indians are so employed, and at what pay, out of the total strength of the staff; and also why Indians are employed "to undertake work of a temporary character" only?

The Honourable Sir George Rainy : (a) Yes.

(b) The Government of India have no information.

CASE OF MR. CAMPBELL *alias* MR. GEORGE ALLISON.

253. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that Mr. Campbell, otherwise known as Mr. George Allison, served a sentence of 18 months' imprisonment in India for breach of the Passport Act? Will Government kindly explain the exact nature of the offence with which he was charged?

(b) Is it a fact that throughout his term of imprisonment, he was refused permission to meet his lawyer; and was also refused his kit, and actually removed from India against his will? If so, under what law?

The Honourable Mr. J. Orerar : (a) He was convicted of entering British India on a forged passport, and was sentenced to 18 months' rigorous imprisonment under sections 471 and 476 of the Indian Penal Code, and 3 months for a breach of the passport rules, the sentences running concurrently.

(b) As to the first part, Government have no information and, as to the second part, he was removed from British India by the Government of Bombay under section 5 of the Indian Passport Act, 1920.

NUMBER OF HINDUS AND MOSLEMS EMPLOYED AS SUPERINTENDENTS, POSTMASTERS AND CLERKS IN ALL THE POST OFFICES IN SIND.

254. ***Haji Abdoola Haroon :** (a) Will the Government be pleased to state the number of (i) Superintendents, (ii) Postmasters, (iii) Inspectors and (iv) clerks in all the Post Offices in the Province of Sind?

(b) How many of these appointments are held by Moslems and Hindus respectively?

The Honourable Mr. A. C. McWatters : (a) and (b). The figures with respect to Superintendents and gazetted Postmasters are as follows :

Superintendents—4 of whom 1 is a Moslem and 2 are Hindus.

Gazetted Postmasters—2, who are neither Moslem nor Hindu.

The remaining information is being collected and will be furnished to the Honourable Member as early as possible.

REVISION OF THE PAY OF THE MINISTERIAL STAFF IN THE CUSTOMS DEPARTMENT, THE INCOME-TAX DEPARTMENT AND THE CHIEF ACCOUNT OFFICE, SALT, BOMBAY.

255. *Mr. N. M. Joshi : Will Government be pleased to state :

- (a) Whether it is a fact that several representations for revision of time-scale on the part of the ministerial staffs of the Bombay Customs, Income-Tax and Chief Account Office, Salt, were received by them ?
- (b) If the reply to (a) is in the affirmative what is the decision of Government regarding the representations ?
- (c) If the revision has been refused the reasons and grounds for such refusal ?
- (d) Whether it is a fact that the clerical time-scales of all the Central Departments in Bombay except those under the Central Board of Revenue have been revised since 1921 ?
- (e) If the reply to (d) is in the affirmative what are the reasons and grounds on which such differential treatment is based ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes.

(b) The pay of the ministerial staff was last revised, in the Customs Department, in 1920 ; in the Income-tax Department, in 1922 ; and in the Chief Account Office, Salt, in 1921. Representations received from these staffs since then have been rejected.

(c) On the ground that the existing scales were considered adequate.

(d) Yes.

(e) The Honourable Member is referred to the answer under (c).

PAY OF PROBATIONERS AND RESERVISTS IN OFFICES ADMINISTERED BY THE CENTRAL BOARD OF REVENUE IN BOMBAY.

256. *Mr. N. M. Joshi : Will Government be pleased to state :

- (a) Whether they are aware that in Bombay Offices administered by the Central Board of Revenue, there are posts of probationers, reservists, etc., who are granted either a start of salary less than the standardised start of Rs. 60 per month or no increment for a couple of years even if the usual start of Rs. 60 is granted ?
- (b) If so, whether Government are aware that this has no parallel in any of the Bombay offices ?
- (c) Whether there are any representations for the redress of these grievances ?
- (d) The decision by Government on these representations ?
- (e) The grounds and reasons on which such decisions were based ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes.

(b) The Government of India are not aware of the arrangements in all other Bombay offices.

(c) No.

(d) and (e). Do not arise.

METHOD OF MAKING SELECTIONS FOR PROMOTION AMONGST THE ORDINARY CLERICAL ESTABLISHMENT OF OFFICES.

257. ***Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) Whether there are any definite orders as to the mode of appointing officials to the higher grade from amongst the ordinary clerical establishment ?
- (b) If so, to place a copy of the said order on the Assembly table ?
- (c) If there are no definite orders then to state the principles on which such selections in making appointments are based ?
- (d) Whether the appointments are made according to strict seniority unless the seniormost has been found to be deficient in merit required for the post ?
- (e) If the principle as stated in (d) above is not at present followed in practice whether the same will be followed in future ?

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

(b) Does not arise.

(c), (d) and (e). Discretion in making selections for promotion vests in the Heads of Departments concerned. Government are not aware what the precise practice of the Heads of Departments is, but, as they do not contemplate interfering with the discretion of those authorities, they see no purpose in calling for the information.

ESTABLISHMENT OF PUBLIC EMPLOYMENT BUREAU OR LABOUR EXCHANGES.

258. ***Mr. N. M. Joshi** : (a) Will Government be pleased to state whether they have stated in their report to the International Labour Office that they propose to consult the Provincial Governments regarding the establishment of Public Employment Bureau or Labour Exchanges ?

(b) If so, what steps have they taken to do so ?

The Honourable Mr. A. C. McWatters : (a) Yes.

(b) A reference was made to Local Governments in July last.

Mr. N. M. Joshi : May I ask whether the Government of India have asked the Local Governments to obtain the views of the labour organisations before they send replies to the Government of India ?

The Honourable Mr. A. C. McWatters : I forget the exact terms of our letter, but I shall be pleased to show it to the Honourable Member.

SICKNESS INSURANCE.

259. ***Mr. N. M. Joshi** : (a) Will Government be pleased to state whether they have addressed the Provincial Governments regarding sickness insurance ?

(b) If not, when do they propose to do so ?

The Honourable Mr. A. C. McWatters : (a) and (b). A draft letter is in issue, which I have shown to the Standing Advisory Committee attached to the Department of Industries and Labour.

APPOINTMENT OF INDIAN REPRESENTATIVES AT GENEVA.

260. *Mr. N. M. Joshi : With reference to the reply given by Government to parts (a) and (c) of the starred question No. 10 on 1st February, asked by Sir Purshotamdas Thakurdas regarding the appointment of Indian representatives at Geneva, will Government be pleased to state what decision they have arrived at on the matter ?

Mr. L. Graham : The proposal that there should be a permanent Indian Representative at Geneva was discussed with the High Commissioner by the Honourable the Law Member on the occasion of his recent visit to England. It is understood that the High Commissioner was not altogether in favour of the proposal and that he is engaged in framing alternative proposals with a view to attaining the same object.

Mr. N. M. Joshi : How will these alternative proposals of the High Commissioner be made known to this House ?

Mr. L. Graham : When we have received them, Sir.

Mr. N. M. Joshi : How ?

Mr. L. Graham : Presumably the Honourable Member will ask another question.

HOURS OF WORK AND WEEKLY REST DAY FOR RAILWAY EMPLOYEES.

261. *Mr. N. M. Joshi : (a) With reference to the reply given to my starred question No. 31 on 1st February last regarding the hours of work and the weekly rest day for railway employees, will Government be pleased to state whether they have come to a decision on the matter ?

(b) If so, what is the decision ?

(c) If no decision is reached, will they be pleased to state why the delay is being caused ?

Mr. A. A. L. Parsons : I would refer the Honourable Member to the reply given to Khan Bahadur Sarfaraz Hussain Khan's unstarred question No. 55 of 4th September, 1928.

Mr. N. M. Joshi : The Honourable Member has in replying to this question referred me to the answer to unstarred question No. 55 put by Khan Bahadur Sarfaraz Hussain Khan on the 4th September, 1928. As the reply to question No. 55 is not before me, will the Honourable Member kindly read that answer ?

Mr. A. A. L. Parsons : If I have your permission, Sir, I am quite willing to read the reply to unstarred question No. 55. The reply to that question is :

"The Railway Board have approved the adoption by the State-managed Railways of the resolution passed at the 1927 session of the Indian Railway Conference Association, a copy of which is appended to this reply, and have been informed that the Boards of Directors of practically all Company-managed Railways have also given their assent to that resolution. Railways are proceeding with their preparations to give effect to that resolution."

I shall be very pleased to send to the Honourable Member a copy of that resolution if he has not already got one.

Mr. N. M. Joshi : May I ask, Sir, whether the Honourable Members of this House are not inconvenienced by giving a reply in such a way

that they cannot ask a supplementary question. The Honourable Member referred me to a certain resolution passed at a railway conference which is not before me ?

Mr. President : Does the Honourable Member put that question to the Chair ? If so, the reply is that Members are inconvenienced.

DEDUCTIONS FROM THE WAGES OF WORKERS.

262. ***Mr. N. M. Joshi :** (a) With reference to the reply given to my starred question No. 34 on 1st February last regarding the deductions from the wages, will Government be pleased to state whether they have come to a decision in the matter ?

(b) If so, what is the decision ?

(c) If no decision is arrived at, will they be pleased to state why the delay is being caused ?

The Honourable Mr. A. C. McWatters : (a) The answer is in the negative.

(b) Does not arise.

(c) The question of legislation in India for the regulation and control of deductions from the wages of workers is by no means a simple one and there were many details which required very careful consideration.

Mr. N. M. Joshi : May I ask how long Government will take to consider this question and when the first consideration of this question was begun ?

The Honourable Mr. A. C. McWatters : The question has been under consideration for several years and, as the Honourable Member no doubt knows, a very elaborate enquiry was conducted by the Bombay Government on this subject, and that is one of the reasons why delay occurred in the early stages. We have received the Local Government's very elaborate report and have been considering that in connection with the replies received from other Local Governments. I hope there will not be much further delay now before the question is settled.

PROMPT PAYMENT OF WAGES.

263. ***Mr. N. M. Joshi :** With reference to the reply given to my starred question No. 35 on 1st February last regarding prompt payment of wages, will Government be pleased to state when they propose to introduce such legislation ?

The Honourable Mr. A. C. McWatters : The matter is still under consideration, but the Government of India hope to be able to arrive at an early decision.

EDUCATION OF THE CHILDREN OF RAILWAY EMPLOYEES.

264. ***Mr. N. M. Joshi :** Will Government be pleased to state what action they propose to take regarding the provision of educational facilities for the children of the railway employees as a result of their consideration of a recent report made on the matter ?

Mr. A. A. L. Parsons : It is the intention of Government to obtain the advice on the question of the Central Advisory Council for Rail ways at a meeting which will shortly be summoned.

RECRUITMENT OF SEAMEN AT BOMBAY.

265. ***Mr. N. M. Joshi :** Will Government be pleased to state what steps they have taken to remove the grievances of seamen in Bombay regarding recruitment ?

The Honourable Sir George Rainy : The Government of Bombay are arranging to transfer the recruitment of serangs and butlers from the licensed brokers to the Shipping Master, and to introduce registers in the Shipping Office for the purpose. To ensure that the proposed registers are properly maintained and that no corrupt practices are employed when crews are signed on, the Government of Bombay have proposed the creation of an additional post of Assistant in the Shipping Office from the 1st November, 1928, for one year in the first instance. The proposal has been approved by the Standing Finance Committee.

Mr. N. M. Joshi : May I ask, Sir, whether it is part of that proposal that the licence of the recruiting broker will be taken away ?

The Honourable Sir George Rainy : I am afraid I must ask for notice of that.

Mr. K. Ahmed : In view of the fact that the question has engaged the attention of the Government of India for the last five or six years since Mr. Clow presided over the Recruitment Committee and nothing has been done hitherto, do Government propose in the interests of the country and of these men to take early steps to give effect to its Report and to appoint officers to engage seamen instead of issuing licences to brokers who are corrupt themselves and corrupt the morality of these seamen ?

Mr. President : Order, order !

AMENDMENT OF THE WORKMEN'S COMPENSATION ACT.

266. ***Mr. N. M. Joshi :** Will Government be pleased to state whether they propose to address the Provincial Governments asking for their suggestions for the amendment of the Workmen's Compensation Act ?

The Honourable Mr. A. C. McWatters : The Government of India have introduced a Bill during the current Session of the Assembly to amend the Act so as to remove certain defects and to introduce minor changes which are likely to raise no important controversial points and which will be generally recognised as improvements. They will thereafter consult Local Governments regarding a number of other suggestions which involve the modification of the principles underlying the present Act or of its more important features.

RECOGNITION OF THE UNIONS OF RAILWAY EMPLOYEES.

267. ***Mr. N. M. Joshi :** (a) With reference to the reply given to my starred question No. 42 on 1st February last will Government be pleased

to state whether they have come to a decision regarding the recognition of the Unions of railway employees ?

(b) If so, what is the decision ?

The Honourable Sir George Rainy : Government have come to the following conclusions :

- (1) The fact that a Union has been registered under the Indian Trade Unions Act should predispose an Agent to accept it as representing the interests of its members and their views.
- (2) The decision whether, and, if so, to what extent, a claim of any particular Union to represent matters affecting the staff of the railway may be admitted must be dependent on the extent to which the Union in question is actually representative, in its numbers, influence and standing, of the staff as a whole or of a particular class or particular classes of the staff.

LEAVE AND PENSION RULES APPLICABLE TO INFERIOR SERVANTS.

268. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state whether they have come to a decision on the question regarding the leave and pension rules applicable to inferior servants ?

(b) If so, will they be pleased to state what that decision is ?

The Honourable Sir Bhupendra Nath Mitra : No decision has been reached as regards leave. As regards pension the only decision so far taken is that the temporary increase of small pensions already in force should continue till 1st November, 1929. In the interval it is hoped that the classification rules will be issued and the Government will then re-examine the matter in the light of the situation thus created and the action taken in regard to the same matter by Provincial Governments in general.

Mr. N. M. Joshi : May I ask, Sir, why the Government of India have delayed this matter so much ?

The Honourable Sir Bhupendra Nath Mitra : Because the matter is of considerable importance the consideration of which is bound to take a certain amount of time.

Mr. N. M. Joshi : May I ask whether this matter which is being delayed is of more importance or the matter of the increase in the salaries of higher officers ?

The Honourable Sir Bhupendra Nath Mitra : Here the point at issue is a question of principle, not a question of making certain alterations in rates of pay.

Mr. N. M. Joshi : May I ask whether the principle is that the people are poor in one case and, in the other, rich ?

The Honourable Sir Bhupendra Nath Mitra : That is not the principle. The principle is that the pension and leave rules of these people have for about a century been on different lines from those of officers in superior pensionable service.

ALLEGED ASSAULT BY THE FOREMAN OF THE VACUUM BRAKE SHOP ON MOHAMMAD HUSSAIN, A WORKMAN OF THE CARRIAGE AND WAGON SHOPS AT MOGHULPURA.

269. ***Mr. N. M. Joshi** : With reference to the reply given to my starred question No. 479 on 19th March last regarding a workman being beaten and kicked by a foreman, will Government be pleased to state what punishment was given to the foreman referred to ?

Mr. A. A. L. Parsons : The pay of the foreman has been reduced by Rs. 25 per mensem for a period of six months.

LOSS CAUSED TO THE EAST INDIAN RAILWAY BY THE STRIKE AT LILLOOAH, ASANSOL AND ONDAL.

270. ***Mr. N. M. Joshi** : Will Government be pleased to state what is the approximate amount of loss caused to the East Indian Railway by the strike at Lillooah, Asansol and Ondal ?

Mr. A. A. L. Parsons : There was no dislocation of traffic as a result of the strike, and it consequently cannot be said to have affected the earnings of the East Indian Railway. I am unable to say, to what extent, if any, there may prove to be some loss to the railway administration owing to the postponement of repairs which should otherwise have been carried out. But I do not think it need be feared that any loss from this cause will be appreciable.

ENQUIRY BY THE AGENT OF THE EAST INDIAN RAILWAY INTO THE GRIEVANCES OF THE MEN EMPLOYED AT THE LILLOOAH WORKSHOPS.

271. ***Mr. N. M. Joshi** : (a) Will Government be pleased to state whether the Agent of the East Indian Railway has enquired into the grievances of the men employed at the Lillooah Workshops ?

(b) If so, will Government be pleased to state what has been done to remove them ?

Mr. A. A. L. Parsons : (a) Yes.

(b) The rates of pay of certain classes of the lower paid workmen in the Lillooah shops have been raised from the 1st of August, 1928, and the Agent is making an enquiry into the housing conditions of the workmen in Lillooah.

NUMBER OF LOCOMOTIVES FITTED WITH ELECTRIC SEARCH-LIGHTS.

272. ***Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) The total number of railway locomotives in use in India ;
- (b) How many of them are fitted with electric search-lights ;
- (c) When the remaining locomotives will be so fitted up ?

Mr. A. A. L. Parsons : On the 31st March last 2,785 out of the 3,352 locomotives working mail, passenger and mixed trains had been fitted with electric search-lights, and we expect the balance of 567 to be so fitted by the end of this year.

There are (approximately) 2,250 locomotives employed in working goods trains. I believe a certain number have already been fitted with electric search-lights, but the great majority have not. The Railway Board have already taken up the question of fitting all train engines, including goods train engines, with electric search-lights with Railway Administrations and are considering making them compulsory by 1932.

REPRESENTATION FROM THE IMPERIAL SECRETARIAT, DUFTARIES ASSOCIATION REGARDING QUARTERS IN NEW DELHI.

273 ***Mr. N. M. Joshi** : (a) Will Government be pleased to state whether the Imperial Secretariat Duftaries' Association at New Delhi had sent a representation to the Government of India pointing out certain inconveniences experienced by its members in the quarters such as (1) absence of bath, (2) absence of wall and door in kitchen, (3) absence of water pipe, (4) low courtyard walls and (5) absence of electric lights ?

(b) What will be the approximate cost of removing these inconveniences ?

(c) Do Government propose to take steps for removing the inconveniences ?

The Honourable Mr. A. C. McWatters : (a) Yes.

(b) About Rs. 86,000.

(c) Yes, so far as items (1) and (3) are concerned. They do not consider the other items necessary.

PRACTICE OF EMPLOYING ASSISTANT GUARDS TO DO THE WORK OF GUARDS WITHOUT EXTRA REMUNERATION ON THE BENGAL AND NORTH WESTERN RAILWAY.

274. ***Mr. N. M. Joshi** : (a) Is it a fact that on the Bengal and North-Western Railway assistant guards drawing salaries of less than Rs. 20 per month are asked to perform the work of guards for months together without any extra payment for more responsible work ?

(b) If so, do Government propose to draw the attention of the Agent to the desirability of modifying this practice ?

Mr. A. A. L. Parsons : (a) Assistant guards who have passed their guard's examination and are fully qualified to act as guards are put in charge of goods trains generally temporarily to relieve regular guards when sickness or exceptionally heavy traffic renders such a course necessary. No allowance is given.

(b) A copy of the Honourable Member's question has been sent to the Agent.

MILEAGE ALLOWANCE OF GUARDS AND ASSISTANT GUARDS IN THE SONPUR DISTRICT, BENGAL AND NORTH-WESTERN RAILWAY.

275. ***Mr. N. M. Joshi** : (a) Is it a fact that on the Bengal and North-Western Railway especially in the Sonpur District the number of cases of guards and assistant guards being deprived of the mileage allowance, are unduly large ?

(b) Is it a fact that frequently the allowance is forfeited even though the guard is not responsible for the train being late ?

Mr. A. A. L. Parsons : (a) and (b). The answer is in the negative.

CONSERVANCY CHARGES LEVIED FROM DUFTARIES BY THE HEALTH DEPARTMENT IN NEW DELHI.

276. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state whether the members of the Imperial Secretariat Duftaries' Association occupying quarters in New Delhi have to pay a conservancy charge of 8 annas a month ?

(b) Is it a fact that in Simla such a charge is not taken from the duftaries ?

(c) What is the total amount collected from this charge at New Delhi ?

(d) What steps do Government propose to take to free the duftaries at New Delhi from the burden of this charge ?

The Honourable Mr. A. C. McWatters : (a) No conservancy charges are levied from duftaries by the Health Department in New Delhi.

(b) No charge is levied from the duftaries in Simla.

(c) and (d). Do not arise.

GRANT OF FAMILY TRAVELLING ALLOWANCE TO DUFTARIES DURING THE MOVES OF THE GOVERNMENT OF INDIA BETWEEN SIMLA AND DELHI.

277. ***Mr. N. M. Joshi :** Will Government be pleased to state :

(a) Whether the duftaries are not given travelling allowance for their families during the move of the Government between Simla and Delhi ;

(b) Why is this allowance denied to duftaries ; and

(c) When do they propose to arrive at a favourable decision in the matter ?

The Honourable Mr. J. Orerar : (a) The position is as stated.

(b) The terms of their appointment do not include the concession.

(c) The matter is receiving consideration and a decision is likely to be reached shortly.

Mr. N. M. Joshi : May I ask why this distinction was made, that the higher officers should get travelling allowances, while menials do not get any travelling allowance ?

The Honourable Mr. J. Orerar : As I informed the Honourable Member, the terms of the appointment of duftaries do not include the question of travelling allowance. The matter is now being examined and we hope a decision will shortly be reached.

CONSTRUCTION OF FAMILY QUARTERS FOR DUFTARIES IN SIMLA.

278. ***Mr. N. M. Joshi :** Will Government be pleased to state :

(a) whether duftaries in the Imperial Secretariat at Simla are not provided with family quarters in Simla ;

(b) what they propose to do to remove the inconvenience ; and

(c) when the inconvenience will be removed ?

The Honourable Mr. A. C. McWatters : (a) There are no quarters that can be strictly described as family quarters. As a matter of fact, there are no quarters specially set aside for duftaries nor are there any quarters definitely marked as "single" or "married". The quarters intended for this class of men are generally known as menials' quarters. These are allotted to various Departments and offices of the Government of India on a *pro rata* basis and it is left to the Departments to put single or married men in the quarters allotted to each, according to the number which each quarter can accommodate.

(b) and (c). These do not strictly arise ; but I would add for the information of the Honourable Member that Government do not contemplate the construction of further quarters.

Mr. B. Das : Will it hamper the Government much if they spend a lakh or two in building quarters for these menials ?

The Honourable Mr. A. C. McWatters : The question is as regards the number of quarters, not as regards their quality.

Mr. N. M. Joshi : May I ask whether Government are aware that in 1924, Sir Alexander Muddiman replied that the question was under consideration and the matter had not been lost sight of by Government and whether in two years' time the Government have come to any decision on the point ?

The Honourable Mr. A. C. McWatters : Yes, Sir ; I was aware of that and I gave the Government's decision that they did not consider the building of any further quarters necessary. I may add that the proportion of quarters relatively to the number of men is greater in the case of duftaries than in regard to other classes of Government servants.

HOURS OF WORK OF DUFTARIES IN THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

279. ***Mr. N. M. Joshi :** Will Government be pleased to state :

(a) Whether an office order has been issued in the office of the Director General of Post and Telegraph Department increasing the hours of work of the duftaries in that office to 8 instead of 6 ?

(b) Whether they propose to take steps to reconsider the order and rescind it ?

The Honourable Mr. A. C. McWatters : (a) An office order has been issued limiting the hours of working duftaries to 8 hours.

(b) Government are not prepared to take the action suggested.

- (1) HOURS OF WORK OF DUFTARIES IN THE GOVERNMENT OF INDIA OFFICES.
(2) LOCATION OF THE GOVERNMENT OF INDIA OFFICES IN DELHI.

280. ***Mr. N. M. Joshi :** Will Government be pleased to lay on the table a copy of any orders issued (a) on the fixing of office hours of the duftaries of the Government of India (attached and subordinate offices) both in Simla and Delhi and in summer and winter and (b) about the permanent location in Delhi of the attached and permanent Departments ?

The Honourable Mr. J. Orerar : (a) The question of office hours is, within limits, one for each Department to decide for itself, but ordinarily the hours of attendance are so fixed as to apply to all members of the staff, including duftaries.

(b) The Honourable Member is referred to the answer which I gave on the 15th February, 1928, to Mr. Kelkar's question No. 93.

Maulvi Muhammad Yakub : May I know what is the number of the Honourable Member's august association of duftaries ?

The Honourable Mr. J. Orerar : I would ask the Honourable Member to give me notice of that question.

ACCIDENT IN THE MEDIDHI COLLIERY.

281. ***Mr. N. M. Joshi :** Will Government be pleased to state :

(a) The number of persons killed, (b) and persons injured in the accident that took place in the Medidhi Colliery on the 9th April 1928 ?

(b) Will Government be pleased to publish the report of the Chief Inspector of Mines and of the enquiry made under the Indian Mines Act ?

The Honourable Mr. A. C. McWatters : (a) Six persons were killed and forty persons were injured.

(b) Government have received no report of the formal inquiry made by the Chief Inspector of Mines. Section 22 of the Mines Act entrusts the Local Government with the responsibility of deciding whether the report of the Court of Enquiry should be published or not, and the Government of India understand that no decision has yet been reached.

Mr. N. M. Joshi : May I ask whether it is not the responsibility of the Government of India, which is responsible for the industry of mines, to receive the report on this incident ?

The Honourable Mr. A. C. McWatters : The report of the Chief Inspector was made to the Local Government and it was on the basis of that report that under the statutory powers entrusted to them they ordered a court of inquiry. We shall receive from the Local Government that report with their comments on it, and I would ask the Honourable Member to await until the Government of India receive the Local Government's comments, and they will certainly then decide what further action, if any, is necessary. I should like to add that this was a very serious accident and the Government of India share with the Honourable Member his concern at so serious an accident happening and they will examine very carefully what changes in regulations or other changes may be necessary when they receive the report.

ACCIDENT IN THE MEDIDHI COLLIERY.

282. ***Mr. N. M. Joshi :** (a) Is it a fact that some time before the accident took place in the Medidhi Colliery the Manager had warned the Chief Mining Engineer of the imminence of the danger ?

(b) Is it a fact that no immediate steps were taken to warn the persons of the danger ?

The Honourable Mr. A. C. McWatters : (a) The Manager made no report to the effect that danger was imminent.

(b) Yes.

ACCIDENT IN THE MEDIDHI COLLIERY.

283. ***Mr. N. M. Joshi :** Is it a fact that after the Medidhi accident during the inspection by the Additional Deputy Magistrate in the evening, Mr. Pierce, the Manager, had told him that he had sent a report regarding the accident to the Magistrate's office in the morning but when after the inspection the Magistrate went to the Manager's office, he found the Manager hastily drafting the report ?

The Honourable Mr. A. C. McWatters : It has been ascertained that though the Manager told the Additional Deputy Commissioner on the day of the accident that he had that day sent in a notice of the accident, that officer did not receive a notice till the next day. Government have no information concerning the incident referred to in the latter part of the question.

Mr. N. M. Joshi : May I ask whether Government will inquire about the incident ?

The Honourable Mr. A. C. McWatters : I think, Sir, this will be dealt with in the report of the court of inquiry.

REPRESENTATION OF WORKERS AT ENQUIRIES INTO ACCIDENTS IN MINES.

284. ***Mr. N. M. Joshi :** (a) Is it a fact that in the statutory enquiry made after the Medidhi accident there was an assessor associated to represent the employers but there was no assessor to represent the workers ?

(b) Is it a fact that the Indian Colliery Employees' Association was allowed to watch the proceedings, but its representatives were not allowed to ask questions ?

(c) Will Government be pleased to state whether they propose to amend the Indian Mines Act, providing for the representation of workers through the Indian Colliery Employees' Association during such enquiries ?

The Honourable Mr. A. C. McWatters : (a) Section 21 of the Act requires the appointment of a person or persons possessing legal or special knowledge to act as assessor or assessors. Two such persons were appointed to act as assessors in this case and neither of them acted in a representative capacity.

(b) The representatives of the Indian Colliery Employees' Association were not allowed to question witnesses, but they were permitted to suggest questions to the Court of Enquiry.

(c) Government do not consider it desirable to undertake legislation for the purpose of securing representation for a particular association, but I shall consider whether other steps should be taken to ensure the representation of interests which are directly concerned in inquiries of this character.

(1) LABOUR LEGISLATION.

(2) REVIVAL OF THE LABOUR BUREAU IN THE DEPARTMENT OF INDUSTRIES AND LABOUR.

285. *Mr. N. M. Joshi : (a) Is it a fact that the consideration of several questions for legislation is delayed in the Government of India ?

(b) Is it a fact that some years back the Government of India had abolished the Labour Bureau in the Department of Industries ?

(c) Has the Government any intention to revive the Bureau for the prompt disposal of questions regarding labour legislation ?

The Honourable Mr. A. C. McWatters : (a) I take it that the Honourable Member is referring to labour legislation. The progress in dealing with questions falling under this head has not always been as rapid as the Government of India would have liked, but as the Honourable Member is aware, it is ordinarily necessary to consult a large number of interests in cases of this kind.

(b) Yes.

(c) Not at present.

Mr. N. M. Joshi : May I ask, Sir, whether Government propose to strengthen their staff which looks after questions of labour legislation ?

The Honourable Mr. A. C. McWatters : I have replied to the Honourable Member as regards the bureau, but I may also say that at present there are no proposals for increase of staff.

Mr. N. M. Joshi : When will Government consider such proposals ?

The Honourable Mr. A. C. McWatters : Government will certainly consider the question—but of course it is a matter also for the Finance Department and for my Honourable friend Sir Bhupendra Nath Mitra to consider.

Mr. N. M. Joshi : May I ask whether Government are satisfied about the consideration of these questions and their disposal ?

The Honourable Mr. A. C. McWatters : No, Sir. The Government are not entirely satisfied, but as I have explained the delays are not by any means all with the Government of India ; they are largely due to the size of the country, the different conditions in the different provinces and the necessity for consulting a large number of interests, which make labour legislation in India a longer process than it would be in a smaller country.

Mr. N. M. Joshi : May I ask whether Government are prepared to consider to what extent the delay is due to the fact that they have not got sufficient staff at their disposal to consider these questions ?

The Honourable Mr. A. C. McWatters : I think that the Industries and Labour Department would be delighted to increase their staff.

The Honourable Sir Bhupendra Nath Mitra : I should like to add to what has fallen from my Honourable colleague that the eve of the reform of the existing constitution would, from the point of view of the Finance Department, be a most inappropriate time for adding to the establishment of the Industries Department.

Mr. N. M. Joshi : May I ask, Sir, whether the Government of India think that labour legislation should wait for the new reforms which some people think are coming ?

The Honourable Sir Bhupendra Nath Mitra : The Government of India cannot obviously offer any opinion on the subject.

CONVICTION OF THE ACTING TRAFFIC MANAGER OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY OF A CRIMINAL OFFENCE.

286. ***Mr. N. M. Joshi :** (a) Has the attention of Government been drawn to the fact that the Acting Traffic Manager of the Madras and Southern Mahratta Railway was recently convicted of a criminal offence and that he was fined Rs. 30 by a Magistrate ?

(b) Will Government be pleased to state whether this person will still be retained in the railway service ?

(c) If the reply to (b) is in the affirmative will Government be pleased to state what departmental notice of the offence of this person will be taken by the Government ?

Mr. A. A. L. Parsons : (a) Yes.

(b) Government understand that there is no question of his leaving the service of the Madras and Southern Mahratta Railway Company.

(c) None. The officer in question is not serving under Government. The offence appears to have been an entirely trivial one of pushing two men out of his office, and seems to have been adequately dealt with by the Presidency Magistrate.

Mr. N. M. Joshi : May I ask whether Government do not consider it to be necessary to deal with an officer who was convicted in a criminal court ?

Mr. A. A. L. Parsons : I have nothing to add to my previous reply. The Presidency Magistrate seems, without the intervention of Government, to have dealt with the offence, such as it was, quite adequately.

GRIEVANCES OF GUARDS ON THE SOUTH INDIAN RAILWAY.

287. ***Mr. N. M. Joshi :** (a) Has the attention of the Government been drawn to the series of articles on the grievances of railway guards on the South Indian Railway in the July, August and September issues of the Indian Railway Magazine ?

(b) Is it a fact that guards when they reach the maximum of their grade are not promoted to the higher grade even if there are vacancies but are made to work higher class trains with the pay of the lower grade ?

(c) Is it a fact that when they work the trains that are to be worked by a higher class guard, they are not even paid an acting allowance ?

(d) Is it a fact that cash carrying trains have, under the rule, to be worked only by second class guards but that they are now being worked by third class guards on the South Indian Railway ?

(e) Is it a fact that when a guard after some years of service seeks a change to a stationary life like that of a station master he is asked to accept a lower salary ?

Mr. A. A. L. Parsons : (a) Government have not seen the articles referred to.

(b) The Agent informs me that on the South Indian Railway guards are promoted in accordance with seniority when vacancies occur in the higher grades. No special arrangement as to allotment exists except that mail and express trains are worked by first class guards. Long distance passenger trains are generally worked by second class guards and local trains by third and fourth class guards.

(c) The position is that acting arrangements are not generally made as the cadre in each class provides for relief.

(d) The practice is for the second class guards to work trains carrying cash on the main line, and third class guards to work such trains only on a few short branch lines.

(e) If guards of their own accord ask for such a change, and it is found possible to meet their wishes, they are transferred only on the pay drawn by their contemporaries in the grade to which they are transferred so as to avoid supersession of those already in that grade.

OVERWORKED GUARDS ON THE SOUTH INDIAN RAILWAY.

288. ***Mr. N. M. Joshi :** (a) Will the Government be pleased to state the number of second class guards that used to work the section between Tinnevely and Trivandram in 1924 and in 1927 ?

(b) Is it a fact that there has been an all round reduction in the number of guards and that it has led to considerable overwork of the existing staff ?

(c) Is it a fact that guards on the South Indian Railway have to work 12 hours in the day and are able to stop in their homes only three nights out of the nine ?

Mr. A. A. L. Parsons : (a) Three in both years.

(b) No.

(c) Guards' runs ordinarily extend only to 8 hours. Where they exceed 8 hours adequate rest is provided. They are generally given one day's continuous rest in a week in addition to rest at headquarters and outstations averaging 63 and 42 hours respectively during the week.

TREATMENT OF INDIAN GUARDS AND DRIVERS ON THE SOUTH INDIAN RAILWAY.

289. ***Mr. N. M. Joshi :** (a) Will the Government be pleased to state if it is a fact that Indian guards on the South Indian Railway are not provided with decent running bangalows at terminal stations ?

(b) Is it a fact that there are no running bangalows at Madras, Chinglepet, Katpadi, Mayavaram, Tanjore, Trichinopoly, Erode and Madura ?

(c) Is it a fact that what is called a running bungalow at Shenootta is a bunk made of an old third class carriage and that it is unlit, unswept and has neither cook nor call boy (to wake up the sleeper when he has to go to work during the night) and that this bunk has to be used by guards from Tinnevely, Virudhunagar and Quilon ?

(d) Is it a fact that running bangalows provided for Anglo-Indian drivers on the South Indian Railway are provided with cots, wash basins, call boys and cooks ?

(e) Do Government propose to issue instructions to the South Indian Railway to give to the Indian drivers and guards the same amenities as are provided for the Anglo-Indians ?

Mr. A. A. L. Parsons : Government are not aware of the position, but have sent a copy of the Honourable Member's question to the Agent of the South Indian Railway in order that his attention may be called to the matter.

DIFFICULTY IN OBTAINING LEAVE BY GUARDS ON THE SOUTH INDIAN RAILWAY.

290. ***Mr. N. M. Joshi** : (a) Will the Government be pleased to state if it is a fact that apothecaries on the South Indian Railway are instructed not to place more than a certain number of employees on the sick list ?

(b) If so, do Government think that attacks of sickness could be governed by mechanical rules framed by the Agents ?

(c) Is it a fact that there is a rule on the Northern Division of the South Indian Railway that only one guard can be on long leave and only one on short leave and that if a third man applies for leave, the station-master through whom applications for leave have to be forwarded can refuse to forward them to the Divisional Superintendent ?

(d) Is it a fact that when leave is sanctioned he is told that he will be allowed to avail himself of the same "in the term when relief is available" ?

(e) Is it a fact that if sanctioned leave is not availed of within three months, a fresh application has to be put in, even though the three months' delay is due to the fact that relief has not been available ?

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

(b) Does not arise.

(c) There is no such rule.

(d) Staff granted leave are relieved as soon as some one is available to take their place. The Honourable Member will realise that it is not always possible to say at the time a leave application is being considered on exactly what date relief will be available.

(e) No.

ALLEGED WRONGFUL CONFINEMENT OF WORKMEN OF THE SOUTH INDIAN RAILWAY BY THE FOREMAN AT GOLDEN ROCK.

291. ***Mr. N. M. Joshi** : (a) Has the attention of the Government been drawn to an article entitled "Highhandedness" at p. 215 of the Indian Railway Magazine in its issue of November-December ?

(b) Is it a fact that the District Magistrate of Trichinopoly found on appeal by a workman that the workmen of the South Indian Railway Workshop at Golden Rock were locked in and wrongfully confined by the foreman ?

(c) Will the Government be pleased to state if any and, if so, what action has been taken against the foreman concerned ?

Mr. A. A. L. Parsons : (a) Government have not seen this article but have ascertained the facts from the Agent of the South Indian Railway.

(b) No.

(c) No action has been taken against the foreman.

DEFECTIVE BLOCK INSTRUMENTS IN USE ON THE SOUTH INDIAN RAILWAY.

292. ***Mr. N. M. Joshi :** (a) Has the attention of the Government been drawn to an article entitled "How my loyalty has been rewarded" at page 217 of the Indian Railway Magazine in its issue of November-December 1927 ?

(b) Is it a fact that the block instruments in use on the South Indian Railway permit of the extraction of any number of keys without reference to the adjacent station ?

(c) Is it a fact that Mr. N. Ranganatham Pillai, an *ex-employee* of the South Indian Railway, wrote to the Senior Government Inspector of Railways pointing out this defect and asking for an opportunity to demonstrate it ?

(d) Is it a fact that the Senior Government Inspector did not look into the matter promptly nor even gave an audience to Mr. Ranganatham Pillai when he proceeded all the way to Podanur to meet the Senior Government Inspector ?

(e) Is it a fact that Mr. Ranganatham Pillai demonstrated the truth of his allegations before the Senior Government Inspector, Agent and other high officials ?

(f) Is it a fact that the Senior Government Inspector sent a reply to Mr. Ranganatham Pillai acknowledging therein "you have thereby certainly rendered to the public and Government good service" ?

(g) Is it a fact that the Senior Government Inspector in the same letter warned Mr. Ranganatham Pillai that he renders himself liable to transportation for life ?

(h) Is it a fact that Mr. Ranganatham Pillai wrote a subsequent letter to the Senior Government Inspector stating that though the block instruments are now supposed to have been altered and improved, the very same defect still exists and that he will be prepared to demonstrate the same once again ?

(i) Is it a fact that the Senior Government Inspector has not up to now asked Mr. Ranganatham Pillai to demonstrate the truth of his allegations ?

(j) Is it a fact that the same type of block instruments, alleged to be defective, are being supplied to all the new stations on the Villipuram-Vridhachalam Railway ?

(k) Will the Government be pleased to state how many accidents on the South Indian Railway were the result of defective operation of block instruments in the last year ?

(l) Do Government propose to issue instructions to the South Indian Railway and to the Senior Government Inspector to take immediate steps

to remedy the defects pointed out by Mr. Ranganatham Pillai and to award him a reward for his services ?

Mr. A. A. L. Parsons : (a) I have not been able to get hold of a copy of this back number of the Indian Railway Magazine.

(b) to (l). The Railway Board are asking the Senior Government Inspector to let them have a report. I will let the Honourable Member know the result.

STATEMENT OF BUSINESS.

The Honourable Mr. J. Crerar (Leader of the House) : Sir, with
 12 NOON. your permission I desire to make a statement as to the probable course of Government business during the next week. As originally directed by you, Sir, the House should sit to transact Government business on Monday, the 10th, and Wednesday, the 12th. If the House accepts my motion for taking into consideration the Public Safety Bill on Monday, the 10th, we may anticipate that the detailed consideration of the clauses and the motion for passing the Bill will occupy the greater part of Wednesday, the 12th. On the other hand, should the House accept the motion to refer the Bill to a Select Committee with instructions to report within three days in accordance with the motion of which my friend, Sir Hari Singh Gour, has given notice, you, Sir, have kindly agreed to transfer the sitting of Wednesday, the 12th, to Friday, the 14th, in order to leave Wednesday, the 12th, available for the sitting of the Select Committee. Other Government Bills, which it is hoped to advance on Wednesday or Friday, as the case may be, are as follows :

The Trade Unions (Amendment) Bill,
 The Indian Succession (Amendment) Bill,
 The Repealing and Amending Bill,
 The Match Industry (Protection) Bill,
 The Income-tax (Amendment) Bill,
 The Madras Salt (Amendment) Bill, and
 The Bill to amend section 505 of the Indian Penal Code.

In respect of all these it is proposed to make motions for consideration and passing. A motion for leave to introduce a Bill to amend the Patents and Designs Act will be made on the same day and a motion to refer to Select Committee the Trade Disputes Bill will also be made if time allows. Tuesday, the 11th, is allotted for non-official Resolutions and Thursday, the 13th, is allotted for non-official Bills.

PETITIONS RELATING TO THE HINDU CHILD MARRIAGE BILL.

Rai Sahib Harbilas Sarda (Ajmer-Merwara : General) : Sir, under Standing Order 78, I beg to present 90 petitions signed by.....

***Mr. Lalchand Navalrai** (Sind : Non-Muhammadan Rural) : Sir, I rise on a point of order. It is a question of principle, and I feel I must raise it. This Bill as well as the other Bills have not been served on me....

*Speech not corrected by the Honourable Member.

Mr. President : We have not reached those Bills yet. I have called on Rai Sahib Harbilas Sarda to present certain petitions.

Rai Sahib Harbilas Sarda : Sir, under Standing Order 78, I beg to present 90 petitions signed by 2,700 women of the Bombay Presidency to regulate marriages of children amongst the Hindus, which was introduced in this Assembly on the 1st February 1927.

THE CHILD MARRIAGE RESTRAINT BILL.

***Rai Sahib Harbilas Sarda (Ajmer-Merwara : General) :** Sir, I rise to move that the Bill to regulate marriages of children amongst the Hindus, as reported by the Select Committee, be re-committed to the Select Committee, with the addition of the names of Mr. Birla, Pandit Nilakantha Das, Mr. Shillidy, Pandit Thakurdas Bhargava, and Mr. Yusuf Imam, with instructions to report within three days, and that the motion for the consideration of the Bill be the item on the agenda of the 20th September, 1928.

***Mr. Lalchand Navalrai :** Sir, I rise to a point of order. Sir, this Bill as well as the other Bills have not been made available to me within three days.....

Mr. President : The Bill has been before the country for over a year now, and I am surprised that the Honourable Member should get up in this House and say that he has not received a copy.

***Mr. Lalchand Navalrai :** I beg to say, Sir, that although this Bill has been before the country for such a long time, it has not been served on me after I was gazetted. I was elected only very recently, and it has not been served on me three days before now. Under Standing Order 38, the Bill has to be served on every Member after it is introduced or on any subsequent day. Standing Order 38 reads thus :

“ When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely :

- (a) that it be taken into consideration by the Assembly either at once or at some future day to be then specified ; or
- (b) that it be referred to a Select Committee ; or
- (c) that it be circulated for the purpose of eliciting opinion :

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for three days before the day on which the motion is made.....”

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Available to whom ?

***Mr. Lalchand Navalrai :** Available to the Member.

Sir Hari Singh Gour : To the Members.

***Mr. Lalchand Navalrai :** Available to the Member or Members. I used the words “ Member or Members ”.

Now, Sir, even yesterday I tried to get a copy of this Bill because our papers reach Longwood late, at 10 P.M., but I did not get a copy. I asked some of my friends if they had got copies of the Bill, and they said they

[Mr. Lalchand Navalrai.]

also had not got any copies. When I came here I saw copies of these Bills this morning. Under these circumstances, I submit, Sir, that under Rule 38 it has not been served on me at least three days before now. Of course, the President has the power to suspend the Standing Order ; otherwise I am entitled to object to this Bill being proceeded with.

Mr. S. Srinivasa Iyengar (Madras City : Non-Muhammadan Urban) : Sir, the objection just raised by my friend is wholly unsustainable. The rule relating to the three days' notice of Bills before being taken into consideration is contained in Standing Order 38, but that applies only where the Report of the Select Committee on a Bill has not been presented. Now, the procedure regarding this Bill is governed not by Standing Order 38, but by Standing Order 44, as on this Bill a Select Committee has presented a Report. The exception as to want of notice is contained in Standing Order 38 and not in Standing Order 44, and I therefore submit, Sir, that the objection altogether fails.

Mr. President : Has the Honourable Member got anything to say to the arguments of Mr. Iyengar ?

***Mr. Lalchand Navalrai** : I am just reading Standing Order 44, Sir. There has been no final Report of the Select Committee, on this Bill. On the contrary after the Bill had gone through the Select Committee, the Report has not been circulated.....

Mr. President : Order, order. The Report of the Select Committee was formally presented to this House, and the Honourable Member is not entitled to say that there was no formal Report of the Select Committee. The Standing Order on which the Honourable Member relies does not apply to this case and therefore I must rule him out.

Rai Sahib Harbilas Sarda : Sir.....

Mr. President : The motion which the Honourable Member moves is quite different from the motion which stands in his name in the order paper. Will he read his motion once again ?

***Rai Sahib Harbilas Sarda** : The additional members are Mr. Birla, Pandit Nilakantha Das, Mr. Shillidy, Pandit Thakurdas Bhargava, and Mr. Yusuf Imam.

Mr. President : Will the Honourable Member read the whole motion ?

***Rai Sahib Harbilas Sarda** : I beg to move, Sir, that the Bill to regulate marriages of children among the Hindus, as reported by the Select Committee, be recommitted to the whole Select Committee, with the addition of Mr. Birla, Mr. Nilakantha Das, Mr. Shillidy, Pandit Thakurdas Bhargava, and Mr. Yusuf Imam, with instructions to report within three days, and that the motion to take into consideration be the first item on the 20th September.

Mr. President : That is not on the paper.

***Rai Sahib Harbilas Sarda** : I have added certain names, Sir. The motion on the agenda is that the Bill to regulate marriages of children among the Hindus, as reported by the Select Committee, be recommitted to the Select Committee.

Mr. President : That is all right. So far the Honourable Member is perfectly in order. The rest may come in by way of amendments.

***Rai Sahib Harbilas Sarda :** Very well, Sir. My object in making the motion is that, while the provisions of Standing Order 38 are fulfilled, this motion may come before this Session of the Assembly. The matter has been before this House for nearly two years. This Bill has been circulated twice, once by executive order, and again after amendment by the House, and it has been discussed and debated from all points of view and in all its aspects. I therefore request that, now that the Bill has been fully thrashed out, the Select Committee may consider the Bill and report it for the consideration of this House this Session.

Mr. President : If the Honourable Member was really in earnest about his motion he should have moved for the consideration of the Bill.

Motion moved :

“ That the Bill to regulate marriages of children amongst the Hindus, as reported by the Select Committee, be recommitted to the Select Committee ”.

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : Will you kindly permit me, Sir, to propose an amendment—

- (a) that the number of members necessary for the quorum should be 5,
- (b) that the report should be presented within 3 days,
- (c) that it should be considered as the first item on the 20th September, and
- (d) that the addition of the names of Mr. Birla, Mr. Nilakantha Das, Mr. Shillidy, Pandit Thakurdas Bhargava, and Mr. Yusuf Imam, be accepted by the House.

Mr. President : Will the Honourable Member pass on his amendment to the Chair ?

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : Sir, I feel it my duty to make a few observations before I give any intelligent vote on the motion before the House, and I hope you will permit me to do so. It will just take a very few minutes and I will try to confine my observations to making my suggestions—I beg your pardon, Sir, my very humble suggestions in the hope that the Select Committee may bear them in mind at the time when they reconsider the Bill when it is recommitted to them, as I take it this motion requires. I am aware, Sir, that I am a mere humble Member of this House (*Cries of “No”*) and I am not a gifted speaker and I do not emulate the polished periods of my friend, Munshi Iswar Saran there. I know I have already made myself odious to some, though I am not guilty, I am not conscious of it. But my good friend, Mr. Birla, said last time that there was a fight between two leaders, than which nothing can be farther from the truth. I am very sorry and that is why I say I am here, Sir, I as a plain blunt man, loving my country perhaps more deeply than wisely; and it is my love for my country that makes me sound a note of warning. It is not that I do not want reforms; but I want sound, well-thought-out reforms; and therefore I make these few suggestions, as I regard it a duty I owe to my country.

* Speech not corrected by the Honourable Member.

[Mr. M. K. Acharya.]

I want first of all that the Select Committee should realise how they have altered the old Bill to whose principles they were committed. The first Bill that was introduced by my friend Rai Sahib Harbilas Sarda last year in this very place and to which I in my own humble way gave my hearty support, was of an entirely different character; and I believe it is only to the principle of that Bill that we are committed and not to the principle, as I consider it, to the altered principle of the Bill as it came from the Select Committee. Sir, I beg to point out that the principle of the original Bill, the express object of the original Bill, was to regulate the marriages of children amongst Hindus. The principle was only such regulation; and the method by which it tried to do so—I am simply mentioning the fact—the method proposed by the original Bill was to make marriages under certain ages invalid. The original Bill recognised what the Select Committee's revised draft does not recognise, that such invalid legislation would be considered by certain communities as interfering with their religion; and therefore the original Bill went up to His Excellency the Governor General in Council; and got his sanction under section 67 (2) B because, in the words of that section, it was a legislative measure "affecting the religion or the religious rights and usages of any class or community in India." It was recognised that the sanction of His Excellency was therefore necessary. It was unfortunate that later on the point seems to have been completely overlooked. It seems to be imagined that it is not a matter affecting religious rights. I am not against affecting any kind of religious custom whatever; but let us realise the truth of the fact that this is a measure affecting the religious customs of a large number of people. And the original Bill said therefore in the provisions of the Bill that it would make an exception; and it provided that in the case of those who had conscientious objections, that they could go to a magistrate and get a licence. These words were in the original Bill because it recognised, I repeat, that there were conscientious objectors to the measure. And therefore I supported the Bill because, as to the subject matter of the Bill, I am still as much in favour as ever I was. I fear that my friend Rai Sahib Harbilas Sarda must feel very very ill grateful to his friends on the Select Committee. They have turned his Bill, shaken its root and branch, and have produced a Bill which is utterly different from his original Bill. The new Bill is not to regulate marriages or to prevent child marriages. What does the title of the new Bill say ?.....

Mr. President : Order, order. Will the Honourable Member give me one minute ? The Honourable Member from the Punjab has just passed on to me his notice of amendment. There are four clauses to that amendment. The first part deals with the question of quorum. That question has already been decided by this House when the Select Committee was appointed. The Bill is being recommitted to the same Select Committee of which the quorum has been fixed, and therefore that part is unnecessary.

Lala Lajpat Rai : All right, Sir.

Mr. President : With regard to the second part, which now becomes the first, viz., "that the Select Committee should report within three days", I rule that it is in order. The third, which would be the second

if admitted, wants that the Select Committee Report be considered as the first item on the agenda of the 20th September. With regard to that, I should like to hear the Honourable Member. It seems to me that the precedence of Bills to be placed on the agenda is determined by the Standing Orders. Standing Order 7A says:

“ The relative precedence of Bills falling under the same clause of sub-order 2 shall be determined by ballot to be held at such time and in such manner as the President may direct ”.

The procedure regarding ballot has also been laid down by the President and I do not know how by any amendment you can get round the Standing Order which lays down the precedence of Bills to be placed on the agenda.

Lala Lajpat Rai : I stand corrected on that point. I thought that the President could give us a special day by considering that it is a postponement of to-day's business to another day.

Mr. President : The President has no power to give any day. It is the Governor General who can do so.

Lala Lajpat Rai : Very well, Sir. I withdraw that clause.

Mr. President : Then that goes out, and the fourth clause which now becomes the second, is, that the following members be added to the Select Committee :

“ Mr. Birla, Mr. Yusuf Imam, Mr. Abdul Haye, Mr. Thakurdas Bhargava, Mr. Shilidy, Mr. Nilakantha Das and Mr. Rafique ”.

There are now only two parts left : (1) that the Select Committee do report within three days and (2) that certain names be added to the Select Committee.

Mr. M. K. Acharya : As I was saying, Sir, the Bill as reported by the Select Committee and sent up to this House is different from the old Bill ; and I hope when it goes back to the Select Committee and comes up a second time, it will be changed in some very important points. I beg to point out, Sir, that the title of the Bill as reported by the Select Committee is to “ restrain the solemnisation of child marriages ”. It is not to prevent child marriages. It is not to bring about healthy social reform. It seems to be vindictive against those who are bold enough to come out openly and solemnise child marriages. In fact, my good friend, Diwan Chaman Lall, has stated that the punishment should be deterrent—something which would strike terror into the heart of those who celebrate the marriage of their girls before 14 or 16. He says practically the punishment must be vindictive. Now, Sir, the object is to restrain solemnisation of child marriages. There is no objection to child marriage. The objection is to the solemnisation, that is, to the sacramental character of it, which in my humble opinion, speaking seriously, this House cannot interfere with. It is the sacramental character of it, the religious character of it, which to a Hindu is far more valuable than even his life. I beg to point out that neither the Select Committee nor this House has any business to interfere with it. But that is the wording which the very learned, talented, gifted members of the Select Committee have chosen. They have stated that the solemnisation of child marriages shall be restrained. I put the question. Supposing there is no solemnisation, but a boy of 17 and a girl of 13 live together as man and wife ? People in America, we are told, do so, by the author of “ *Companionate Marriages* ”. Supposing a boy of 17 and a

[Mr. M. K. Acharya.]

girl of 13 live together as man and wife. They do not solemnise the marriage. They will take care that they do not. Will this Bill touch them? Are we to promote such things? Secondly, what will happen to the many boys below 18 and many girls below 13 who are now married? The girl attains her puberty, and I suppose she will go and live with her husband in her 13th year. Will this Bill touch them? There will be thousands of such girls going and living with their husbands as wives. There is no new solemnisation. All that has taken place already. But this Bill, this very wise Bill, drafted by this very talented Committee—of “all talents” that is—does not take any account of these cases. If a man says that his girl of 11 or 12 should be betrothed, though there will be no true marriage in the sense the lover wants it, there is absolutely no provision in this Bill to help that man over his conscientious objections. All that this Bill says is: “You cannot solemnise the marriage. If you are so particular, you can allow your girl and the bridegroom-elect to live together, but this Bill shall not allow solemnisation. If any man dare come and take any part in the marriage—beware of imprisonment, fine and things of that kind!” Is this the kind of legislation which is to be introduced in this country, the country of the sages, where for millions of years balanced judgment had held the day and ruled the world? (Laughter). You can laugh it away but I am very much afraid of what is going to happen. And then comes, Sir, the penalty. The Select Committee have not invalidated the marriage, but the boy is to be sent to jail if the girl is below 14. Is a Hindu girl going to be protected by her husband being sent to jail? Can she, will she like to divorce him? Hindu children have much better ideals than that. The Hindu girl will not only say “*Raja va rajyahino va yo me bharta sa mē prabhuh*” but also “*Sādthurvā yadī vasadhuh*”—“Prince or beggar, whoever has married me before the sacred fire, he is my Lord and my God”, nay, “whether he be guilty or guiltless, he is my Lord”. Send the husband to jail. If the wife be no social reform heroine, if she be a real Hindu girl, she will commit suicide the next day. Is that what you want to be done? Is that protecting the girl? I do not for one moment question the good intentions of my friends. But I want that their good intentions should take a really sane and proper turn. This is not protecting the girl. It is ruining the girl for life. When the boy comes back from jail, what will happen? My friend there exclaims “But why should the young man break the law and go to jail at all?” Why indeed? The Penal Code says, “Don’t thieve, don’t do this wrong thing, don’t do that”. But even learned men do it. The forbidden fruit always tastes sweet; above all self-assertion, like love, laughs at locksmiths! What will now happen if a young man marries a girl under 14? If he is a high-principled youth, and is keen, I will advise him to marry, and to take cheerfully whatever happens. A very learned and very responsible Vakil of the High Court told me just this in Madras. He has sent up a very, very good and long opinion. He told me “Let us disobey and take the consequences”.

There is thus at the very outset this difference between solemnisation of a child-marriage and the prevention of a child marriage. Prevent child marriages by every fair means, but why do you prevent solemnisation? This distinction is not purely out of the imagination of my own

superstitious brain ; for I find that the same thing has been said by, I am very glad to say he is a European, Hilton Brown, Esquire, M.A., I.C.S., Collector and District Magistrate of Salem. He says :

“ To myself the Bill, as it stands, appears unnecessary and useless both in general and particular. To begin with, in the case of some 90 per cent. of the population of India, it is superfluous, as child marriages are not practised by these communities. Further, the Bill sets out to make the solemnization or contract of child marriage a criminal offence. But what is there criminal in such acts? The mere contract or solemnization of marriage between very youthful participants can hurt nobody and indeed a marriage arranged by selection at an early age by interested and experienced persons may prove a very good thing for the protagonists and perhaps much better than the haphazard methods prevalent in the West.”

which our friend over there seeks to introduce. This is the opinion of Mr. Hilton Brown. In this connection let me parenthetically add that I am very sorry that copies of all these opinions are not available to us. I wanted to get a copy of these opinions ; and I was told that they were still in print and copies were not available. I very much wish that even though they may not be available to us, they would be available to the members of the Select Committee ; and that very careful attention would be paid to those opinions. Another opinion on the same lines is again, I am very glad to say, from a European, from the Collector of my own place, Mr. E. F. Thomas, C.I.E., I.C.S., Collector of Madras. He has written as follows :

“ In this connection, I desire to point out that several gentlemen who have given their views in the matter request that the Government should not countenance the passing of the Bill and thus interfere with the religious neutrality proclaimed by Her Majesty Queen Victoria in her gracious Proclamation of 1858. I agree with the views of these gentlemen ”.

This then is what another very responsible officer of Government had got to say. Therefore, it is not purely out of my own imagination that I object to penalising solemnisation. I do not want to read all these opinions *seriatim*, though there are several like these two. I only want the Select Committee to pay attention to these opinions. I may say that all or the majority of European Collectors in my province have dealt seriously with the question ; I am very glad to say they are Europeans—all honour be to them—they have all realised the danger ; they have consulted public opinion and they have strongly protested. I want the Select Committee to pay attention to this fact.

The first point, as I said, is that this Bill prevents not child marriages but the solemnization of child marriages, which is an entirely different thing ; and therefore it would help child marriages in secret while preventing solemnization. There are two mistakes, as I consider, which the Select Committee must rectify ; firstly, in changing the old wording from “ regulating child marriages ” into “ solemnization of child marriages ” ; and secondly, in its unwarranted change of the age contained in the original Bill from 12 to 14. When the old Bill was circulated for opinion, objection was taken to the method of invalidating the marriages. Instead of rectifying this method, this wonderful Select Committee has gone and changed the whole tenor of the Bill, and raised the age to 14 ; and they do give no reason. They say :

“ After much discussion, we decided that this age for boys should be eighteen years. For girls we considered the ages of eleven, twelve and fourteen, and finally came to the conclusion that we should adopt the age of fourteen ”.

[Mr. M. K. Acharya.]

Their explanation is this ; and it is adding insult to injury ; they say :

“ We recognise that these ages will be regarded by many people, whose opinion is entitled to great weight, as being too high ”—

very gracious of them to admit that—

“ but we also recognise that there is a strong body of opinion, particularly among those who advocate social reform, which will not willingly accept any lower age ”.

That means that the majority of the Committee have pampered to the demands of the social reform party and have simply rejected, although entitled to great weight, the opinions of others. I am aware that there is a general feeling—I myself thought so once—that marriage before 14 and 18, or girls and boys living together before those ages, was very, very injurious to the health ; that it caused a lot of diseases and so on. Of late I have been interesting myself a little bit in the question ; and with the fanaticism characteristic of an old superstitious fellow like myself, I have been trying to know what great doctors and scientific authorities on the subject of sexual intercourse had to say.

This is a matter of serious import, and I hope the House will pay due attention to it. Here is what Havelock Ellis, a recognised authority on this matter, says in his “ Studies in the Psychology of Sex ”. (*An Honourable Member* : “ Is it psychology or biology ? ”). It is psychology, biology, philosophy, all put together as far as I can see. Any way the title of the book is “ Studies in the Psychology of Sex ” ; and I think it is a very good title because biology obeys psychology, because the body obeys the mind and not the mind the body. Mr. Ellis says :

“ There is no proper analogy between the age of legal majority which is fixed, approximately, with reference to the ability to comprehend abstract matters of intelligence, and the age of sexual maturity which occurs much earlier, both physically as well as psychically, and is determined in women by a very precise biological event, the completion of puberty on the onset of menstruation..... The sound view in this question is clearly the view that it is the girl's puberty which constitutes the criterion of the man's criminality in sexually approaching her. In the temperate regions of Europe and North America the average age of the appearance of menstruation, the critical moment in the establishment of complete puberty, is fifteen..... The male is capable of procreating from about the age of 13 until far beyond eighty and at this advanced age the offspring even if not notable for great physical robustness may possess high intellectual qualities. The range of the procreative age in women begins earlier (sometimes at eight) though usually it ceases by fifty or earlier, in only rare cases continuing to sixty or beyond ”.

I was greatly surprised that a case was reported of a child of eight having been pregnant. (*An Honourable Member* : “ Therefore you will fix the age at 8 ”!) Not at all ! But to continue the quotation :

“ Several investigators have devoted their attention to this question. Thus, Spitta (in a Marburg Inaugural Dissertation) reviewed the clinical history of 260 labour cases in primipara of 18 and under as observed in Marburg Maternity. He found that the average health during pregnancy was not below the average of pregnant women while the mortality of the child at birth and during the following weeks and the mortality of the mother was by no means high. Picard (in a Paris thesis, 1903) has studied child birth in 38 cases below the age of 16, and he found that although the pelvis is certainly not yet fully developed in very young girls, the joints and bones are much more yielding than in the adult, so that parturition, far from being more difficult, is usually rapid and easy. The process of labour itself is essentially normal in these cases and even when abnormality occurs, it is remarkable that the patients do not suffer in the way common among older

women. The average weight of the child was 3 kilogrammes or about 6 lbs. 9 ounces. The recovery of the mother was in every case absolutely normal, and the fact that these young mothers become pregnant again more readily than primipara of a more mature age, further contributes to show that child birth below the age of 16 is in no way injurious to the mother. Gache has attended 91 cases of labours of mothers under 17 in the Rawson Hospital, Buenos Ayres ; Gache found these young mothers not more exposed than others to abortion or to other complications of pregnancy. It is clear that young mothers do remarkably well while there is no doubt whatever that they bear unusually fine infants. Klienwa'elter, indeed, found that the younger the mother, the bigger the child. It is not only physically that the child is superior. Marro has found (Puberta, p. 257) that the children of mothers under 21 are superior to those of older mothers both in conduct and intelligence provided the fathers are not too old or too young. The detailed record of individual cases confirms these results both as regards mother and child. Thus Milner records a case of pregnancy of a girl of 14. The labour pains were very mild and delivery was easy. E. B. Males of New Jersey has recorded the history reproduced in Medical Reprints of a coloured girl who became pregnant at the age of 11. She was medium size, rather tall and slender but well developed and began to menstruate at 10. She was in good health and spirits during pregnancy and able to work."

—I hope my Honourable friend Sir Hari Singh Gour will listen to this carefully. I know he takes a great interest in marriage statistics.

Sir Hari Singh Gour : Why don't you lend me a copy of your book ?

Mr. M. K. Acharya : Dealing further with this matter, this is how the quotation goes on :

" Mother and child both did well and there was a great flow of milk. Whiteside Robertson has recorded a case of pregnancy at the age of 13 of a colonial girl of British origin at Cape Colony which is notable from other points of view. During pregnancy she was anæmic and appeared to be of poor development and doubtful normal pelvic conformation. Yet delivery took place naturally at full term without difficulty or injury and the lying in period was in every way satisfactory. The baby was well proportioned and weighed 7½ pounds. The facts brought forward by obstetricians concerning the good results of early pregnancy as regards both mother and child have not yet received the attention they deserve. They are however confirmed by many general tendencies which are now fairly well recognised. The significant fact is known, for instance, that in mothers over 30 the proportions of abortions and miscarriages is twice as great as in mothers between the ages of 15 and 20, who are also superior in this respect to mothers between the ages of 20 and 30 "

(An Honourable Member : " That is only one opinion ") This is from a well-known book written by a scientific writer. He gives you so many cases and so many references. I shall be prepared to accept the opinion of one intelligent, thoughtful and selfless man as against the opinion of 350 millions of ignorant and uneducated men. That is my philosophy.

Mr. K. Ahmed : What is the practice in England ?

Mr. M. K. Acharya : The movement there is for getting rid of adult marriages and for introducing early marriages. You are now trying to introduce exactly what they are trying to get rid of in England. I am quoting again. The writer says :

" There is undoubtedly at the present time a considerable amount of prejudice against early motherhood. In part, this is due to a failure to realise that women are sexually much more precocious than men, physically as well as psychically. The difference is about 5 years. In a very large number of women the sexual impulse remains latent until aroused by a lover's caress. The youth spontaneously becomes a man ; but the maiden, as has been said, must be kissed into a woman. In women also specially, in those who live a natural and healthy life, sexual excitement also tends to occur spontaneously but by no means so frequently as in men "

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The author therefore comes to the conclusion that it is wrong, criminal, to obstruct the free flow of the erotic impulse which nature has provided for every girl ; criminal to obstruct the pure, holy and delightful kiss of the husband that will awaken her into womanhood. I will now quote from a female writer and therefore a much better authority. She is Ellen Key. She is the very famous author of the work called " Love and Marriage " which has been translated into most of the European languages and has run through several editions. She is one of the most prominent leaders of the feminine movement in the Continent of Europe and advocates free love, free divorce and motherhood without marriage. She is not an old superstitious Indian. This is what she says :

" It is evident to every thoughtful person that a real sexual morality is almost impossible without early marriage ".

(Laughter). You may laugh and laugh. Sir Hari Singh Gour and I may pass away ; but humanity is not going to pass away ; and truth shall not perish. This is the conclusion to which this lady has come. She says that real sexual morality is almost impossible without early marriage. She goes on to say :

" For, simply to refer the young to abstinence as the true solution of the problem is, as we have already maintained, a crime against the young and against the race, a crime which makes the primitive force of nature, the fire of life, into a destructive element ".

Sir Hari Singh Gour : Refer it to the Select Committee. We shall consider it there.

Mr. M. K. Acharya : I am reading this in order that the whole House and the world at large may know the facts. This Bill is a much more serious matter than any others on which you may be legislating.

Mr. N. M. Joshi : May I ask whether this book cannot be taken as read ?

Mr. President : The Honourable Member, though in a minority, is entitled to express his views, however unpalatable those views may be to the majority of Members.

Mr. M. K. Acharya : Thank you, Sir. Ellen Key writes :

" The young know, if any can know, that no form of love is more beautiful than that in which two young people find each other so early that they do not even know when their feeling was born and accompany each other through all their fortunes, sometimes even to death, for now and then life vouchsafes this crowning fortune. Never do greater possibilities exist for the happiness both of the individuals and of the race than in a love which begins so early that the two can grow together in a common development ; when they possess all the memories of youth as well as all the aims of the future in common ; when the shadow of a third has never fallen across the path of either ; when their children in turn dream of the great love they have seen radiating from their parents ".

Yet, this Legislature will intervene and take away the girl of 11 from the boy of 18, and the boy from the embrace of his married wife and send him to jail. Can you think of a greater horror ? Yes, I am writing for some copies to my friend Babu Charu Chandra Mitra of Calcutta, to whom I am indebted for these quotations ; and I hope to send a copy as soon as I get it to the Select Committee. I beg of the Select Committee to ponder more carefully on this subject. It does not matter, let it take three months, but let truth be investigated. Lala

Lajpat Rai is, I know, a lover of truth, and I beg of him not to be in such hurry to deal with the problem in 72 hours. These writings I have referred to are not of the nature of novels : these are all scientific books, not to be taken as mere novels. Therefore, Sir, let truth be sifted. I do not, Sir, for a moment question Lalaji's good intentions. Because of his good intentions I honour and I respect him ; and therefore I appeal to him to have a little patience. Let us all sift the matter, let us come to some very wise reform which will help us to keep safe our dignity and our sanity. This Select Committee has said in effect, " Several people are in favour of 12 or 13 but the larger number of votes are for fourteen, and therefore we agree with the latter ". Is this the way to sift truth ? I want the Select Committee therefore to study the whole question as to what the right age is. It is said that fifteen is the proper physiological age in temperate countries. Probably thirteen may be the right age in India and other warm countries. Of course legislation never fixes the maximum age, so that nobody is going to say that every girl should become a mother at thirteen. What I say is, " Do not rush into legislation without sufficient facts ".

Mr. B. Das : You want to fix the age at nine ?

Mr. M. K. Acharya : I want whatever is good, whatever is beneficial, whatever is in the best interests of the country. If it be fifty-five, I am prepared to accept it (Laughter).

Another point, Sir, and I am done. I want the opinions to be very very carefully sifted. We are just getting the opinions, and I am sorry that even I have not been able to tabulate them. There are heaps of memorials with thousands of signatures on them copies of which have been sent to me with the request that I might raise before you their subject matter. I am sure copies of these were sent to the Government of Madras and to the Government of India. The Government of Madras, however, never makes mention in their despatch of these huge memorials they have received. There is not a single word in their letter about these memorials. They simply state that the Legislature in Madras passed such and such a Resolution, and there is no reference made to the huge number of petitions presented to the Government of Madras and to the Government of India ; and so I beg the Government of India to place all these petitions before the Select Committee. And now, Sir, I want to say a word on the Select Committee. (Laughter). I know I am not a favourite of some here. I am sorry orthodox Hindu opinion is not adequately represented on the Select Committee. There have been only Pandit Madan Mohan Malaviya and Kumar Ganganand Sinha to represent the orthodox Hindus ; but all the rest are more or less ardent reformers. I beg that, in all fairness, this House may put in a few members who will at least sympathetically consider the orthodox opinion that may be presented among the various opinions received or any opinions that may come up through the Government hereafter ; and I appeal to the House to put some such on the Select Committee. I wanted to suggest the name of a friend of mine,

1 P.M. Mr. Belvi, or Mr. Rangaswami Iyengar. I am personally, quite willing to stand out ; for I should think twenty times before going on a Committee like this. Therefore I am not making this speech with a view to going on the Committee from which I am quite willing to be out. But I do beg of you, Sir, as the guardian, not

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only of the rights and privileges of this House, but of the rights and privileges of future generations, to kindly help us in arriving at some sane legislation. Let us not hurry through this matter, and for God's sake do not attribute personal motives to me. I know very well that social reformers have good intentions ; but good intentions as we know pave the way to a certain place—which is not Heaven, by whatever name you call it. So apart from good intentions, let us be guided by sound judgment and balanced views, verily in the interests of the children we want to protect. For after all it is a crime to suppress the erotic instincts of a girl ; and they were not fools who used the Sanskrit word " Broonahatti " in connection with the killing of the erotic instinct. Blessed are they who will not suppress nature, who will think very deeply, a thousand times before they dare thrust their artificial rules above the laws of Nature ; blessed are they who will help to bring their little children together unconsciously into those life-long unions which probably know no end even when the body passes away ; for, according to man's higher view, love is immortal ; love is divine. Let us help the growth of this higher Love. With this object, I say to this Select Committee, please endeavour to produce something which will be better than the draft which the old Select Committee in their great enthusiasm have submitted, but which a great majority of the opinion that we have got is strongly against. Defer consummation if you like till the age of 14, but do not prohibit marriage. I appeal to the members of the Committee, Sir, to do their duty not only in the interests of the hour—but in the interests of futurity, to establish sane precedents for all eternity.

Mr. President : The original motion was :

" That the Bill to regulate marriages of children amongst Hindus, as reported by the Select Committee, be recommitted to the Select Committee "

Since which the following amendment has been moved :

" At the end add the following words :

' and that the following members be added to the Select Committee : viz. Mr. G. D. Birla, Mr. Yusuf Imam, Mr. Abdul Haye, Mr. Thakurdas Bhargava, Mr. Shillidy, Mr. Nilakantha Das and Mr. Rafique, and that the Committee be instructed to present its report within three days '."

The question is that that amendment be made.

The motion was adopted.

Mr. President : The question is :

" That the Bill to regulate marriages of children amongst the Hindus, as reported by the Select Committee, be recommitted to the Select Committee, and that the following members be added to the Select Committee: Mr. G. D. Birla, Mr. Yusuf Imam, Mr. Abdul Haye, Mr. Thakurdas Bhargava, Mr. Shillidy, Mr. Nilakantha Das and Mr. Rafique, and that the Committee be instructed to present its report within three days."

The motion was adopted.

Mr. Amar Nath Dutt : I want more names to be added.

Mr. President : I am afraid the Honourable Member is now too late.

Mr. Amar Nath Dutt : I was rising when the question was put.

Mr. President : The motion has been carried by the House. I regret very much that it is not possible for me to allow the addition of any further names now.

Mr. M. K. Acharya : I thought I moved the addition of more members.

Mr. President : The Honourable Member merely made a suggestion. He did not move an amendment.

THE INDIAN DIVORCE (AMENDMENT) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move that the Bill further to amend the Indian Divorce Act be referred to a Select Committee.

I shall very briefly state to the House the reasons which have led me to sponsor this Bill. It is a Bill of a purely non-communal character, so far as the Hindus and Muhammadans are concerned, and I shall very briefly, therefore, inform all Members of this House what is the underlying principle of this measure that I ask the House to refer to Select Committee. As Honourable Members are aware, this Bill affects both Christians and non-Christians, Europeans and Indians, and for the purpose of convenience, if I may be permitted, I shall group the various communities affected by this Bill. They would comprise, first, Europeans resident in India, possessing and retaining their British domicile, that is to say, Europeans temporarily resident in India. In the second place, we have the European domiciled in India, permanently resident in India. In the third place, we have Anglo-Indians who are statutory natives of India and for all practical purposes are classed as Indians. In the fourth place, we have Indian Christians who are resident and domiciled in India. In the fifth place, we have Hindus and Brahma Samajists and other Hindu reformers who have married under the Special Marriage Act of 1872, amended or unamended, and they are also subject to the provisions of the Indian Divorce Act.

So far as the first class of persons is concerned, that is to say, the European residents of India not possessing Indian domicile, they are subject to the English law and the Indian Divorce Act and the procedure which it prescribes, namely, that its rules, regulations and practices shall be in accordance with English law, and so far as they are concerned it shall affect them. Now what is the English law on this subject ? The English law of divorce was passed something like 80 years ago, and since then the Continent of Europe, all the British Colonies and America have reformed their divorce laws. But England was the only country that lagged behind. As I have stated in the Statement of Objects and Reasons, in 1909 a very influential Royal Commission was appointed of which His Excellency Lord Reading was one of the members, but he had to resign because he was appointed as the Lord Chief Justice of England and later on as the Governor General in India. The President of the Divorce Court, Lord Gorrel, who had been presiding in the Divorce Court for twenty years, was President of the Commission, which by a majority of 9 said that the English law of divorce was an anachronism and it had not kept pace with the modern usages of other modern nations, and consequently they advocated the reform of the English law

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of divorce. In accordance with the recommendations of the Royal Commission, Lord Buckmaster, ex-Lord Chancellor of England, drafted a Bill which was introduced in the House of Lords and carried by a striking majority, but when it came to the House of Commons that popular Chamber did not find time, and the result was that Lord Buckmaster had to renew his Bill in the House of Lords for the second time. Again for a second time that Bill was carried in the House of Lords by a striking majority. Honourable Members are aware of the pronounced views of the Secretary of State for India, Lord Birkenhead. A very influential deputation of English lawyers and statesmen waited upon Mr. Baldwin, the Prime Minister of England, asking him to give facilities for the promotion of this Bill in the House of Commons. But according to the newspaper report the Prime Minister of England said that this was a controversial measure and on account of the crowded agenda of the Government, it would be impossible to find time for that Bill. The position therefore is that so far as England is concerned it remains a hundred and more years behind the other civilised communities of Europe and America in regard to the law of divorce. So far as the English people are concerned, represented as they are by members of the Upper House in England, they have given a definite and emphatic opinion in favour of reform in that direction. Honourable Members are aware that though this is the situation in England, the English Colonies of Canada, South Africa and Australia have forged ahead and modernised their law of divorce and brought it into line with that obtaining on the Continent of Europe and in America. Unfortunately, when the Indian Divorce Act was enacted, we were still regarded as a dependency and a possession of England and we borrowed *en bloc* our laws and our procedure from the English law. It so happens that in the Indian Divorce Act, though it purports to be a codification of the Indian law of divorce, we find that there is a clause which makes the English law applicable to Indian cases. Now, Sir, the position of the Indian Divorce Act therefore is that it is tied to the ancient chariot wheels of the British laws which have remained unreformed for over a century, and this country suffers from the backwardness of England in regard to marriage laws. It is a fact which is recognised by every body on the Continent and it is a by-word with persons of all civilised communities that England is the only country in the world which lags behind in this progressive legislation dealing with the law of husband and wife.

Well, Sir, I am not going to weary the House by reading to it the passages from the Report of the Royal Commission appointed to consider this question, but I will sum up the conclusions of the Royal Commission in a few words. The Royal Commission said—remember that the Judges of the Supreme Court dealing with thousands of divorce cases sat upon that Royal Commission and a great many lawyers who had to deal with divorce cases were examined as witnesses by that Commission—after examining the evidence, the Royal Commissioners permitted themselves to say that in a majority of cases, divorce in England has become a put-up job, that the honesty which should be the backbone of marriage has been divorced from these divorce proceedings, and that for the purpose of removing this lamentable anachronism from the English Statute-book it was necessary and indeed imperative that the English law of divorce should be immediately reformed.

Now, Sir, as I have said, in the Colonies because they had laws of their own they have broken themselves free from the English law and have brought their laws into conformity with the Continental and American practice ; but on account of that unfortunate provision in the Indian Divorce Act, that the English law will be followed in the matter of Indian divorces, the Indian Government have not been able to do anything to reform its Statute-book so far as this law is concerned. Sir, I have introduced this Bill with a twofold object. I feel that the time has now come when India should assert her right of legislating for her own people and should no longer be tied to the apron-strings of England, depending for her laws on that distant land. But at the same time I feel as a lawyer that I do not wish to hasten the pace of Indian legislation in a way which would in the slightest degree interfere with the vested rights of British residents in India. Speaking therefore as the author of this Bill, I wish to explain to this House how far my Bill will affect the British residents of India not domiciled here whom I have categorised as No. 1 in my classification. So far as these gentlemen are concerned, they are subject to the English law, and my intention is, Sir, if this Bill goes to Select Committee, to draw up a report and exclude them for the time being from the provisions of my Bill. The effect of that would be that the opinion of the Europeans in India would be focussed on the report of the Select Committee and I hope, Sir,

The Revd. J. C. Chatterjee : Will you exclude Indian Christians also ?

Sir Hari Singh Gour : I am coming to that. I am dealing with British people now. This report, I hope, will be perused by people in England and will serve as a further incentive for the purpose of introducing a reforming Divorce Bill in the House of Commons. That is my sole object. Now as regards the second class, namely, people who are domiciled in this country, that is to say, the European community permanently domiciled in this country, I beg to submit that there is no reason whatever why they should not bring their law into conformity with the Colonial and European practice. There is no reason whatever why in their case the provision in the Indian Divorce Act should continue, that they should follow the British law. I am going to nominate, with the permission of the House, a few Europeans on the Select Committee and if they still desire—I am speaking of the second class of people, namely, Europeans domiciled in India—if they still desire that they should be excluded from my reforming Bill I shall be prepared to do that also.

Now, Sir, I come to the permanent residents of India, the Anglo-Indians and the Indian Christians and those specially married under the Act of 1872. So far as they are concerned, they are the permanent citizens of this Empire. They have absolutely no connection with England and they are for all practical purposes in the same position as the colonists in Canada, South Africa or Australia ; and if the modern practice which obtains in those Colonies and which I wish to transfer to the Statute-book is enacted into law, I do not see how they would lose anything by it. They have on the contrary everything to gain because they will then have a self-contained Indian Statute in conformity with the usage of modern civilised nations. So far as those married under the Act of 1872 and Act XXX of 1923 are concerned, I venture to submit that they should welcome a reforming measure of this kind because on account of its natural justice it is a reform which was overdue in this

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country and has been overdue in England for several decades—if I may be permitted to add, for perhaps a century or more.

Sir, I feel fortified in pressing this motion, because when I look at the collective opinions which have been given upon my Bill I find that while there is not a single opinion which has been given against the principle of my Bill the only objection that has been raised in certain quarters is that we must await the amendment of the English law before amending our own law. That of course, I admit, is a weighty objection and if the Select Committee desire that this Bill should pend future legislation by the British House of Commons, I shall certainly not press for consideration of this Bill in this House after the Report of the Select Committee is published. Sir, I only desire to focus public opinion and so far as the first two classes of people are concerned—British residents in India and the British domiciled community in this country—I have already given them the assurance, which I repeat, that, if they so desire, the Select Committee will merely record their opinion as to the utility of this Bill in this country and await the decision of the House of Commons on the English Divorce Act. So far as the three other communities are concerned, that objection cannot apply in their case and if the Select Committee decides that their practice should be brought into conformity with the laws of other civilised people, then, Sir, I would ask the Select Committee to amend the Bill so as to limit it to those classes and come here with a much limited Bill and ask this House to pass it into law.

I hope, Sir, I have explained as clearly as I could the object I have in view and I ask the Honourable the Home Member not to oppose my motion to go to a Select Committee, because the motion is not a very ambitious one. It is a motion which commits the House to no definite views beyond the abstract principle of the Bill which has been applauded by everybody to whom the Bill has gone for opinion. I will only read one line and that will satisfy the House that what I have said is perfectly correct. The General Secretary of the European Association, writing to the Government of India on this Bill, says that while the principle of the Bill so far as it affects Europeans which I have placed in the first class, "may be supported on the grounds of natural justice, public expediency and policy" he suggests certain amendments, and the Honourable Members will find that the other communities whom we consulted also agree on the main principle of the Bill. I shall give very brief details: The Chief Commissioner, Delhi, says "I approve of the Bill". The Chief Commissioner, Coorg, is in favour of the Bill. The Associated Chambers of Commerce say they do not desire to express any views regarding the Bill: they are certainly not opposed to it. The Chief Commissioner of the North-West Frontier Province agrees with the general principles. In Assam, both official and non-official opinion is generally in favour of the Bill. In Bengal the High Court Judges say that this is a matter of policy and they have no observations to offer on the Bill. Then we have the opinion of Burma: while they agree with the principle of my Bill, they counsel awaiting the decision of the British Parliament. In the United Provinces, the Governor in Council agrees with the views of King J. that it is premature to introduce into the Indian Divorce Act controversial amendments which have not yet been enacted in England, that is to say, await the decision of the English Parliament. In Bengal the Governor in Council approves generally of the proposed Bill. In

Madras, His Excellency the Governor in Council is of opinion that the decision on Lord Buckmaster's Bill should be known before the above measure is proceeded with—Sir, I am entirely agreeable to that course. If the Select Committee decides that this measure should be taken up and passed after the House of Commons have decided that question, I am quite prepared to hang up this measure and await the decision of the House of Commons.

The Central Provinces: the Governor in Council is in favour of the Bill. All the Judges are in favour of the Bill.

Bombay : the Governor agrees with the Judges of the High Court.

Judicial Commissioners of Sind are in favour of the Bill.

Bihar : here they say that the Bill is premature, and that they must await the decision of the House of Commons.

Punjab : the Governor in Council agrees with the views expressed by Mr. Justice Addison. Mr. Justice Addison says that the Bill undoubtedly represents educated modern opinion on the subject and there is much to be said in favour of it. That is the view of the Government of the Punjab.

Then there is finally another letter from the Government of Bengal at page 24 of the compilation to which I have already adverted.

I have told the House, therefore, that in the collected compilation embodying the opinions of the various representative bodies and Governments, the unanimity is in favour of the principle of my Bill, while very weighty opinion is in favour of the view that before taking any decisive action in the matter we should await the decision of the British Parliament. Well, Sir, if this Bill goes to the Select Committee and the Select Committee publishes its Report and advises recirculation, I shall be agreeable to adopt that course, and we have very valuable opinion in this country that it would draw the attention of the people at Home to a feeling in the matter which, I submit, may bring about the acceleration of that measure which has long been pending in the British House of Commons. I therefore submit that this House should not resist the motion which I have the honour to move.

Sir, I move.

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.

Mr President : The House will now resume the further discussion of the following motion of Sir Hari Singh Gour :

“ That the Bill further to amend the Indian Divorce Act be referred to a Select Committee.”

The Honourable Mr. J. Crerar (Home Member) : Mr. President, I regret that I find it incumbent upon me to oppose this motion. I do not propose to deal with the intrinsic and fundamental merits of Sir Hari Singh Gour's Bill. In those provisions there is a great deal of which enlightened

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opinion will approve, but with these issues I do not at present propose to deal. I propose to deal with what seems to me the immediate and practical issue before the House, namely, whether it is expedient and desirable that steps should be taken to enact the provisions of the Honourable Member's Bill. As I propose to speak on, and to confine myself solely to, that narrow, though very important, issue, I do not think it will be necessary for me to detain the House at any length. I have three principal points to lay before the House for its consideration. The first relates to the present state of the law ; the second to the absence of any demand for the amendment of the law from the communities directly and immediately concerned ; and the third to the effect of a reference to a Select Committee. As regards the first point, I take it that all Honourable Members are aware that under section 7 of the Indian Divorce Act all courts in India granting reliefs under that Act are required to conform to the principles and practice of the English law in the matter. There have been anomalies in that law. In recent years they came specially into prominence and again, as Honourable Members are aware, the recent legislation carried out with a good deal of effort and labour has resulted in removing those anomalies and uncertainties. Apart from the general provision, section 7 of the Indian Divorce Act, which lays down the principles and practice which the courts generally shall adopt in the administration of the law in India, I would also remind the House that, so far as persons of English and Scottish domicile are concerned, that principle was reaffirmed in the Indian Colonial Divorce Jurisdiction Act, which provides that, in respect of persons having a Scottish or English domicile, the grounds on which a decree of dissolution of such a marriage may be granted by any of the courts having jurisdiction in India shall be those on which such decree may be granted by the High Court in England according to the law for the time being in force in England ; and any such court in exercising such jurisdiction shall act on principles and rules as nearly as may be conformable to those on which the High Court in England acts and gives relief. Now, Sir, my point is that, in the present state of affairs, we have a law in the matter which is perfectly clear, perfectly uniform and perfectly free from doubt. Now, I think it would be very undesirable, as things at present stand, to disturb that state of affairs. I will read to the House some observations passed on the Bill by an Honourable Judge of the Patna High Court which seem to me very pertinent :

" The net result of the passing of the proposed Bill of Sir Hari Singh Gour would be that Indian Courts would be granting decrees of dissolution of marriage (thus affecting status of parties which it is important to remember) on two different grounds : that is to say, to Christians (British born), who could for certain reasons claim to have an Indian domicile in the legal sense, on grounds much in advance of those for which a similar decree could be given in England at the present time, and to the same class of people, but probably officers and officials who, although resident of India, could not say that they were domiciled in the strict legal sense, on grounds the same as those (being much restricted) for which a decree would be granted in England. The Bill would not only introduce differences between the law of Divorce in England and that in India but it would have the effect of creating differences in the law in matrimonial causes as administered to different sets of Christians in India itself. * * *

* * * It would be against the best interests of the community to grant divorces in India on grounds different from those upon which parties could obtain the same relief in England, even if India were a self-governing Dominion. But to pass the proposed Bill, thus in effect giving the Indian Courts dual jurisdiction to grant dissolution of marriage to persons professing the Christian religion, would be inadvisable and would probably lead to a large number of collusive petitions, as it would be a great tempta-

tion to the parties desiring to dissolve their marriage for reasons which would not entitle them to a decree of dissolution in England, to allege an Indian domicile."

Well, Sir, my point, so far, is this, that the law at present is clear, certain and uniform and that the enactment of Sir Hari Singh Gour's Bill in advance of legislation in Great Britain would introduce an element of very strong discrepancy.

I now pass on to what from the practical point of view is perhaps the most important consideration of all. Any kind of legislation which impinges upon social customs, usages and status ought not to be undertaken without the greatest caution and deliberation, and that is particularly true of the law relating to divorce. It regulates the most intimate personal relations of the community affected. Before the House can reasonably be asked to accept this measure, I venture to say that it ought to stipulate that there should be a reasonable body of evidence to show that the communities concerned desire an amendment of the law. (Hear, hear). Now, Sir, there is no evidence of that kind before us. Nearly every Local Government has expressed the same view, the view which I think most of us will naturally entertain, namely, that there is much that is admirable in the specific provisions of the Bill but there is not the slightest evidence that the persons affected desire any amendment. So far as non-official opinion is concerned, that is to say, non-Government opinion is concerned, I notice that the Archdeacon of Calcutta, the Bishop of Lahore and various other ecclesiastical authorities have expressed their strong opposition to the Bill. I frankly recognise that in all creeds and denominations there is a tendency for ecclesiastical opinion to be very conservative.

Sir Hari Singh Gour : Are they in favour of any divorce at all ?

The Honourable Mr. J. Crerar : Nevertheless, I think it is reasonable for us to take notice of that fact, because the Archdeacon of Calcutta and the Bishop of Lahore might reasonably be presumed to be in very close touch with, and to represent faithfully, the opinions and desires of their people, and the same point of view has been expressed by them. I note that the European Association of Bengal have expressed precisely that view. The European Association is definitely of opinion that legislation should not be undertaken prior to a strong indication on the part of the public affected that such reform is desirable.

Now, Sir, I am not impinging on or in any way traversing the intrinsic merits of Sir Hari Singh Gour's measure when I say that there is no evidence from the point of view of the demand from the communities directly and deeply affected for the enactment of any such measure. I repeat that that is a point of view to which the House ought to give the very greatest weight.

I now pass to my third, my concluding point. Sir Hari Singh Gour has made, what I hope I may call without any suggestion of offence, an extremely dexterous appeal to the House. He suggested that if the House refers this Bill to a Select Committee it does not really commit itself to any thing more than approving the principle of the Bill, and indeed he said he would be content with that. I would point out—at any rate this is the view I take of the case—I would point out that when this House refers the Bill to a Select Committee it does something more than merely approve the principle of the Bill. A motion of that kind carried by this House undoubtedly also imports the intention of this House that the Bill so referred should proceed through its normal stages to enactment. Sir Hari Singh

[Mr. J. Crerar.]

Gour has said that his main object in moving this motion is to focus public opinion. Well, I venture to suggest to him that by the moving speech made by him in this House, by the public speech made by him on the floor of this House he has achieved his object. I do not think that the achievement of that object would be in any way facilitated or carried further by a reference to Select Committee. The Select Committee would sit in private, the Bill will be discussed round a table, but so far as that publicity is concerned, that focussing of public opinion, that stimulation of public opinion which Sir Hari Singh Gour desires, he will achieve nothing more than what I think he has already very effectively achieved. I therefore oppose this motion. (Applause.)

Mr. President : Does the Honourable Mover wish to withdraw his motion ?

Sir Hari Singh Gour : Yes, Sir. After hearing the speech of the Honourable the Home Member I beg leave to withdraw my motion.

(At this stage Colonel J. D. Crawford rose in his place.)

Mr. President : Does the Honourable Member wish to oppose the motion for leave to withdraw ?

***Colonel J. D. Crawford (Bengal : European) :** I would like to place on record the views of the community which I represent.

Mr. President : If the Honourable Member wishes to oppose this motion for leave to withdraw he is perfectly within his right to do so.

Colonel J. D. Crawford : My object in rising to oppose this motion for leave to withdraw the motion is this. Here is a piece of social reform very closely affecting a minority community in this country and it appears to me to be my duty as a representative of that community to place on record the views of our community on the particular measure which Sir Hari Singh Gour has brought before the House. There is no doubt that the wider grounds for divorce which Sir Hari Singh Gour has incorporated in his Bill have a certain amount of general support, but we in India are faced with the fact that the introduction of grounds of divorce which are different from those admissible in England would cause very great confusion to the European community in this country.

Mr. President : Order, order. The Honourable Member must confine his remarks to the motion now before the House, namely, that leave be given to Sir Hari Singh Gour to withdraw his motion. If the Honourable Member confines himself to criticisms of that motion he will be in order.

Colonel J. D. Crawford : My point is simply this, that you will see that the representative of a minority community in this House has had an opportunity of expressing his opinion on the Bill which my Honourable friend has brought forward, in order that that opinion may be placed on record. I trust, Sir, that you will uphold our rights in this matter.

Mr. President : The Honourable Member cannot discuss the question raised by the Bill on this motion. I have confined the debate only to the last motion and I propose to put it to the vote. If the Honourable Member can successfully defeat that motion, he will be in a much better position to place all his views on the Bill on record.

*Speech not corrected by the Honourable Member.

The Revd. J. C. Chatterjee (Nominated : Indian Christians) : I oppose the motion for withdrawal for this reason, that I desire that this motion should be defeated on the floor of the House, and therefore I ask your indulgence to let us place before the House the views of the communities that are going to be mainly affected by it so that the House may be able to reject this motion on the floor of the House and show that the proposed legislation is not wanted.

Mr. President : If the Honourable Member is fortunate enough to convince the House to defeat this motion, he will certainly be entitled to put all his views on record. Does the Honourable Member oppose the motion for withdrawal ?

The Revd. J. C. Chatterjee : I oppose the motion for withdrawal because I do desire it to be defeated.

Mr. President : The Honourable Member can only speak on the last motion. If that motion is defeated then the original motion will be open to debate.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : After hearing the few words from my gallant friend, I think it is but fair that this motion for withdrawal should be defeated so that the opinions of minorities could be placed on record. That is a sufficient reason for defeating the withdrawal of this motion.

Mr. President : The question is :

“ That leave be given to Sir Hari Singh Gour to withdraw his Bill.”

The motion was negatived.

***Colonel J. D. Crawford** : Sir, I have to thank the House for the opportunity given to a minority community to express its opinion on a problem of particular importance to itself. I hope the precedent now created will be one that will always be maintained. The Honourable Sir Hari Singh Gour is known to the House as an ardent social reformer on all matters. He has now spiked his guns upon matters which very largely affect my own community. I might say that I welcome the fact that Sir Hari Singh Gour is an ardent social reformer, and in most cases I am inclined to side with him. In fact the grounds which he would desire to add to those already existing are not ones to which we are opposed in principle. For instance, my own Association has said, that the case for giving these additional grounds may be supported on the grounds of natural justice, public expediency and policy, and that shows that they themselves are not generally opposed to an advance in this matter. But we do find ourselves in a difficulty. The introduction into the Indian Divorce Act of additional grounds for divorce differing from position which we are bound under the English law to occupy will make for confusion ; and I myself am well aware of the confusion which arose only some four or five years ago and of the great difficulty placed upon certain people, and I am not anxious to see that those difficulties should again arise in this case. So far as the residential European is concerned, he is, so far as our legal advisers tell us, subject to the Indian Divorce Act with regard to judicial separation and suits for restitution of conjugal rights, and it would obviously be improper that he should be able to get judicial separation on grounds which differ from those on which he could get it in his own country. It is obviously an

*Speech not corrected by the Honourable Member.

[Col. J. D. Crawford.]

improper position and one which I am quite certain the House would not agree to. Then, when we come to the question of those Europeans domiciled in this country, I in my capacity as General Secretary of the European Association was called upon to consult European opinion throughout the whole of India, and we did not receive any replies which showed us that there was any real demand for this particular reform at the moment, with the result that it would be unwise to support legislation for which there is no real public demand. On those grounds we suggested in our reply that the present legislation was premature and we considered that in the main legislation of this nature should generally be initiated by Government itself. Now those are the reasons which make us believe that at the moment it is injudicious to carry this Bill to the final stages of enactment; and if we are not prepared to go that far and do not think that it is desirable to go that far at present, surely it would serve no useful purpose in going to a Select Committee even though we had the assurance of the mover of the Bill that he would exclude Europeans and domiciled Europeans from it and that his only purpose to-day was to focus public opinion on this matter. I think, in so far as my community is concerned, we must await reform in England before we undertake a reform of this nature in our divorce laws in this country, and I trust we will get the support of the House to that suggestion, that is, that we should wait for reform in England before we undertake reform out here.

Mr. C. S. Ranga Iyer : Sir, the Honourable Member from Nagpur has no doubt given evidence of his remarkable enthusiasm for social reform. But in this particular Bill I am afraid the Honourable Member has displayed a desire not for social reform but social revolution. Sir, so far as society in any part of the world is concerned, it is generally conservative. Even in the United States of America students of Judge Lindsay's publications will bear out that he has more opponents than friends even in that trans-Atlantic Continent where social reform is supposed to come in a flood. In this conservative country, much as some of the Anglicised people may applaud the Honourable gentleman's desire for social revolution, he will meet with resistance from the people at large; and so long as this House represents public opinion I am afraid he cannot get a vote of support from this House; and when a minority, a very strong minority, is entrenched on our side, I do not think the Honourable Member could do anything better than in Shakespeare's language "like a crab - backward". He wanted a withdrawal; he did not get it. I hope he will make no more attempts at social revolution. It is as well that the Honourable gentleman has feet to climb instead of wings to soar, and by slow degrees, by more and more, he can climb to the submit of our times.

The Revd. J. C. Chatterjee : I regret I have to oppose the motion proposed by my Honourable friend Sir Hari Singh Gour. I am very sorry that I feel it my duty to do so, especially as I admire very much the great efforts he has been making at social reform. My reasons for opposing his motion to refer his present Bill to Select Committee are three-fold. The first, Sir, has been dealt with by the Honourable the Home Member and I will not go into it very much further, except to say that now that Sir Hari Singh Gour has declared his intention of excluding domiciled Europeans and Europeans resident in this country, and because the Hindus married under the Act he has referred to do not desire divorce,

the only community that is really going to be affected, and very largely affected by this Bill, is the Anglo-Indian community and my own community, namely, the Indian Christian community, which is of course very much larger than the other communities likely to be affected by this Bill if it ever passes into law. I may say as the General Secretary of the All-India Association of Indian Christians that in our community there has not been any considerable desire whatever for any amendment in the social law which Sir Hari Singh Gour very kindly wants to force upon us. I ask him to mention any instances where any responsible leaders of our community, who will as I have said be mostly affected by this Bill, have asked for any such reform. Should such a reform be demanded it would come very much better either from Government or from members of communities that are likely to be affected by this Bill. Therefore, Sir, I submit that since there is no demand for this Bill and it is unwanted, it ought not to have been brought up.

Secondly, I feel it is my duty to oppose it very strongly because I believe that if this Bill were enacted into law, it would be divorcing religion still further from the social every day life of our people. Now, Sir, the majority of Christians in this land, whatever their denomination and whatever their nationality may be, are married by the Christian ceremony of marriage. That ceremony, as is very well known, lays down that when a man and a woman agree upon marriage, they should come to the Church with full knowledge of all that the contract entails, and have to promise that they will stick to each other till death do them part. But if Sir Hari Singh Gour's Bill were to be passed into law, all those people who seek divorce under this Act—I hope there will be very few—will really have been perjuring themselves at what ought to be regarded as the most solemn moment of a man's life. If this Bill were passed it would be more honest to amend the marriage service to read, instead of "till death do us part" into a promise that the contracting parties take each other till one or other of them becomes insane or epileptic or is committed to jail or acquires the habit of drunkenness, and so forth. This would make the marriage service an extremely unwieldy and ludicrous ceremony.

Then again on religious grounds I feel I must absolutely oppose it, because to the majority of Christians in this land, and especially to the Roman Catholic Church, marriage is a sacrament. It is therefore not right that we should at any time support a Bill that strikes at the very root of that idea, and I believe strikes at the very root of society. It may be that some people do desire certain changes in the law of divorce, but after all it is the thin edge of the wedge, and once this process is started we do not know where it will end, and to my mind the Honourable Mr. Ranga Iyer has put it rightly when he said that it would mean a revolution in society.

Finally, I would oppose it on another grounds, namely, that I believe it to be premature. Although Lord Birkenhead and the House of Lords will consider it a compliment that my gallant friend considers them more enlightened than the House of Commons, I still believe that the House of Commons is the true representative of the British nation, and I submit that if public opinion in England had really desired an advance on the divorce law, there could have been found other reformers who would have pressed it in the House

[Rev. J. C. Chatterjee.]

of Commons. Can we really believe that a measure discussed by a Royal Commission could not have been brought forward merely because of pressure of business? I am sorry that my friend is so enamoured of certain practices that prevail on the Continent of Europe and on the Continent of America, but I do believe with the Archbishop of York, who headed the minority on the Royal Commission, that the existing English law is the soundest on this subject. I therefore submit that we in this country have no desire to advance so rapidly as they have done in certain other countries which my friend so much admires. I sincerely hope that this Bill will be rejected once and for all.

Lieut.-Colonel H. A. J. Gidney (Nominated : Anglo-Indians) : Sir, representing as I do a minority community in this House, I wish to say a few words on the Bill before the House as presented by that social performer—I mean social reformer—Sir Hari Singh Gour. My remarks will be very brief. I wish to associate myself with the remarks made by my Honourable and gallant friend, Colonel Crawford. While I readily admit that no religious ceremony such as the one connected with that of marriage ever meant the wedding bells to be converted into funeral bells, and while I am in agreement with the necessity of introducing into the Indian Divorce Act the various points mentioned in section 3 of Sir Hari Singh Gour's amended Act; I support what Col. Crawford has said with regard to the resulting confusion of having two distinct legislations on divorce—one in England and another in India. Though Government did not ask for the opinion of the Anglo-Indian and Domiciled European Association, I consulted many members of my community, and the consensus of opinion is that the amended Bill of Sir Hari Singh Gour is a very excellent one but it is bound to lead to great confusion in certain marriages contracted by members of my community, and it is mainly for this reason that I oppose the Bill and would advise the Mover to wait till the alteration is made in England. I think Sir Hari Singh Gour would have been better advised had he waited and not pushed the matter to the extent of being, as it were, compelled to withdraw his Bill. If I may be permitted, I should like to give him a little piece of advice in the shape of a little story.....

Mr. President : Order, order, the Honourable Member may do it in the lobby. (Laughter).

Lieut.-Col. H. A. J. Gidney : I do not think I need go to the lobby for this purpose. It is quite an innocuous story I can assure you and I think, Mr. President, even you will agree with this when I sum it up as meaning :

“ Leave well alone ”.

Sir Hari Singh Gour : I hope the minority communities have sufficiently ventilated their views, and I therefore renew my request.

Mr. President : The question I have to put is :

“ That the Bill further to amend the Indian Divorce Act be referred to a Select Committee ”.

The motion was negatived.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 43.)

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, the motion that stands in the agenda in my name is that the Bill further to amend the Indian Penal Code be taken into consideration.

But, Sir, with your permission, I propose to move that the Bill further to amend the Indian Penal Code be referred to a Select Committee.

Sir, the Bill which I propose now to be referred to a Select Committee is a very simple one. The object of the Bill has been sufficiently explained in the Statement of Objects and Reasons. I think that I should on this occasion say only a few words to explain my object in bringing forward this Bill and also to explain what the Bill contains. You know, Sir, that the working classes all over the world are poor and when they have to protect their interests against their employers, who are generally very rich and also politically influential, it is necessary for them that they should act in a concerted manner. An individual worker cannot protect his interests against an individual employer, so the worker finds that it is necessary for him to join other workers and thus act all together. Concerted action is taken on some occasions through their trade unions which are either registered or sometimes unregistered. But in a country like India where the workers are illiterate and ignorant, on a large number of occasions they have to take concerted action without any permanent organisation. When the workers act in a concerted manner according to the present laws some of their actions are considered to be illegal. Unfortunately, the laws are made by the Government, which is influenced by capitalists, and the workers have very little voice in passing these laws. Not only are their actions made illegal by the present laws, but also when they take these actions jointly or in a concerted manner, even such civil actions are treated as criminal conspiracy. Sir, the workers suffered from this injustice for many years, but at last in European countries, especially in England, some relief was given to them. The workers were given an immunity from suffering the consequences of some of their actions taken during trade disputes or in furtherance of trade disputes even though these actions were taken jointly or in a concerted manner. For instance, in England they got some immunity by the Act of 1871, the Act which enabled unions to be registered. Then by the Act of 1875, the Act known as the Conspiracy and Protection of Property Act of 1875, as amended by the Trade Disputes Act of 1906, immunity was given both from the consequences of civil conspiracy as well as from the consequences of criminal conspiracy. Sir, I propose to read the English law on this subject as it is given in a circular issued by the Government of India on the 12th September 1921 on the subject of legislation for the protection of trade unions. I am reading this from the circular because there should be no question about the law being correctly stated. The English law on the subject is contained in section 3 of the Conspiracy and Protection of Property Act of 1875 as modified by section 1 of the Trade Disputes Act of 1906. As thus amended the law reads :

“ An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be punishable as conspiracy if such act committed by one person would not be punishable as a crime.”

[Mr. N. M. Joshi.]

This gives immunity from the criminal consequences. Immunity from the civil consequences is contained in the following :

“ An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of a trade dispute not be actionable unless the act when done without such combination or agreement is actionable.”

So you will see, Sir, that the English law gives the workers acting together in furtherance or in contemplation of trade disputes, immunity from the consequences of the law regarding civil conspiracy and criminal conspiracy also.

The Indian Act, called the Registration of Trade Unions Act, also gives immunity from the consequences of civil conspiracy and criminal conspiracy to the members and officers of registered Trade Unions. The sections of the Act which contain this law are sections 17 and 18 of that Act. I shall read section 17 only because my Bill is concerned with that portion.

“ No officer or member of a registered trade union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section 15 unless the agreement is an agreement to commit an offence.”

Section 18 gives immunity to the members and officers of registered trade unions and to trade unions from civil suits in certain cases.

Now, Sir, my Bill is a very modest one. I am not suggesting that the Trade Unions, their members and their officers should be free from the consequences of civil conspiracy when the acts are civil. What my Bill proposes to do is that when two or more workers act in a concerted manner and when their acts are interpreted according to the present law as illegal, their acts should not constitute a criminal conspiracy. I am not suggesting that their acts should not be treated as a civil conspiracy.....

Sir Hari Singh Gour : There is no such thing as a civil conspiracy.

Mr. N. M. Joshi : Very good ; I am glad to hear that. But I am suggesting that those civil acts when taken in a concerted manner should not be treated as a criminal conspiracy. When the acts themselves are civil they should not be treated as a crime simply because the acts were done in a concerted manner by more than two persons. This is my Bill, and as I have stated, it is a Bill which removes one of the injustices which we find in our legislation. Some people think that this Bill is a concession. It is a wrong idea that this Bill gives any concession. This Bill removes one of the injustices which we find in the present law, and if the removal of an injustice is a concession, then my Bill is seeking to give a concession. This Bill seeks to achieve the object which I have placed before this House just now, in the manner given in section 2 of my Bill, namely, by adding a proviso to section 43 of the Indian Penal Code. I have made this provision because I thought this was the proper manner in which my object could be achieved. But as I am dealing to-day only with the principle of the Bill, I am quite ready to hear the opinions and the suggestions of the Members of this House as to how my object should be achieved.

Sir Hari Singh Gour : Your motion is for consideration.

Mr. N. M. Joshi : The Honourable Member was perhaps absent from this House when I made this motion. The Bill was introduced and circulated. Opinions have been received and I have read them. A good number of opinions are in favour of my Bill. I have to admit that some of the opinions are against my Bill. But, Sir, after reading these opinions I found that most of the opinions against my Bill are expressed through prejudice and for want of proper study of my Bill. If you go through those opinions you will find not any discussion or criticism of the provisions of the Bill, but absolutely irrelevant matters. Some say that if my Bill is passed there would not be much encouragement for the registration of trade unions. Some say that my Bill cannot be a good one because there is unrest in the country, and any Bill introduced into the Legislature in favour of workers at this time must be a bad Bill. Some say that in England there is a tendency for tightening legislation against workers and it is wrong in India, in their opinion, to relax the restrictions placed upon the workers. Then there are other reasons given—there is an officer who suggests that the Bill must be a bad one because it proceeds from me, from a gentleman who has received money from Moscow.

Sir Hari Singh Gour : Is not that a good reason ?

Mr. N. M. Joshi : In my judgment this is a very irrelevant consideration.

Sir Victor Sassoon : Is it true ?

Mr. N. M. Joshi : I do not wish on this occasion to go into that question.

Sir Victor Sassoon : Why not ?

Mr. N. M. Joshi : I shall make only one remark on that : I have yet to know a man who treats money as untouchable on account of the source from which it comes. As a matter of fact, Sir, perhaps you may know that most countries in Europe are against Russia, not because they do not want her money, but because they do not get money from Moscow which they wanted. Sir, I shall deal with that subject when somebody else starts it in this House.

Another man says that the Bill must be a bad one because perhaps I am seeking to protect myself and my other colleagues who are taking part in the textile workers' fight in Bombay. Sir, I do not want this House to be influenced by such opinions expressed by people, not from knowledge but on account of prejudice. I have already explained, Sir, what my Bill is. That the Bill is desirable, namely, that it is necessary to give immunities to the workers, is proved by the very fact that Government themselves have given immunity to the members of registered trade unions, and I only ask that this immunity should be given to the other workers. Therefore, nobody here can be against the immunity itself, because the Government themselves have given that immunity to the members and officers of registered trade unions. Therefore, the only objection which some people take is that the immunity should not be given to others. Now, Sir, I do not know why, if immunity is necessary for the members and officers of registered trade unions, it is not desirable for those who do not organise themselves into a union or a trade union or a registered trade union. Sir, you

[Mr. N. M. Joshi.]

know, and the House knows, that in our country the workers have been kept ignorant, and I do not think that any Member of this House will hold the workers responsible for their ignorance and for their illiteracy. If anybody is responsible for their ignorance and illiteracy, it is the Government itself, and, Sir, some of us also for not having done our duty towards them. You cannot therefore penalise the workers, because they have not organised themselves into a registered trade union on account of their ignorance and illiteracy. Moreover, the very fact that in England when immunity was given it was not given to members and officers of registered trade unions or of any trade unions, but immunity was given to all workers who do certain things in furtherance of trade disputes is a good reason that the same thing should be done here. I do not know why that immunity should be restricted to the members of registered trade unions in this country. Some people say that if you give immunity to all, where is encouragement for the registration of trade unions? I am not at all against the registration of trade unions, and that fact can be proved easily. The Indian law for the registration of trade unions was enacted as a result of a Resolution which I had myself moved in the Legislative Assembly. So the House can rest assured that I am not at all against the registration of trade unions. But what I feel, Sir, is this, that registration cannot or should not be made a reason for denying to the workers some of the immunities if they do not form themselves into registered trade unions. Let the unions be registered as it is a good thing to register a union. But some people may not register their trade unions, and some may suffer from the misfortune of not being members of any union. I therefore think, Sir, that there is not much force in the argument that we should not give these immunities to the workers because there will not be any encouragement for registration. Moreover, Sir, the real encouragement for registration does not consist of the immunities given; the real advantage of registration is that the union gets a corporate capacity so that the union can hold property and sue and can be sued. (*Sir Victor Sassoon* : "That is one of the disadvantages".) Sir, this is the advantage of registering a trade union. There may be other advantages, such as that some employers who want to refuse recognition to some unions can do so on the ground that the union is not a registered one. And, Sir, the Government of India thought that the greatest advantage of the legislation was that the employers would recognise the union. When the Government of India issued that circular they never thought that these immunities were a real encouragement for registration. But they thought this, that unions will be encouraged to register because that will give them recognition. I shall read, Sir, only a few sentences from the circular issued by the Government of India in 1921.

Sir Hari Singh Gour : What has that got to do with the Bill in hand?

Mr. N. M. Joshi : Well, Sir, I will tell you what that has got to do with it.

"Registration will give a legal recognition to the union with definite rights and privileges which unregistered unions do not possess. For instance, unregistered unions might find it difficult to obtain the recognition of employers."

So not much encouragement will be lost by passing this Bill. The encouragement to register trade unions consists in various other factors which will remain and which they will enjoy. Then, Sir, the present law itself, which gives immunity to the members and officers of registered trade

unions, does not really give much to the registered trade unions because in the present circumstances even registered unions, when they have to act together in a trade dispute, have to act with people who are not members of registered trade unions. There are hardly any registered trade unions in India which include all the workers in one industry. For instance, in the textile industry in Bombay, we have registered trade unions, but even these registered trade unions all put together cannot have more than say one-tenth of the total textile workers of Bombay as members. So what is the value of the immunity given to the registered trade unions when in a trade dispute the largest number of people are not members of the registered trade unions ?

Mr. President : Order, order. I have given the Honourable Member sufficient latitude. I hope he will bring his remarks to a close.

Mr. N. M. Joshi : Well, Sir, I am explaining the objects of my Bill, and I hope you will show me the indulgence of letting me complete my explanation of the objects of my Bill. There are one or two other remarks which I would like to make. That law, on account of which the civil acts of workers are treated as a criminal conspiracy is a recent Act. That Act was passed in the year 1913. Before 1913, section 120-A and B of the Penal Code did not exist and no harm was done before 1913 because section 120-A and B did not exist.

Sir Hari Singh Gour : There was a law of abetment.

Mr. N. M. Joshi : Well, Sir, my friend, Sir Hari Singh Gour, thinks of the law of abetment. But if the law of abetment had served that purpose, the Government of India would not have been unwise enough to pass legislation enacting section 120-A and B. Sir, that is a recent legislation. Before 1913 civil acts done in connection with a trade dispute could not have become criminal conspiracies even though they were done in a concerted manner, and before 1913, no disaster fell upon this country. I therefore think that by passing my Bill the country is not going to suffer much. As a matter of fact, the country will gain something because the workers in this country will get freedom to act in a manner which will enable them to protect their interests. I therefore, think, Sir, that this legislation of 1913, which made civil acts of workers, done in a dispute, criminal conspiracies must now be amended and I trust that this House will approve of my Bill.

There is only one word more that I would like to say, and it is this. There is a kind of safeguard provided in the Criminal Procedure Code against prosecutions under this section, and that safeguard is that prosecutions require the sanction of the Government. Well, Sir, this may be a safeguard when the employers do not happen to be the Government, or when the Government happens not to be influenced by the Indian capitalists. But, Sir, we are living in a day when it is quite possible that on many occasions, in industrial disputes, the Government itself may be the employer. In many provinces, and even in the Government of India, the capitalists may have a very great influence with the Government of the day. I therefore feel, that this safeguard is an illusory one, and perhaps, day by day, it may become still more illusory, because the capitalists of this country are bound to influence the Government more and more. Moreover, in India, the Government is a very large employer of labour. Perhaps the largest employer of labour is Government, and therefore the safeguard that

[Mr. N. M. Joshi.]

the prosecution requires the sanction of Government is not worth much. Then, Sir, it may be said that so far there have not been many prosecutions under this section. It may be so, but you know, Sir, that things are changing, that industries are developing in our country, and that the relations of the employers and their employees are not the same to-day as they were perhaps some years ago, for the very good reason that the workers are being organised and the workers are also being educated. If we want to secure the interests of workers from the effects of such legislation, it is better that the law is made to-day. That is the reason why I have introduced this legislation now. There may not be any case to-day, but the policy which I want to follow is that prevention is better than cure. There are many persons who have expressed the opinion that the need for such legislation has not arisen. Perhaps they do not believe in the maxim which I have just quoted. They want the evil to grow first and then to cure it. That is not a policy which will meet with my approval, and it should not meet with the approval of this House either. If we know that there is an evil, let us use a remedy for it before we begin to suffer from it. I feel, therefore, that this Bill should be referred to a Select Committee.

Mr. President : Motion moved :

“ That the Bill further to amend the Indian Penal Code (Amendment of section 43) be referred to a Select Committee.”

Sir Victor Sassoon (Bombay Millowners' Association : Indian Commerce) : Sir, this is a very short Bill and to my mind a very simple Bill which I propose to oppose root and branch. I shall oppose its going to a Select Committee, I shall oppose even its being considered, and I do so for one very good reason. That reason is the smoke cloud of words and legal quotations which my Honourable friend, Mr. Joshi, has found necessary to use in introducing this Bill before this House. A simple little Bill like this which merely asks that the protection which labour already enjoys by merely forming itself into registered trade unions should be widened to those associations which are not registered—that this simple little demand should need the deep researches that he has found fit to make must show, I think, that he is not too sure of his case. I do not propose to follow my Honourable friend, Mr. Joshi, in his legal peregrinations. I will merely point out that on his own showing a country like England which according to him is under the influence of capitalists has allowed the protection which he is asking for, whereas another country which no one can say is under capitalist influence, I refer to Russia, does not allow it. (*An Honourable Member* : “ How do you know ? ”). They do not even allow their workers facilities for registration. Government there is the only employer and does not allow its workers to strike whether registered or unregistered. The position is a very clear one. The law of this country allows privileges to leaders of labour who constitute themselves into a registered trade union. My Honourable friend, Mr. Joshi, has given us a list of some of the advantages of a registered trade union. I was waiting, and I waited in vain in spite of interrupting him, to find out what disadvantages there were to labour forming itself into registered trade unions. My Honourable friend could not give us one disadvantage. Therefore, if any body of labour can form itself into a registered trade union and get these advantages, why should it not do so ? We have thought fit—we the

Legislature of this country—to give concessions to these registered trade unions. Very well. If anybody wants these advantages, let them register themselves, and in spite of what Mr. Joshi says, they do register themselves. Now, here I find myself in a difficulty as regards the position of Mr. Joshi. I have had very pleasant dealings with Mr. Joshi not only in this Assembly but also in Bombay as he is the leading light, I believe the President, of the most important textile union that is there, a body which Mr. Joshi is endeavouring to run on sound lines. When Mr. Joshi comes to me either directly or through one of his officials and asks that the Millowners' Association should recognise his union and generally suggests that we should restrict our recognition to his trade union.....

Mr. N. M. Joshi : I never suggested that.

Sir Victor Sassoon : Well, it has been suggested by one of his officers—it has been even suggested that it would be to the advantage of the Millowners' Association if they restricted their support to his trade union. It has certainly been suggested by Mr. Joshi, and I must say I have felt inclined to support his suggestion with my friends, that if we not only recognised but supported his union, he would not only get a much bigger personnel, a much larger number of members for his union, but he would also then be in a position to restrain the exuberant spirits of his union if they asked for things that were unreasonable. I thought that was a very good argument. If we supported him, he could say "Look at what I have done. Look at the concessions I have got from the mill-owners. If you are unreasonable and disregard my advice, I will not be able to get you any more concessions". Now, one of Mr. Joshi's great difficulties is that there is apparently, in Bombay at any rate, a great desire on the part of a certain class of persons to run trade unions. In the textile industry, there are a number of trade unions as Mr. Joshi has told us. He did not tell us how many of these unions were registered and how many were unregistered. I do not know if there are a number of unregistered ones, but I do know that they are all competing with each other by making promises to their men, and a mushroom unregistered union can register itself and become a registered union. So we have to differentiate as I think it is obviously better, and I support Mr. Joshi here, that we should support his sound union, even though Mr. Joshi has this disadvantage,—neither he nor his officers have the requisite technical knowledge. They sometimes are misled by their supporters. They are asked to bring forward cases which cannot be substantiated. I do not blame Mr. Joshi. He is not a technical man, and I know he is doing his best to get over those difficulties. I hope the time will come when the union will be able to afford to have a highly technical officer who will be able not only to put their case logically and effectively before the Millowners' Association, but would also be able to sift the rather vague demands of some of their members which cannot be supported by facts. Now, Sir, if Mr. Joshi is so anxious that his trade union should benefit, if he is anxious, as I take it he is, that there should be one union for the textile industry, why should he by this Bill not only allow competition from other registered trade unions but allow competition from any body of people at any period or time, whether organised or otherwise? That is what I cannot understand. Why should he by this Bill encourage extra competition against his own registered trade union? That is one of my reasons for opposing this Bill. I see

[Sir Victor Sassoon.]

no reason why we should encourage competition to a well-run registered union such as the one of which Mr. Joshi is the president. I cannot see the advantage. Even if there is to be a mushroom organisation that it is considered can carry out the work for labour better than Mr. Joshi's union can, it has only got to register itself. As I said before, Mr. Joshi has not given us one disadvantage to registering a trade union, and when he says that the people are ignorant and they do not know how to do it, all I can say is that Mr. Joshi is very unflattering to himself and his associates who go about the country advising labour generally. Whenever there is any considerable labour trouble anywhere, one of these gentlemen who know the law just as well, probably better than I do, is generally on the spot to advise labour; and therefore I think that he has been unjust to himself and to all the energy that he and his friends consume in touring about the country whenever there is any labour trouble when he says that the workers are too ignorant to realise the advantages which existing legislation affords them in registering themselves into trade unions.

Sir, I oppose the motion for reference to a Select Committee.

The Honourable Mr. A. C. McWatters (Member for Industries and Labour) : Sir, I rise to oppose the motion also on behalf of Government. When this Bill was before this House on the last occasion, Government did not disguise their opinion that the principles of the Bill were thoroughly unsound and would have to be opposed. They did not, however, oppose the motion for circulation, as a result of which we have a body of opinion which, with due respect to Mr. Joshi, is very generally and wholeheartedly opposed to this Bill. I do not think within my experience of the Government of India I have seen a more condemnatory set of opinions on any Bill which has been circulated, although there are a few, I admit, in his favour. For instance, the whole of the nine Local Governments are definitely opposed to the Bill. Practically every commercial body of importance is opposed to the Bill. The great majority of the High Courts are opposed to it. Even in Mr. Joshi's own province of Bombay, apart from the Local Government, out of 28 bodies consulted, 23 are opposed to it including the High Court, the Bombay Chamber of Commerce and the Indian Merchants' Chamber, and so on.

But I do not wish merely to count heads. On the merits of the Bill or the demerits of the Bill, Government are satisfied that the Bill is harmful; and our main reason for considering it harmful is this, that it strikes at the very root of the trade union legislation which this House passed only two years ago. The object of that legislation was to introduce some sort of order and responsibility into the growth of trade unions in this country, and this House decided that the best method of procedure was to encourage the growth of registered unions and to confer on those registered unions certain rights and privileges. The principle of Mr. Joshi's Bill was discussed at that time. Mr. Joshi himself, I believe, tried to get it introduced into our present Trade Unions Act, but the House by a majority decided to proceed on the basis of giving privileges to registered trade unions with the object of encouraging the responsible growth of trade unions in this country; and our objection to this Bill is that we feel sure that if it is passed and unregistered trade unions are allowed to receive

the same protection as registered trade unions do in this respect, there will be much less incentive for trade unions to register and that the whole growth of the trade union movement, which I know Mr. Joshi has at heart, will receive a very serious set-back.

In the second place, apart from its effect on the trade union movement, we consider this Bill a dangerous Bill, because it confers not only on unregistered unions but on any combination of two or three people the power to commit illegal acts short of offences and obtain immunity for them provided they can do so under the colour of some trade dispute or in restraint of trade. Now we think that a very dangerous provision indeed. We see no reason whatever why these privileges should be conferred on groups of people which are not allowed to a single individual. There were reasons for giving these privileges to registered trade unions, as I have said, by way of encouragement to register and because we knew that we would be dealing with responsible people : but in the wide provision of Mr. Joshi's simple Bill, there is lurking a very real danger to law and order, and for that reason also we are opposed to this Bill.

And, finally, Mr. Joshi himself has practically admitted, though he tried to gloss it over, that the Bill is really unnecessary because there are sufficient safeguards against the introduction of prosecutions to make it quite certain that the various worthy people trying to assist trade unions outside recognised trade unions are not likely to be harassed by Government. For all these reasons, because we consider that the Bill strikes at the root of the policy underlying our Trade Unions Act, because we think it goes so far as to be really dangerous to law and order, and because we regard it as unnecessary, I have to oppose this Bill.

Pandit Thakur Das Bhargava (Ambala Division : Non-Muhamadan) : Sir, so far as the principle of the Bill is concerned, I beg to submit that the principle is quite unexceptionable. So far as the policy of the law is concerned it may be doubtful whether the policy should favour this Bill. It has just been remarked that there is no law of civil conspiracy. If a person breaks his contract he is liable, but if two or more persons conspire to break a contract their liability is not any the greater. So far as criminal conspiracy is concerned, we have got section 120-B. As Mr. Joshi has remarked, that section was only enacted in 1913, and at the time that change was made in the law it was never contemplated that that change would have any reference to trade disputes. In the Statement of Objects and Reasons attached to that Bill which subsequently became law, it was stated :

" Experience has shown that dangerous conspiracies are entered into in India which have for their object aims other than the commission of the offences specified in section 121-A. of the Indian Penal Code, and that the existing law is inadequate to deal with modern conditions. The present Bill is designed to assimilate the provisions of the Indian Penal Code to those of the English law with the additional safeguard that in the case of a conspiracy other than a conspiracy to commit an offence some overt act is necessary to bring the conspiracy within the purview of the criminal law. The Bill makes criminal conspiracy a substantive offence, and when such a conspiracy is to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, and no express provision is made in the Code, provides a punishment of the same nature as that which might be awarded for the abetment of such an offence. In all other cases of criminal conspiracy the punishment contemplated is imprisonment of either description for a term not exceeding six months, or with fine, or with both."

So that you will find from a perusal of this Statement of Objects and Reasons that the Bill which subsequently changed the law on this point

[Pandit Thakur Das Bhargava.]

never contemplated that it should be applied to the case of ignorant labourers and illiterate workmen who do not know anything about conspiracy and its results. So far as the criminal law of England is concerned, the law of India has not been assimilated to it, because a safeguard which does not exist in the criminal law of England has been provided for in the Indian law. The reason for that is that in India the law of criminal conspiracy did not grow up till 1913, and even now this provision of the law has not been applied to many cases. And the Legislature has itself recognised that the law is very difficult and complicated and has provided a safeguard in enacting section 196-A of the Code of Criminal Procedure, whereby the right to prosecute has been given to the Government and not to a private person. This is the state of the law, and when we consider that section 10 of the Indian Evidence Act provides that one person who is stated to be a member of a conspiracy becomes vicariously guilty of the acts of others, certainly there is no doubt that the law of conspiracy is very dangerous. It is all the more dangerous in regard to persons who are quite illiterate and ignorant.

Now, Sir, section 17 of the Trade Unions Act provides that the provisions of section 120-B of the Penal Code will not apply to members and officers of trade unions. But this protection is quite useless, because this

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section only applies to agreements made between members of the union. Suppose five persons are charged under the provisions of section 120-B, and two of them are members of a trade union and three are not, the result will be that the members of the trade union also will not be protected, because the agreement which is sought to be proved will not be an agreement between members of the trade union but between members and non-members, so that whatever protection has been afforded by law becomes nugatory if the supplementary concession is not given to non-members of unions. Then the issue so far is rather overshadowed by the fact that in the opinions that have been received certain objections have been taken on this score that if the Bill was enacted registration would be discouraged. So far as the principle of this Bill is concerned we are neither concerned with registered trade unions or unregistered trade unions. The principle of the Bill is that in the interests of trade if two or more persons conspire together to do something which is not an offence but which only gives rise to civil liability, then those persons are not guilty of criminal conspiracy. The question arises, why should it be confined to the trade only. I submit that so far as the definition of the word "illegal" is concerned, the definition is too wide. This is not my opinion alone. I would refer you to the opinion of the High Court Judges of the Punjab High Court. You will find there also that the change in the law did not contemplate any sort of conspiracy between workers. The opinion of the Judges of the Punjab High Court appears on page 10 of the opinion paper No. 1, and they say :

"The wording of section 120-A, Indian Penal Code, as it stands, is certainly much too wide. If, for example, A, B, C, D, joint owners of a plot of land, first agree to sell it, and then agree to commit a breach of the contract and some overt act is done in pursuance of the latter agreement, they would apparently be guilty of the offence of criminal conspiracy. I doubt if this was intended. Fortunately there is a

safeguard against abuse of this section in section 196-A of the Criminal Procedure Code, according to which sanction is required for institution of proceedings.

Chapter V-A was, I believe, enacted to meet different kinds of conspiracies and it is at least doubtful if combinations of workers or employers were then in contemplation. The proposed Bill only purports to bring the law in India on a line with that in England, and as such does not seem to be open to objection as to its principle."

I fail to see a combination of workers to do a particular act which gives liability for a civil suit and which if not criminally actionable in England should be made a criminal offence in India. So far as the principle of the law is concerned there is absolutely no difference between the jurisprudence of India and England. Almost all these institutions have come from England, and if any piece of legislation in favour of workers also appears there, there is no reason why this House should raise objections of this kind.

Sir, it has been said that registration will be discouraged. I would submit, this is far from being true. If, for the registration of a trade union, this immunity were the only temptation, then it could be said that registration would be affected. But there are greater rights in the members and officers of a trade union. Immunity from civil action has been provided in section 18, and section 19 also gives certain kinds of rights to trade unions. Therefore it is wrong to say that registration will be affected prejudicially. Without admitting that this would be the result, and conceding it for argument's sake, does it stand to reason that we should be a party to certain agreements of workers to do particular acts which would only give rise to civil liability to be made into an offence? Sir, I would submit, that whatever the policy may be, the principle underlying the Bill is quite unexceptionable. Then, Sir, it is said that in a trade union there are certain restrictions and because of those restrictions, some immunity has been given. But this is entirely wrong. As I have already submitted, the law in England is quite explicit on the point and does not affect the membership of a union which is said to be the basis of giving this immunity. The principle why this immunity should be given is that it is wrong to assume or to declare that a civil wrong becomes criminal if two or more persons combine in doing it, and when this law was enacted these things were never taken into contemplation. Therefore it is not a sort of concession, it is not in principle a deviation from the law of the land, but it is an act of justice, justice to those who deserve it most. It is asked why are these trade unions not registered? Why do you not organise these workers? Whose fault is it? It is not the fault of the workers at any rate. I have read among some of the opinions which have been given against this Bill that they are afraid of Mellers Spratts and other Communists. I do not understand why the issue should be clouded by reference to these extraneous matters. If this is the issue and if the Government thinks many undesirable people are associating with the workers, then the course is open to the Government to see that these persons are prosecuted, or if the Public safety Bill is passed, the matter may be treated in other ways. But to add to the crimes which are provided by the penal laws of this country is not wisdom by itself. I would therefore submit that so far as the principle of the Bill is concerned, it is quite unexceptionable and it should be referred to a Select Committee. I understand there are some defects in the Bill as proposed. The proper place for this exception in my opinion is under section 120B and not under section 43 which in its operation is much

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wider than the provisions contained in section 17 of the Trade Unions Act. But this is exactly the reason why the Bill should be referred to a Select Committee. When the Legislature and the House have once accepted the principle of the Bill, namely, that the civil acts of certain persons who are members of trade unions will not constitute a criminal offence—I think that is the only principle involved in the Bill—then on the basis of the provision contained in section 17, this Bill ought to be referred to a Select Committee.

Mr. Muhammad Yamin Khan : Sir, I move that the question be now put.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, the Honourable Member in charge of Industries and the Honourable Member who represents the Millowners' Association have tried to show that my Bill is not a useful one as it does not give encouragement for the registration of trade unions. I have dealt with that point sufficiently. I have shown that the real encouragement to registration does not consist in the immunity. It consists in giving the registered trade union a corporate capacity.

Sir, I am not surprised that these two gentlemen should express astonishment that I, though an officer of a trade union, should move this Bill. One of the gentlemen belongs to a powerful trade union called the I. C. S. Association. The other belongs to another powerful trade union called the Bombay Millowners' Association. Sir, I am an officer of a trade union, but I think I can say that I am not a narrow-minded or bigoted trade unionist. I consider that a trade union is only a means for the protection of the interests of the workers and where I find that in protecting the interests of the workers as a whole the interests of a trade union may suffer I shall not hesitate to sacrifice the interests of that trade union if they are sacrificed at all by my Bill. Sir, I hope this House will approve of the motion which I have moved.

Mr. President : The question is :

“ That the Bill further to amend the Indian Penal Code (Amendment of Section 43) be referred to a Select Committee.”

The Assembly divided :

AYES—49.

Abdoola Haroon, Haji.
Abdul Matin Chaudhury, Maulvi.
Aiyangar, Mr. C. Duraiswamy.
Aney, Mr. M. S.
Ayyangar, Mr. M. S. Sessa.
Badi-uz-Zaman, Maulvi.
Belvi, Mr. D. V.
Bhargava, Pandit Thakur Das.
Chunder, Mr. Nirmal Chunder.
Das, Mr. B.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath.
Dutta, Mr. Sriah Chandra.
Farookhi, Mr. Abdul Latif Saheb.
Gulab Singh, Sardar.
Haji, Mr. Sarabhai Nemchand.
Hyder, Dr. L. K.
Iswar Saran, Munshi.
Iyengar, Mr. S. Srinivasa.

Jogiah, Mr. Varahagiri Venkata.
Joshi, Mr. N. M.
Kidwai, Mr. Rafi Ahmad.
Kunzru, Pandit Hirday Nath.
Lajpat Rai, Lala.
Lalchand Navalrai, Mr.
Mehta, Mr. Jamnadas M.
Misra, Mr. Dwarka Prasad.
Mitra, Mr. Satyendra Chandra.
Moonje, Dr. B. S.
Mukhtar Singh, Mr.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Naidu, Mr. B. P.
Nehru, Pandit Motilal.
Neogi, Mr. K. C.
Ranga Iyer, Mr. C. S.
Rao, Mr. G. Sarvotham.
Roy, Mr. Bhabendra Chandra.
Roy, Rai Bahadur Tarit Bhusan.

Sarda, Rai Sahib Harbilas.
 Shafee, Maulvi Mohammad.
 Singh, Kumar Rananjaya.
 Singh, Mr. Gaya Prasad.
 Singh, Mr. Narayan Prasad.
 Singh, Mr. Ram Narayan.

Sinha, Kumar Ganganand.
 Sinha, Mr. Rajivaranjan Prasad.
 Sinha, Mr. Siddheswar.
 Tok Kyi, U.
 Yusuf Imam, Mr.

NOES—57.

Abdul Azib, Khan Bahadur Mian.
 Abdul Haye, Mr.
 Abdul Qaiyum, Nawab Sir Sahibzada.
 Ahmad, Khan Bahadur Nasir-ud-din.
 Alexander, Mr. William.
 Ashrafuddin Ahmed, Khan Bahadur
 Nawabzada Sayid.
 Bajpai, Mr. G. S.
 Bharucha, Mr. S. M.
 Birla, Mr. Ghanshyam Das.
 Bower, Mr. E. H. M.
 Bray, Sir Denys.
 Chatterjee, The Revd. J. C.
 Coatman, Mr. J.
 Cocke, Mr. H. G.
 Crawford, Colonel J. D.
 Crerar, The Honourable Mr. J.
 Dalal, Sardar Sir Bomanji.
 Gavin-Jones, Mr. T.
 Ghazanfar Ali Khan, Mr.
 Ghuznavi, Mr. A. H.
 Gidney, Lieut.-Colonel H. A. J.
 Gour, Sir Hari Singh.
 Graham, Mr. L.
 Hezlett, Mr. J.
 Hira Singh, Brar, Sardar Bahadur
 Honorary Captain.
 Jowahir Singh, Sardar Bahadur Sardar.
 King, Mr. C. M.
 Lamb, Mr. W. S.
 McWatters, The Honourable Mr. A. C.

Mitra, The Honourable Sir Bhupendra
 Nath.
 Moore, Mr. Arthur.
 Muhammad Nawaz Khan, Sardar.
 Mukherjee, Mr. S. C.
 Parsons, Mr. A. A. L.
 Purshotamdas Thakurdas, Sir.
 Rafique, Mr. Muhammad.
 Raghavayya Pantulu Garu, Diwan
 Bahadur T.
 Rahimtulla, Mr. Fazal Ibrahim.
 Rainy, The Honourable Sir George.
 Rajah, Rao Bahadur M. C.
 Rajan Bakhsh Shah, Khan Bahadur
 Makhdum Syed.
 Rau, Mr. H. Shankar.
 Rogers, Mr. P. G.
 Roy, Mr. S. N.
 Sassoon, Sir Victor.
 Shah Nawaz, Mian Mohammad.
 Shamaldhari Lall, Mr.
 Shillidy, Mr. J. A.
 Simpson, Sir James.
 Singh, Rai Bahadur S. N.
 Stewart, Mr. J. A.
 Suhrawardy, Dr. A.
 Sykes, Mr. E. F.
 Webb, Mr. M.
 Yakub, Maulvi Muhammad.
 Yamin Khan, Mr. Muhammad.
 Young, Mr. G. M.

The motion was negatived.

THE HINDU MARRIAGES DISSOLUTION BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan) : Sir, I beg to move that the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion, be referred to a Select Committee.

I sponsored a Bill which has been rejected by this House a few minutes ago, and in that connection Honourable Members were asking me whether I was going to include Hindus or exclude Muhammadans and mistook that Bill for this which I am now asking this House to commit to a Select Committee. I hope Honourable Members will now realise that the two things were quite distinct. One had nothing to do with Hindus and Muhammadans, and this has nothing to do with anybody but Hindus.

Sir, on the last occasion when this Bill was circulated, I pointed out that I was doing elementary justice, and that my measure was not a measure of social reform, but of primitive humanitarianism, and that my measure had not only the support of the Smritikars or the sacred text writers, but

[Sir Hari Singh Gour.]

equally of usage for a thousand years, and in my Statement of Objects and Reasons I quoted the sacred texts, upon which I based my small measure.

Mr. D. V. Belvi (Bombay Southern Division: Non-Muhammadan Rural) : You have not understood them correctly.

Sir Hari Singh Gour : In the collection of opinions Honourable Members will find the old Pandit's spirit reviving. When you cannot answer a text, you abuse your text writer or your opponent by saying you have not understood it. For three thousand years this battle cry of one man not understanding the other has been agitating the Smritikars and the Shastris with the result that the Hindu law is in an utter state of chaos and confusion.

Mr. Jamnadas M. Mehta (Bombay City: Non-Muhammadan Urban) : Question ?

Sir Hari Singh Gour : But there is one point upon which the text writers are clear. Their language is unequivocal, and their opinions are emphatic. Far back in the dawn of history when the Aryan settlers came to this country there was written that great book, the first Code, the Code of Manu, and in that great book, the most sacred of all legal writings, which is regarded as even an appendix of the Vedas, we find the law of divorce given in unmistakable terms. Let me quote to you.....

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : We do not want to hear the Vedas from you. Are you a Brahmin ? We do not want to hear the Shastras from a Sudra.

Sir Hari Singh Gour : Now, Sir, it is said,—this is from the translation of the Sacred Books of the East, Vol. 25, page 341.

Mr. Amar Nath Dutt : Not the original !

Sir Hari Singh Gour : If the husband went abroad for some sacred duty, she must wait for him 8 years ; if he went to acquire learning or fame, 6 years ; if he went for pleasure, 3 years. Now, that was the utmost limit for the woman to wait for the return of her husband, and then she was free to remarry, and on the husband's return the conjugal relation was at an end. The learned commentators, e.g., the learned Dr. J. Bühler, the translator of Manu, cites a long series of quotations from the sacred writings of Gautam, another writer of great repute in Chapter XVIII, verses 15 and 17, and Vashisht, Chapter XVII, paras. 75 and 80, it is explicitly written,—and Kalukbhat, the reputed commentator of Manu, which is recognised by the orthodox and the reformers alike as the most authentic commentary on this great work of Manu, points out that this separation of the husband and wife *ipso facto* dissolves the marital tie, and after the periods mentioned by Manu the wife is free to remarry. I have mentioned, Sir, these facts for the purpose of informing the House that I am trying here to re-establish the sanctity of a primeval law. It is a law which has been the law of this country for ages past and it has been the law which has been inculcated by the most sacred text-writers upon our Dharmasastras. Therefore, I feel, Sir, that I stand upon concrete foundations and in asking this House to support my motion I have at my back the combined authority of the sacred text-writers ever since the dawn of history. I realise, Sir, that in the later decadent periods bad practices came into force and the law of divorce fell into desuetude as the tyranny

of man became more oppressive and the rights of women were trampled upon under the iron heel of man's domination. It is only, I submit, in later periods that this law was in practice held in abeyance. I have said it was held in abeyance but only in certain communities, for to-day it is the established law of all except the twice-born and even amongst the twice-born the practice of the dissolution of marriages is in places customary. I therefore feel that, if I have to cite authorities from the sacred writings, I have the best and the largest and if, Sir, I have to rely upon the usage of my nation, I can confidently say that from the days of a thousand years before Christ, which is the computed period of the compilation of the Code of Manu, down to the second century, when Yagnavalkya wrote his celebrated treatise, this law was the current law of the land, it was only in the eleventh and twelfth centuries that it became weakened and later on fell into desuetude, as the nation decayed. It is said, Sir, by the great historian of Greece, Grote, that the decline of Greece was heralded by the decline of liberty and the rights of women were the first to be curtailed, which afterwards were destroyed by the invader from Macedonia. I feel, Sir, that what was true of Greece was equally true of my own country. So long as we were free, we gave freedom to men and women, and as that freedom was restricted and confined, we ourselves became chained in the manacles of liberty and we became in course of time a degraded and decadent nation. I hope, Sir, that my fellow-countrymen will realise that the time has now come when we must re-establish our national life and purge the society of scourges that weaken and dismember it, and that we cannot possibly stand before the world as a civilised nation unless we are able to reform, reconstruct, and if necessary, re-establish, institutions for the purpose of bringing social freedom into line with modern conditions of life. And what have I asked for in my Bill? I have asked, as you are well aware, that if a woman is mated to a husband who is impotent, imbecile or suffering from ulcerous leprosy, then the court should have the power of decreeing a dissolution of marriage. In doing so, you will find, Sir, that I have paraphrased the very language of Vashisth who goes even further and says that "if the husband goes abroad after having espoused a maiden, let the maiden wait till the menses have passed three times and then choose another bridegroom. The period of three months is considered sufficient to dissolve the tie of marriage. I have cited that great Rishi Vashisth who is regarded as one of the 20 sacred writers by which the community is bound. He has cited the same law. I therefore feel that in asking this House to express its approval of this elementary right which is incorporated in this Bill, I have asked for too little and certainly not for too much. I am perfectly conscious of the volume and strength of orthodox opinion arrayed against me, expressed on the last occasion inside this House, and given expression to in the recorded opinions outside of it. May I, Sir, ask you to consider for one moment that after it has been conceded that marriage is a sacrament—I grant, Sir, that marriage is a sacrament—the very sacred writers have laid down, and laid down with the same pen, that it is a sacrament subject to the condition that it is liable to be dissolved under certain conditions. Can my orthodox friends appeal to one part of the text and forget the other? Can my friends take away from the text the conditions laid down subject to which the text must be read? And, Sir, in their orthodoxy—I was going to say in their orthodox bigotry—they use expressions and give vent to sentiments which I have great difficulty in understanding. I asked one of my orthodox friends as to what objection he could possibly raise to this Bill. He said, "There is no ob-

[Sir Hari Singh Gour.]

jection to the Bill at all. It is a very good one." Then I said, "Are you going to vote for it?" He said, "I am not going to vote for it, because orthodox opinion is against it." I said, "By voting for this Bill you will convert that orthodox opinion in your favour." He said, "Yes, that is perfectly true, but the new elections are coming on. This Bill will be used against me". I am sure that this Bill will be used against me as a large number of Bills of which I have been the unfortunate author have been used against me in the past. But I fear no one, I place truth before my own convenience or advancement, and, if I feel that I am fighting for right and for truth, I do not care if my friends, the orthodox people, repudiate my responsibility and repudiate me as their representative. I stand, and stand committed to asking this House to follow the light. I ask this House to be fearless in their decision, and if they have any objection, if they can conceive of any objection to this enunciation of the most elementary principle, to the declaration of the most fundamental human right, then I ask them "Come forward and say on what grounds you can object to my Bill." I will not listen, and I refuse to listen to the vain plea that orthodox opinion is against it. If you consider orthodox opinion, orthodox opinion has been against all reforms. It has been from time immemorial in favour of human sacrifices. It has been in favour of Suttee. It has been in favour of infanticide. It has been in favour of baby marriages. I ask you, are you going to truckle to this opinion without examining whether it is reasonable or in consonance with the requirements of modern society? We all have, and I appeal to my Hindu friends, they all have their sisters and daughters married or to marry. I ask them to consult them and see what is their point of view. If they are tied to a husband who is an arrant, raving maniac, and tied at an age when they had no consciousness of what they were doing, when they could not realise the responsibility that was thrown upon their shoulders, can you refuse to them the right of relief from that entanglement into which they were thrown by their misguided parents and guardians? I ask you, Sir, again, from time immemorial,—and I regret to have to say it was provided in the sacred laws that if the husband was impotent the wife was free to go to the *sapindas* of the husband till she conceived and was delivered of a son.

That practice was prevalent equally in the West, though in a somewhat modified and different form. It has been repudiated and rightly repudiated by modern society, but when you have repudiated that vicious custom, have you placed anything in its place? You have left a vacuum. Have you given in its place any other equivalent as a suitable substitute? I say, Sir, that the Smritikars have provided for it. If the girl of 5, 6, 10 or 20, it does not matter, is wedded to a husband who is impotent, what is she to do? Some of my orthodox friends will say "What she has to do she must do in secret". Now, I ask my Honourable friends, would it not be more honourable that she should come out in the open and say, "I abhor secret intrigues. I am an honest and honourable woman. This man is no good for me and I therefore wish to be released from his bondage and I want to take to myself another husband". Can any being with a human heart refuse to her this elementary right to provide for herself a husband when she finds that her husband is incompetent? Take the third case. The husband at the time of the marriage is suffering from ulcerous leprosy. The Smritikars have said "any other incurable disease" which I have left out. I am confining it only to leprosy in my Bill. Now, Sir, you remember what a malignant type of disease leprosy is. It affects not only the wife

but the progeny. Do you think, Sir, it is not a matter of State policy for the Government to prevent the marriage of leprous persons? Is it not the policy of Government to see that leprosy is stamped out of the land? We have a large number of humane and benevolent societies coming out to this country to cure the disease. We heard a few minutes ago that prevention is better than cure, and I submit that it would be conducive to the better growth of the nation, to the healthier growth of the nation and to the progress of India if leprous husbands and men were prevented by Statute from contracting marriages; but such is not the law.

Mr. Amar Nath Dutt : What about other diseases?

Sir Hari Singh Gour : I want you to make an amendment to that effect. Now, Sir, my friend Mr. Dutt has very rightly asked "What about other diseases"; diseases like consumption, or tuberculosis. I am perfectly aware of the terrible dangers of such diseases which are disseminated from man to man, and I feel that if my daughter or my sister had to marry a man who was suffering from galloping consumption and she had to lie in bed with him her fate was sealed. She dies and not only dies, Sir, but dies a miserable death.

Mr. Amar Nath Dutt : I meant other diseases.

Sir Hari Singh Gour : My friend Mr. Dutt is perfectly right in coupling with leprosy other serious diseases, and I hope that he will have the courage of his convictions.

I do not wish to tire this House by going through the volumes of evidence. I am sure that all my friends will feel with me in thinking that this great national injustice to the weaker sex must be redressed. I am, Sir, speaking to the Government Benches and appealing to their human feelings and asking them for their support in the cause of humanity and in the name of the dumb women who are married in this country and who have no means of escape from the impotent, the mad and the leprous husband. They will bless the day when you will pass this measure, they will bless the people who will support me in the passing of this measure. Sir, I feel that I have been trying to gild the gold and paint the lily. I may be forgiven for taking the time of this House in doing so because I feel that sometimes an axiom of Euclid has to be demonstrated upon the blackboard. But, Sir, I am perfectly certain in regard to the elementary rights which this Bill demands to be given to our own female relations that there will not be one dissenting voice, and that this motion of mine will be carried by the unanimous verdict of this House.

Sir, I move.

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : Sir, I am afraid it is rather late in the day to make a speech. I rise to oppose this motion. I yield to none in my desire to give the greatest possible freedom to the women of India, as much freedom as men possess. That is my doctrine and that is my belief. But in spite of that I am opposed to this Bill, as it has been drafted, because I am very strongly opposed to these indiscriminate attempts to introduce changes into the Hindu law or to explain it, particularly where the Hindu law is very clear. My friend has really made out no case for this Bill at all. I do not mean any reflection upon him, no disrespect to him, but much of his eloquence was entirely misplaced. Some of us on this side of the House

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are for giving the greatest possible amount of freedom to women, we are among the most advanced social reformers, but as I have already said, I deprecate these ill-considered, hasty measures involving reform by bits and dribbles being adopted without considering their consequences upon the other parts of the Hindu law.

Sir, my friend says the Bill is intended to remove certain doubts regarding the dissolution of marriages among persons professing the Hindu religion. Has he shown where the doubt exists ? Has that doubt been expressed in any court of law in any case that came before it ? He has not shown one single case where a doubt has been expressed about this matter. He himself says the law is very clear. He has quoted certain sections of Narad and Vashisth in his Statement of Objects and Reasons, and he says that for three thousand years this has been the law of the country ; and he has also said that most of the Hindus, whether Dwijas or non-Dwijas, practise this law. Where then is the necessity of introducing this measure, and where are those doubts for the removal of which this Bill has been introduced into this House ? I quite agree with my friend that the law is absolutely clear. In fact the Hindu law goes further than this Bill goes, and that itself ought to be a reason for its rejection because it practically limits the operation of those classes of cases in which a Hindu wife can remarry in the life-time of a husband. Has there been any case in which a remarriage of that class has taken place and has been set aside by a court of law ? In that case perhaps there might have been some justification for the introduction of this measure, but my friend has not quoted one such case. Moreover, the drafting of this Bill is extremely clumsy in so far that it practically limits the rights of women to remarriage under certain circumstances only. Looked at on that light it is a reactionary measure. It is not a measure of reform. It is to my mind in effect an interference with the Hindu law as it has been quoted by him.

Then, Sir, you will see from clause 2 that one of the reasons for dissolution of marriage is " imbecility ". This is an English word which the people of this country do not understand, and the Honourable Member has not given any explanation of what he means by imbecility. It may mean anything. It is such a vague expression that I do not think that it should be put in any legislation affecting the social structure of the Hindu community. I therefore submit that my friend will be well advised if he withdraws this Bill for the present.

Mr. President : Will he be allowed to withdraw ?

Lala Lajpat Rai : I think we shall allow him so far as we are concerned. But I wish to give him in all sincerity one piece of advice, and that is this. If he wants to be a real social reformer amongst the Hindus he ought to go a bit slow. He is going too fast for us. He ought to allow public opinion to be created and to be developed on certain points, and he ought to begin with fundamentals. My friend was talking of marriages with lepers and marriages of persons infected with incurable diseases. Why not then begin with those things ? Why start with the dissolution of marriage ? Marriage comes first and dissolution comes after. If he wants to regulate Hindu marriages he should lay down provisions in the first place by which marriages should be regulated, before he deals with the dissolution of marriage. That I think is beginning at

the wrong end. We have rightly begun first of all with the question of child marriages ; that is the proper end to begin from. Then, later on, after that law has been assimilated and accepted by the community at large, he can come up to us with certain other proposals by which undesirable marriages could be stopped or avoided. In that way, if he goes on with the reform of the marriage laws of the Hindus, I think he will be able to build up a sound structure which in the process of time will be accepted by the whole community. But if he takes up just any measure of reform which comes into his head and puts it into the form of a Bill, then I think he is putting hindrances in the way of reform rather than furthering the cause of reform, because he will be unnecessarily causing alarm in the mind of the community. We have to carry certain sections of the Hindu community with us. But in certain matters of essential reform upon which the life and death of the community depend we think the Hindu community has been sufficiently educated and we are prepared to ask for legislation to help us to remove any doubts which may exist. In the case of child marriages there are doubts and therefore we want the help of the Legislature to remove those doubts. But in the case of dissolution of marriages, in the way in which my friend has sought to provide for it according to his own Statement of Objects and Reasons, there are no doubts. He himself says, this is the law of the land, and it has been the law of the land for 3,000 years. Then if that is the law of the land, where is the doubt and why introduce this Bill ? Are we going to re-enact the whole of the Hindu law and codify it bit by bit without considering the consequences of such codification on other parts of the Hindu law, for instance, the law of succession ? I might point out that one of the laws hastily enacted by this Legislature and introduced by my friend has caused such confusion in the rules of succession and inheritance that perhaps some of us will be compelled to bring forward a measure either to repeal or amend that measure. I therefore beg of him not to go on with hasty legislation. After all marriage is a very important matter. Let us by all means exert to regulate marriages on a human and sound basis ; then afterwards we can proceed with the dissolution of marriages too. I state upon the floor of this House that I am not against the principle, which he wants to embody, but I submit that that principle is already recognized by Hindu law. If anybody wants to take advantage of those provisions of the Hindu law, there is nothing to prevent him or her doing so. There is therefore no need to bring in a proposal to legislate on a matter which is already provided for in the Hindu law. He has not shown at all that any doubt has been thrown on the validity of those provisions of the Hindu law which he quotes.

I therefore beg of him, that instead of having this Bill rejected or doubt thrown upon its propriety, he should withdraw this Bill and postpone its introduction if so advised to a later period.

(Cries of "Withdraw, withdraw.")

Sir Hari Singh Gour : Sir, my learned friend who has spoken on the subject is a lawyer, but I must tell him that he has betrayed some ignorance of the elementary procedure of the courts. He has asked me to cite a single case. Will he go down and read the Civil Procedure Code and he will find pages and pages where the British courts have laid down that they have no matrimonial jurisdiction, and the question

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as regards dissolution of marriage is therefore a question for caste autonomy, and when it is decided there, all that the civil courts can do is to declare the fact whether a dissolution has or has not taken place.

Lala Lajpat Rai : There is a law that punishes bigamy.

Sir Hari Singh Gour : There is such a law, but I do not understand my friend's reference to it. We are not dealing with the question of bigamy, but of dissolution of marriages.

Now, the position therefore is that a doubt is created in this way. So far as the Hindu law is concerned, it is perfectly clear, as I have pointed out that for a long period of time custom has modified that law, and that custom has made dissolution of marriages impossible. The result has been, therefore, that only in certain local areas and among certain castes marriages are dissolved according to the rules of the caste, and when they are dissolved the parties whose marriages have been dissolved are free to go to the civil court and obtain a declaration regarding dissolution of their marriages. That is all the jurisdiction that courts have got, the substantive law being, as I have pointed out, and the custom having overridden the law, there is doubt as to whether the custom has so overshadowed the whole law that the law has ceased to exist or that the law must shine in its pristine purity in spite of the execrescences of custom, and that is a doubt which can only be resolved by this House and the Central Legislature.

My Honourable friend says with one breath that I am going too fast for a social reformer and if I wish to carry the mass of Hindu society with me I must move more slowly. In one sentence my friend says that my Bill is very moderate, and in another that it is a reactionary Bill. It cuts down the very principles of Hindu law which allows dissolution of marriage in a large number of cases. Well, Sir, I am accustomed to hearing these sophistries. They do not emanate from my friend, but when you have come to one conclusion and you have to find reasons for supporting those conclusions, the resultant effect is a confusion of ideas, and that is exactly what has overcome my Honourable friend on the other side. Having come to the conclusion that he must oppose this Bill, he had to find some reason for it, and while he says in one sentence that the subject of my Bill is already provided for by Hindu law, in another sentence he says it does not go far enough, and in the third sentence he says it goes too far.

And these are the three contradictions as my Honourable friend

5 P. M.

Mr. Kabeeruddin Ahmed puts it in the speech of my Honourable friend which at any rate might have had the merit of consistency. Sir, I do not wish to press this motion upon this House if the bulk of my countrymen are opposed to it. I tabled this Bill with the concurrence of a large number of my friends. If I should name them, they would probably say that they have since changed their minds. (Laughter.) But I can assure you, Sir, that there is a bulk, and a large body of public opinion behind this measure: (*Honourable Members* : "No, no.") If this House was not a house of mere men, but a House in which women were sufficiently represented, I am sure they would have torn my Honourable friend's arguments to pieces and it would have been difficult for my friend to emerge from the doors of

this House (Laughter), because I am perfectly certain that he would have been surrounded and mobbed by the fairest of the fair sex who would have said : " How can you deny to us our elementary rights ? "

Lala Lajpat Rai : Nobody denies that right.

Sir Hari Singh Gour : But, Sir, my Honourable friend is perfectly right. The time is not yet ripe and because that time is not yet ripe, I take his advice and I will renew this measure on a more propitious occasion.

Mr. President : Order, order. If the Honourable Member wanted the leave of the House to withdraw his motion, he should not have made this speech.

Sir Hari Singh Gour : I want to give reasons why I am withdrawing the motion.

Mr. President : Order, order. Does the Honourable Member ask for leave to withdraw ?

Sir Hari Singh Gour : Yes, Sir.

Mr. President : The question is :

" That leave be given to Sir Hari Singh Gour to withdraw his Bill. "

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 10th September, 1928.