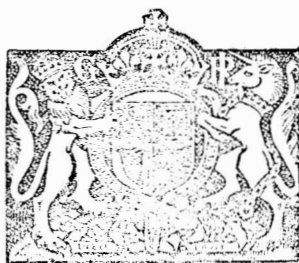


LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 29th JANUARY, 1929

Vol. I—No. 2

OFFICIAL REPORT



CONTENTS.

Questions and Answers.

The Hindu Child Marriage Bill—Consideration postponed.

The Indian Law Reports Bill—Motion to refer to Select Committee, negatived.

DELHI
GOVERNMENT OF INDIA PRESS
1929

Price Five Annas.

CONTENTS.

VOLUME I—28th January to 23rd February, 1929.

PAGES.

Monday, 28th January, 1929—

✓ Address by H. E. the Viceroy to the Members of the Legislative Assembly	1-8
Members Sworn	9
Questions and Answers	9-68
Unstarred Questions and Answers	69-128
Deaths of the Honourable Mr. S. R. Das and Lala Lajpat Rai	128-33
Governor General's Assent to Bills	133
Bill amended by the Council of State laid on the Table	133
Statements laid on the Table	134
Election of the Panel for the Standing Committee for the Department of Industries and Labour	135
Election of a Member to represent the Legislative Assembly on the Council of the Indian Institute of Science, Bangalore	135
Election of Four Members for the Committee on Public Accounts	135-36
Election of Members to the Standing Advisory Committee for the Department of Industries and Labour, the Council of the Indian Institute of Science, Bangalore, and the Public Accounts Committee	136
Statement of Business	136
✓ Apology from Mr. Byrt. Correspondent of the <i>Times of India</i> , and from the Proprietors of the <i>Times of India</i>	137-38
Report of the Royal Commission on the East and Central African Territories	139

Tuesday, 29th January, 1929—

Questions and Answers	141-189
The Hindu Child Marriage Bill—Consideration postponed	190-204
The Indian Law Reports Bill—Motion to refer to Select Committee—Negatived	205-19

Wednesday, 30th January, 1929—

Questions and Answers	221-67
Resolution <i>re</i> Recommendations of the Indian Cinematograph Committee—Negatived	268-91
Resolution <i>re</i> Compulsory Physical Training, etc., for Indian Boys—Discussion adjourned	292-310

LEGISLATIVE ASSEMBLY.

Tuesday, 29th January, 1929.

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

QUESTIONS AND ANSWERS.

FORMATION OF A CENTRAL COMMITTEE TO DEAL WITH THE PROBLEMS CONNECTED WITH JUTE.

123. ***Mr. G. D. Birla:** (a) Will Government be pleased to state what progress, if any, has been made on the recommendation of the Royal Commission on Agriculture in India that a Central Committee, on the lines of the Indian Central Cotton Committee, should be formed to deal with all problems connected with jute?

(b) If nothing has been done so far, will Government definitely state what their intentions are in regard to the formation of the Committee and its financing from Central Revenues as recommended by the Commission?

Mr. G. S. Bajpai: (a) and (b). The subject is still under consideration.

PREFERENCE FOR BRITISH EMPIRE MANUFACTURED GOODS.

124. ***Mr. G. D. Birla:** (a) Is it a fact that the British National Union of Manufacturers have made a representation to the High Commissioner for India in London, complaining that the draft rules for the supply of articles required for public services in India did not mention preference to the British Empire manufactured goods, and expressing a hope that the Government of India would fall in line with the normal practice of the Empire States in this connection?

(b) If the answer be in the affirmative, will Government be pleased to lay on the table copies of that representation and of the reply, if any, made by the High Commissioner thereto?

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

(b) The letter is under consideration along with other criticisms received on the draft Stores Purchase Rules. Government do not consider that any useful purpose would be served by placing a copy of this letter on the table of the House, at any rate at this stage.

†125.*

† For this question and its answer, see at the end of questions for the day.

ALLEGED UNDER-ASSESSMENT OF PIECE-GOODS IN THE KARACHI CUSTOMS HOUSE.

126. ***Mr. Lalchand Navalrai:** (a) Has the attention of the Government been drawn to a letter under the heading "A customs complaint", signed by Tarasing Begsing, published in the *New Times*, Karachi, dated the 29th October, 1928, regarding under-assessment of piece-goods in the Karachi Customs House?

(b) Is it a fact that the cases of short assessment were brought to the notice of the Collector of Customs, Karachi?

(c) Has the Collector of Customs come to any conclusion? If so, which?

(d) In view of the systematic fraud alleged, do Government propose to undertake a thorough inquiry to shift out the truth as early as possible?

The Honourable Sir George Schuster: (a) The Government have seen the letter.

(b) and (c). Certain allegations were made to the Collector of Customs, Karachi, which were carefully investigated but proved to be without foundation.

(d) In view of the answer to (b) and (c) above, the question does not arise.

NUMBERS OF VARIOUS COMMUNITIES EMPLOYED IN THE CUSTOMS HOUSE, KARACHI.

127. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state the total strength of clerks, examiners and appraisers in the Karachi Customs House, their nationality and the province to which they belong?

(b) Will Government be pleased to state:

(i) How many vacancies of appraisers, examiners, preventive officers and clerks have fallen vacant during the last five years in the Karachi Customs House?

(ii) How many have been conferred on:

(1) Sindhis?

(2) Madrasis?

(3) Europeans and Anglo-Indians?

(4) Parsis and other non-Sindhis?

The Honourable Sir George Schuster: With your permission, I will deal with questions Nos. 127 to 130. The information is being collected and will be supplied to the Honourable Member on receipt.

EMPLOYMENT OF SINDHI GRADUATES IN THE CUSTOMS HOUSE AT KARACHI.

128. ***Mr. Lalchand Navalrai:** (a) Are Government aware that there is much unemployment amongst the educated Sindhis in the Province of Sind?

(b) Have Sindhi graduates applied for posts in the Karachi Customs House and have any Sindhi graduates been taken up?

† For answer to this question, see answer to question No. 127.

(c) Do Government propose to encourage the entry of Sindhi graduates in the Department?

(d) Is it a fact that there is discontent among the examiners of the Karachi Customs House owing to much direct recruitment of appraisers in the Karachi Customs House?

(e) Has any such direct recruitment taken place since January, 1928? If so, how many persons have been so employed and for what reasons?

(f) Do Government propose to take steps to remove the complaint?

FREQUENT TRANSFER OF EXAMINERS WORKING IN THE IMPORT YARD OF THE CUSTOMS HOUSE, KARACHI.

†129. ***Mr. Lalchand Navalrai:** (a) Is it a fact that examiners working in the Import Yard of the Karachi Customs House are subject to weekly transfer? If so, what are the reasons for it?

(b) Is it a fact that the public object to such a course and complain of inconvenience?

(c) What steps do Government propose to take in the matter?

SHORTAGE OF APPRAISERS AND EXAMINERS IN THE CUSTOMS HOUSE AT KARACHI.

†130. ***Mr. Lalchand Navalrai:** (a) Are Government aware that, owing to shortage in the number of appraisers and examiners in the Karachi Customs House, the Indian dealers are put to inconvenience owing to their goods being detained?

(b) Have any proposals been submitted for the strengthening of the establishment in these branches?

(c) If the reply be in the affirmative, when are the proposals likely to be sanctioned?

(d) If the reply be in the negative, do Government propose to call for a report from the Collector of Customs, Karachi, whether an increase in the number of appraisers and examiners is required, and pass necessary orders?

PAY OF EXAMINERS OF THE CUSTOMS HOUSE, KARACHI.

131. ***Mr. Lalchand Navalrai:** Will Government be pleased to state if the maximum pay fixed for the Preventive Officers of the Karachi Customs House will be given also to the examiners of the Karachi Customs House? If the reply be in the negative, will the Government be pleased to give reasons?

The Honourable Sir George Schuster: The answer to the first part of the question is in the negative.

The reason for allowing a higher maximum rate in the case of Preventive Officers is that their duties are liable to be more arduous and responsible than those of examiners.

RULES FOR RETIREMENT OF SUBORDINATE OFFICERS.

132. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state what stage the proposal regarding subordinates retiring on half pay pension after 25 years has reached?

(b) Do Government contemplate giving a gratuity and bonus to the subordinate officers in lieu of pension?

† For answer to this question, see answer to question No. 127.

The Honourable Sir George Schuster: (a) No proposal answering exactly to the description given in this part of the question is under the consideration of the Government of India. There is a proposal to base pension upon 25 years' actual duty instead of 30 years' service (including both duty and leave) as at present, but this is mainly a formal change, as 25 years' duty will generally imply 30 years' service.

(b) This is a matter which has been under examination for some time, and a stage has been reached at which the Government of India will shortly consult Local Governments, and probably service associations also, in regard to certain definite proposals which have been drawn up, involving the substitution, in whole or part, of Provident Funds for pension.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say when these rules regarding pension are likely to come out?

The Honourable Sir George Schuster: That I am afraid is a question which I cannot answer.

SAVINGS IN PENSIONS DUE TO EARLY DEATHS OF SUBORDINATES IN THE CUSTOMS HOUSE, KARACHI.

133. ***Mr. Lalchand Navalrai:** What are the savings in pensions due to early deaths of subordinates in the Customs House, Karachi, during the last 10 years?

The Honourable Sir George Schuster: The Government of India are unable to supply the information required, but have satisfied themselves that the mortality among the officers named has not been abnormal in the period mentioned.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state what are the reasons for not supplying the information?

The Honourable Sir George Schuster: The information is not available. It is not part of the business of the Government to make calculations of the kind referred to in the question.

Mr. Lalchand Navalrai: Am I to understand that the Government is not to give us any information which requires calculation?

The Honourable Sir George Schuster: I can give the Honourable Member exact figures of the deaths and the numbers of the staff and I think that, with these, perhaps he can make his own calculation.

Year.	Total strength.				Total number of deaths.
1918-19	192
1919-20	192
1920-21	196
1921-22	199
1922-23	245
1923-24	245
1924-25	246
1925-26	248
1926-27	252
1927-28	258
					7
					3
					4
					2
					2
					Nil.
					Nil.
					1
					1
					1

That is to say, in the last five years there have been only three deaths and the figures show progressive improvement.

AUTHORITY OF AGENTS OF STATE RAILWAYS IN REGARD TO MISUSE OF GOVERNMENT STORES.

184. ***Mr. Lalchand Navalrai:** Will Government be pleased to state:

- (a) Which are those matters in which the Agents of the State Railways are the final authority for deciding them?
- (b) Under what authority are they so empowered?
- (c) With reference to starred question No. 83 by the Honourable Maulvi Muhammad Yakub, on Wednesday, the 6th September, 1928, will the Government be pleased to state under what rule or authority the decision of the Agent on matters as to the misuse of Government stores is held to be final?
- (d) With reference to the supplementary question to the above Question No. 83 by Lieutenant-Colonel H. A. J. Gidney, will the Government be pleased to state under what rule or order the Railway Board is authorised not to interfere in such matters when they come to the notice of the Railway Board?
- (e) Will Government be pleased to state which are the matters in which the Railway Board is authorised to interfere with the decision of the Agents, and which are left to be finally decided by them?

Mr. A. A. L. Parsons: (a) I am sending the Honourable Member a copy of the schedule of powers of Agents of State Railways in establishment matters, and am having copies of the schedule placed in the Library.

(b) By the authority of the Government of India.

(c) and (d). Under the schedule of powers, to which I have referred, Agents have full powers to deal with all establishment matters in which the previous sanction of the Railway Board, or of a higher authority, is not required under the provisions of the schedule; it was not required in the case mentioned by the Honourable Member.

(e) The schedule of powers which I have mentioned shows the cases in which the final decision is not left to Agents.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say if the Railway Board has a right to review the orders of the Agent?

Mr. A. A. L. Parsons: The Railway Board could, in exercise of its general powers of supervision, look into any particular establishment case which had been decided by the Agent of a State-managed Railway. Naturally they do not ordinarily interfere in matters of this kind.

ASSESSMENT ON A FICTITIOUS BASIS OF FARES ON THE LARKANA-JACOBABAD RAILWAY.

185. ***Mr. Lalchand Navalrai:** (a) Are Government aware that, on the Larkana-Jacobabad Railway, the railway fares are assessed on a fictitious mileage?

(b) Will Government be pleased to state what is the actual mileage between Larkana and Shahdadt, and for how many miles the passengers of all classes are actually charged?

(c) If it is a fact that the fare and goods freight are charged on an exaggerated mileage, will Government be pleased to state since when this practice has been going on and why?

(d) Will Government be pleased to state if there are any other railways in India where such a system is in force? If so, where?

(e) Is it a fact that guards and drivers on the aforesaid loop line are paid allowances, calculated on the actual mileage, and not the exaggerated one for which the passengers are charged fare and goods freight?

(f) Do Government propose to direct that the fare should be charged on the actual mileage?

Mr. A. A. L. Parsons: (a) An additional mileage charge of 50 per cent. in excess of the actual mileage is levied for both passenger fares and goods rates on the Larkana-Jacobabad Railway.

(b) The actual mileage between Larkana and Shahdadkot is $31\frac{1}{2}$ miles and the distance for charge is 48 miles.

(c) The additional mileage has been charged since the opening of the Larkana-Jacobabad Railway in 1922. Such additional charge is made on certain sections of lines where either the cost of construction or the working expenses, or both, are higher than usual and a return on the outlay incurred cannot otherwise be obtained.

(d) Yes, on certain other sections of the North Western Railway and on certain sections of the Assam Bengal, Bombay, Baroda and Central India, East Indian, Great Indian Peninsula, the Burma Railways and the Gakwar's Baroda State Railway.

(e) Guards are paid mileage allowances for 100 miles for 8 hours' work for trains between Larkana and Silra Shahdadkot, and double the actual mileage, for trains running through to Dodapur; such trains being considered as van goods trains. This is in conformity with the mileage allowance paid to guards on the rest of the North Western Railway system. Drivers are paid allowances on the actual mileage.

(f) No.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to say why the actual charge on the mileage is not made at a higher rate, instead of charging the exaggerated rate?

Mr. A. A. L. Parsons: Does the Honourable Member refer to the mileage allowances paid to guards and drivers?

Mr. Lalchand Navalrai: I am referring to (b) and (c) of the question.

Mr. A. A. L. Parsons: For the reason I have given. This was an expensive section of line to build and therefore if we charged merely the ordinary mileage we should not get a return on the money invested.

Mr. Lalchand Navalrai: My question is why is not the higher rate charged instead of charging on an incorrect mileage.

Mr. A. A. L. Parsons: It happens to be the method by which we work out the higher rate.

RECRUITMENT BY SELECTION OF SUBORDINATES ON THE NORTH WESTERN RAILWAY, KARACHI SECTION.

136. ***Mr. Lalchand Navalrai:** (a) Is it a fact that recruitment of subordinates in the North Western Railway, Karachi section, is made by selection and a list of selected candidates in order maintained?

(b) If the answer be in the affirmative, will Government be pleased to place on the table lists of the 2 selections prior to the last one, together with a statement showing which of the candidates out of these lists have already been provided with appointments?

(c) Were the appointments given in the order in which candidates were selected? If not, why not, and has it not created discontent?

(d) Is it a fact that, before the list of prior selections is exhausted, new candidates are selected and made to supersede the old selected candidates? If so, what are the reasons for it?

(e) Do Government propose to take measures to allay the discontent created by such treatment?

Mr. A. A. L. Parsons: I propose, with your permission, Sir, to reply to questions Nos. 186 and 187 together, I am obtaining the information for which the Honourable Member asks and will communicate it to him on receipt.

SELECTION OF CANDIDATES FOR EMPLOYMENT BY THE NORTH WESTERN RAILWAY AT KARACHI.

†137. ***Mr. Lalchand Navalrai:** (a) Is it a fact that the Railway Department of the North Western Railway, Karachi section, had recognized the superiority of Bombay education to that of the Punjab and treated the qualification of a candidate having passed the 6th Standard English Examination in Bombay Presidency as equivalent to the Matriculation of the Punjab University?

(b) Was any selection actually made on that principle?

(c) Is it a fact that this principle was departed from at the latest selection at Karachi? If so, why?

(d) Is it a fact that, at the latest selection at Karachi, five candidates were selected, and even though two candidates appeared with Bombay Matriculation certificates, all the five candidates with Punjab Matriculation were preferred? If so, why?

REDUCTION OF INTERMEDIATE CLASS FARES ON THE NORTH WESTERN RAILWAY.

188. ***Mr. Lalchand Navalrai:** Will Government be pleased to state:

(a) When were the revisions made in Railway fares on the North Western Railway during the last 10 years?

(b) Was any reduction made in first, second and third class fares? If so, how much?

(c) Was any reduction made in the intermediate class fares at the time of the last revision or the one previous to it? If not, what were the reasons for not doing so?

(d) Is it a fact that, during the last 10 years, no reduction has been made in the intermediate class fares? If not, why not?

(e) Do Government propose in the interests of the middle class people who use the intermediate class, to revise and reduce the intermediate class fares? If so, when?

Mr. A. A. L. Parsons: (a) A statement giving the information is laid on the table.

(b) Yes. The statement shows the reductions.

(c) and (d). Intermediate class fares for distances over 50 miles were reduced on 1st April 1926.

(e) No further reduction in intermediate class fares on the North Western Railway is at present contemplated.

Statement showing fares in force over the North Western Railway during the last ten years.

1st class.		2nd class.		Inter class.		Third class.	
Date of revision.	Fares in force.	Date of revision.	Fares in force.	Date of revision.	Fares in force.	Date of revision.	Fares in force.
	Pies per mile.		Pies per mile.		Pies per mile.		Pies per mile.
Prior to 1922.	All distances . 18	Prior to 1922.	All distances . 9	Prior to 1922	All distances . 4½	Prior to June 1923.	All distances . 3
1st January 1922.	1-300 miles . 24	1st January 1922.	1-300 miles . 12	1st January 1922.	By Bombay and Calcutta mail trains—	1st June 1923	All distances . 3½
	301 and over . 18		301 and over . 9		1-300 miles . 6	1st April 1926.	1-50 miles . 3½
1st April 1926	All distances . 18	1st April 1926	All distances . 9		301 and over . 4½		51 and over . 3
1st February 1927.	1-300 miles . 18	1st February 1927.	1-300 miles . 9		By other trains—	1st February 1927.	1-50 miles . 3½
	301 and over . 12		301 and over . 6		All distances . 4½		51-300 miles . 3
				1st June 1922	All trains—		301 and over . 2
					All distances . 5	1st April 1928	1-50 miles . 3½
				1st April 1926	1-50 miles . 5		51-300 . 2½
					51 and over . 4½		301 and over . 1½

ABOLITION OF RESERVED INTERMEDIATE CLASS COMPARTMENTS FOR ANGLO-INDIANS ON THE NORTH WESTERN RAILWAY.

139. ***Mr. Lalchand Navarai:** (a) Are Government aware that, on account of there being no sufficient accommodation, intermediate class carriages on the North Western Railway are overcrowded on the main line between Peshawar and Delhi and the Punjab-Sind sections?

(b) Is it a fact that intermediate class compartments are still reserved for Anglo-Indians on some sections of the North Western Railway? If so, where?

(c) Is it a fact that such compartments are not frequently used by the Anglo-Indians and often run empty, whereas those for Indians go crowded?

(d) Do Government propose to do away entirely with this racial discrimination and also provide sufficient accommodation for intermediate class passengers?

* **Mr. A. A. L. Parsons:** (a) Periodical checks which have been made by the North Western Railway show that overcrowding in intermediate class carriages does not occur on these sections.

(b) No.

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

COOLING OF RAILWAY CARRIAGES.

140. ***Mr. Lalchand Navarai:** (a) Are Government aware that there was a system for cooling the compartments of railway carriages, by *tatties* fixed to the windows, before electric fans were introduced on the North Western Railway?

(b) Will Government be pleased to state if there is any cooling system in railway carriages now in practice on any railway in India? If so, which?

(c) Do Government propose to introduce on the North Western Railway the old system of *tatties*, or some other scientific method, in addition to the electric fans, to relieve the passengers from inconvenience during the hot season?

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

(b) No.

(c) No. The *tatties* system was dirty and ineffective, and the expense of other systems is at present prohibitive.

EMPLOYMENT OF SINDHIS ON THE NORTH WESTERN RAILWAY.

141. ***Mr. Lalchand Navarai:** (a) Has the attention of Government been drawn to an article published in the *Sind Observer*, Karachi, dated the 4th August, 1928, headed "Sindhis in the North Western Railway service", regarding Sindhis not being given a due proportion of appointments in the railway services?

(b) Is it a fact that only 25 per cent. of the staff employed in the Karachi Division of the North Western Railway are Sindhis, the rest being non-Sindhis; whereas in the other six divisions of the North Western Railway, the staff is almost wholly composed of non-Sindhis, the Sind element being hardly one per cent?

(c) If the answer be in the negative, will Government be pleased to state the proportion of Sindhis in each division of the North Western Railway?

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

(b) and (c). I am seeing if the information can be obtained for the Honourable Member without imposing undue labour on the North Western Railway Administration, and will communicate with him in due course. The statistics ordinarily maintained by railways do not show the localities from which individual members of the staff come.

RECRUITMENT AT LAHORE OF NON-SINDHIS FOR EMPLOYMENT ON THE NORTH WESTERN RAILWAY.

142. ***Mr. Lalchand Navarai:** (a) Is it a fact that appointments on the North Western Railway are being made as a rule at Lahore in the Punjab, which is the headquarters of the North Western Railway?

(b) Is it a fact that the head clerks and heads of sections in the Head Office at Lahore are almost all non-Sindhis?

Mr. A. A. L. Parsons: (a) The selection of candidates for appointment is as a rule made at headquarters, except for posts which are controlled by Divisional Superintendents and in which service is generally confined to the Division in which recruitment is made.

(b) Yes only one of the head clerks is a Sindhi.

EMPLOYMENT OF SINDHIS AS HEAD CLERKS AND HEADS OF SECTIONS IN DIVISIONAL SUPERINTENDENTS' OFFICES ON THE NORTH WESTERN RAILWAY.

143. ***Mr. Lalchand Navarai:** (a) Will Government be pleased to state the number of Sindhis and non-Sindhis as head clerks and heads of the sections in the Divisional Superintendents' Offices in all the 7 Divisions of the North Western Railway?

(b) Do Government propose to see their way to allot a just proportion of recruitments to equally deserving Sindhis in the Head Office and the Divisional Superintendents' Offices in all the 7 Divisions, and on the loop lines, especially in Sind?

Mr. A. A. L. Parsons: (a) There are 10 Sindhi and 99 non-Sindhi head clerks and 19 Sindhi and 109 non-Sindhi sub-heads.

(b) Government do not consider that it would be desirable specifically to distribute appointments which become vacant on any area basis such as is suggested by the Honourable Member. I notice, however, that out of 10 head clerks on the Karachi Division 8 are actually Sindhis, and out of 18 sub-heads 15 are Sindhis.

RESIDENTS OF SIND EMPLOYED AS OFFICERS OR SUBORDINATES IN THE RAILWAY BOARD.

144. ***Mr. Lalchand Navarai:** Will Government be pleased to state if there are any officers or subordinates in the offices of the Railway Board who are residents of Sind?

Mr. A. A. L. Parsons: There is one clerk.

RAILWAY TRAINING SCHOOL FOR THE CONVENIENCE OF SIND SUBORDINATE RAILWAY SERVANTS.

145. ***Mr. Lalchand Navalrai:** Will Government be pleased to state:

- (a) If there was a Railway Training School for the convenience of Sind subordinate railway servants at Sukkur, North Western Railway?
- (b) If so, from what year to what year was it in existence?
- (c) Is it a fact that, after the close of the Sukkur Training School, one was opened at Kotri, North Western Railway?
- (d) If so, when was it closed and for what reasons?
- (e) Was there any similar Railway Training School in the Punjab simultaneously with those at Sukkur and Kotri?

Mr. A. A. L. Parsons: (a) and (b). There was a training school for railway telegraphists in Sukkur from some time before 1895 until December 1908, when it was closed. It was not specially for Sindhis, but to meet the demand for signallers on the whole of the North Western Railway.

(c) and (d). A school was opened at Kotri in May 1917 to meet the demand for signallers required overseas in Mesopotamia and East Africa. It was closed in September 1919.

(e) Yes, at Lahore and Saharanpur.

EMPLOYMENT OF A SINDHI INSTRUCTOR AT THE LYALLPUR TRAINING SCHOOL FOR THE BENEFIT OF SINDHI STUDENTS.

146. ***Mr. Lalchand Navalrai:** (a) Is it a fact that the Sind Railway subordinates have now to go a long way off to Lyallpur in the Punjab for their training?

(b) What is the number of the persons from Sind and Baluchistan who attended for training at the Lyallpur School during each year since the opening of that school?

(c) How much allowance does each Sindhi student get at the Lyallpur School?

(d) Are Government prepared to make enquiries if this allowance is found to be insufficient for a Sindhi to live upon, and whether the Sindhis complain of it?

(e) Is there any Sindhi Instructor, Superintendent, or Lecturer in the Lyallpur School for the benefit of the Sindhi students?

(f) If the answer be in the negative, are Government prepared to appoint some Sindhis to facilitate instruction being imparted to the Sindhi students?

Mr. A. A. L. Parsons: (a) They have to go to Lyallpur.

(b) 176 in 1927 and 198 in 1928.

(c) From Rs. 18 to 22 per mensem.

(d) No complaints have been received. Government are not prepared to make enquiries.

(e) There is one Sindhi Instructor in the school.

(f) Does not arise.

Mr. Lalchand Navalrai: According to my information, Sir, there is a necessity for making an enquiry. Complaints have been received by me. Would the Government therefore undertake an enquiry?

Mr. A. A. L. Parsons: I see no reason to undertake an enquiry when complaints have not been received by the Agent of the North Western Railway, who would be the natural authority to whom they should be made.

APPOINTMENT OF GUARDS ON THE NORTH WESTERN RAILWAY TO BE STATION MASTERS.

147. ***Mr. Lalchand Navalrai:** Will Government be pleased to state:

- (a) If it is a fact that the guards on the North Western Railway are transferred from their cadre as station masters and supersede the station masters already working on the line?
- (b) Are the station masters similarly transferred to the guards cadre?
- (c) Are Government aware that the system of transferring and making the guards supersede the station masters has caused great discontent amongst the station masters?
- (d) If the answer be in the affirmative, do Government propose to put a stop to this system?
- (e) If the answer be in the negative, are Government prepared to undertake an enquiry into the matter?

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

(b) There is no restriction to such transfers if the exigencies of the service permit.

(c) No.

(d) Does not arise.

(e) Enquiry has been made from the North Western Railway Administration who report that they are not aware of any such discontent.

PROPORTION OF VARIOUS COMMUNITIES EMPLOYED IN THE TRAFFIC DEPARTMENT OF THE NORTH WESTERN RAILWAY.

148. ***Mr. Lalchand Navalrai:** (a) With reference to the answer given to me by Mr. Parsons in September, 1928, referring me for information to the report on the Indian Railways for 1926-27, are Government aware that Volume I, Appendix F, of the said report indicates the following number of Railway Gazetted Officers belonging to their respective classes in the Transportation Department on the North Western Railway in 1927?

Europeans.	Hindus.	Muslims.	Anglo-Indians.	Other classes.
41	9	18	3	2

(b) Is it a fact that, according to the same report, the number of the subordinates in the Transportation Department of the North Western Railway drawing Rs. 250 per mensem or over was as follows?

Europeans.	Hindus.	Muslims.	Anglo-Indians.	Other classes.
100	35	14	122	27

(c) In view of the aforesaid disproportion of appointments amongst the aforesaid classes, do Government propose in future to confer these posts on these respective classes on a more equitable basis?

Mr. A. A. L. Parsons: (a) The number of Muslims is 8, of Anglo-Indians 1; otherwise the Honourable Member's question correctly repeats the figures in the Appendix.

(b) Yes.

(c) The principles which now govern recruitment to both the Gazetted and non-Gazetted railway services are, I think, well known to the Honourable Member, and Government cannot admit that there is anything inequitable in them.

**LOSS TO CLAIMANTS AGAINST THE GREAT INDIAN PENINSULA RAILWAY
FOLLOWING THE DECISION IN HIRACHAND V. THE GREAT
INDIAN PENINSULA RAILWAY.**

149. *Mr. N. O. Kelkar: (a) Has the attention of Government been drawn to the following remarks of the Bombay High Court, in the case of *Hirachand versus Great Indian Peninsula Railway*, reported at page 977 of 30 Bombay Law Reports?

"It appears unnecessary that the plaintiff should give two notices, one to the railway administration in certain cases and the other to the Secretary of State under section 80 of the Civil Procedure Code for securing the same object. But it is a matter for the Legislature to consider whether, in the case of a suit against a railway belonging to the State, it is necessary to give notice under section 80 of the Civil Procedure Code when notice of claim is given under sections 77 and 140 of the Indian Railways Act. We have, however, to give effect to the wide language of section 80 which does not admit of any exception."

(b) Is it a fact that representations were made by a number of people to the Law Member to the Government of India at Simla, on the subject contained in the remarks above quoted? Will Government state whether any and what reply was given to the applicants?

(c) Has the attention of Government been drawn to the contention that the demand for a second notice is inequitable, and has already caused wrongful loss to a number of claimants against the Great Indian Peninsula Railway, and that it is likely to cause further such loss, unless some preventive or remedial action is taken?

(d) Do Government propose to make enquiries and give information to this House about the number of suits in different law courts, in which a plea of want of second notice led to dismissal of suits on technical grounds relating thereto and the claims involved in them?

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

(b), (c) and (d). There is no record of any representations on this subject having been made to the late Honourable the Law Member, but I should like, with your permission, Sir, to take the opportunity afforded to me by the Honourable Member's question, to explain the attitude of Government in this matter, first premising, more particularly with reference to part (c) of his question, that the objects of notices under section 77 of the Railway Act and section 80 of the Civil Procedure Code are different.

The first is a notice of claim, the object of which is to enable the railway administration to investigate the factum and validity of the claim; the second is a notice of suit; the object of which is to give the Secretary of State an opportunity to reconsider his legal position and make amends or settle the suit, if so advised, without litigation. It may, therefore, be just and necessary in certain cases that both the notices should be given, and the contention that a notice under section 80 of the Civil Procedure Code is inequitable in all cases cannot be accepted as sound.

When this matter was brought to notice by the Honourable Member's question and by the Bill to amend the Indian Civil Procedure Code, Act V of 1908, of which he has given notice, Government sought the advice of their legal authorities whether an amendment of the Civil Procedure Code was actually necessary. The advice given to them was as follows:

"The Great Indian Peninsula Railway was taken over by the State on the 1st July 1925, and all claims which were in existence on that date have been either settled, or brought into court, or have become barred by limitation. The only claims immediately at issue are, therefore, those which were *sub judice* on the date of transfer of the Great Indian Peninsula Railway from the Great Indian Peninsula Railway Company to the Secretary of State. With regard to these claims, it is always open to Government, if they so desire, to waive the notice required under section 80 of the Civil Procedure Code, (*vide* Indian Law Reports, 40 Calcutta, page 503), and this appears to be the simplest way of meeting the object of the Bill, of which the Honourable Member has given notice."

In accordance with this advice, instructions have been issued to the Agent of the Great Indian Peninsula Railway that, in any cases, *i.e.*, those which were *sub judice* on the date of transfer of the Great Indian Peninsula Railway from the Great Indian Peninsula Railway Company to the Secretary of State, the notice required under section 80 of the Civil Procedure Code should be waived; and similar instructions have just been issued to the Agent of the Burma Railways, which have just been taken over by Government. When, and if, any further railways are transferred from Company to State management, similar instructions will be issued.

2. These orders will, I think, meet the object which the Honourable Member has in view, except to the extent that he has proposed that retrospective effect should be given from the date on which the Great Indian Peninsula Railway was transferred to State management. Government will be prepared to consider the reimbursement of any expense which may be proved to have been incurred by claimants in suits which were *sub judice* on the date of transfer owing to their having had to give a second notice to the Secretary of State under section 80 of the Civil Procedure Code; and have issued instructions to this effect to the Agent of the Great Indian Peninsula Railway, to whom applications for the reimbursement of such expense should be made.

3. In view of the undertaking which I have given, the Honourable Member may no longer require the information for which he has asked in part (d) of his question; but should he still desire it, I am quite prepared to obtain it for him.

Mr. President: I desire to bring to the notice of Honourable Members that answers to questions must take the form of answers. Long statements in answer to questions are ordinarily not permissible.

Mr. K. Ahmed: In view of the fact that the Honourable Mr. Parsons has given a lengthy answer, is he asking the Honourable the Questioner in his reply to withdraw his Bill which he has introduced in this Assembly?

Mr. A. A. L. Parsons: I made no such request.

LOSSES ON BRANCH LINES IN BURMA.

150. ***Mr. N. C. Kelkar:** With reference to the answer given on September 5th, 1928, to starred question No. 87, will Government state when and what was the actual amount of losses, realised from the Burma Government?

Mr. A. A. L. Parsons: The loss of Rs. 3,97,933 for 1926-27 was realised in 1927-28.

For losses incurred prior to 1926-27, a sum of Rs. 7,90,881 was realised during that year.

STATEMENTS OF ACTUAL EARNINGS OF NEW BRANCH LINES.

151. ***Mr. N. C. Kelkar:** With reference to the answer given on September 5th, 1928, to starred question No. 101, will Government lay on the table copies of such of the statements as the Railway Board may have received so far?

Mr. A. A. L. Parsons: I am sending the Honourable Member copies of the statements which have so far been received.

FUNDING OF FUTURE LIABILITIES ON RAILWAY REVENUES ON ACCOUNT OF PROVIDENT FUND AND GRATUITIES.

152. ***Mr. N. C. Kelkar:** Will Government state what steps, if any, are being taken to fund the future liabilities on railway revenues, on account of Provident Fund and gratuities?

The Honourable Sir George Schuster: I think it will be convenient to the Honourable Member if, in answering his question, I explained in some detail what the present position is. I trust that in doing so I shall not transgress your reminders so far as railway provident funds are concerned, the deposits received from the employes are credited in the Government accounts under the head 'unfunded debt', which term is applied to certain interest-bearing obligations relating to funds deposited with Government for various purposes, *vide* page 570 of the Finance and Revenue Accounts of the Government of India for the year 1926-27. The deposits of the employes are supplemented by contributions from railway revenues, but these, too, are credited to the accounts of the individual employes every half-year, and these amounts also are thus included under the head 'unfunded debt'. When this stage has been reached, railway revenues have no further liability to meet, and so far as those revenues are concerned no question of funding arises. The Honourable Member is probably aware that, so far as general revenues are concerned, the balances of all provident funds are merged in the general balances of the Government of India and are used by them for their general Ways and Means purposes. The total sum is included in the debt statistics given in the budget speech every year, *vide* paragraph 16 of the budget speech for 1928-29 and is also taken into account in the Government of India's debt redemption scheme.

2. The annual disbursements on account of gratuities chargeable to railway revenues are at present in the neighbourhood of 70 lakhs. *Gratuities are not, strictly speaking, liabilities as they are not claimable as a matter of right, and it does not appear that there is any practical necessity to introduce a system of charging to revenue, not the actual disbursements, but the amount chargeable on the basis of actuarial calculations.

CHARGE FOR USE OF MAIN LINE ROLLING STOCK ON NEW EXTENSIONS.

153. *Mr. N. C. Kelkar: With reference to the statement made by Mr. A. A. L. Parsons at page 2913 of the Legislative Assembly Debates of March 28, 1927, that it has been found in practice that 5 per cent. of the gross earnings is approximately a reasonable annual figure as a charge on account of the use of main line rolling stock on new extensions to commercial lines, will Government state what inquiries have been made, or tests applied, to ascertain the general reasonableness of the particular percentage charge?

Mr. A. A. L. Parsons: I would refer the Honourable Member to the reply given on the 5th September, 1928 to question No. 108 put on his behalf by Mr. Belvi.

RECOMMENDATIONS ON RAILWAY ACCOUNTS MADE BY SIR A. L. DICKINSON.

154. *Mr. N. C. Kelkar: Will Government lay on the table a statement showing the progress of the consideration of the recommendations made by Sir A. L. Dickinson in his report on Railway Accounts?

Mr. A. A. L. Parsons: I lay a statement on the table.

Statement showing the progress made in the consideration of the recommendations in the Report by Sir A. Lowes Dickinson, M.A., B.C.A., on the System of Accounting, Audit and Statistics of the Railways owned and managed by the Government of India.

Item No. of recommendations in the summary of recommendations at pages V to VIII of Part I of Sir Arthur Dickinson's Report.

Progress made up to the 15th January, 1929.

1, 2, 3, and 4	These recommendations have been considered and dealt with in connection with the scheme for the Separation of Accounts from Audit on Indian Railways.
5	The efficiency of a railway administration is judged by the considerations referred to by Sir Arthur Dickinson among other tests.
6 to 19, 27 to 32, 35 to 37	Under consideration. Preliminary investigation has been made of almost all these recommendations and as soon as the Government of India come to a final conclusion in regard to each of them a Memorandum on the subject will be placed before the Standing Finance Committee for Railways.
20 to 26 and 38	These have been fully considered and the views of the Government of India have been placed before the Standing Finance Committee for Railways.
33 and 34	A Memorandum on the subject will be placed before the Standing Finance Committee for Railways at a future meeting.
39 and 40	It has been decided not to accept these recommendations.

N.B.—By coming to an early decision in regard to the recommendations in items 20 to 26 and 33 and 34, more than 75 per cent. of the accounting work performed on railways has been dealt with.

**NUMBER AND COST OF LOCOMOTIVES SOLD BY ONE RAILWAY TO ANOTHER
IN CERTAIN YEARS.**

155. ***Mr. N. O. Kelkar:** Will Government state, for each of the 4 years, 1924-25 to 1927-28, the number and cost of locomotives sold by one railway to another and the amount of the sale-proceeds credited to revenue?

Mr. A. A. L. Parsons: The information is being obtained from railway administrations, and will be communicated to the Honourable Member in due course.

ADJUSTMENT OF CHARGES INCURRED ON STRATEGIC LINES.

156. ***Mr. N. O. Kelkar:** With reference to the following statement in paragraph 2, at page 2, of the Budget Estimate of 1926-27, that "A major portion (about 80½ lakhs), of this increase is due to a different method of adjustment having been adopted for the distribution of certain charges commonly incurred with the strategic lines", will Government state the two different methods in question and to what charges they refer?

Mr. A. A. L. Parsons: The two methods were described in the sentence following that quoted by the Honourable Member. The charge represents the share of the strategic lines of the expenditure under Administration on the North Western Railway system as a whole.

RECOMMENDATIONS OF THE INDIAN RETRENCHMENT COMMITTEE.

157. ***Mr. N. O. Kelkar:** Will Government lay on the table a statement showing the recommendations of the Indian Retrenchment Committee of 1922-23, in Part II of its report, which have not yet been carried out, and the reasons for not giving effect to them?

Mr. A. A. L. Parsons: I would refer the Honourable Member to the statement showing the action taken on the recommendations of the Retrenchment Committee, which was circulated to Honourable Members in March, 1927.

**SUPPLY TO MEMBERS OF COPIES OF UNSTARRED QUESTIONS BEFORE ORAL
QUESTIONS ARE TAKEN UP.**

158. ***Mr. N. O. Kelkar:** With reference to the concluding portion on page 15 of the Legislative Assembly Debates of 4th September, 1928, will Government state whether they have decided to furnish Members of the Assembly with copies of answers to unstarred questions before oral questions are taken up?

The Honourable Mr. J. Orerar: The Government have considered the matter and have decided that, when replying to starred questions, no reference shall be made to replies to unstarred questions which are not already in possession of Honourable Members. They trust that this will meet the practical requirements of the case.

**INTRODUCTION OF THE DIVISIONAL SYSTEM ON THE EASTERN BENGAL
RAILWAY.**

159. ***Mr. N. O. Kelkar:** With reference to the statement that "Steps are also being taken to introduce the divisional system on the Eastern Bengal Railway" occurring at the top of page 6 of the Railway Administration Report for 1924-25, will Government state what progress has been made in the matter during the last 4 years?

Mr. A. A. L. Parsons: Since 1925 considerable progress has been made in the introduction of some of the special features of the Divisional System of organisation.

In the Traffic Department, the Transportation and Commercial functions have been separated, and in the Locomotive Department, the Transportation (Power) and Workshop functions. The headquarters of the Locomotive Superintendent and the Deputy Locomotive Superintendent (Power), have been brought into the general administrative offices.

The ultimate divisional headquarters have been decided upon and officers representing Transportation, Commercial, Locomotive, and to a certain extent the Civil Engineering Branches of the railway organisation have been located at the proposed divisional headquarters as far as accommodation permits; and the Traffic Transportation, and Power Transportation Districts have been made co-terminal.

The Agent has also delegated considerable powers in administrative and financial matters to heads of departments which will correspond largely with those to be delegated later to Divisional Superintendents.

Further progress, leading up to the final completion of the organisation, is now under consideration. It will necessarily be slow, as accommodation has to be provided for officers and staff and for offices, and special difficulties attaching to the absorption of the Engineering Branch into the organisation have still to be overcome.

REPORT OF THE COMMITTEE FOR THE REVISION OF STATISTICS OF INDIAN RAILWAYS.

160. ***Mr. N. C. Kelkar:** With reference to the answer given to my starred question No. 90, on September 5, 1928, will Government place in the Library a copy of the report of the Committee for the revision of statistics of Indian Railways?

Mr. A. A. L. Parsons: A copy of the report has been placed in the Library.

INSTRUCTIONS BY THE RAILWAY BOARD FOR THE COMPILATION BY THE RAILWAYS OF FINANCIAL AND STATISTICAL INFORMATION.

161. ***Mr. N. C. Kelkar:** With reference to paragraph 56 of the Railway Administration Report for 1925-26, will Government place in the Library an up-to-date copy of the detailed instructions drawn up by the Railway Board for compilation of each set of financial and statistical figures to ensure accuracy?

Mr. A. A. L. Parsons: A copy has been placed in the Library.

WORKING EXPENSES OF BRANCH LINES.

162. ***Mr. N. C. Kelkar:** Will Government lay on the table a statement showing, by each abstract of revenue and expenditure, the methods adopted for arriving at the working expenses of branch lines built under the Government of India, Railway Department Resolution No. 2131-F. of February 19, 1925?

Mr. A. A. L. Parsons: I have had a copy of the rules for the preparation of railway projects, as revised in 1926, placed in the Library. The Honourable Member will find the information which I understand him to desire on pages 37 to 42 of this publication.

SPECIFIC INSTANCE WHICH NECESSITATED QUESTION IN CLAUSE 11 OF TERMS OF REFERENCE IN SIR A. L. DICKINSON'S REPORT ON RAILWAY ACCOUNTS.

168. ***Mr. N. C. Kelkar:** With reference to clause 11 of the terms of reference at page 2 of Sir A. L. Dickinson's Report on Railway Accounts, will Government state the specific instance and the circumstances connected with it, which gave rise to the question put?

Mr. A. A. L. Parsons: The question was referred at the instance of the Auditor General and arose out of the sale to the Great Indian Peninsula Railway in 1922 of a building in Bombay belonging to the Posts and Telegraphs Department at a price much higher than the book value.

COASTAL RESERVATION BILL.

164. ***Kumar Ganganand Sinha:** Will Government be pleased to state if they have received any communication from the India Office regarding the Coastal Reservation Bill? If so, will the Government be pleased either to lay the same on table or state the gist of it?

The Honourable Sir George Rains: No communication has been received from the India Office as regards the Coastal Reservation Bill.

APPLICATION OF THE DEFINITION "BRITISH INDIAN SUBJECT" TO EUROPEANS OF INDIAN DOMICILE OF A CERTAIN NUMBER OF YEARS.

165. ***Kumar Ganganand Sinha:** Have Government under consideration the question of bringing Europeans of Indian domicile of a certain number of years under the definition of "British Indian subject"? If so, since when? What was the occasion for the cropping up of the question?

The Honourable Mr. J. Oterar: I have had some difficulty in determining the meaning of this question. If the Honourable Member wishes to know whether there is any proposal to alter the definition of "European British subject" in the Code of Criminal Procedure, the answer is in the negative.

RECRUITMENT OF BIHAR HINDUS AS SUPERINTENDENTS OF POST OFFICES.

166. ***Kumar Ganganand Sinha:** With reference to the answer given to Raja Raghunandan Prasad Singh's starred question No. 137 (a) on 5th September, 1928, will Government be pleased to state:

- (1) The number of vacancies occurring in the post of Superintendents in the Bihar and Orissa Postal Circle since September last?
- (2) The dates when such vacancies occurred and were filled?
- (3) How many such vacancies were filled by departmental promotion and how many by the recruitment of probationers?
- (4) Whether any such vacancy was filled by a Bihari Hindu probationer?

(5) If the answer to (4) is in the negative, why?

(6) What arrangement, if any, do Government propose to make for the recruitment of Bihari Hindus as Superintendents of Posts and Telegraphs, to make their representation in the service adequate? If no arrangement is going to be made in this regard, will Government be pleased to state reasons for the same?

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

(2) The vacancies occurred on 5th September, 1928, and on 10th October, 1928, and were filled on 12th September, 1928 and 28th December, 1928, respectively.

(3) By departmental promotion—One.

In the other vacancy a Probationary Superintendent was confirmed as Superintendent and the resultant vacancy of Probationary Superintendent was filled by an outsider.

(4) No.

(5) and (6). Probationary Superintendents were, up to 31st December, 1928, selected from a list of candidates who applied to the Director-General for appointment as Superintendent of Post Offices. That list did not contain the name of any Bihari Hindu. From 1st January, 1929 the recruitment of Probationary Superintendents of Post Offices in any official year is confined to candidates who have obtained qualifying marks at the examination for admission to the Indian Audit and Accounts Service held by the Public Service Commission in the previous year. One-third of the vacancies are reserved for redressing communal inequalities, provided that the requisite number of qualified candidates is forthcoming.

GRIEVANCES OF CLERKS OF THE DINAPUR DIVISIONAL SUPERINTENDENT'S OFFICE.

167. *Kumar Ganganand Sinha: (a) Has the attention of the Government been drawn to the letter of "A Sufferer", published in the *Searchlight*, dated Friday, October 12, 1928, under the heading "Grievances of Clerks of the Dinapur Divisional Superintendent's Office"?

(b) If so, has any enquiry been made into their condition? If not, why? Do Government propose to take any steps to remedy their grievances? If so, what?

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

(b) A copy of the Honourable Member's question has been sent to the Agent, East Indian Railway, in order that he may consider whether any action is needed.

†168. *

†169. *

†170. *

†171. *

†172. *

†173. *

†174. *

- †175. *
- †176. *
- †177. *
- †178. *
- †179. *
- †180. *
- †181. *
- †182. *
- †183. *
- †184. *
- †185. *
- †186. *

REPORT ON EAST AFRICAN TERRITORIES INCLUDING TANGANYIKA.

187. ***Mr. K. C. Roy:** Will the Government of India be pleased to state:

- (a) whether the Hilton Young Report or Reports on East African Territories, including Tanganyika, has been received in India;
- (b) whether they will be pleased to lay a copy of the Report on the table at the earliest possible moment?

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

(b) Copies of the Report have been placed in the Library of the House.

INSTRUCTIONS TO SIR REGINALD MANT ON INDIAN QUESTIONS IN EAST AFRICA.

188. ***Mr. K. C. Roy:** Will the Government of India be pleased to state whether Sir Reginald Mant had either sought or received any instructions from the Government of India or the India Office on Indian questions in East Africa, and will they be pleased to lay on the table the papers, if any, on the subject?

Mr. G. S. Bajpai: So far as the Government of India are aware, the answer to both queries in the first part of the question is in the negative. They have no papers on the subject to lay on the table of the House.

ACTION TAKEN ON DISCUSSION OF SIR JOHN GILMOUR'S REPORT.

189. ***Mr. K. C. Roy:** Will the Government of India be pleased to state what action, if any, they have taken on the discussion of Sir John Gilmour's Report by the Legislative Assembly during its past Autumn Session?

The Honourable Sir Bhupendra Nath Mitra: The Government of India regret that they are unable, for reasons explained in the discussion referred to by the Honourable Member, to place the correspondence on the table, in terms of the Resolution of the Assembly. Due attention has, however, been paid to the views expressed in the House in the further correspondence with the Secretary of State which is still continuing.

DECISION ON THE CABLE AND WIRELESS MERGER SCHEME.

190. ***Mr. K. C. Roy:** Will the Government of India be pleased to state what decision, if any, has been taken by them on the Cable and Wireless Merger Scheme (Sir John Gilmour's Report), and also place the correspondence on the subject on the table?

† For this question and its answer, see at the end of questions for the day.

The Honourable Sir Bhupendra Nath Mitra: No decision has yet been taken by the Government of India on this subject. The question of the bearing of the scheme on Indian interests is under correspondence with the Secretary of State for India.

It is regretted that, for reasons explained in the debate on the 5th September last, Government do not see their way to placing the correspondence on the table.

†191.*

LETTER ON POLITICAL SUBJECTS WRITTEN BY HIS EXCELLENCY SIR LAURIE HAMMOND, GOVERNOR OF ASSAM.

192. ***Mr Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to a letter, dated Government House, Shillong, 20th December, 1927, written by His Excellency Sir Laurie Hammond, Governor of Assam, (who was for many years in the Government of Bihar and Orissa), to the Honourable Maharajadhiraja Sir Rameshwar Singh Bahadur of Durbhanga, (published in the *Forward*, dated the 22nd December, 1928, and in the *Searchlight* of Patna, dated the 23rd December, 1928)?

(b) Are Government aware that the letter deals with highly controversial political questions, such as the representation of landlords in the Councils, and the sort of evidence to be tendered before the Simon Commission, and also canvasses support to the Simon Commission?

(c) Do the Government Servants' Conduct Rules apply to the Head of a Province?

(d) Do Government propose to take necessary steps to prevent the occurrence of similar indiscretions on the part of Government Officials?

The Honourable Mr. J. Ozerar: (a) to (d). I am not prepared to deal with questions arising out of a private letter of this character, written by the Governor of a Province, and published without authority. I should merely add that any suggestion that the Governor of a Province should not deal with controversial political questions entirely ignores the nature of his functions and responsibilities.

Mr. Gaya Prasad Singh: What is the reply to part (c) of my question? Do the Government Servants' Conduct Rules apply to the Head of a Province?

The Honourable Mr. J. Ozerar: The answer to that question is that two of the rules at any rate do purport to apply to Governors of Provinces. But there is considerable room for doubt whether in view of the provisions of the Government of India Act from which the Government Servants' Conduct Rules derive their validity, they are in point of fact applicable to the Governors of Provinces. That point is under consideration.

REFUSAL OF THE MADRAS GOVERNMENT TO INTRODUCE A BILL TO AMEND THE MADRAS ESTATES' LAND ACT AS PROMISED.

193. ***Mr. V. V. Joggiah:** (a) Is it a fact that the Government of India wanted to include questions relating to the rights of landlords and tenants in the terms of reference to the Royal Commission on Agriculture?

† For this question and its answer, see at the end of questions for the day.

(b) Is it also a fact that the Government of Madras objected to their inclusion, on the ground that they had appointed a committee to go into the question, and stated that they would undertake to introduce necessary amendments in the Estates' Land Act?

(c) Are Government aware that two non-official Bills to amend the Madras Estates' Land Act were withdrawn on the assurance given by the Madras Government in the month of March, 1927, that they would introduce a Bill in September, 1927, but that they have not yet done so? If so, will the Government be pleased to state why the Madras Government did not redeem their promise made to the Government of India and the public?

Mr. G. S. Bajpai: (a) and (b). No.

(c) The Government of India have no information beyond what is contained in the proceedings of the Madras Legislative Council of 29th and 31st March, 1927. The last part of the question can only be answered by the Government of Madras, who I may observe, made no promise to the Government of India in this connection.

EXPENDITURE BY THE GOVERNMENT OF INDIA ON THE SIMON COMMISSION.

194. **Mr. Gaya Prasad Singh:** (a) Will Government kindly state what has been the total approximate cost up to date of the Simon Commission, and how much of it has been spent in India, and how much in England?

(b) What is the daily allowance given to the President, and to the Members of the Simon Commission, and how much to the Indian Members of the Joint Committees?

(c) What is the estimated amount of total expenditure that is likely to be incurred in connection with the Simon Commission, and the Indian Committees, and will any part of it be shared by His Majesty's Government in England or the Local Governments in India? If so, how much?

The Honourable Mr. J. Ormer: A statement giving the information asked for is laid on the table.

(a)	Statement.	
	In India (actuals).	In England (actuals).
	Rs.	
1927-28	1,57,251-15-4	£3,141-2-8 (or Rs. 41,882).
1928-29 (up to 31st December, 1928)	80,355-10-3	Charges incurred by the Indian Statutory Commission in England have not yet appeared in the Home accounts of the Secretary of State received up to date for the current year.
(b) Name of the Commission or Committee.	Amount of daily allowance sanctioned for Chairman and Members.	
Indian Statutory Commission .. .. .	.. .. .	Rs. 15 a day.
Indian Central Committee .. .. .	.. .. .	Rs. 15 a day.
Provincial Committees .. .. .	.. .. .	Not known. This is a provincial charge.

(c) The actual expenditure incurred on account of the Indian Statutory Commission during 1927-28 is given in (a) above. The estimated expenditure during 1928-29 and 1929-30 on the Indian Statutory Commission, the Indian Central Committee and on the Auxiliary Committee on the Growth of Education is given below :-

				Indian Statutory Commission.	Education Committee.	Indian Central Committee.
				Rs.	Rs.	Rs.
1928-29 ..	..	..	..	7,50,700	2,15,665	2,80,000
1929-30 ..	..	..	..	2,97,700	..	3,32,300

The Government of India have no information of the estimated expenditure by Local Governments on the Provincial Committees.

Against the total expenditure on account of the Indian Statutory Commission's Enquiry, His Majesty's Government have made a contribution of £20,000.

ARREST AND DEPORTATION OF MR. F. W. JOHNSTONE, A DELEGATE TO THE TRADE UNION CONGRESS AT JHARIA.

195. ***Mr. Gaya Prasad Singh:** (a) Will Government kindly state under what law Mr. F. W. Johnstone, who recently attended the Trade Union Congress at Jharia as a delegate of the League against Imperialism, was arrested and deported out of India? And for what offence, and on what evidence?

(b) Is it a fact that Press messages booked from Jharia, containing speeches of Mr. Johnstone, Mr. Ryan and others, have been withheld, and why?

The Honourable Mr. J. Orerar: (a) Under section 8 of Act III of 1864 Mr. Johnstone was ordered to remove himself from British India, and he was apprehended under section 4 of the same Act on his neglecting to comply with the order. Mr. Johnstone is a Communist and had come to India to promote the ends of Communism.

(b) The Government of India have no information.

ACTION TAKEN ON SIR A. L. DICKINSON'S REPORT ON THE ACCOUNTING AND AUDITING OF INDIAN RAILWAYS.

196. *Mr. Gaya Prasad Singh: Will Government kindly state if any action has been taken, and if so, what, on the Dickinson Report on the system of Accounting and Audit on Indian Railways? Is it proposed to bring out European accountants and auditors; if so, how many, and when?

Mr. A. A. L. Parsons: I would refer the Honourable Member to the statement which I laid on the table in response to Mr. Kelkar's question No. 154. It is not proposed to bring out European accountants and auditors.

Mr. Gaya Prasad Singh: Do I understand that it is not proposed to bring out either European or American accountants and auditors?

Mr. A. A. L. Parsons: It is not proposed to bring in any accountants and auditors either from Europe or America, or to recruit from any country except India.

DATE OF INAUGURATION OF THE WEEKLY AIR MAIL SERVICE BETWEEN INDIA AND ENGLAND.

197. *Mr. Gaya Prasad Singh: Will Government kindly state by what time the weekly air mail service between India and England is likely to come into existence?

The Honourable Sir Bhupendra Nath Mitra: The Government of India have no precise information, but they understand that the weekly air mail service between India and England will commence on or about the 1st April, 1929.

DATE OF NEXT ELECTION OF THE INDIAN LEGISLATURE AND PROVINCIAL LEGISLATIVE COUNCILS.

198. *Mr. Gaya Prasad Singh: Will Government kindly state when the next General Elections to the Indian Legislature, and the Local Legislative Councils, are going to take place?

Mr. L. Graham: Government are not so far in possession of any definite information in this matter.

TRANSFER OF THE ADMINISTRATION OF ADEN FROM THE INDIA OFFICE TO THE COLONIAL OFFICE.

199. *Mr. Gaya Prasad Singh: (a) With regard to the transfer of the administration of Aden, are Government aware that to a question on this subject in the Legislative Assembly on the 16th January, 1922, the official reply was that "the Government have no intention of arriving at a decision without giving the Assembly an opportunity for discussion", which reply was substantially repeated in answer to a question in this House on the 7th September, 1922?

(b) Are Government aware that, in reply to a similar question in the Council of State on the 9th June, 1924, the official spokesman said that "before a final decision is arrived at, the Indian Legislature will be given an opportunity to express its opinion"?

(c) Will Government kindly explain why a final decision was in fact arrived at, and the transfer of Aden effected, as announced by His Excellency the Commander-in-Chief in this House on the 3rd March, 1927, without giving an opportunity to this House to express its opinion?

(d) Are Government aware that, in the House of Commons on the 28th February, 1921, in reply to the question "Is Aden no longer to be administered by the India Office", the Prime Minister's reply was: "No, by the Colonial Office"?

(e) Are Government aware that, in the House of Commons on the 14th July, 1921, the Right Honourable Mr. Churchill stated that "the India Office has very kindly handed over Aden to the Colonial Office"?

(f) Was the decision arrived at so early as in 1921; and why was this information withheld from this House?

Sir Denys Bray: With your permission, Sir, I shall answer questions 199, 200 and 201 together. And as it is my own undertaking—though the Honourable Member is too courteous to say so—which he regards as having been broken, he will, I am sure, allow me to answer his questions in my own way in a general form.

His elaborate documentation is scrupulously correct. Where misunderstanding has arisen, it has chiefly arisen from the fact that the word Aden has been commonly used in two different senses. What the Indian Legislature has been concerned with throughout is the Port and Settlement of Aden, and its civil administration. Aden in this, the true sense, remains part of British India as heretofore; its judiciary remains subordinate to the Bombay High Court, its civil administration remains under the control of the Bombay Government. I repeat my promise that the transfer of Aden from India will not be effected without this House being taken into prior consultation. I hasten to add that all idea of such a transfer has long since been abandoned.

The other and lesser use of the word connotes that block of tribal territory more properly styled the Aden Protectorate or hinterland, with its political ramifications. It is in respect of this tribal area and the military administration of Aden alone, that a transfer has been made from the Indian Government to the Colonial Office. The financial relief to Indian revenues, on present figures, works out apparently at about seventeen lakhs a year. The relief from external political responsibilities is imponderable but great.

Pandit Hirday Nath Kunzru: Does the Honourable Member remember that in the course of a debate in the other House in 1921 he said that the administration of Aden was intimately connected with that of the hinterland and that his promise in that debate applied not merely to Aden itself but also to the hinterland?

Sir Denys Bray: I am exceedingly sorry if that was the impression gained by either this House or the other. I am extraordinarily interested to learn from my Honourable friend the suggestion that India would have been glad to remain burdened with these political responsibilities. When I spoke in the other House, Sir, I was—I was going to say,—I was “hooted at” when I made the suggestion that India should regard these political responsibilities as serious.

Pandit Hirday Nath Kunzru: Does the Honourable Member remember the undertaking he gave then, whatever the feelings of the other House might have been in regard to the undertaking of political responsibility in Aden or elsewhere?

Sir Denys Bray: I am afraid I must ask for notice. I have not been able to refresh my memory in the short time available. But I would say quite frankly, and I hope the Honourable Member will take it from me, that when I made an undertaking in this House it never entered my mind that India would not regard as other than welcome relief from external political responsibilities.

Mr. Gaya Prasad Singh: Will the Honourable Member kindly state on what authority he says that the Indian Legislature meant by “Aden” something different from the sense in which the Prime Minister used that expression?

Sir Denys Bray: I have not followed that entirely. But here again, though I must speak from a memory which apparently my Honourable

friend seems to think very defective, I say quite frankly that when the debate took place in the Council of State, not a single voice was raised on the side of the retention by India of those external political responsibilities. On the contrary, it was put to me as I thought quite clearly, especially by the Bombay representatives, that what they were concerned with was the Aden Settlement itself and the British Indian connection with it.

Mr. B. Das: In the eventuality of India getting Dominion Status and in the interests of the Bombay Presidency, have Government included any provision in the agreement that the military control of Aden will be transferred to India at the time?

Mr. President: Is that not a hypothetical question?

Mr. Gaya Prasad Singh: Has Question No. 201 been answered, Sir?

Sir Denys Bray: I have endeavoured to answer that in a general form. I should like to add that the details asked for in Question No. 201 have not yet been prepared; but when they are prepared, I will let the Honourable Member have a copy.

Mr. Gaya Prasad Singh: Will a copy be laid on the table?

Sir Denys Bray: Yes; a copy will be laid on the table.

NON-CONSULTATION OF THE GOVERNMENT OF BOMBAY ON THE QUESTION OF THE TRANSFER OF THE ADMINISTRATION OF ADEN TO THE COLONIAL OFFICE.

†200. ***Mr. Gaya Prasad Singh:** (a) Are Government aware that the Council of State, on the 26th September, 1921, adopted, with the concurrence of Government, a Resolution to the effect that "the administration of Aden be continued under the Government of India, and not be transferred to the Colonial Office"; and in course of the debate, the official spokesman stated that "very strong protests have been recorded by the trading communities of Bombay and Aden, and for these reasons, for the present, the Bombay Government objects to any change in the *status quo*"?

(b) Is it not a fact that in the Bombay Legislative Council, on the 10th March, 1927, the Home Member, referring to the announcement made by His Excellency the Commander-in-Chief in this House on the 3rd March, 1927, stated that the announcement came as a surprise to the Government of Bombay, as much as to the general public, and added that the Government of Bombay indeed knew nothing further than what had appeared in the Press?

(c) Will Government kindly state why this transfer was effected without consulting the Government of Bombay?

(d) Have Government received any protest from the Government of Bombay? Are the Government of Bombay responsible for the civil administration of Aden, or the Government of India?

SAVING TO INDIAN REVENUES BY THE TRANSFER OF THE ADMINISTRATION OF ADEN TO THE COLONIAL OFFICE.

†201. ***Mr. Gaya Prasad Singh:** (a) Will Government kindly state what was the approximate annual charge borne by Indian revenues

† For answer to this question, see answer to question No. 199.

over (i) the civil administration, and (ii) the political and military administration of Aden, before the transfer, and what it is now?

(b) Are Government aware that His Excellency the Commander-in-Chief, in this House on the 3rd March, 1927, stated that "Aden has always been a most unprofitable economical proposition for us. It has involved very heavy expenditure year after year, and the revenue from it is small indeed"? What is the approximate net annual saving to Indian revenues as a result of this transfer?

REFUSAL OF PASSPORTS TO INDIANS WISHING TO ENTER THE PHILIPPINE ISLANDS.

202. *Mr. Gaya Prasad Singh: (a) Will Government kindly state how many Indians wishing to enter the Philippine Islands have been refused visas, during the last two years, and why?

(b) Are Government aware that many Indian merchants, their assistants, and clerks, are put to great hardship and loss by refusal of visas to them?

Sir Denys Bray: The grant or withholding of visas for the Philippines rests, of course, with the American Consular authorities, and the number of visas refused is not available to the Government of India. Presumably any refusals were based on the general restrictions imposed by the Government of the Philippine Islands, the effect of which is that only Indians who have actually been merchants in India for at least two years are at present admitted.

LIGHT AEROPLANE CLUBS FOR INDIANS IN INDIA.

203. *Mr. Gaya Prasad Singh: (a) Will Government kindly state how many Indians have been appointed as officials or clerks in the Aero Club since its institution?

(b) How many light Aeroplane Clubs have been started in this country, and where? And what assistance has been given by Government to each of them?

(c) What facilities for the training of Indians have been provided in them, and how many Indians, if any, are actually under training?

The Honourable Sir Bhupendra Nath Mitra: (a) No Indians are employed as officials or clerks in the Aero Club of India and Burma Limited, whose staff consists of one secretary, one stenographer and one accounts clerk. The Club Committee is composed of 27 members, of whom 12 are Indians.

(b) Four light aeroplane clubs have been established at Karachi, Delhi, Calcutta and Bombay. To assist these clubs, Government have sanctioned a scheme costing Rs. 8,21,700, spread over two years, which provides for the supply to each club of two "D. H. Moth" aeroplanes and a spare engine, an annual maintenance grant of Rs. 20,000, a grant of Rs. 9,000 towards the provision of a hangar, and a bonus of Rs. 150 per pilot for a limited number of pilots trained by the clubs. The machines, etc., have already reached India and have been sent to the clubs concerned, while payment of two quarterly instalments of the maintenance grant has been made to each of the clubs this year.

(c) By becoming members of the clubs, Indians can on enrolling themselves for training, receive instruction in flying. The number of Indians who have enrolled themselves for training at the Bombay, Karachi, Delhi and Bengal flying clubs are respectively 80, 32, 88 and 44; while the number of Indians under training at the Bombay and Delhi Clubs are 7 and 17, respectively. Flying has not actually commenced at the Bengal and Karachi Clubs.

Sir Victor Sassoon: If I may correct the Honourable Member, the number of Indians actually being trained by the Bombay Aero Club is 9 and not 7.

Mr. President: Does the Honourable Member accept the correction?

The Honourable Sir Bhupendra Nath Mitra: Well, Sir, my information, as a matter of fact, was obtained from the clubs themselves. It is quite possible that two additional Indians have started their training after the information was communicated to me.

CONSTRUCTION OF A RAILWAY BETWEEN RISHIKESH AND KARNPRAYAG.

204. ***Mr. Gaya Prasad Singh:** (a) Will Government kindly state, with reference to my question No. 25 of the 4th September, 1928, whether the abstract estimate and revised traffic report have been received, regarding the proposed railway construction from Rishikesh to Karnprayag, and, if so, when is a decision likely to be arrived at?

(b) Is it a fact that Colonel Anderson, in his Report, has recommended the construction of this railway?

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

REPRESENTATION FROM THE GURKHA COMMUNITY DOMICILED IN INDIA.

205. ***Dr. B. S. Moonje:** (1) Will Government be pleased to state if they have received a representation from the Gurkha community domiciled in India, complaining and asking for relief as follows:

- (a) That the restrictions imposed and discrimination ordered to be made in the matter of granting of employment to Gurkhas in the civil departments of India are unfair and should be abolished;
- (b) That in view of the fact that there are nearly three million Gurkhas settled in the Indian Empire, and in view of their increasing numbers, adequate representation be granted to the community in both the Provincial and the Central Legislature;
- (c) That to those Gurkha officers and other ranks who might prefer the grant of lands as jagir in lieu of money, land may be granted in the same manner as it is granted to men of other Indian forces;
- (d) That the classification of Gurkhas settled in the Province of the Punjab as a non-agricultural community, has made the position of the Gurkhas in the Punjab extremely difficult; and that, in view of the well-known fact that the Gurkhas are primarily an agricultural people, the Government be pleased to remove the existing disabilities and to grant the Gurkhas the same rights and privileges as are enjoyed by other Indians in this country; and

(e) That adequate arrangements may be made for the establishment of schools in various Gurkha settlements and colonies in India, and facilities may be afforded for the education of Gurkha children by granting liberal scholarships and stipends to deserving candidates.

(2) If so, what do Government propose to do in the matter?

The Honourable Mr. J. Oseraz: (1) Yes.

(2) The matter is under consideration. There are no restrictions on the employment of Gurkhas of British nationality or continuously domiciled in British India.

PAY AND ALLOWANCES OF INCOME-TAX OFFICERS IN THE BOMBAY PRESIDENCY.

206. ***Dr. B. S. Moonje:** Will Government be pleased to supply information on the following points:-

- (a) If it is a fact that Income-tax Officers in the Bombay Presidency start on Rs. 300 and rise to Rs. 900, with increments of Rs. 50 every two years?
- (b) How many of the present incumbents will rise to Rs. 900 if they retire at the age of 55?
- (c) What is the grade fixed for other Provinces?
- (d) Why is it that Income-tax Officers in Madras and the Punjab get better increments and every year?
- (e) If it is a fact that the pay of Income-tax Officers all over India has been fixed on the same basis as Deputy Collectors? If so, why do not the Income-tax officers in the Bombay Presidency get the same increment as Deputy Collectors in the Bombay Presidency?
- (f) Does a mofussil Deputy Collector in Sind get a permanent travelling allowance of Rs. 150?
- (g) How much travelling allowance do mofussil Income-tax Officers in the Bombay Presidency get?
- (h) If Income-tax Officers in the Bombay Presidency, in mofussil towns, who have out-door work to do for several months together, get conveyance allowance, and if not, how are their conveyance expenses defrayed?
- (i) If it is a fact that instructions have been issued to the Commissioner of Income-tax of the Bombay Presidency to recruit Muhammadans as Income-tax Officers and to continue to keep them on in service even if they fail in their departmental examination; and if not, will the Government be pleased to state why such officers have been kept in service in Sind?

The Honourable Sir George Schröter: (a) Yes.

(b) Ten.

(c) A statement is laid on the table.

(d) and (e). The pay of Income-tax Officers has been fixed primarily, but not solely, with reference to that of the Provincial Civil Service in the same province. The rates of pay, therefore, differ in different provinces. The Income-tax Officers in the Bombay Presidency have recently submitted a memorial regarding their pay and the question is at present under consideration.

(f) Yes.

(g) Income-tax Officers draw travelling allowance in accordance with the Supplementary Rules framed by the Government of India under the Fundamental Rules and the amount depends on the nature and extent of the touring done by them.

(h) Conveyance allowances are ordinarily granted only to Government servants who are required to move about within large cities. They have been granted in the Bombay Presidency to the Income-tax Officers working in five such cities (apart from Bombay).

(i) No special instructions in this sense have been issued. Since 1925 (inclusive) eighteen officers in the Bombay Presidency, whose work was satisfactory, have been exempted by the Central Board of Revenue from the necessity of passing the departmental examination. Of these only three were Muhammadans.

Scales of pay of Income-tax Officers in the various Provinces.

Province.	Income-tax Officers.
	Rs.
Madras	300—40—500—30—900.
Bombay	300—50/2—900.
Bengal	500—50/2—900.
United Provinces	350—30—800—25—900.
Punjab	300—40—850.
Burma	350—25—750—50—950.
Bihar and Orissa	400—50/2—900.
Central Provinces	300—25—550—50—30—700—40—900.

NUMBERS OF RIFLES, GUNS, PISTOLS, ETC., IMPORTED INTO INDIA DURING THE LAST FIVE YEARS.

207. *Dr. B. S. Moonje: (a) Will the Government be pleased to state the number of rifles and guns, pistols and revolvers (large and small), of different patters, for the purpose of the Military Department and of sports, and the amount of their ammunition that have been imported into India yearly for the last five years?

(b) How many of these rifles and guns, pistols and revolvers and how much of their ammunition were for the Military Department and how much for sports?

(c) What are the names of the countries from which these imports came, with the numbers of these fire-arms and the amounts of their ammunition which were imported from each of these countries?

(d) What is the total value of these yearly imports for the last five years?

(e) What is the total value of these yearly imports from each country importing these materials into India for the last five years?

(f) How many of these yearly imports of these fire-arms, with their ammunition, are from Government factories and how many from private manufacturing firms, with the total yearly value for the last five years?

(g) How many Government factories and private manufacturing firms are there in India and what are the total values of their yearly outputs for the last five years, and how many of these firms are owned and managed by Indians and what are the total values of their yearly outputs for the last five years?

(h) Are such fire-arms manufactured in what is called the Trans-Frontier tribal country under British influence, and if so, what are their yearly outputs for the last five years?

(i) Are they imported into India, and if so, what are the yearly imports for the last five years?

The Honourable Sir George Rainy: The Government have no information beyond what is contained in the Annual Statement of the Sea-borne Trade of British India and the Statistical Abstract for British India. Copies of these publications are in the Library.

INADEQUACY OF TRAINING GIVEN IN ENGINEERING COLLEGES IN INDIA.

208. ***Dr. B. S. Moonje.** (a) With reference to the evidence given by the Honourable Mr. McWatters before the Simon Commission, will the Government be pleased to state if it is a fact that 40 per cent. of the posts of Engineers in the Irrigation Departments are filled by recruitment from England by the Secretary of State?

(b) If so, is it due to the paucity of competent Indian engineers available in India?

(c) Will Government be pleased to state what special need there was for them to undergo special expenses in appointing their engineers in England, to go round the universities there to find out the cause of the paucity of British recruits, and as a result of their enquiry to give special facilities to British candidates by exempting them from having to pass one year of probation with a firm of Consulting Engineers, for which the recruited candidates had to pay from their own pockets?

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

(b) No.

(c) Certain engineer officers were deputed by the Secretary of State to visit universities in England in order to find out the cause of the paucity of British recruits required for the 40 per cent. of the recruitment made

annually to the Indian Service of Engineers from England. This percentage was fixed with reference to a recommendation of the Lee Commission in order to provide the European element which is required for the Service. The special facilities proposed for such recruits referred to by the Honourable Member have not yet been given, the matter being still under the consideration of the Government of India.

Dr. B. S. Moonje: Is it that we should stick to that 40 per cent., even though we do not get sufficiently trained engineers in England—must we still stick to the 40 per cent. and import people whose training has not been completed?

The Honourable Sir Bhupendra Nath Mitra: The 40 per cent. was fixed with reference to a policy which was decided on after considering the recommendations made by the Lee Commission.

Dr. B. S. Moonje: I quite understand that, but my point is—even though we do not get sufficient educated engineers there, must we still import 40 per cent. of these engineers from England and complete their education in India.

The Honourable Sir Bhupendra Nath Mitra: As I have said, the present policy is to obtain 40 per cent. of recruits from England, and that policy was arrived at with reference to certain considerations which my Honourable friend will find stated in the Lee Commission's Report. We have not yet reached the stage that we are not actually getting qualified recruits.

Dr. B. S. Moonje: My point is, these recruits have been taken on there and they have been found to be not sufficiently educated and they are brought out here to complete their education. Is it a fact that we should still have these insufficiently educated men?

The Honourable Sir Bhupendra Nath Mitra: The statement on which the Honourable Member bases his question is not correct.

Dr. B. S. Moonje: Does the Honourable Member know that Mr. McWatters himself has said that these recruits are taken on, and instead of completing their education in England, they are sent out to complete their education in India?

The Honourable Sir Bhupendra Nath Mitra: There is no question of completing their education in India. What was referred to was the practical training which all recruits are required to have before they are permanently appointed to the service.

Dr. B. S. Moonje: As I understood Mr. McWatters' evidence, the recruits in England have to complete their education in some of the firms there in England. That qualification is exempted and they are brought in without having completed their education. Is that a fact?

The Honourable Sir Bhupendra Nath Mitra: None of the recruits so far have been brought out who have not completed their education.

Dr. B. S. Moonje: Then how is it that Mr. McWatters has said that these recruits have to come and complete their training in India?

The Honourable Sir Bhupendra Nath Mitra: I do not accept the Honourable Member's statement. I have already said that the special facilities proposed for such recruits referred to by the Honourable Member have not yet been given. The matter is still under the consideration of the Government of India.

Mr. M. S. Aney: Does the Honourable Member challenge the proposition that Mr. McWatters has stated in his evidence that candidates with incomplete education are brought into India for the purpose of completing their education?

The Honourable Sir Bhupendra Nath Mitra: So far as my information goes, I do not think the Honourable Member's statement is quite correct.

Dr. B. S. Moonje: Is it or is it not a fact that ordinarily when there is no paucity of British recruits only those boys are recruited who have passed one year of probation with firms of consulting engineers in England?

The Honourable Sir Bhupendra Nath Mitra: That is the precise point. There is no question of completing their education. The question is whether the practical training should be given in India or given in England, and that matter, as I have said in my answer, is a matter which is under the consideration of the Government of India.

Dr. B. S. Moonje: If the practical training to be received in England and in India is the same, then where is the need of preferring British recruits to Indians, if the book education to be received is the same both in England and in India?

The Honourable Sir Bhupendra Nath Mitra: That depends on the wider question of policy. The education may be the same, but on account of the wider question of policy which my Honourable friend will be able to discover for himself in the Lee Commission's Report a certain number of European recruits have to be taken into the service.

Dr. B. S. Moonje: So does it mean that even though we may not get sufficiently trained British youths, still that policy should be stuck to?

The Honourable Sir Bhupendra Nath Mitra: That inference, as I have said, is incorrect.

Pandit Hirday Nath Kunzru: Is the Honourable Member aware that no reason is given in the Lee Commission's Report for recruiting these men to the extent of 40 per cent.?

The Honourable Sir Bhupendra Nath Mitra: The Honourable Member is fully aware of the reasons which made that Committee make their recommendations in general.

Pandit Hirday Nath Kunzru: Is the Honourable Member aware that the Commission have not given us any reasons for their recommendation in the body of their Report?

The Honourable Sir Bhupendra Nath Mitra: I know that the reasons which the Lee Commission gave for the recruitment of a certain percentage of Europeans for certain Services are given in their Report.

Pandit Madan Mohan Malaviya: Will the Honourable Member say whether the Government of India will consider the question of revising that policy and throwing these services open to engineers by competition in India?

The Honourable Sir Bhupendra Nath Mitra: If my Honourable friend is referring to a reconsideration of the percentage of European recruits, that, I should think, must await the deliberations of the Statutory Commission which is now examining various problems connected with the constitution of India.

Dr. B. S. Moonje: Will the Honourable Member say if, for the time-being, while there may be a paucity of well trained British recruits, the policy will be changed, and instead of having British recruits of deficient training Indian recruits better qualified and better trained will be preferred.

The Honourable Sir Bhupendra Nath Mitra: I think I have told my Honourable friend several times that so far there has been no paucity of British recruits. The question under consideration was the question of giving those English recruits practical training in India and not in England. If there is an absolute paucity of British recruits, undoubtedly the whole position will have to be reconsidered by the Government of India.

Dr. B. S. Moonje: If there is no paucity, why were those engineers appointed to go round to these universities and make investigations? I really cannot understand.

The Honourable Sir Bhupendra Nath Mitra: Those engineers were sent round to stimulate recruitment.

Dr. B. S. Moonje: Then the recruitment was slack; British boys were not coming forward? Were they paid for their services?

The Honourable Sir Bhupendra Nath Mitra: Who were paid for their services?

Dr. B. S. Moonje: Those engineers who went round, were they paid, or did they do honourable work? (Laughter.) I mean honorary work?

The Honourable Sir Bhupendra Nath Mitra: If the officers were officers of the Government of India, they must have been paid for their services during the period of their deputation.

Dr. B. S. Moonje: If there was no paucity, why were they paid and why were their services required?

The Honourable Sir Bhupendra Nath Mitra: The two things are not interconnected. If we want to get a certain number of recruits, naturally we want to get the best recruits of that class and it is necessary to employ certain means to see that we do get the proper number of the best recruits.

PRICE AND FREIGHT CHARGES FOR INDIAN MANGANESE ORE.

209. ***Mr. M. S. Sesha Ayyangar:** (a) Is it a fact that the price of the best Indian manganese ore fell during the last three years from 28d. to 8d. per unit while the shipping freight during the period went up?

(b) Are Government aware that the rebate of 15 per cent. allowed by the railways cannot be taken advantage of by small mine owners who are unable to export 20,000 tons and more in nine months?

The Honourable Sir George Rainy (a) The price of first grade manganese ore fell from 16½d. per unit in 1925 to 12d. per unit in 1927, while the shipping freights rose from 18s. to 19s. during the same period. There was a further slight fall in price in 1928 but the exact figure is not yet available.

(b) The rebate is only granted where anyone consignor forwards an aggregate weight of not less than 20,000 tons of low grade manganiferous ore containing 44 per cent., or under, of manganese belonging to himself or to the Company he represents, during the nine months from the 1st of July in one year to 31st March in the following year.

**INCREASED RATE OF TRANSPORT OF MANGANESE ORE FROM SAMHALLI
TO MORMUGOA HARBOUR.**

210. **Mr. M. S. Sesha Ayyangar:** (a) Are Government aware that since the opening of the new railway station at Samhalli by the Madras and Southern Mahratta Railway, the Railway Authorities have increased the rate of transport of manganese ore from Samhalli to Mormugoa Harbour by 1 anna 2 pies per maund?

(b) Are Government aware that this increase in rate works out at Rs. 9-10-3 per ton, which is more than 50 per cent. of the cost of one ton f.o.r. Samhalli?

(c) If so, do Government propose to direct the reduction of the railway freight on manganese ore from Samhalli to Mormugoa Harbour by 1 anna 2 pies per maund?

Mr. A. A. L. Parsons: I am making enquiries from the Madras and Southern Mahratta Railway, and will let the Honourable Member have a reply as soon as I have obtained the information.

**GRANT OF SPECIAL RATES FOR MATCHES AND MATCH WOOD BY THE GREAT
INDIAN PENINSULA RAILWAY TO THE SWEDISH TRUST FACTORY AT
AMBERNATH.**

211. **Mr. M. S. Sesha Ayyangar:** (a) Is it a fact that the Great Indian Peninsula Railway gives special rates to the Swedish Trust Factory (at Ambernath near Bombay) for matches and match wood, denying the same to the Indian match factories which are on or near the Great Indian Peninsula Railway line?

(b) If so, why?

(c) Do the Great Indian Peninsula Railway charge for the match wood necessary for the foreign syndicate at Ambernath Factory, at rates charged for fuel wood, while to other factories they charge timber rates, which are 25 per cent. in excess?

(d) If so, do Government propose to direct uniformity of action? Is it a fact that the Bengal Nagpur Railway and Bombay, Baroda and Central India Railway quote the same rates for match wood for all match manufacturers, without restricting the concessions to factories lying actually on their lines?

Mr. A. A. L. Parsons: The information at present in the possession of Government shows that special rates for safety matches are quoted both from Ambernath and from other stations on the Great Indian Peninsula Railway, where there are match factories, to certain stations on the Great Indian Peninsula Railway and other Railways; and that similar special rates are quoted for match wood from certain stations to Kurla, Ambernath, Thana, Ghat Kopar and Titvala stations, where there are, I understand, match factories. Matchwood in wagon loads is charged as firewood in local booking over the Great Indian Peninsula Railway when consigned to the places I have mentioned. But I am not sure that there is invariable uniformity in the special rates for safety matches, and am obtaining further information on the subject. I will communicate the result of my inquiries to the Honourable Member in due course.

MIDDLE GIRLS' SCHOOLS IN THE NORTH-WEST FRONTIER PROVINCE.

212. *Diwan Ohaman Lall: (a) What is the total number of Middle Girls' Schools in the North-West Frontier Province, and how many of them are maintained by the Government, local bodies and denominational institutions?

(b) What aid, if any, is extended to the denominational institutions by the Government and local bodies?

(c) What is the aggregate number of girl students in all the above schools?

(d) Are the girls passing out of the Middle Schools required to undergo any special course of preparation to qualify them for admission to a High School? If so, what arrangements exist and where and since when? How long does it take them to acquire the above qualifications?

(e) Is any provision made by the Government of North-West Frontier Province for awarding scholarships, stipends, etc., to encourage the girls to continue further studies in High Schools? If so, how many are getting such scholarships?

(f) What allotment does the Government of the North-West Frontier Province make to various municipalities of the Province for educational purposes and in what proportions? Is any amount earmarked for female education? What amount do the Municipalities of Peshawar and Dera Ismail Khan receive for the above purpose?

(g) What is the total number of recognised and unrecognised Primary girls' schools in the North-West Frontier Province and what is the total number of girls receiving education in them?

(h) In how many places in the North-West Frontier Province are the parents compelled, for want of a girls' school, to send their daughters for education to a school for boys?

(i) What amount was spent on the education of boys and girls respectively in the year 1927-28?

Mr. G. S. Bajpai: (a) to (i). The information asked for is being collected 12 Noon. and will be supplied to the Honourable Member in due course.

RECRUITMENT OF MOSLEMS IN THE INCOME-TAX DEPARTMENT IN SIND.

213. *Mr. Mukhtar Singh: (a) Will Government be pleased to state if they have passed orders regarding the recruitment of Moslems in the Income-tax Department in Sind and other parts of India?

(b) If so, will Government state what those orders are?

The Honourable Sir George Schuster: (a) No special orders have been passed regarding Moslems, but they come within the scope of the general instructions facilitating the appointment of members of minority communities.

(b) Does not arise.

**ALLEGED PARTIALITY SHOWN TO MUHAMMADANS IN APPOINTMENTS TO THE
INCOME-TAX DEPARTMENT IN SIND.**

214. *Mr. Mukhtar Singh: Will Government be pleased to supply information on the following points:

- (a) How many permanent vacancies in the grade of Income-tax Inspectors and Examiners have occurred in Sind during the last three years?
- (b) How many of them have been conferred upon Muhammadans?
- (c) What is the proportion of taxes which Hindus and Muhammadans of Sind pay?
- (d) If it is a fact that out of the Muhammadans recruited for the Income-tax Department one has passed the first year's Subordinate Accounts Service Examination?
- (e) If qualified Hindus already in the Department have been superseded by non-qualified, equally qualified, and less qualified Moslems, and, if so, for what reasons?
- (f) If it is a fact that Moslems have superseded Hindus, even though they have equal and better qualifications, and, if so, for what reasons?
- (g) If it is a fact that Moslems have superseded Hindus, even though exempted from passing the Examination, while the Hindus have not been so exempted, and, if so, for what reasons?

The Honourable Sir George Schuster: The information asked for in part (c) of the question is not available, as the income-tax records are not kept with reference to different communities. Information on the other parts is being obtained and will be communicated to the Honourable Member in due course.

PROCEDURE ADOPTED FOR FIXING FREIGHT RATES ON INDIAN RAILWAYS.

215. *Mr. Mukhtar Singh: (a) Will Government be pleased to state the procedure adopted in fixing the freight rates for different commodities on the State Railways?

(b) Are the proceedings for fixing the freight rates available to the public, or can they be made available to the Members of this House?

(c) Are the freight rates fixed by the Agents of the different State Railways or by the Railway Board?

(d) Do the proposals for fixing freight rates come for final sanction before the Railway Finance Committee? If the answer be in the affirmative, will the Government be pleased to state if the proposals come in the first instance, or do they come only for information? If the answer be in the negative, will the Government be pleased to state if they have any objection to laying their proposals before the Finance Committee?

(e) Is any consideration paid to the development or otherwise of Indian industries in fixing the freight rates on the Indian State Railways?

Mr. A. A. L. Parsons: (a), (b) and (c). For the purpose of freight rates commodities are placed in ten different classes. Separate maximum and minimum freight rates for each class have been fixed by the Railway Board, and I lay on the table a statement showing the maximum and minimum

rates for each class at present in force. Between these maximum and minimum rates railway administrations are at liberty to quote such rates as they think desirable. But I should add that, in a few exceptional cases, with the approval of the Railway Board, a commodity may be placed on one railway in a different class from that in which it is placed on other railways.

(d) The proposals for fixing freight rates are not placed before the Standing Finance Committee for Railways. As I have explained, within the maxima and minima the actual rates charged are left to be determined by individual railway administrations.

(e) In fixing rates railway administrations keep in mind what transportation charges the commodity can bear, endeavouring to make the rate such that traffic will be stimulated. Indian industries are helped as far as possible and, there is a large number of rates quoted with this particular object.

Schedule of Maximum and Minimum Class Rates for Goods Traffic.

Class.	Pies per maund per mile.	
	Maximum.	Minimum.
1st	38	100
2nd	42	100
3rd	58	166
4th	62	166
5th	77	166
6th	83	166
7th	96	166
8th	1 04	166
9th	1 25	166
10th	1 87	166

Mr. Mukhtar Singh: Is the Standing Finance Committee consulted in fixing the maximum and minimum rates?

Mr. A. A. L. Parsons: No, Sir. As far as I am aware no occasion for altering the present maximum and minimum rates has arisen in the course of the last ten or fifteen years.

Mr. Mukhtar Singh: If any Member brings up that question before the Standing Finance Committee, would he be in order in discussing that point?

Mr. A. A. L. Parsons: No, Sir, not so far as the present functions of the Standing Finance Committee go.

Mr. B. Das: May I inquire if the Rates Advisory Committee is at all consulted by the different railway administrations regarding the fixing of maxima and minima rates?

Mr. A. A. L. Parsons: The railway administrations have nothing to do with the fixing of maximum and minimum rates, and obviously therefore do not consult the Rates Advisory Committee.

Mr. B. Das: Do I understand that it is the Railway Board that fixes the maxima and minima rates?

Mr. A. A. L. Parsons: Yes, Sir, that is what I explained in my answer to the main question.

Mr. B. Das: Do I take it that the Railway Board do not think it desirable to consult the Rates Advisory Committee, which was, I think, brought into existence in order to give advice on rates and to fix tariff rates?

Mr. A. A. L. Parsons: As I have explained, no question of altering the maximum and minimum rates has arisen, certainly within my experience, and as far as I know, for the past ten or fifteen years, or even longer. There has therefore been no occasion for considering whether it would be desirable to consult the Rates Advisory Committee. At the same time I do not think consultation on a matter of that kind would be within the functions of the Rates Advisory Committee as now constituted, but I am not quite sure on that point.

Mr. M. S. Aney: Will the Honourable Member be pleased to say whether the Railway Board is prepared to put this question of maxima and minima rates for consideration before the Central Advisory Council?

Mr. A. A. L. Parsons: At the moment there is no question for consideration: the lowest rate we charge is 10 pies per maund per mile and certainly there can be no question of reducing that rate or putting it before any Committee.

Mr. B. K. Shanmukham Chetty: In view of the fact that the maximum and minimum rates were fixed as long as ten or fifteen years ago, as the Honourable Member has himself said just now, will the railway administration consider the advisability of taking steps now to revise the whole question of maximum and minimum rates?

Mr. A. A. L. Parsons: No, Sir; I think the maximum and minimum rates as now fixed are sufficiently elastic not to require any such revision.

Mr. K. Ahmed: In view of the fact that the question has been asked in this Assembly since 1921 when Mr. Parsons was not here, and the Rates Advisory Committee, which was formed only three or four years ago, does not give relief to the people of this country in their grievances about uniformity of rates, do Government propose now to consider the matter in order to relieve anxiety and give some assistance to industries in India?

Mr. A. A. L. Parsons: I am not sure that Government propose to take any of the various courses of action which apparently the Honourable Member was suggesting.

Mr. K. Ahmed: What is the scope of the inquiry made by the Rates Committee in cases which are not brought before them in the form of petition by parties?

Mr. A. A. L. Parsons: The function of the Rates Advisory Committee is to inquire into specific complaints brought before them by parties who think that they have a grievance about the railway rates charged on certain commodities.

Mr. K. Ahmed: Did not the Honourable Sir Charles Innes, when he was Member in charge, declare, while forming the Rates Committee under the Chairmanship of Sir Narasimha Sarma, that it would bring relief to the people of this country by bringing about uniformity of rates?

The Honourable Sir George Rainy: If the Honourable Member will put down a question we should do our very best to give him an answer.

Mr. K. Ahmed: Is it not a fact that the Honourable Member's predecessor promised relief, but that no satisfaction has as yet been given to the public in this matter?

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

Mr. K. Ahmed: Will he kindly revise the undertaking given by Sir Charles Innes in the announcements then made, and having now heard the difficulties and grievances of the people, will the Honourable Member decide the matter?

The Honourable Sir George Rainy: I would be much better acquainted with the grievances referred to if the Honourable Member were to put his questions on paper.

Mr. K. Ahmed: These questions have been asked and promises have been made: will the Honourable Member kindly exercise sufficient active interest in the matter and give relief to the grievances complained of after grasping the subject properly.

QUESTIONS NOT PUT, OWING TO THE ABSENCE OF THE QUESTIONER, WITH ANSWERS TO THE SAME.

SALT FACTORIES, QUANTITY AND PRICE OF SALT MANUFACTURED IN INDIA.

125. ***Mr. C. Duraiswamy Aiyangar:** (a) Will the Government be pleased to state how many salt factories are at present working along the coast line in India for the manufacture of salt?

(b) Will Government be pleased to state the total quantities of salt manufactured in India according to the varieties of rock salt, lake salt and sea salt?

(c) Will Government be pleased to state the differences in chemical analysis and compare them with that of the imported salt?

(d) Is it true that the Madras salt and other sea salt produced in India can, at a very low cost, be converted into pure white salt, and if so, will the Government be pleased to state if they have taken steps, or will take steps to have them so converted for meeting refined demands?

(e) Will Government be pleased to state the price per maund at which retail sales are made in village areas?

(f) Will Government be pleased to state what percentage it bears to the cost price per maund of salt at the factories and other places of production?

(g) Will Government be pleased to state which other coastal countries in the world levy any duty on salt, and the rate of such duty?

(h) Will Government be pleased to state which salt the Government purchases—Indian salt or imported salt?

(i) Will Government be pleased to lay on the table their proceedings, declining to refer the question of salt tax to the Tariff Board, and the report on which their resolution is based?

The Honourable Sir George Schuster: (a) There are 88 such factories, greatly varying in size.

(b) The quantities of salt produced in British India in 1927-28 may be classified as follows:

Rock salt .. ..	..	41,84,503 maunds.
Brine-pit and lake salt ..	..	82,39,776 ..
Sea salt ..	..	2,35,11,329 ..

(c) As the chemical composition of salt varies from place to place and, even in the same place, varies from season to season, a complete answer to this question is impossible. I am, however, arranging to send the Honourable Member a copy of the Administration Report of the Salt Department, Madras Presidency, for 1926-27, and would draw his attention to the analyses printed on pages 62 and 63. The Government of India are not in possession of analyses of imported salt, but have arranged to have typical samples of imported salt and of the various kinds of Indian salt analysed, and the results will be communicated to the Honourable Member in due course.

(d) The answer to the first part of the question is in the negative. The second part does not, therefore, arise; but I may point out that between 80 and 90 per cent. of the sea salt produced in India is made by private manufacturers, and the question of improving the quality of the salt is one that lies between the manufacturers and their customers. The Government will put no difficulties in the way of any manufacturer who desires to make pure white salt.

(e) The attention of the Honourable Member is drawn to the statements published each month in certain of the provincial gazettes and in the Indian Trade Journal.

(f) The percentage must differ in every village in the country; but the Honourable Member may find it useful to make his own comparison between the wholesale prices shown against the producing districts and the retail prices shown against all districts in the returns that I mentioned in my reply to part (e) of the question.

(g) According to the information possessed by the Department:

(i) The Governments of the following countries maintain salt monopolies:

Columbia,
Czechoslovakia,
Greece,
Italy,
Japan,
Roumania,
Spain.

- (ii) The Governments of the following countries levy taxes on salt:
- Brazil,
 - Bulgaria,
 - France,
 - Netherlands,
 - Venezuela.

I must leave it to the Honourable Member to say which of these countries are covered by his term "coastal countries". The Government of India have no up-to-date information as to the rates of tax levied by the Governments mentioned in the second list.

(k) The principal consuming department of the Government is the Army. This obtains its supplies of table salt (about 340 tons a year) from the Northern India and Bombay sources, and of salt for animals from Khewra. The Government of India have no reason to suppose that other consuming departments such as hospitals, jails, etc., obtain their salt from any other source than the prevailing source of supply in the markets of the areas in which they are situated. The amounts, so far as direct administration of the Government of India is concerned, would, in any case, be of very minor importance.

(i) The Resolution in which the Government announced their decision not to make a reference to the Tariff Board, and the report of the Central Board of Revenue that was considered before that decision was reached, were published in the Gazette of India, dated the 12th of May, 1928.

MESSRS. WHEELER AND COMPANY'S RAILWAY BOOK STALLS.

168. ***Diwan Ohaman Lal:** (a) Will Government state the date of expiry of the arrangement entered into between the Railways and Messrs. Wheeler and Company?

(b) Will Government state whether, on expiry of the above mentioned arrangement, they intend to call for public tenders?

Mr. A. A. L. Parsons: The original contract of the North Western Railway with Messrs. Wheeler and Company terminated on the 31st December, 1928. According to its terms, six months' notice had to be given to the firm of any intention to terminate the contract, and the question was considered by the North Western Railway Administration in May. They decided that there was no reason to alter the existing arrangements and entered into a fresh contract for one year from the 1st of January, 1929. It had been the intention of the Railway Board that the matter should be referred to them before any decision was reached, but this unfortunately was not done. They have now issued instructions to the North Western Railway Administration to refer the question to them before any further extension of the contract is agreed to. Enquiries are being made from the other State-managed railways when their existing contracts expire, and the information will be supplied to the Honourable Member as soon as it is received. The Railway Board propose to examine the question whether public tenders should not be invited on the occasion

of the expiry of each of the remaining contracts of State-managed railways.

SETTLEMENT OF OUTSTANDING MONEY DUE TO THE INDIAN GOVERNMENT FROM THE BRITISH WAR OFFICE.

169. *Diwan Chaman Lall: (a) Will Government state whether they have arrived at any settlement with the British War Office with regard to outstandings due to the Indian Government?

(b) Will Government state the amount involved?

(c) Will Government state the exact nature of the difficulties which have prevented achievement of a settlement so far?

The Honourable Sir George Schuster: The Honourable Member's attention is invited to the following replies on this subject already given in this House:

- (1) the reply given by Sir Basil Blackett to a question by Sir Purshotamdas Thakurdas on 1st February, 1924, and the statement of the principal outstanding questions then laid on the table;
- (2) the replies given to the Honourable Member himself by Sir Basil Blackett on 15th February, 1927;
- (3) the reply given on 18th August, 1927, to the question asked by Mr. Gaya Prasad Singh.

The latest statement on this subject was made by the Financial Secretary in reply to a question asked by the Honourable Dr. Rama Rau in the Council of State on the 11th September, 1928. The question is still under consideration, and I regret that I am not yet in a position to make any further statement.

PAYMENTS TO THE GOVERNMENT OF INDIA UNDER THE REPARATIONS SCHEME.

170. *Diwan Chaman Lall: Will Government state whether they have received any amount under the Reparations Scheme, and if not, will Government state why no arrangement was arrived at on a similar basis to that accepted by Great Britain?

The Honourable Sir George Schuster: The answer to the first part of the question is in the affirmative, the total amount received up to date being £7,17,891-7-6.

AMOUNT SPENT BY THE GOVERNMENT OF INDIA ON THE GREAT WAR.

171. *Diwan Chaman Lall: Will Government state the total amount expended by them during and incidental to the Great War?

The Honourable Sir George Schuster: The Honourable Member is referred to Chapter IV of the publication entitled "India's Contribution to the Great War" which will be found in the Library of the House.

PENSIONS PAYABLE TO WAR WIDOWS IN CANADA, AUSTRALIA AND INDIA.

172. ***Diwan Chaman Lal:** Will Government state the amount of pension payable to the widow of an Indian soldier killed in the Great War and the amount similarly paid by the Canadian Government and the Australian Government to their nationals?

Mr. G. M. Young: Family pensions are granted to the widows or other dependents of Indian officers and soldiers whose death is attributable to military service. The rates of family pension range from Rs. 8 a month for Sepoys to Rs. 50 a month for Subadars. Minor children receive separate allowances of from Rs. 2 to Rs. 4 a month each. The heir of a Subadar killed in action or who dies of wounds received in action is eligible for a gratuity of Rs. 1,200 and the heir of a Jamadar for Rs. 600.

The Government of India do not possess the information asked for in the latter part of the question. Even if they had the information, I doubt if any useful comparison could be instituted.

SEARCH OF EFFECTS OF INDIAN POLITICIANS VISITING GREAT BRITAIN IN 1928.

173. ***Diwan Chaman Lal:** Will Government state:

- (a) whether the effects of prominent Indian politicians visiting Great Britain last summer were searched under instructions from Scotland Yard?
- (b) whether, and if so, what, correspondence passed between authorities in India and authorities in Great Britain in regard to the search or surveillance of certain Indian politicians visiting Great Britain during the summer of 1928?

The Honourable Mr. J. Orerar: (a) Government have no information.
(b) There was no such correspondence.

SUBSIDY PROMISED BY THE GOVERNMENT OF INDIA TO NEW NEWSPAPERS STARTED IN INDIA.

174. ***Diwan Chaman Lal:** Will Government state whether any subsidy or assistance has been promised to any new journals or newspapers started in this country during the last six months?

The Honourable Mr. J. Orerar: The answer is in the negative.

APPROXIMATE MEMBERSHIP OF THE COMMUNIST PARTY IN INDIA.

175. ***Diwan Chaman Lal:** Will Government state whether there is in existence in India a Communist Party and what its approximate membership is?

The Honourable Mr. J. Orerar: There are several organisations in India, such as the Workers' and Peasants' Parties in Bombay and Calcutta, as well as the recently formed All-India Workers' and Peasants' Party, which preach Communist doctrines and avow Communist aims. Approximate details of membership are not available, but the adherents of these parties are already numerous and are rapidly increasing.

ADDRESSES ON MATTERS OF POLITICAL CONTROVERSY BY HIGH GOVERNMENT OFFICIALS.

176. ***Diwan Chaman Lall:** Will Government state whether some of its high officials are in the habit of addressing meetings of European Chambers of Commerce at which matters of political controversy are discussed?

The Honourable Sir George Rainy: It is a fact that Government officials sometimes attend, as visitors, meetings of Chambers of Commerce, both European and Indian, and take part in the discussion of commercial questions which may sometimes be matters of political controversy.

FORMATION OF A WHEAT POOL.

177. ***Diwan Chaman Lall:** Will Government state whether they have examined the feasibility of assisting the formation of a Wheat Pool on the lines of the Canadian Wheat Pool?

Mr. G. S. Bajpal: No proposal to this effect having been received from wheat growers in this country, the matter has not been examined so far.

WAGES AND HOURS OF WORK OF INDUSTRIAL WORKERS IN INDIA.

178. ***Diwan Chaman Lall:** Will Government state whether they propose to hold an enquiry into the conditions of life and wages and hours of work and of labour of the industrial workers of India?

The Honourable Sir Bhupendra Nath Mitra: I would refer the Honourable Member to the recent announcement made by His Excellency the Governor General in this House.

RATIFICATION OF MINIMUM WAGE CONVENTION.

179. ***Diwan Chaman Lall:** Will Government state whether they intend to ratify the Minimum Wage Convention passed by the International Labour Conference?

The Honourable Sir Bhupendra Nath Mitra: Not at present.

REPRESENTATION OF INDIAN LABOUR AT THE INTERNATIONAL LABOUR CONFERENCE.

180. ***Mr. Amar Nath Dutt:** (a) Are Government aware that the names of delegates and advisers recommended by the Jharia Session of the 'All-India Trade Union Congress for the International Labour Conference were adopted by the President, without putting the names to the vote, in spite of protests and cancelling certain names that were adopted by the Executive Council originally?

(b) If so, do Government propose to inquire into the regularity of the proceedings before considering the recommendations sent by the Secretary as the recommendation of the Labour in India?

(c) Do Government propose to invite recommendations from the various labour unions individually for the proper representation of Indian labour in the International Labour Conference?

(d) Are Government prepared to secure the representation of labour by consulting the Members of the Central Legislature and such other methods as may be feasible?

The Honourable Sir Bhupendra Nath Mitra: (a) to (d). Government have no information and do not propose to hold any enquiry into the matter. All organised representative associations of employers and employed were asked to submit their recommendations for the nomination of the non-Government delegates and advisers to the International Labour Conference by the 15th January, 1929, and in making such nominations, the Government of India are bound by the provisions of Article 369 of the Treaty of Versailles.

RETURN TICKETS AT CONCESSION RATES ON THE GREAT INDIAN PENINSULA RAILWAY.

181. ***Mr. A. H. Ghuznavi:** (a) Are Government aware that no return tickets at concession rates are issued to passengers on the Great Indian Peninsula Railway?

(b) Do Government propose to direct the Great Indian Peninsula Railway authorities to start issuing such tickets at an early date?

Mr. A. A. L. Parsons: (a) Certain return tickets at reduced fares are issued on the Great Indian Peninsula Railway. The Honourable Member will find details at pages 129 to 186 of the Great Indian Peninsula Railway Time Table, Guide and Coaching Tariff No. 224.

(b) It is for the Agent to decide whether the issue of such tickets is likely to be profitable. A copy of the Honourable Member's question and of this reply will be sent to him.

PROVISION OF A SUITABLE RETIRING ROOM AT LAHORE RAILWAY STATION.

182. ***Mr. A. H. Ghuznavi:** (a) Are Government aware that retiring rooms at important railway stations are very much appreciated by the travelling public?

(b) In view of the above fact, do Government propose to provide the Lahore Railway Station with a suitable retiring room at an early date?

Mr. A. A. L. Parsons: As the Honourable Member is aware from the reply given to his question No. 25, dated the 4th September, 1928, Agents of State-managed Railways, including the North Western Railway, have been asked to consider the question of providing retiring rooms at stations where it appears probable that the expense will be justified by the use made of these rooms. Government are not prepared to go further than this, for it must be for Agents to decide whether, at any particular station, a retiring room can and should be provided.

UNSUITABLE CONDITION OF WAITING ROOM AT LAHORE RAILWAY STATION.

183. ***Mr. A. H. Ghuznavi:** (a) Has the attention of the Government been drawn to the most filthy and unsuitable condition of the Railway waiting room at Lahore, which is a very big and important railway station?

(b) Do Government propose to see that the waiting room in question is rearranged at an early date?

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

(b) The attention of the Agent of the North Western Railway will be drawn to the complaint made in the Honourable Member's question, in order that he may consider whether any alterations are necessary in the waiting room arrangements at Lahore.

QUANTITIES OF COAL CONSUMED BY STATE AND OTHER RAILWAYS IN INDIA.

184. ***Mr. A. H. Ghuznavi:** Will Government be pleased to lay a statement on the table showing the total quantities of coal consumed by State and other railways, specifying at the same time what quantities are drawn from railway collieries and what quantities are purchased?

Mr. A. A. L. Parsons: The total quantity of coal consumed by all railways in India in 1927-28 amounted to 7,259,427 tons, of which 3,184,255 tons were issued from railway collieries. The Honourable Member will find fuller details for 1927-28 and the previous year on pages 124-28, 177-79 and 187 of the Report by the Railway Board on Indian Railways for 1927-28. Volume II.

REDUCTION OF RAILWAY FARES ON THE EASTERN BENGAL RAILWAY.

185. ***Mr. A. H. Ghuznavi:** (a) Will Government be pleased to state if the fares on the Eastern Bengal Railway especially of third class passengers have been reduced?

(b) If the fares have not been reduced, will Government be pleased to state why such a reduction has not been effected though, according to an assurance given in this House, railway fares on other State railways have already been reduced?

(c) Do Government propose to direct the authorities of the Eastern Bengal Railway to reduce their fares at an early date?

Mr. A. A. L. Parsons: (a) The last reduction in passenger fares on the Eastern Bengal Railway was made in August, 1927, when fares by mail train were lowered.

(b) The financial position of the Eastern Bengal Railway did not permit reductions in fares similar to those which were brought into force on certain other railways this year.

(c) The question whether passenger traffic on the Eastern Bengal Railway can be stimulated by a reduction of fares is constantly being borne in mind both by the Agent and by the Railway Board.

ADMINISTRATION OF COALFIELDS BY RAILWAY COMPANIES.

186. ***Mr. A. H. Ghuznavi:** (a) Will Government be pleased to make a statement with regard to the administration of coalfields by railways?

(b) Do Government propose to order the separation of the coal-fields account from the general account to avoid confusion and to facilitate matters?

Mr. A. A. L. Parsons: (a) All collieries of State-worked railways, other than those of the East Indian Railway, are controlled and administered in their working by the Chief Mining Engineer to the Railway Board and the staff under him. There has been a colliery organisation on the East Indian Railway for many years, and the East Indian Railway collieries are, therefore, controlled and administered by the Agent of the East Indian Railway, to whom the Chief Mining Engineer to the Railway Board acts as consulting mining engineer. The output of the East Indian Railway collieries is available for distribution amongst any of the State-worked railways and is at the disposal of the Chief Mining Engineer for such distribution, in the same way as the supplies available from other State-worked railways' collieries.

(b) It is proposed to revise the system of accounts for railway collieries on the basis of proposals about to be placed before the Standing Finance Committee for Railways, which have been framed after consideration of Sir Arthur Dickenson's recommendation.

DUTIES OF CLASS I AND CLASS II CLERKS IN THE OFFICE OF THE CHIEF AUDITOR, NORTH WESTERN RAILWAY.

191. ***Diwan Chaman Lal:** (a) Will Government state whether any decision has been arrived at in regard to questions raised on memorials by the clerks, Class II, of the Office of the Chief Auditor, North Western Railway?

(b) Will Government state what special distinction or difference there is in the work allotted to the clerks of Class I and Class II in the various sections of the office?

(c) Is it a fact that, in the following items of work, no distinction is made in their allotment to both the classes:

1. Audit of station balance sheets?
2. Audit of passenger classifications?
3. Audit of invoices and parcels way bills?
4. Audit of muster rolls and time sheets?
5. Upkeep of stores ledgers?

(d) Is it a fact that work of both the classes is so intermingled that no distinction can be drawn?

The Honourable Sir George Schuster: (a) The memorials are under consideration.

(b) to (d). Enquiry is being made and a reply will be sent to the Honourable Member in due course.

THE HINDU CHILD MARRIAGE BILL.

Mr. President: Rai Sahib Harbilas Sarda.

Mr. M. S. Sesha Ayyangar (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural): Sir, with your permission I rise to a point of order. I submit in this case the original Bill has been so materially and vitally changed and the Parliamentary practice has been . . .

Mr. President: Rai Sahib Harbilas Sarda.

Rai Sahib Harbilas Sarda (Ajmer-Merwara: General): Sir, I move that the Bill to regulate marriages of children amongst the Hindus, as reported by the Select Committee, be taken into consideration. As this House has clearly expressed itself . . .

Mr. M. S. Sesha Ayyangar: On a point of order, I submit, that the practice in such cases is to withdraw the original Bill.

Mr. President: The Honourable Member might first allow Mr. Sarda to make his motion and then he can raise his point.

Rai Sahib Harbilas Sarda: Sir, I move that the bill to regulate marriages of children amongst the Hindus, as reported by the Select Committee, be taken into consideration.

As this House clearly expressed itself in favour of passing legislation in the matter of child marriage, (*An Honourable Member:* 'No'). Yes it did. When the Bill was referred by the House to a Select Committee the principle of the Bill, about passing legislation in regard to child marriages, was unanimously accepted by this House, and as the Honourable the Home Member speaking on behalf of Government last year, stated that the Bill had the cordial support of Government, I will not say anything now regarding the policy of legislating on the question, except what a great English writer has said that, where large communities are concerned, legislation is the only effective means of accomplishing social reform. Honourable Members who have been reading their papers are well aware that almost all public bodies in India are taking an interest in social matters and almost every All-India caste conference, and the Indian National social conferences that are held every year unanimously demand the enactment of this measure.

This Bill has been circulated to the public and opinions have been received. Before I come to the opinions received by Government as a result of the circulation of the Bill, I must invite the attention of this House to the remarkably unanimous opinion of the party chiefly concerned in marriage in full support of the Bill. Sir, marriage affects the life of a woman more vitally and in a much fuller manner than that of a man. The reasons are many and obvious. One obvious reason is that marriage not only completely deflects her whole future course of life, but removes her completely from the scene of her premarried life. Not so with man. And then it is she who has to bear the burden of motherhood. Society and the State should, therefore, attach much greater weight to her views and her considered opinion in the matter of marriage. Now, what is the attitude of women towards this Bill which is of such paramount importance to them? Hundreds of ladies' meetings have been held in the country; district and provincial ladies' conferences have taken place, ladies associations and sabhas re-

presenting different communities have met and passed resolutions on this Bill. Three All-India Ladies' Conferences in different parts of the country have met, discussed and passed resolutions in the matter. But do you find a single instance of such a public meeting of women protesting against the Bill? With a unanimity which is remarkable, almost astonishing, women all over the country have demanded that this Bill be passed and passed without delay. Even the Rajputana Provincial Ladies' Conference, composed in a preponderating degree of Marwari women, which met on the 19th November 1928, emphatically demanded the immediate passing of this Bill. We thus find that half the number of people affected by marriage, and that half, considering the interests at stake, the more important, and as is justly said, the better half, wholeheartedly supports the Bill. But this is not all. By far the major part of the opinion consulted by Government also welcomes and supports this Bill. Counting the printed opinions circulated by Government, we find that, leaving out of account the report of a Local Government saying that 39 persons were consulted and the majority were against the Bill, leaving also out of account the report of another Local Government that all the officials and non-officials consulted were in favour of the Bill without giving numbers, and taking into account the printed opinions which include 10 out of the 39 mentioned above, and also all reports where numbers for and against are given, and leaving out Madras, opinions from which province are separately analysed, we find that, out of a total of 167 opinions recorded, 128 are in favour of the Bill. Of the opinions received, only 18 are for lowering the marriageable age of girls to twelve, and of these 18, two do not insist on such lowering. Five ask for thirteen, while three ask for sixteen, and one for eighteen, while the Madras Legislative Council unanimously demand sixteen for girls. As for boys, four people want sixteen (two of these being Europeans) and one wants fifteen.

As regards Madras, where it seems that special care has been taken to collect opinions and from which province alone 87 opinions have come against 167 from the rest of India, we find it repeatedly stated that, except the Brahmin community which forms only about three per cent. of the population of that Presidency, the remaining (97 per cent.) support the Bill. The women of Madras, as is clear from the womens' meetings held all over the Presidency, support it. And even among the Brahmins there are two parties, one which contains a very large number of Brahmins, and perhaps the majority, and which is not dominated by the priests, support the Bill; the other which has vested interests and is, therefore, very vocal, and which contains some who honestly believe that Brahmins are enjoined to marry their daughters before they attain puberty, oppose it. The fact that the majority even of the Brahmins of Madras is in favour of the Bill is clear from the report of Mr. Williams who says:

"I have received the opinions of 22 persons of standing in Berhampur. Of these 22, 13 are Brahmins and nine non-Brahmins. Of the 22, sixteen support the Bill. Of these sixteen, 10 are Brahmins. Thus, of the thirteen Brahmins consulted, ten support the Bill and only three oppose it."

The Sub-Collector of Kumbakonam says:

"At a meeting of the ladies of Kumbakonam town,"

—which is a seat of Brahmins—

"the Bill was unanimously supported."

[Rai Sahib Harbilas Sarda.]

Mr. Upendra Poi Avergal, District Magistrate, South Arcot, says:

"If the law is passed, I do not think that there would be serious discontent. The action of the Native States may serve as a precedent and guide in this case".

Mrs. Gomathi Ammal, speaking for the Womens' Indian Association, Veerargaupuram, says, that:

"the Child Marriage Bill has not come a minute earlier and cannot be postponed for a minute later. Child marriages must be prevented."

Mrs. Lakhshmi Ekambaram for the Ladies' Association, Tuticorin, warmly supports the Bill. The Hindu Patit Pavan Mission, Ganjam, and the Hindu Dharam Paripalan Sabha, the Madras League of Youth and the Indian Womens' Association in Madras wholeheartedly support the Bill. Only one Municipal Council in that Presidency was consulted, that of Guntur, and it has supported the Bill.

Out of the 87 opinions submitted to the Government of India from the Madras Presidency, 58 support the Bill, only fourteen are against it, and the rest are either neutral, or express no definite opinion. Twelve opinions favour 12 years for girls, one favours 13, four want 16, one 18, one 20, and the rest approve of 14.

If we take the opinion of the different Local Governments in India, we find that the Governors of Bombay, Burma, Bihar and Orissa, the United Provinces, the Punjab, and the Central Provinces, as well as the Chief Commissioners of Coorg, of Ajmer-Merwara and of the North-West Frontier Province support the Bill. The Governor of Bengal is for dropping it, while the Governor of Assam and the Chief Commissioners of Delhi and Baluchistan express no opinion on it. The Governor of the United Provinces records that he regards "the objects of this Bill as of the first importance for the social and physical well being of the country as a whole".

Turning to the opinions of the High Courts, we see that the Punjab High Court strongly support the Bill. The Chief Justice and four Judges of the Bombay High Court support the Bill, the remaining expressing no opinion. As for the United Provinces, the Chief Justice and six Judges support the Bill, and two others say that they do not oppose it. The Chief Justice and four Judges of the Bihar and Orissa High Court support the Bill, while three (two Europeans and one Indian) oppose it. The Burma Government say that the Burma High Court "apparently accept the principle of the Bill", but consider that the draft Bill is so weak that it would prove a dead letter. The Calcutta High Court express no opinion. The Madras High Court has, since the last session of the Legislative Assembly, expressed their opinion, and a majority of the Judges oppose the Bill on the ground that it interferes with the religion of the people. This is not surprising coming, as it does, from a province where untouchability flourishes and where the Courts hesitated long, even to allow all people to use public roads.

As for Judicial Commissioners, all the four Judicial and additional Judicial Commissioners of Sind fully support the Bill, as also the Judicial Commissioner of Ajmer-Merwara. Two of the four Judges of the Oudh Chief Court support it: one opposes it and one says that the Bill may be made applicable to Hindus only. The Judicial Commissioners of the Central Provinces, Baluchistan, and the North-West Frontier Province express no opinion. The above analysis shows that by far the great

majority, a preponderating majority, even of those consulted by Government, support the Bill, as well as the clauses regarding the minimum marriageable ages laid down in it.

But a complete and crushing answer to those who say that there is considerable opposition to the Bill in Madras is furnished by the Resolution unanimously passed by the Madras Legislative Council, without a single dissentient voice. The Resolution reads:

"This Council recommends to the Government that they may be pleased to communicate to the Government of India that, in the opinion of this Council, legislation raising the marriageable age of boys and girls to at least 21 and 16 years respectively is necessary".

Sir, the Madras Legislative Council contains representatives elected by all the towns and districts in that Presidency and a number of eminent Brahmins are members of it. And if there is any body which may be said truly to represent the public opinion of Madras, it is the Madras Legislative Council. This Council not only unanimously supports the Bill but goes beyond it.

Over and above all this, the proceedings of the Age of Consent Committee furnish the most complete and convincing evidence that the entire country wants this Bill to be passed at once. Day after day, witness after witness, appears before the Committee and demands that the first thing to do is to fix the marriageable age of girls at 14 or 16. No better index of public opinion in the matter could possibly be found than that furnished by the evidence tendered before the Age of Consent Committee in every part of this country. That evidence almost unanimously demands this Bill to be passed. Several women witnesses have appeared before this Committee and every one of them asks that the Bill be passed.

Sir, with your permission, I will give you two samples of opinions of the opponents of the Bill to show to what straits they were reduced to find arguments to oppose the Bill. One is that of an Indian, the other that of an Englishman. The Indian is Mr. Deoskar, whose logical mind may be gauged by his statement.

"The average longevity in India is much below that in European countries, and therefore the age for marriages and other important events in life should also be similarly lower, for there would otherwise be the calamity of children being born late in life and parents dying with very young children behind them".

The dicta of the European opponent, who is Mr. Ferrers, Sessions Judge, Dharwar, are interesting reading. Giving his opinion on the Protection of Children Bill, he says:

"I am wholly opposed to all legislation of this type. Every Hindu family is a little independent commonwealth. Self-government is its birthright. This birthright is now being stolen by external invaders. The intention of such an usurper may be in the highest degree benevolent. But there is no usurpation so dangerous as that which is undertaken with a benevolent intention."

I wonder, if Mr. Ferrers was conscious of the significance and the full implications of the dicta he was laying down.

As regards the marriageable age of girls, Sir, I would, with your permission and with all respect to my orthodox friends, say a word with regard to a *sloka* which is always cited in Upper India as an authority

[Rai Sahib Harbilas Sarda.]

for child marriage. It is from a book called *Sheeghra Bodh* which may be roughly translated as "Royal Road to Knowledge" and which is not more than two centuries old. The *sloka* runs as follows:

*Ashta varsha bhavet gauri,
nava varsha cha rohini,
dasam varsha bhavet kanya, etc., etc.,*

It means that a girl is a *Gauri* at eight, a *Rohini* at nine, and becomes a *Kanya* at ten. and then menstruation ensues. If after that, she is not married, her father and mother go to hell. Now, Sir, no *Śruti*, *Smṛiti* or law books of the Hindus, none of the *Darsanas*, nor the recognised *Sastras* classify or describe girls as *Gauri*, *Rohini*, etc., according to their ages. It is only the *Vam Marag*, a sect of the Hindus which worships girls, that has in its ritual called *Tantra*, given separate names to girls of one, two, three, and so on, up to 16 years old respectively. The *Rudra Yamal Tantra* and the *Viśkṣar Tantra*, which I hold in my hands do so. The *Rudra Yamal Tantra* says:

*"Eka varsha bhavet sandhya
Dwi varsha cha saraswati
Tri varsha cha tridha murti
chatur varshu kalika."*

The *Viśkṣar* says:

*"Ashta varshatasa kanya bhavet gauri varanane
Nava varsha rohini sa dash varsha to kanyaka."*

But even this *Viśkṣar Tantra* demands and enjoins on its votaries that girls should be kept virgins up to 16 and that every possible precaution should be taken that girls remain virgins till they attain the age of sixteen. It says:

*"Tasman shodasha paryantam
Yuvateeti prachakshate
Rakshitavya prayatnena
Pakshatastah."*

Now, these *Tantras* are not accepted Hindu *Sastras*, but even the *Viśkṣar Tantra*, as I have said, wants that the girls should not be married before they attain the age of sixteen.

As for the parents who marry their girls after ten being sent to the place where the hero of Milton's great epic reigns, let me quote the opinion of Mrs. Bhagirathi Ammal of Madras, who says:

"While the hell to which the parents go is an imaginary one, what about the *karma* or the sending of their girls now to a living hell by selling them to old widowers who cannot get women of their own age because of this pernicious custom of child marriage".

Sir, the women of India do not talk of *Sastras*; they do not bother themselves about the effect of marriage on their prospects in the next world. They are practical and think of this world, and they want that their sufferings in this world should come to an end.

But the futility of it all in practice is clear from the one potent fact which could not be denied or ignored. The opponents of the Bill say that no legislation is necessary as the marriage age is rising under pressure of public opinion, and that in a few years, there will be no marriage of girls below 14. What becomes, then, of the supposed *Sastric* injunction

not to keep girls unmarried after ten? It is a well-known fact that among the Rajas, Thakurs and Rajputs generally, girls are married after they are 16 years old. These very pandits and purohīts who cite the *sloka*, "*Aṣṭa varsha bhavet gauri*", fall upon one another to go and conduct those marriages among the Rajputs. Do these priestly gentlemen go and conduct ceremonies to assist in sending the parents of the girls to where Satan reigns? And where were the supporters of child marriages when the Maharajas of Kashmir, Bharatpur, Alwar, Baroda, Rajkot, Mandi, and others prohibited by law child marriages in their territories.

What I wish, however, to submit to this august Assembly is that this Bill is not merely a measure of social reform. With great deference to those who differ from me, I say that I regard child marriage as a crime, a crime against helpless boys and girls. And it does not cease to be a crime because it is done in the name of religion, or because the doers of it are not ill disposed towards the victims. Recently a father and a son murdered a barber boy, as a religious act to propitiate a goddess, in the Madras Presidency. The act was done in the name of religion and the perpetrators bore no personal enmity to the victim. All the same, it was a crime and the Government and the public took it as a crime and a prosecution was launched. Now child marriage is a grave crime, for while it leads to child widowhood, it sometimes leads to the death of girl victims at the first child birth. It sends many to slow lingering deaths, and as a rule, it ruins the young girl mothers physically for life. Speaking of the effect of child marriage on girls, Dr. Campbell, Lady Principal of the Lady Hardinge College, Delhi, giving evidence before the Age of Consent Committee on the 10th October, 1928, described how girls were condemned to slow deaths by becoming mothers when quite immature. She said that:

"she had attended more than one thousand Hindu girls for child births at the ages of from 12 to 16 years. And the evil effects seen in them and in others under observation or treatment as a result of early child bearing could be hardly exaggerated. Tuberculosis was very often developed during pregnancy or lactation as the resistance of the tissues was lowered by the strain, unnatural at so early an age. This is the reason why tuberculosis was much more common in girls than in boys. About 40 per cent. of the children of girl mothers died in the first year and those who survived were weaklings."

Is child marriage then not a crime? Questioned by Mr. Kanhyalal, Dr. Campbell said there was no other way to check early consummation but by fixing the marriageable age of girls at 16. The object of this Bill, Sir, is to put a stop to this crime and to that other fearful crime, *viz.*, that of making virgin child widows, who, according to the customs of the country, cannot re-marry and are condemned to a life of suffering and misery.

Let us look a little more closely into the demand that if a man considers it his religious obligation to do a thing, no State has the right to interfere with him in his performance of it. Now, this proposition cannot be accepted or allowed to pass unchallenged. We cannot admit that a man has a right to do a thing because he regards it his religious duty to do it. If a man does a thing in the name of religion and if no one else is, in the slightest degree, adversely affected by that act, he may have some semblance of a claim to do it, though even then, sometimes he cannot be granted the liberty to do it. If a man offers himself as a sacrifice to some deity as an act of religious obligation, will the Government concede to him the liberty

[Rai Sahib Harbilas Sarda.]

to commit suicide and not make that act penal? Much more so, when he claims non-interference in doing an act in the name of religion which inflicts suffering upon others. What enlightened State in the world in the 20th century will concede to any one the right to do a thing in the name of religion when the doing of that thing injures another human being or inflicts suffering on him or her? If a man regards his religious obligation to sacrifice his child to a deity to attain salvation, will any one in his senses concede to that man the right to perpetrate that act? Will any man in the same way, be given the right, in order to save himself from going to hell, or the fancied fear of going to hell, the right, the liberty, to condemn any other human being to a life of suffering or, as Mrs. Bhagirathi Ammal puts it, to a living hell here in this world? Sir, readers of history know well what oppression, what tyranny has been practised in the name of liberty, and readers of history also know what inhuman crimes have been committed in the name of religion. It is time we gave up invoking religion to cover the heinousness of some of our acts. Sir, if some of the Honourable Members who, when unable to defend acts on their merits, take shelter behind religion, were to read some of the heart-rendering letters, exposing the lacerated hearts of the writers, which I have received from unknown young women from different places in India, they would not be so ready to demand the perpetuation of this inhuman custom, and would not consent to be parties to ruining so many innocent lives. They would not support the continuance of this evil practice, the sin of which more than anything else has, according to my conviction, led this sacred country of ours to a depth of degradation and a state of slavery from which we find it so difficult to extricate her. I humbly submit to Honourable Members, for Heaven's sake, do not degrade our sacred religion—the noblest heritage of our race—by making it responsible for the great evils that exist in our society. A grave responsibility rests on this House in the matter. People in England and America are watching how we deal with this Bill. Writers like Miss Mayo, and politicians like Mr. Winston Churchill have declared that India cannot be granted self-government so long as she tolerates and commits acts of oppression against girls of tender age. Thoughtful people in England and America want to know if, after 170 years of English rule, that Government will still tolerate and, by its attitude, encourage the crime of compelling helpless girls of 11 and 12 to submit to the tortures of motherhood, which makes most of them wrecks for life and sends many to an early grave. Does any one doubt for a moment that if there were women members in this House this Bill would not have taken three days to pass into law instead of three years. I hold in my hand a letter received from Mrs. Anusuvaben Kale, a lady Member of the Central Provinces Legislative Council. She says that she moved yesterday in the Central Provinces Legislative Council the following Resolution which was unanimously passed:

"This Council recommends to the Government to convey to the Government of India its considered opinion that the legal age of marriage for girls should be raised to 14 (fourteen) and for boys to 18 (eighteen) and as a step towards this end it supports Rai Sahib Harbilas Sarda's Child Marriage Bill as amended by the Select Committee of the Legislative Assembly."

Both the Legislative Councils of Madras and the Central Provinces, where they have women members, have passed Resolutions demanding the passing of this Bill, even going beyond it.

The world is watching if the Members of this House possess the necessary self-restraint, the capacity and the liberal-mindedness to appreciate the rights of those who are at their mercy, who have been suffering oppression for a long time, whose true welfare is being trampled under foot in order to enable men to pander to their self-conceit and maintain their false notions of social decorum and fancied religious obligations. My earnest request is that we must no longer refuse to remedy the wrong inflicted on the helpless, hapless, piteous women of India. If you refuse to remedy the wrong inflicted on them, people might well ask, what right have you to demand that justice should be done to you by a foreign power ruling over the country.

Leaving aside for the moment the graver aspect of this question, and taking into consideration its character as a piece of social legislation, we know that progress is unity. No nation can live politically in the 20th century and socially in the 10th or 11th. Independent Asiatic nations like Turkey, in order to strengthen and stabilize their position in the hierarchy of nations, in order to keep pace with the advanced peoples and in order to be able to hold their own and not go down in the vast and world-wide struggle for existence, are taking all possible means to reform society to suit modern conditions, uproot old evil customs, cast off all outworn, anti-diluvian notions, and to come abreast of the modern nations of Europe and America. We cannot keep the women of India ignorant and helpless and slaves and yet ourselves become free. The greatest of the Americans, Abraham Lincoln, gave utterance to an eternal truth when he said "A nation cannot be half free and half slave". Let us, therefore, no longer tolerate this crime of infant and child marriage, no longer compel girls who have not yet entered their teens to become mothers and thus become wrecks for life.

In all humility, and with all the earnestness I can command, and with due respect to the susceptibilities of the Honourable Members of this House, I appeal to them—to those whom God has granted the privilege of sitting on the Treasury Benches of this great and ancient country as well as those who sit on the Opposition or neutral Benches, and have come here to serve their country,—not to forget the sublime teaching contained in those lines of matchless perfection of the English Poet, who says:

"Hear Ye Senates, hear this truth sublime,
He who allows oppression shares the crime."

Mr. M. S. Sesha Ayyangar: Sir, I rise to a point of order. My reason is this. The original Bill which was introduced has undergone so much of vital change both in form and substance, that the Parliamentary practice is to withdraw the present Bill and to reintroduce a new Bill. I rely on May's Parliamentary Practice, pages 386 and 412, latest Edition. On four essential points at least, the Select Committee has made amendments in the first report. The original Bill was to apply to Hindus, Jains, Sikhs, Brahmos, and Arya Samajists. Now it is made to apply to all communities and classes in British India. Secondly there was a conscience clause, clause 6, of the original Bill which has been completely eliminated. Thirdly, it was the intention then to declare all objectionable marriages of boys or girls below a certain age to be invalid; but now a provision has been introduced to make it penal. Fourthly, the Select Committee has

[Mr. M. S. Sesha Ayyangar.]

not only altered the substance of the Bill, but they have thought it even necessary to alter the very title and preamble, and in their first report, in the penultimate paragraph, they say:

"The Bill . . . has been so materially altered by us that in our opinion it requires republication".

Then they go on to say:

"We propose that no further step should be taken to pass the Bill in the present session of the Legislative Assembly, and that between now and the next session, the Bill should be published as widely as possible in English and in all the important vernaculars. We desire to emphasize strongly this need for deliberation and wide publication."

Mr. President: Which paragraph is that?

Mr. M. S. Sesha Ayyangar: It is in the first report of the Select Committee.

Mr. President: The Bill was recommitted to Select Committee afterwards.

Mr. M. S. Sesha Ayyangar: But we are now taking the two things together for the first time.

Mr. President: Are we going back to the first report?

Mr. M. S. Sesha Ayyangar: So far as this question is concerned, we have to go back necessarily.

Mr. President: Why? The first report of the Select Committee was before this House.

Mr. M. S. Sesha Ayyangar: It was sent back to the Select Committee for further consideration.

Mr. President: That was the time when the Honourable Member should have raised this point.

Mr. M. S. Sesha Ayyangar: Rule 15 of the Legislative Rules says:

"Any member may at any time submit a point of order."

I also rely on a passage in May's "Parliamentary Practice", page 412, Thirteenth edition, where it is stated that a point of order can be raised at this stage. It is perfectly certain that the Select Committee were conscious that they were substituting a new Bill altogether. They say:

"Nevertheless, we do recognise that the substitution in Select Committee of what is formally a new Bill is an unusual step, and we desire that further stages in the Bill should be undertaken deliberately and only after public opinion has been fully elicited on its details."

Where this is established, the practice is, the original Bill is withdrawn and a new Bill is introduced. It must be made impossible for a Member to introduce a Bill, get the leave of the House and then make drastic changes therein and put a new form to the Bill. His duty is to seek permission for the Bill to be withdrawn.

Rai Sahib Harbilas Sarda: May I say that this very objection was brought in the Simla session when I made a further motion about this Bill, and it was my friend Mr. Acharya who raised the point and said that the Bill was completely changed and could not be proceeded with in this Assembly. The Chair overruled this objection.

Mr. President: Is that so, Mr. Sesha Ayyangar?

Mr. M. S. Sesha Ayyangar: I don't know.

Rai Sahib Harbilas Sarda: You will find in the proceedings of the Legislative Assembly that this point was raised when Mr. Acharya made his speech. Moreover, the principle of this Bill has not been changed. The Government has said that the principle is that there should be legislation in regard to child marriage.

Mr. M. S. Sesha Ayyangar: With your permission, Sir, I wish to rise to another point of order.

Mr. President: Let one point of order be disposed of first.

Mr. M. K. Acharya (South Arcot *cum* Chingleput: Non-Muhammadan Rural): I don't remember raising any point of order, but probably in the course of my speech I said that it was a new Bill. I don't think any point of order was raised and submitted to the ruling of the Chair.

Mr. President: The report of the Select Committee, which is under consideration, says in para. 5:

"We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended."

That is the recommendation of the Select Committee consisting of leading Members of this Assembly, and I am in agreement with that recommendation and therefore rule that there is no substance in the point of order raised.

Mr. M. S. Sesha Ayyangar: Another point of order, Sir. I refer to section 67 of the Government of India Act, which says:

"It shall not be lawful, without the previous sanction of the Governor General, to introduce at any meeting of either Chamber of the Indian Legislature any measure affecting:

- (b) the religions or religious rites and usages of any class of British subjects in India."

Under section 67 the permission of the Governor General is to be obtained. Permission was obtained for the original Bill which applied to Hindus, Brahmans, etc., but after the Select Committee reported, no fresh sanction has been obtained though the present Bill is to apply to all classes and communities, and I think that under section 67 it would be necessary to obtain sanction again from the Governor General.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): With reference to the point of order just raised, I would refer you to section 67 of the Government of India Act, sub-clause (2) (b), which says:

"It shall not be lawful, without the previous sanction of the Governor General, to introduce at any meeting of either Chamber of the Indian Legislature any measure affecting:

- (b) the religions or religious rites and usages of any class of British subjects in India."

[Mr. R. K. Shanmukham Chetty.]

The provisions of section 67 (2) (b) will apply at a stage when a Bill is sought to be introduced in the Indian Legislature.

Mr. President: If a Bill is introduced without sanction, is not any Member entitled to raise objection at any subsequent stage?

Mr. R. K. Shanmukham Chetty: No. The Bill cannot be introduced without sanction.

Mr. President: But if it is so introduced by mistake, can not objection be raised at a subsequent stage?

Mr. R. K. Shanmukham Chetty: The section refers to a Bill which obviously affects the religion of any class, for which sanction is to be given by the Governor General. If alterations have been made by the Select Committee, those alterations cannot be brought under the provision of section 67 (2) (b). The section refers to the introduction, not to the subsequent changes that may be made in this House. If the point of order raised is valid, the logical conclusion would be that any amendment made by this House may be brought within the mischief of the section.

Mr. M. S. Aney (Berar Representative): I am afraid that the narrow interpretation that Mr. Chetty has sought to put upon section 67 will not be borne out. We bear in mind that the changes which are now introduced affect more religions than those which the original Bill was intended to affect. The Governor General had the opportunity of looking at the question from the point of view of those sects only. From that point of view the Governor General might have been justified in giving his sanction to the introduction of this Bill. But now when a new religion has been introduced into the Bill and when alterations have been made with a view to widen its scope, it is necessary that the Governor General should have an opportunity of judging the Bill from the consideration affecting that religion particularly. If that is not done, the objection raised by my Honourable friend Mr. Sesha Ayyangar must hold good. The interpretation put by my Honourable friend Mr. Shanmukham Chetty upon the section cannot be accepted as in fact the very object of the section which requires a Bill affecting any religion or usage to be submitted before introduction, for the previous sanction of the Governor General, would thereby be entirely defeated.

Rai Sahib Harbilas Sarda: May I submit, Sir, that Muhammadans have been included, but marriage is not a matter of religion with them, but it is merely a social contract so far as they are concerned. Therefore this Bill does not offend the susceptibilities of the Mussalmans.

Mr. M. S. Aney: It is for the Mussalmans to say so.

Rai Sahib Harbilas Sarda: They say so.

Mr. K. Ahmed: Does my Honourable friend speak for the Mussalmans also and take shelter?

The Honourable Mr. J. Orerar (Home Member): I would submit, Mr. President, that the original Bill which was introduced by Rai Sahib Harbilas Sarda had received the sanction of the Governor General. The

House interpreted the general intention of that Bill to be to regulate child marriage and it was I think with that intention that the Bill was submitted for the sanction of the Governor General. I infer—and I think I may reasonably do so—that it is with that intention that the Governor General granted sanction. My own view, therefore, would be that no further sanction is necessary and that the point of order regarding the absence of sanction of the Governor General is not at this stage tenable.

Mr. President: The Honourable the Leader of the House has interpreted the intention of the Governor General in according his sanction to Rai Sahib Harbilas Sarda's Bill as originally introduced. According to him the intention of the Governor General in according that sanction was to allow Mr. Harbilas Sarda to introduce a Bill regulating child marriages (*An Honourable Member:* "On whom?"),—Order, order,—and the Chair is inclined to agree with that view and is not justified in going behind the intention so interpreted by one who represents the Government in this House. I therefore rule that no further sanction is necessary.

The question is:—

"That the Bill to regulate marriages of children amongst the Hindus, as reported by the Select Committee, be taken into consideration".

Mr. M. K. Acharya: Sir, I have got an amendment in my name.

Mr. President: The Honourable Member should have risen earlier.

Mr. M. K. Acharya: I am sorry, I did not catch the eye of the Chair earlier. There is an amendment tabled in my name which I rise to move. The amendment is:

"That the consideration of the Bill be postponed till the report of the Age of Consent Committee becomes available to the Members of the House."

Sir, I do not propose, and I do not think it is necessary for me at this stage to enter at any length into controverting the many heated and enthusiastic statements made by my Honourable friend Mr. Harbilas Sarda. He has reason to congratulate himself on the abundance of his enthusiasm and his valour, though perhaps not on the tact which he has employed in handling his motion. However it is unnecessary, I believe at this stage, though probably it may become necessary later on, to endeavour, at any length, to controvert any of the arguments used by him. But one remark I do wish to make, because he attached so much importance to it, and because I was myself surprised how it came about that the Madras Legislative Council, as it appears on paper, was supposed to have passed a Resolution recommending unanimously, without any dissentient voice as it were, that marriage legislation should be undertaken and all that . . .

Mr. K. Ahmed: Many were absent from the meeting.

Mr. M. K. Acharya: Well, I met some very responsible Members of the Madras Legislature; I asked the Honourable Mr. Moir and I also asked one of the Ministers, and they said that when a number of them were away from their seats in the Council, busy with something else, without adequate notice to anybody, the Resolution was declared to have been

[Mr. M. K. Acharya.]

passed by the Council. It was all over in a few minutes. Technically, therefore, as far as the Madras Legislative Council is concerned, my Honourable friend Mr. Harbilas Sarda is perfectly right in drawing his conclusion that the Madras Legislative Council, in spite of the representatives of orthodoxy and so on and so forth, passed a Resolution, unanimously, *nem con*, recommending something which is very much in his favour. Well, Sir, that is one of the anomalies of modern life. The actual truth is far different from what is put on record. The actual things are quite different. Well, I suppose, this is partly at least one of the many myths of modern civilisation. The Resolution referred to was not really passed as unanimously as would just appear on paper. However I admit that it was the duty of those who were really opposed to it, to have been present and to have raised the question and pressed it to a division. But I am not concerned with those details at present. Only when my Honourable friend was saying what he did say, I could not help smiling and thinking! "Here is a Resolution which was not discussed even for ten minutes in the Council and yet it is given out that, after full discussion, that Resolution was passed unanimously! If hereafter, such important Resolutions are going to be passed *nem con* within less than ten minutes, I fear the prospects of sane Government through Councils in this country are not very bright." However this also is another matter. These reflections are all irrelevant to my present amendment. The point that I am raising in my amendment is much simpler, it is very much straighter. I am constrained to raise it because I consider it is a matter affecting the prestige of this House, because this House has agreed to the Government appointing a committee to make an enquiry into matters of marriage and consummation and so on. I believe that this House, after the appointment of the committee by the Government, added in fact some Members of this House to that committee.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): The House did not agree.

Mr. M. K. Acharya: To what?

Mr. O. S. Ranga Iyer: To the appointment of a committee.

Mr. M. K. Acharya: I think the House agreed finally to the appointment of the committee. Not only that, each section of the House was eager and anxious to put one of its own favourite Members on the committee. I interpret from that desire that the House did agree to the appointment of the committee in question. Now that committee is carrying on its work—whether good, bad or indifferent, it is not for me to say at this stage. It is enough that, there is a committee which is carrying on its work. I know it is a committee not of enquiry but of propaganda as the *Madras Mail* well put it. Yet whatever might be the real work that that committee has been doing, it is supposed to be a committee of enquiry. Perhaps the committee was asked to enquire only about the age of consent, but we all know that the committee has been carrying on its work, rightly or wrongly, on much wider lines; that it has not been confining its attention to the amendment of the Indian Penal Code with regard to the age of consent section. It has been practically enquiring into the whole field of marriage, puberty, consummation and so on. In fact in its questionnaire there are one or

two questions which bear out what I am saying; and the evidence tendered before that committee might be of much use in deciding the measure before the House at present. One of the questions is:

"Do you consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage".

In fact my own experience as a witness before that committee has shown me one thing, that is that the committee has been taking much more evidence on the marriageable age for girls than upon the age of consummation. I was examined at great length for over two hours. The questions put to me were more about the marriageable age of girls than about the age of consummation. Now, the question in the questionnaire continues:

"Which of the two alternatives would be in consonance with public opinion in your part of the country".

The next question in the questionnaire is:

"Would you prefer to rely on the strengthening of the penal law to secure the object in view or on the progress of social reform by means of education and social propaganda".

Therefore, there is ample evidence before us to show that the enquiry by this Committee is going to bring together evidence of various kinds. As I have said, I myself am not going to attach very great importance to the report of the Committee; but whatever the value of that report is going to be in the eyes of individual Members, the fact is there that an enquiry is going on and there is going to be a report; and in that report we shall have the benefit of various kinds of evidence taken by the Committee, whatever their conclusions may be. Now I say, we having been a party to such an enquiry being carried on to pass this legislation without having all the materials before us will not be proper procedure. There will be enough time for us—certainly the Heavens are not going to fall within the next few weeks, although my Honourable friend was furiously saying: "Beware, America is watching, Europe is watching"

Mr. President: Order, order. This is a motion merely for the postponement of the consideration of the Bill till the report of a certain Committee is available. Therefore the Honourable Members are not justified in making long speeches on it.

Mr. M. K. Acharya: I have no desire to do so, Sir. Indeed, I offer my apology. The undue warmth of the Mover of the original motion rather infected me. That however is over. I hope I shall have another opportunity, at some other stage, to expose his arguments. What I now want to press is really a matter of procedure. While the Committee is still going on with its enquiry and before all the evidence is before us, to go into any final legislation on a matter which is very controversial and which has aroused public feeling on all sides in the country, will, I submit, be very improper. I therefore appeal to the Members that we should take this Bill into consideration only after we get into our hands the report of the Age of Consent Committee. I hope we can go into the merits of the case at that later stage. It is a formal motion that I make now, and I submit finally that if we take this Bill into consideration now, it will be rather casting a reflection that the report of the Age of Consent Committee is not really worth having.

Mr. President: The question is:

"That the consideration of the Bill be postponed till the Report of the Age of Consent Committee becomes available to the Members of the House".

The Assembly divided:

AYES—53.

Abdul Aziz, Khan Bahadur Mian.
Abdul Matin Chaudhury, Maulvi.
Abdul Qaiyum, Nawab Sir Sahibzada.
Acharya, Mr. M. K.
Allison, Mr. F. W.
Aney, Mr. M. S.
Anwar-ul-Azim, Mr.
Ashrafuddin Ahmed, Khan Bahadur
Nawabzada Sayid.
Ayyangar, Mr. M. S. Sessa.
Belvi, Mr. D. V.
Bower, Mr. E. H. M.
Chatterjee, the Revd. J. C.
Coatman, Mr. J.
Cocke, Mr. H. G.
Cosgrave, Mr. W. A.
Crawford, Colonel J. D.
Crerar, The Honourable Mr. J.
Dakhan, Mr. W. M. P. Ghulam Kadir
Khan.
French, Mr. J. C.
Ghazanfar Ali Khan, Mr.
Graham, Mr. L.
Gulab Singh, Sardar.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Hyder, Dr. L. K.
Ismail Khan, Mr.
Jawahir Singh, Sardar Bahadur
Sardar.

Keane, Mr. M.
Lall, Mr. S.
Lamb, Mr. W. S.
Lindsay, Sir Darcy.
Misra, Mr. Dwarka Prasad.
Mitra, The Honourable Sir Bhupendra
Nath.
Mohammad Ismail Khan, Haji
Chaudhury.
Mukharji, Rai Bahadur A. K.
Mukherjee, Mr. S. C.
Parsons, Mr. A. A. L.
Rafique, Mr. Muhammad.
Rainy, The Honourable Sir George.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Rao, Mr. V. Panduranga.
Row, Mr. K. Sanjiva.
Roy, Mr. K. C.
Sams, Mr. H. A.
Sassoon, Sir Victor.
Schuster, The Honourable Sir George.
Shah Nawaz, Mian Mohammad.
Shillidy, Mr. J. A.
Siddiqi, Mr. Abdul Qadir.
Singh, Rai Bahadur S. N.
Stevenson, Mr. H. L.
Webb, Mr. M.
Yakub, Maulvi Muhammad.
Young, Mr. G. M.

NOES—34.

Alexander, Mr. William.
Bhargava, Pandit Thakur Das.
Birla, Mr. Ghanshyam Das.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Das, Pandit Nilakantha.
Ghazanfar Ali Khan, Raja.
Hans Raj, Lala.
Iswar Saran, Munshi.
Jayakar, Mr. M. R.
Jogiah, Mr. V. V.
Kidwai, Mr. Rafi Ahmad.
Kunzru, Pandit Hirday Nath.
Lalchand Navalrai, Mr.
Moonje, Dr. B. S.
Moore, Mr. Arthur.
Mukhtar Singh, Mr.

Naidu, Mr. B. P.
Nehru, Pandit Motilal.
Pandya, Mr. Vidya Sagar.
Purshotamdas Thakurdas, Sir.
Ranga Iyer, Mr. C. S.
Rao, Mr. G. Sarvotham.
Roy, Mr. B. C.
Sarda, Rai Sahib Harbilas.
Shervani, Mr. T. A. K.
Simpson, Sir James.
Singh, Kumar Rananjaya.
Singh, Mr. Gaya Prasad.
Singh, Mr. Narayan Prasad.
Singh, Mr. Ram Narayan.
Sinha, Kumar Ganganand.
Sinha, Mr. Siddheswar.
Tirloki Nath, Lala.

The motion was adopted.

THE INDIAN LAW REPORTS BILL.

Manvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I beg to move that the Bill to regulate and improve the Law Reports be referred to a Select Committee consisting of the Honourable the Home Member, Mr. J. A. Shillidy, Mr. L. Graham, Mr. M. A. Jinnah, Mr. Muhammad Ismail Khan, Munshi Iswar Saran, Pandit Thakur Das Bhargava, Mr. Gaya Prasad Singh, Mian Mohammad Shah Nawaz, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

Sir, when I moved this Bill for circulation for eliciting public opinion, some opposition was made by Honourable Members of the House who did not see really what the aims and the objects of the Bill were; but now that public opinion has been obtained, Honourable Members will see that there is a large section of lawyers in the country who are fully in accord with the principles of the Bill and even those members of public bodies who have opposed the Bill, have expressed their sympathy with the objects of the Bill. Now, Sir, at the present moment when I ask the House to allow the Bill to be referred to Select Committee, I do not want the House to approve of the provisions of my Bill *in toto* as they are now. All I want the House to do is to accept the principle underlying the Bill, and if there are certain provisions of the Bill which are not acceptable to the House, or which are in need of improvement, they can be improved upon in Select Committee. We know, Sir, that the Child Marriage Bill, which was introduced by Mr. Harbilas Sarda, was a totally different Bill to that which has emerged from Select Committee. That Bill has been altogether changed and a quite different Bill has come out of the Select Committee. In the same way, if some Honourable Members consider that the provisions of my Bill require improvement, well, I say and I repeat it again that a different Bill may come out of the Select Committee. On the other hand, if this Bill is not allowed to go to Select Committee, I think a very laudable object of very great importance will be lost and it will take a very long time before a non-official measure of this character can come to the stage of being referred to Select Committee.

The opinions which have been elicited in favour of the Bill are very important and very clear ones. Certain objections which were raised against the provisions of the Bill have been admirably met by prominent gentlemen who have expressed their views in favour of the Bill. Now, for instance in Paper 1, on page 1 of the Opinions, Mr. J. N. Johnstone, I.C.S., C.J.E., Officiating Chief Commissioner of Delhi, says:

"In my opinion, however, something of the kind proposed in this Bill is desirable in order that these Law Reports may be regulated. The chief objection seems to be that the Bill would give Government a monopoly which would be detrimental to private enterprise and would also result in the Reports being received late by the public. But presumably this objection rests on a misunderstanding of section 2 of the Bill, which section apparently allows such Law Reports to be published by private individuals or firms provided they are also authorised by Government. Presumably Government would not withhold this permission in suitable cases. All that the Bill aims at is that irresponsible persons should be prevented from doing this particular type of work and the achievement of that end ought to prove to the advantage both of the courts and of the legal profession."

[Maulvi Muhammad Yakub.]

Again in a copy of letter No. 149, dated 3rd April, 1928, from the Honorary Secretary, Bar Association, Delhi, to the District Judge of Delhi, they speak of "the ever-increasing multiplicity of case law becoming unwieldy and sometimes embarrassing to the Bench and the Bar alike", and although they do not support the Bill in its entirety they support the principles underlying the Bill. Mr. Yorke, I.C.S., Secretary to the Government of the United Provinces, says:

"Opinions in favour of the Bill have been expressed by the Allahabad Bar Library, by Raza J. and the Government Advocate for Oudh only."

A prominent bar association like the Allahabad Bar Library has expressed its opinion in favour of the principle of the Bill. Then Mr. Justice Lindsay of the Allahabad High Court says:

"I should be glad to see some check put upon the multiplication of law reports of which there are far too many."

Then Mr. Justice Boyes of the same High Court says:

"I am of opinion that practically all of the mischiefs now charged against the present system of law reporting do exist. I am of opinion that many of the defects in the present authorised reports do exist. I am of opinion that none of the defects that at present can fairly be attributed to the authorised reports are inherent in any system permitting only one series of authorised reports for each court. I think that if there was only one series of authorised reports for each court permitted, there is no reason whatever why such a series should not be completely satisfactory. I would be prepared to discuss each and every one of the points that have been made on either side against the authorised reports and against the unauthorised reports and shall give my reasons in full for holding that it is undesirable to permit unauthorised reports and that there is no reason whatever why a single series of authorised reports should not give complete satisfaction. But there is in my view the one insuperable difficulty that large vested interests have been allowed to grow up in numerous series of unauthorised reports and I am unable to see any just procedure by which these unauthorised reports could now be abolished."

So he has admitted.

Mr. L. Graham (Secretary, Legislative Department): Will the Honourable Member kindly read the last paragraph of the opinion?

Maulvi Muhammad Yakub: I leave that for you to read. I do not want to waste the time of the House by reading undesirable passages: I shall only read the selected and mature opinions. Now, Sir, there is another copy of a letter, No. 115, from the Government Advocate, Chief Court, Oudh, Lucknow. He says:

"I am in favour of the Bill, introduced by Maulvi Muhammad Yakub, into the Legislative Assembly to regulate and improve the Law Reports. It will have a salutary effect in checking the indiscriminate publication of cases of all degrees of authority or want of authority and will diminish the expense of the Law Reports and will improve their quality. A good many bad reports are published and the result, in my opinion, is increase of litigation and misleading of courts, particularly lower courts."

These, Sir, are very valuable opinions which must not be lost sight of. He goes on to say:

"The Bill proposes to improve the existing Act by defining the word 'authorized report' in clause 2 and amending section 3 of the old Act (XVIII of 1875). I have read with interest the opinion of some great lawyers who are opposed to the Bill but to my mind this Bill does not attempt at monopoly of Government publication. The

definition of "authorized reports" is wide enough to empower the Court and the Bar Council to allow publication of reports other than the Government publications. If the number of unauthorized reports is diminished, there is a possibility of the increase of subscribers of the authorised reports and in that case the cost of their publication is likely to go down and therefore there will be a reduction in the subscription which will come as a great relief to the beginners in the legal profession."

This, Sir, was the only objection that was raised against my Bill. As I said, even those who are not in favour of the Bill accept the principles underlying the Bill. Rao Bahadur B. R. Angal, Public Prosecutor, East Berar Division, says:

"It is not denied that the ever-increasing number of unauthorised reports of the judgments of the various High Courts in India adds immensely to the work of the Bar and the Bench as well . . ."

Mr. M. S. Aney (Berar Representative): Is he in favour of the Bill?

Maulvi Muhammad Yakub: No, Sir; but as I said, even those who are not in favour of the Bill are in favour of the principles of the Bill and agree that a measure of this sort is necessary.

Mr. J. L. D'Sylva, Advocate, Bangalore, says:

"It cannot be denied that non-official reports have been greatly in the increase during the last quarter of a century and that among them there has been a scramble to report every possible case whether it be good, bad or indifferent, with the object of getting as large sale as possible for their publication. They are competing with each other in reporting the largest number of cases at a minimum cost. Therefore it is obvious that this indiscriminate reporting should be restricted, by laying down rules regulating the classes of cases which may be reported."

Then again we find the following passage in the letter from the Judicial Commissioner, North-West Frontier Province, to the Secretary to the Chief Commissioner:

"I have the honour to state that the Bill to regulate and improve the Law Reports has met with a mixed reception in this Province and that the majority of officials and non-officials are against it. In countries outside India where Judge-made law plays such an important part in the administration of justice, Law Reporting is supervised and controlled by responsible bodies and is conducted by eminent lawyers who select their cases with the utmost care and attention. In India on the contrary of late it has become a business and is carried on in a most unsatisfactory manner."

Further on he says:

"It is in the hands of persons who are not subject to the supervision of any controlling authority, and the result is that volumes of unofficial reports have increased and are every day increasing to an alarming extent and they teem with cases which should not have found their places in any legal publication. Such cases serve no useful purpose; rather they cause much confusion and waste of time and often lead to miscarriage of justice."

Can there be anything stronger than this? He goes on to say:

"The real object of law reporting is to publish cases which explain important principles of general publications or matters of first impressions, as also those which reconcile conflicting views, or in the case of irreconcilable conflict, lay down a particular rule to be followed in a particular province and these are the cases which serve as guides for the future. Unfortunately on account of rivalry and competition in trade, these principles are very often departed from in India, and all sorts of cases, good, bad and indifferent, are published simply to increase the volumes. The tendency of indiscriminate reporting in India was much deplored and severely criticised by such an eminent authority as Sir Frederick Pollock in his first Edition of the Indian Contract Act and the defects pointed out by him then have become almost a set feature of the present day law reporting and the evil has become so serious that some such measures as is embodied in this Bill is in my opinion urgently required."

[Maulvi Muhammad Yakub.]

Then, Sir, the District Judge of Peshawar says:

"It is true that a great deal of trouble is caused to lower courts by the citing of unauthorised reports of cases which might conveniently be forgotten and by the distraction of attention from the enacted law itself."

Then there is the opinion of R. S. Jhinda Ram, Advocate, Dera Ismail Khan. In his opinion he says:

"There is no doubt that a large number of publications has arisen containing reports, good, bad and indifferent."

Then the Secretary, Bar Association, Peshawar, says:

"The complaint that contradictory judgments are sometimes published in these reports is true to a certain extent, but that cannot be avoided."

Then this is what Rai Bahadur Diwan Chand Obrai, Vakil, Peshawar, says:

"I fully recognise the evil of indiscriminate law reporting, and agree, generally speaking, with the basic proposition stated in the Objects and Reasons of the Bill that this evil requires a check and control."

Then comes a very important opinion from K. S. Kazi Mir Ahmed Khan, Vakil, Peshawar. This is what he says:

"In reply, I beg to submit that my experience shows that commercialisation of legal reports is gradually tending to make the position of the lawyer and the Judge extremely difficult. In England law reporting is done by expert law reporters who can discriminate between a case which can see the light of the day and a case which should remain in the archives of the Court itself. The attempt elsewhere is to report only those cases in which a principle has been discussed and finally adjudicated upon. From experience I can say that there are many cases the decision of which turns more or less on facts which are on the record, but which in fact do not fully go into the judgment. Invariably the Judge does not wish that such a judgment should be reported and although apparently he invokes the legal principle to decide it, the facts of the case which turn the scale are at the back of his mind."

The commercialisation has resulted in all sorts of judgments being published whether correct or otherwise, and whether the judges wish them to be restricted to the facts of that case or to serve as precedent. The consequence of such system is that the lawyer has to put in almost stupendous work, has to go through the indexes and digest almost to the break-down point, and yet when he goes to the court he is not sure that his adversary would not quote a ruling of eight lines having a head-note of twenty lines against him. The Judge, unless he is extremely clever, compares the various rulings and has the experience of testing the value of the reported cases, is invariably misled by such trash merely because it has taken the form of print.

So the result of the present method is to ruin the health of the Bar, throwing the courts into an utter confusion, waste the court's time over cases which should never have been touched, and sometimes to cause injustice being done on account of a badly reported slipshod judgment having been published. No doubt the means of income of briefless barristers and pleaders who take to law reporting would stop, but at the same time we shall have correctly reported, definite leading cases, few but well discussed and the courts will be rid of this confusion worse confounded. I, therefore, strongly recommend the passing of the Law Reports Bill."

Then, Sir, this is what Mr. Anantha Krishna Iyer, Advocate General, Madras, says:

"That a real mischief exists should, I think, be admitted. That effective steps would have to be taken sooner or later to remove the evil, should also, I think, be admitted."

Again, this is what we find from a letter from the Government Pleader, Madras, dated the 10th May, 1928. This is what he says:

"There is no doubt that 'the ever-increasing number of law reports in India stand in need of proper check and regulation', that the way in which reporting is carried on is not satisfactory and authority can be found for every position and the result is that to a certain extent litigation is fostered.

The only question is how best to effect the reform. It cannot be denied that the system and practice of official reporting now obtaining are not all that can be desired. The reports are not upto date and sometimes many important decisions both of the Privy Council and the High Court remain unpublished. It must be said that unless the present system is thoroughly remodelled and reports of important decisions are made available within the shortest possible time and at a moderate cost any legislation of the kind now sought to be introduced is undesirable from every point of view . . . "

The following is the opinion of Messrs. Leach and Clark, Advocates, Rangoon. Their opinion is very well reasoned and very elaborate and is entirely in favour of the Bill. This is what they say:

"We are of the opinion that there is a great need for legislation to regulate and improve the system of reporting cases in British India. We have perused the extract of the debate on the Bill in the Legislative Assembly. In that debate the various Honourable Members who objected to the Bill seem to have done so on the ground that it would be undesirable to give the State a monopoly of publishing cases. We are inclined to some extent to agree with this objection, but we do not construe the Bill as having that effect. By the definition of "Authorized Reports" in section 2 of the Bill the reports citation of which is to be permitted are those 'published by, or under the authority of, the Government of India, or any Provincial Government, or the Court deciding the cases reported or a Bar Council'."

The words "or the Court deciding the cases reported or a Bar Council" have been inserted by the authors of the letter, and I think they can be added to the Bill when it goes to the Select Committee. Further on, they say:

"We are satisfied that any fear of law reporting becoming a State monopoly is nullified by the presence . . . "

Mr. President: Has the Honourable Member many more extracts to read?

Maulvi Muhammad Yakub: Not many more, Sir, but only two or three more.

Mr. President: The Honourable Member should not read so many opinions *in extenso* and at such length.

Maulvi Muhammad Yakub: I have not read those opinions *in extenso*, Sir, but I have so far read only important passages. I will not take a long time now. Of course, no arguments of mine can be stronger than those which have been advanced in favour of the Bill by the various eminent lawyers. Therefore, Sir, I shall read only very few passages now. Further, they say:

"We are satisfied . . . "

Mr. President: The House stands adjourned till a Quarter to Three.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

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

Maulvi Muhammad Yakub: Sir, when the Assembly adjourned for Lunch I was quoting the very important opinion of Messrs. Leach and Clark, Advocates, Rangoon. They say:

"We are satisfied that any fear of law reporting becoming a State monopoly is nullified by the presence in the section of the words which we have underlined.

There are many publications of Law Reports in British India other than the various series of the Indian Law Reports which in our opinion are of considerable value and we have no doubt that such reports will become 'Authorised reports' by receiving the approval of the various High Courts in India or the associations of the members of the Bar practising in the various provinces.

In the course of the debate we note that it was urged by those objecting to the Bill that even if certain reports are made unauthorised the cases reported therein could properly be quoted to the courts by the production of a certified copy of the judgment relied on. This is no doubt true, but we venture to think that such certified copies of the judgment would be produced only in the provinces where they had been passed where they would receive proper appreciation and consideration. It seems to us unlikely that copies of such judgments would be used at all in the High Courts of other provinces and more unlikely that they would be quoted in the courts subordinate to the High Courts of other provinces.

We might add that from our experience the need for regularising of Law Reporting does not arise so much in the High Courts as in the subordinate courts. With all due respect to the members of the subordinate judiciary we think it must be admitted that it is extremely confusing to them to be confronted with reports of cases the only criterion of the soundness of which is the fact that they are printed by some firm of law publishers of repute or otherwise. If certain reports are declared 'Authorised reports' in the manner proposed by the Bill there will be less danger of the subordinate judiciary being misled by the quotation of cases which contain bad law.

For the reasons which we have stated briefly above we are of opinion that it will be to the benefit of the public in general and of the legal profession in particular that Maulvi Muhammad Yakub's Indian Law Reports Bill should become law."

There are other very important opinions, but I will not go into all of them. I will only cite one or two of the most important opinions. Sir Shadi Lal, Chief Justice of the Punjab High Court, says:

"I endorse the principle of the Bill. The number of unauthorised reports is increasing and the judgments reported therein cause a great deal of confusion and embarrassment to the subordinate Courts."

Mr. Justice Agha Haider, a Judge of the same High Court, says:

"I agree with the principle of the Bill which is to be introduced in the Legislative Assembly with a view to regulate and improve the Law Reports.

The private reports of judicial decisions, with very few exceptions, have, owing to their numbers, their inanity and their dimensions, entered upon a phase which can only be described as a nuisance. They are conducted on the principles of low commercialism and personal advertisement and are employed for the purposes of propaganda by individual lawyers or syndicates of lawyers who own them or conduct them. This applies to unauthorised Reports of cases decided by a particular Court.

Private reports, which publish cases from all the High Courts in India, have their special reporters in the various Courts. These reporters try to contribute the largest number of cases to the series of reports to which they are attached in order to earn better remuneration. Of course, they report almost every one of their own cases and of their friends', irrespective of their importance from a legal point of view. Besides, some enterprising lawyers, who want to attract public and professional attention by every conceivable means, supply these reporters indiscriminately with certified

copies of the judgments of cases in which they have themselves appeared as counsel and very often obtain the same at the expense of the poor unsuspecting client. The result is that a mass of case-law is published which has not the remotest semblance of judicial precedents as the term is understood in England. Suits involving large sums of money and valuable property are sometimes launched merely on the strength of some stray remarks occurring in the body of a reported case which should never have been published and which the Judge, who gave the decision, never meant to be a legal pronouncement of general application. When the cases are argued either in the District Courts or in the High Court the so-called authorities from these private reports are promiscuously quoted and arguments are inordinately and unnecessarily prolonged.

All these reports proceed on the principles of publishing the largest number of judicial decisions and importance is attached to the number of cases reported rather than to their quality from the point of view of lawyers. The result is that, given a certain amount of industry, a lawyer can always find some sort of authority for almost every proposition, legal or illegal. Now a judge does not lay down legal principles in every judgment which he delivers. Most of the High Courts in India are at this moment suffering from a plethora of arrears and their chief aim naturally is to clear off as many arrears as possible within a short time. The Judges seldom find time to lay down general propositions of law for the guidance of the subordinate Courts or the legal profession. It is not often that they consider it necessary to deliver a judgment dealing with the principles of law which are intended to be of general importance. This being so, the cases which contain authoritative pronouncements on legal questions are few and far between.

As to the argument that in no part of the civilized world does the State enjoy the monopoly of publishing its own law reports, all that I need say is that the moral tone and the standard of professional etiquette in England at any rate is immeasurably superior to that of the reporting agencies in this country. One has only to turn to the first page of any series of reports published in England, say, under the supervision of the Incorporated Council of Law Reporting and he would be struck with the list of the names of great lawyers and eminent Judges who are responsible for the reports published in the particular series of reports. This class of gentlemen with their high ideals of professional honour and their almost ingrained respect for judicial and forensic traditions would be difficult to find in this country in any appreciable numbers.

Having regard to what I have stated above, I am definitely of opinion that private series of law reports, whether owned and published by individuals or by syndicates should be suppressed. They should not be cited by counsel at the time of the arguments or referred to by the Courts in their judgments."

Mr. Vidya Sagar Pandya (Madras: Indian Commerce): Is the Honourable Member justified in reading matter which is already in possession of the House? What is the object of publishing these opinions and sending them round to the Members?

Maulvi Muhammad Yakub: My object in quoting this passage is to show the importance of the principles underlying my Bill. Of course these opinions are published and sent round to the Members, but I do not think that Honourable Members take the trouble to read them. That is why I am reading the important passages contained therein. (*An Honourable Member*: "Can you make them listen?") There are some so unwilling that they do not even want to take the trouble to listen, and it is for the benefit of those unwilling Members that I want to read these passages. I have now done with them. I would only refer you to the opinions of the Legal Remembrancer of the Punjab and the Assistant Legal Remembrancer who have supported the Bill and given arguments. Now, after the citation of the opinions of these important lawyers, I think there cannot be two opinions that the system of law reporting in India is badly in need of some improvement and the principle underlying my Bill is perfectly sound and legitimate. I am aware, Sir, of the power of propaganda work in this country, and I know that several agents of law

[Maulvi Muhammad Yakub.]

reporting agencies have been trying to poison the minds of Honourable Members of this House against my Bill, but I am sure that the House will unanimously support my Bill which is distinctly in favour of the Honourable Members of the legal profession and the litigant public in this country. Before I conclude, I would again lay stress on the point that if Honourable Members do not agree with the provisions of the Bill in toto, they can agree to the principle. The Bill can be improved when it goes to the Select Committee. I think I have made out a very strong case in support of the motion I have made before the House.

Mr. L. Graham: I would ask Honourable Members to throw their minds back to the 9th February, 1928. They will
 3 P.M. then recall what happened when my Honourable friend made his motion asking that this Bill should be sent for circulation. If they read the proceedings of that day, they would find that my Honourable friend obtained in this House no support whatever. On the contrary he was very violently attacked by Sir Hari Singh Gour, Mr. Kelkar and Mr. Jayakar. I do not think that even in his most enthusiastic moments he could have thought that he was getting any support from what I myself said on that occasion. What I did say was that I thought that it was not proper, in spite of the very strong arguments which had been adduced against the Bill, that the Bill should be killed at that stage. I thought that the Bar and the different High Courts in India should be given an opportunity of saying their say. I was also touched by a rather pathetic remark of the Honourable Member in his opening speech on that day. He then said "What I want is that it (referring to his Bill) may be circulated for opinions of the bodies and individuals concerned. After the opinions are collected and if it is found that the majority of public opinion is against the Bill it may be rejected". Sir, I maintain that the majority of the opinions which have been obtained in connection with this Bill is overwhelmingly against the Bill. I should have liked to see the Honourable Member sticking to his original offer. In fact I was surprised that he should have proceeded with this motion at all having regard to the mass of opinion against him, not only in quantity but in quality. The High Courts are practically unanimously against him. I will except the Punjab. I would say that the Punjab is divided.

Maulvi Muhammad Yakub: What about Allahabad?

Mr. L. Graham: I do not think the Honourable Member gets much support from Allahabad. He read a portion of one opinion. He omitted the last sentence which was dead against him. However, the High Courts, we may say, with the exception of the Punjab, are against this Bill. The Punjab are just about equally divided, and with due respect I must say that I have been very much impressed by the opinions of those members of the Punjab High Court who are against the Bill. The opinion recorded at length is the opinion of Mr. Justice Dalip Singh and I would commend that to the Honourable Member.

I do not propose to follow the example of the Honourable the Mover of the motion and to recite these opinions. I expect that Members who are interested in the Bill have already read them.

The Honourable Member then said that he thought that everything would be put right in Select Committee. I have often heard that argument advanced, but never with less ground than on this occasion. The Bill is a small one; it has only one principle and that principle is entirely unsound. It is quite impossible for the Select Committee, without over-throwing the principle of this Bill, to produce a Bill which would be worth this House's while to look at. Really the principle of the Bill is that you are going to gag or put a restriction on the Courts. This is contained in clause 3 of the Bill:

"No Court shall allow to be cited, or itself refer to, the report of any case decided after the coming into force of this Act other than a report published in the authorised reports."

That, Sir, really embodies the principle of the Bill, and it differs from the Act which it repeals in this way, that whereas this Bill will stop the Courts from looking at these reports, the existing Act gives the Courts discretion in the following terms: "No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council." There you have two principles. One is the principle of the Bill, and one is the principle of the Act. The Bill proposes to repeal the Act, and if you are going to introduce into this Bill the principle of the Act which you are repealing, then the Select Committee will be going beyond its functions. What is required—if anything is required—would be to amend the old Act.

Mr. Jayakar, in the debate to which I have referred, dealt with the case on its merits. He did it so thoroughly that I really don't think it necessary for this House to go into those points again. I notice that my Honourable friend has only one reply to Mr. Jayakar's speech, and that is propaganda on the part of the unauthorised reporters. I did receive a very interesting statement from that source, though I was not approached personally by any of these dangerous propagandists. But anybody reading Mr. Jayakar's speech can see that that speech questions directly the merits of the case. As I said, the Honourable Member has made no attempt to answer the arguments advanced by Mr. Jayakar, or those of Sir Hari Singh Gour, or the more humorous arguments of my friend, Mr. Kelkar.

The question really is whether any remedy is required. I think the House must be satisfied that the remedy proposed by my Honourable friend is wrong. It is unsound. The principle which we must accept in these matters is that every Court must have access to every possible source of authority, and that it cannot be shut off in the way in which the Mover of the Bill proposes. It is quite impossible for any single set of reports to be exhaustive. Cases sometimes very easily and naturally escape the attention of the official reporter, and one way and another you may have to search your reports and cannot understand why there was no report in the authorised reports. Time after time you do find important cases not reported in the authorised reports. It is not necessary to blame the editor, because it is an extraordinarily difficult task for an editor to decide what really requires to be reported. The danger in these unauthorised reports consists not in their being cited in the High

[Mr. L. Graham.]

Courts. The Judges of the High Courts know perfectly well how to deal with them. There are certain cases in which Assistant Judges, Magistrates, etc., have not been told what powers they have got under the existing Act of 1875, and the remedy in that respect is perfectly simple. It is the issue of a circular to all subordinate Courts, explaining to them that they are not obliged to listen to unauthorised reports. In my personal experience, when anyone cited an unauthorised report, I asked whether there was anything on these lines in the authorised reports. Sometimes the answer was "This is a very recent case from Calcutta, and it is not yet in the Calcutta Reports." Sometimes they would say: "It is a peculiar case and no case like it is to be found in the authorised reports."

I would like to point out, with reference to the powers which the Courts have got, that they have not utilised them properly. In this connection I should like to draw the attention of Members to a passage in one of the opinions from Bombay. I am not setting up Bombay as being better than the other provinces, though I confess that the Legal Remembrancer of Bombay, whose opinion I cite, was rather tempted to do so. What he said was:

"It is true that the present day unauthorized reports have done considerable harm; but the mischief is due to the laxity of censorship by the High Courts, other than that of Bombay, and not to the existence of a large number of reports. In Bombay we have only one unauthorized law report, the Bombay Law Reporter, and it occupies a deservedly high position among the law journals in this country because of the care exercised both by the High Court and by the publisher in selections of the judgments to be printed. The result is that, so far as the rulings of our High Court are concerned, the evil complained of by Maulvi Muhammad Yakub does not exist."

And there is no need for it to exist. The existing law provides sufficient powers in the Courts, and the attempt of my Honourable friend, the Mover, to fetter them in this manner would only have the result of shutting them off from unauthorised reports, and for this reason it is perfectly hopeless to try to do anything with this Bill in Select Committee. I must therefore sorrowfully say to my Honourable friend that I am bound to oppose his motion.

Mr. V. V. Jogiah (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): Sir, in spite of the array of opinions which were read to this House, I regret I am not convinced as to the utility of this Bill. In my opinion there is no harm done by any amount of publication of these reports. The only reason, that is the chief reason that is alleged, for excluding these publications is that it would confuse the Judges and would throw a large amount of work on the lawyers. My own opinion is that if a Judge is confused by merely putting before him an unauthorized law report, he is not fit to be a Judge, and as for the lawyers, a lawyer is not fit to hold his position as such, if he does not take the trouble of reading all the reports that he can get at and using what is necessary before a Judge. As a matter of fact we find that in many of the authorised reports, important cases are omitted, though not for ever, at least for a long time. The publication of these innumerable reports is a sort of incentive for the publishers of the authorised reports to be more alert and to publish important cases in time. I find that there is no parallel to this Bill either in England or

[Mr. V. V. Jogiah.]

America where there are innumerable law courts which deserve imitation in a country like India; so that I submit that there is no justification for this Bill. With these words, I oppose the reference of this Bill to a Select Committee.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I oppose this Bill very strongly and I do so on two grounds. One, my own experience, and the other, on the ground that it is of a reactionary character. So far as my own experience is concerned, I have been at the Bar for the last 36 years, doing both criminal and civil work and I can assure my Honourable friend with confidence that I have always found these private publications to be of very great use. Often-times the Courts and the pleaders have been under great difficulty to arrive at a just conclusion on account of the absence of decisions in authorised reports, and it is these private publications that have helped the Courts to mete out justice on right and proper lines.

The second point that has come to my notice in my experience is that official reports are issued very late and it is these private publications that reach us earlier and thus enable the lawyers to cite the authorities before the Courts and get justice. So far as I am concerned, I can assure my Honourable friend, the Deputy President of this House, that it is not any propaganda that has emboldened me or which has induced me to stand here to oppose this Bill, but it is my own experience. I am not poisoned by any propaganda. (Hear, hear.) Then I call this Bill a reactionary measure. It puts a ban on the freedom of the use of legal decisions of authorised Courts. We want liberty and freedom all round and the result of this measure will be a retrograde provision of law to suppress all decisions other than those that are published in official reports. I submit there is absolutely no reason for doing so. After all, all the decisions of the High Courts are authorities and there is no reason why some only should be made available for the use and not others. It is a well known presumption of law that everybody is supposed to know the law and if all the interpretations of law are not made available to the public, then this fundamental principle of law should vanish.

The most important point against this Bill being referred to a Select Committee is that my learned friend stands committed to the particular course of action which he wanted to take, and that was when the Honourable Member asked for the circulation of this Bill. He then said that he wanted to feel the opinion of the public and the bodies concerned, and the Bill may be rejected if the public opinion was against him. He has no doubt tried to-day to read many extracts from the opinions, and some of them, of course, he read by halves, as was pointed out by the Honourable Mr. Graham. I think I can assure my Honourable friend that I have read these opinions and reports and I fully and entirely agree with the Honourable Mr. Graham that the majority of these opinions is against the Bill. I would only refer to what the Bombay High Court said:

"In continuation of the High Court letter No. 1939, dated the 22nd March 1928 on the subject of Indian Law Reports Bill, I am directed by the Honourable the Chief Justice and the Judges to say that Their Lordships are opposed to the Bill. Clause 3 of the Bill goes too far and is probably *ultra vires* of the Indian Legislature since it would preclude the citation of any English case or even any reference to it by Courts."

[Mr. Lalchand Navalrai.]

I submit that is my opinion too. It will be beyond the jurisdiction of the province of this House to legislate and to put a ban on decisions of England and other places.

I will not quote much, but I will content myself with one quotation more from the Judicial Commissioner's Court of my own province. I find that Mr. De Souza, who is a Bar-at-Law and who is a Member of the Indian Civil Service, and an Additional Judicial Commissioner, is of this opinion:

"I am not in favour of the Bill. The authorised reports are incomplete and never up-to-date."

He is a very experienced Judge and that is his opinion. He goes on:

"I have found that very important decisions both of the Privy Council and of the High Courts are sometimes not reported at all in the authorised reports."

I fully agree with this view. He adds:

"To prevent indiscriminate reporting, I would advocate the procedure recently adopted by the Madras High Court of obtaining the sanction of the Judges concerned before the cases are reported."

Now, Sir, the Honourable the Mover of this Bill seems to be labouring under the misapprehension that the Judges and the Magistrates would be rather deceived in giving their decisions based on incorrect reports. In the first place, I submit that private publications are made not on any decisions of their own, but upon decisions given by the various High Courts, and I cannot understand why some of the decisions of the High Court should be available for the public and not others. We know that there are so many indices to the law reports and we can find out easily those cases which are over-ruled or dissented from. In all my practice I have never found any Judge having been misled or deceived by any decisions quoted from private publications. Therefore that point goes off. Without elaborating the discussion any further, I may submit that there is no reason why such a reactionary Bill as the present one should be passed. It would be left to every pleader or member of the Bar or even to the Judge to make use of any particular decision or not. If he finds that it is not suitable to him, he would never quote it. With these words, I oppose the Bill.

Mr. M. S. Aney: I only want to put in one objection in addition to those which have already been advanced against the Bill. It has been stated that these unauthorised publications very often publish judgments which are good, bad and indifferent. It has to be borne in mind by the Honourable Members of this House that these authorised publications contain judgments only of the Judges of the High Courts and Judicial Commissioners' Courts which are of the same status as the High Courts in some provinces. If these judgments are good, bad and indifferent, then that amounts to casting a reflection upon the Judges of those Courts. I do not share in that view at all, but supposing that is the case, what is the remedy? One can think of two possible remedies, one is a better way of recruitment to the judiciary and to the High Courts, and the other, and the most important step that we can take as a safeguard against judgment, good, bad and indifferent, is to give the widest

possible publicity to these judgments. The fact that their judgments are going to be published in the Press and would be made available to the whole public and used as precedents by every Judge, every pleader and advocate, would, in my opinion, by itself, act as a salutary restraint upon the Judges in deciding cases and in writing out their judgments. My Honourable friend the Deputy President has not been able to appreciate the exact effects of that. For that reason I would insist that efforts should be made to give publicity to every judgment delivered by the High Courts. Nor is the story of Judges being misled one which could be seriously considered. My friend Mr. Jogiah has already said that a Judge is not worthy of being a Judge if he can be easily misled by judgments which are half quoted or wrongly quoted. So these dangers are more imaginary than real. My friend is fighting—like the famous Knight in Cervantes' novel tilting against the wind-mill—an imaginary evil; and I believe we at least here should be very cautious in giving our judgment on this Bill and should avoid giving bad or indifferent judgments. I believe the House will come to a right conclusion by rejecting the Bill. I therefore oppose the motion now before the House.

Maulvi Muhammad Yakub: Sir, it seems to me that Honourable Members are under the apprehension—or misapprehension—that my Bill aims at shutting out private reporting. I did not go into these arguments when making my first speech because the quotations from different legal authorities, which I made, contained full answers to such objections. Now, Sir, my Bill does not shut out all private publication. All that this Bill aims at is to put a check on the power of reporting. I do not say that only the reports which are published by the Government, or only the cases which are published in the Indian Law Reports should be cited. My Bill gives perfect freedom to all the present agencies reporting law cases in journals. What all I aim at is that there must be some check or supervision over those agencies.

Now, Sir, it has been admitted, even by those who have opposed my Bill, that the present law publishing agencies require some sort of check. Even the Honourable Mr. Graham had to admit that sometimes in mufassil Courts difficulties arise due to the citing of unauthorised reports. The aim of my Bill is not to check private publication: I only want that there should be a supervision over the power of reporting. The extract from the opinion of the Honourable the High Court of Bombay, which my friend Mr. Lalchand Navalrai has read in this House, will show that that High Court itself is of opinion that there should be a check over the publication of these reports, and that at any rate, before a case is published in any law journal, the Judge who delivers the judgment should be consulted. Now, Sir, I do not mean, I never meant, any disrespect to any Judge of the High Court; nor did I say that they were not capable. I only say that there are certain cases in which no principle of law is involved, that there are certain cases which are decided upon the merit of such cases only, and the facts of those cases cannot apply to other cases. When these judgments are however published, the subordinate Courts sometimes consider that they are bound by these judgments and confusion arises. The judgments of the High Courts have got a status by law, and therefore we must be very cautious and careful in seeing that only such judgments as contain some sound principle of law are published and that others are not published. One Honourable gentleman here has said that all the judgments, whether

[Maulvi Muhammad Yakub.]

they contain any principle of law or not, should be published and that the members of the Bar should go through them. I am sorry I cannot agree with him. It is not really necessary that every member of the Bench or the Bar should go through the rubbish or should always be reading cases which have no legal point in them or in which no principle of law is dismissed or decided.

I admit, Sir, that at present certain very important cases are found in the reports which are called unauthorised reports, which are not published in the Indian Law Reports; but of course, as I said, there must come a time when there will be some kind of check over these private publications. Instead of killing such publications, I only want to improve their status and popularity by bringing them under the control of some authorised tribunal such as the Bar Councils, which are now formed nearly in all the High Courts of India. I consider that these private publications will improve in status, and my Bill instead of killing them altogether, will prove a source of strength and power to them.

Well, Sir, some defects in the present system of law reporting by the Government have been referred to by some Honourable Members of this House. I quite agree with them in saying that the present Indian Law Reports are not satisfactory and that they are also in need of improvement. That does not however mean that if the Indian Law Reports are imperfect, another system of reporting which is equally bad, if not worse than the present system, should be maintained, and no efforts should be made to improve the present system. Because there are many unauthorised reports and publications, very few members of the Bar purchase the Indian Law Reports, and for that reason also, no improvement is made in the publication of these Reports. If however a proper agency is formed in every High Court to exercise supervision over law reporting, I believe that the Indian Law Reports will also improve. I do not therefore think that the Bill which I have presented to the House is in any way reactionary; on the other hand, it is a step forward, it is an advance upon the existing conditions in the country. The opinions I have already cited show that in England and other countries, there is some supervision over the power of reporting; in the same way my Bill seeks to introduce some sort of check over the reporting of law cases.

Now, Sir, the Act of 1875 is a very old and antiquated one, and it is high time that, considering that there has been an addition to the number of High Courts in this country and that the number of cases also is increasing every year, this Act was amended and improved upon. Taking all these things into consideration, I have brought this Bill before the House, and I am sure that Honourable Members will reconsider the position and will not pass their judgment under misapprehensions which are not based on any facts.

One point more, Sir. Mr. Graham said that at the time of the first reading of this Bill I stated that I would be bound by the majority of opinions. That is perfectly true, but in the matter of opinion quality did count and not quantity. And the quality of the opinions which I have quoted, such as the opinions of the Punjab High Court Judges and other lawyers, in my favour, was certainly superior to the quantity of opinion against my Bill.

When therefore I say that I press my Bill, I do not go against what I said in my first speech.

Mr. President: The question is :

"That the Bill to regulate and improve the Law Reports be referred to a Select Committee consisting of the Honourable the Home Member, Mr. J. A. Shillidy, Mr. L. Graham, Mr. M. A. Jinnah, Mr. Muhammad Ismail Khan, Munshi Iswar Saran, Pandit Thakur Das Bhargava, Mr. Gaya Prasad Singh, Mian Mohammad Shah Nawaz, and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 30th January, 1929.
